



CITY of CALABASAS

ORIGINAL FILED

MAY 31 2005

LOS ANGELES, COUNTY CLERK

Notice of Determination

To: County Clerk, Room 2001
County of Los Angeles
12400 East Imperial Highway
Norwalk, CA 90650

From: City of Calabasas
Environmental Services Division
26135 Mureau Road
Calabasas, CA 91302-3172

Subject:

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title:

Las Virgenes Creek Stream Restoration Project

Project Location:

A 500-ft segment of Las Virgenes Creek within the City of Calabasas, between Hwy 101 and the Agoura Road Bridge.

Project Description:

The project seeks to remove approximately 500 feet of partially armored, highly urbanized creek channel and replace it with a stable, natural, revegetated channel. The restoration reach extends from Highway 101 (south) to the Agoura Road Bridge.

The purpose of this notice is to advise the State, County, City and General Public that the City Council of the City of Calabasas has made the following determination regarding the above described project:

1. The project will not have a significant effect on the environment.
2. An MND was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation Measures were made a condition of the approval of the project.
4. A Statement of Overriding Considerations was not adopted for this project.
5. Findings were made pursuant to CEQA Guidelines Section 15091.

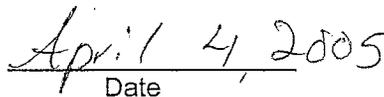
Document Availability:

This is to certify that the MND and project record may be examined at:

The City of Calabasas Public Counter
26135 Mureau Road
Calabasas, CA 91302-3172



Robin Hull
City of Calabasas
Environmental Services Manager
(818) 878-4225 ext. 306



Date

Date received for filing and posting at the Los Angeles County Clerk:

26135 Mureau Road
Calabasas, CA 91302-3172
(818) 878-4225
Fax (818) 878-4215



CITY of CALABASAS

FILED

FEB 08 2005

CONNOR B. MCCORMACK COUNTY CLERK

J. Baker
J. BAKER DEPUTY

**NOTICE OF INTENT TO ADOPT
A MITIGATED NEGATIVE DECLARATION**

DATE: February 2, 2005
LEAD AGENCY: City of Calabasas, Public Works Department
CONTACT PERSON: Rubin Hull, Environmental Services Manager
TELEPHONE: (818) 878-4225 ext. 306

TO: Los Angeles County Clerk
Attn: Environmental Filing
12400 Imperial Highway, Suite 2001
Norwalk, CA 90650
 Governor's Office of Planning & Research
1400 Tenth Street, Room 1311
Sacramento, CA 95814

PROJECT INFORMATION

TITLE: Las Virgenes Creek Stream Restoration Project
LOCATION: A 500-ft segment of Las Virgenes Creek within the City of Calabasas, between Hwy 101 and the Agoura Road Bridge.
DESCRIPTION: The project seeks to remove approximately 500 feet of partially armored, highly urbanized creek channel and replace it with a stable, natural, revegetated channel. The restoration reach extends from Highway 101 (south) to the Agoura Road Bridge.
APPLICANT: City of Calabasas, Public Works Department
COMMENT PERIOD: The review period of the proposed Mitigated Negative Declaration begins on February 9, 2005 and ends March 2, 2005. Written comments should be received on or before March 2, 2005. Comments should refer to the project by name and be addressed to:

05 0013735

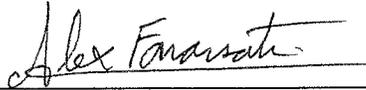
26135 Mureau Road
Calabasas, CA 91302-3172
(818) 878-4225
Fax (818) 878-4215

THIS NOTICE WAS POSTED
ON FEB 08 2005
UNTIL MAR 08 2005
REGISTRAR DE REGISTRO

Notice of Intent to Adopt a Mitigated Negative Declaration
Las Virgenes Creek Stream Restoration Project
City of Calabasas, CA
Page 2 of 2

City of Calabasas
Planning and Environmental Programs Division
26135 Mureau Road
Calabasas, CA 91302-3172
Attention: Alex Farassati

The City Council will hold a public hearing to take action on the proposed project and the environmental finding on March 2, 2005 at 7:30 PM at Calabasas City Hall, City Council Chambers, 26135 Mureau Road. Copies of the documentation can be reviewed in the Planning and Environmental Programs Division, City Hall, First Floor (handicapped accessible location). City Hall business hours are 7:30AM - 5:30PM, Monday through Thursday, and 7:30AM - 2:00PM on Friday. Please telephone in advance to assure staff availability at (818) 878-4225.



Alex Farassati, Planner

February 2, 2005

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INITIAL STUDY CHECKLIST

1. **Project Title:** Las Virgenes Creek Stream Restoration Project

2. **Case Processing Numbers:**

3. **Lead Agency Name and Address:** City of Calabasas
26135 Mureau Road
Calabasas, California 91302

4. **Contact Person and Phone Number:** Chuck Mink, Roxanne Hughes
(818) 878-4225

5. **Project Location:** A 500-ft segment of Las Virgenes Creek within the City of Calabasas, between Hwy 101 and the Agoura Road Bridge.

6. **Project Sponsor's Name and Address:** City of Calabasas
26135 Mureau Road
Calabasas, California 91302

7. **General Plan Designation:** Existing: Business, Retail (BR)
Proposed: Business, Retail (BR)

8. **Zoning:** Existing: Commercial, Retail (CR)
Proposed: Commercial, Retail (CR)

9. **Project Description:**
The project seeks to remove approximately 500 feet of partially armored, highly urbanized creek channel and replace it with a stable, natural, re-vegetated channel. The restoration reach extends from Highway 101 (south) to the Agoura Road Bridge. The project reach consists of three general sections: the upstream natural channel, the middle concrete trapezoidal channel, and the channelized portion below Agoura Road Bridge. The upstream section, a natural bed with rock riprap side slopes, is approximately 40 feet long and extends from the downstream edge of the Highway 101 box culvert to the beginning of the concrete trapezoidal channel. The middle section consists of a concrete trapezoidal channel that is relatively flat, and extends for approximately 370 feet. The section below Agoura Road Bridge is 92 feet long; the upstream half of the section is channelized, and the downstream half consists of grouted rock riprap. Finished concrete bridge piers form the bridge foundations and line this section of the project reach below the Agoura Road Bridge.

The primary goals of the proposed project are to achieve stable compound channel morphology and significant native riparian vegetation and habitat. The overall restoration plan is made up of six main components:

- a) gradient control;
- b) bank slope reconfiguration;
- c) fish passage improvement;
- d) erosion control;
- e) flood control;
- f) public access.

A set of plan sheets is attached as part of this project description.

Gradient control along the restoration reach would be achieved with five vertical drops at varying intervals. The drops would consist of rock weirs with pools and runs in between drops. As these drops would be constructed to allow for fish passage, they have been designed following National Marine Fisheries Service (NMFS) and California Department of Fish and Game (CDFG) guidelines. The typical drop structure will drop 15 inches. The rock weirs (drop structures) would be keyed deeply into the banks of the creek so that flow would not “flank” or go around the structures, making them ineffective as a gradient control. Reducing the gradient would reduce sediment transport, encourage bar and floodplain development, and increase the chances of developing a stable low flow channel and associated floodplain channel morphology for the creek. All rock/stone revetments would be planted with long willow stakes to ensure that vegetation cover would become part of the overall cover of the structure.

The existing concrete bank slopes are 1.5 (H) to 1 (V). The concrete slopes would be removed as part of the proposed project. At the existing slope, planting and establishing riparian vegetation will be difficult. For the restoration of the bank slopes to be successful, the angle of the slope would be reduced to a minimum of 2:1. The project's bank slope configuration would be achieved by retaining the existing bank tops at their current position and constructing a retaining wall at the top of the bank (see sheet 4 and 7). This would keep the project within the existing easement right-of-ways and top-of-bank boundaries of the project while reducing the slope of the creek bank. This technique would allow the lower bank slopes to be laid back at a 2:1 slope but still retain existing top of bank boundaries

Fish passage will be achieved by construction of the rock weir gradient control structures (discussed above) and removal of the concrete channel beneath the bridge. The channel bed would be returned to the natural ground surface. An additional rock weir gradient control structure would be added beneath the bridge and the channel would be graded to a compound configuration.

Effective erosion control within the channel is the primary goal of the restoration efforts. Although the erosion potential of the channel and banks decreases as the project ages and mature stable vegetation is established, effective erosion protection is critical during the initial phases of the project construction and establishment. The proposed project includes a combination of erosion control measures that would protect erosion up to 5,000 cfs (or about a 10-year protection level). Erosion control measures that would be implemented include: (a) coir fiber blocks installed along the low-flow channel and (b) willow-staked loose rock revetment installed in both the low-flow

channel and the bank slope toes. Rock toe protection would extend 5 to 6 vertical feet up the bank slope. This rock would be planted with willow stakes and backfilled with channel bed sediments and topsoil for greater rock erosion control. Additional erosion control would be accomplished through an extensive riparian planting program, which would divide planting for the channel into several different planting zones shown on sheet 12 of the enclosed plans. A temporary irrigation system will need to be installed to ensure adequate irrigation during the vegetation establishment period.

The flood control aspects of the channel are important. Because revegetation of the project reach would increase frictional resistance, predicted water surface elevations show flooding can occur in the upper portions of the project reach. Specifically, overbank flooding could occur from Station 575 to 700. This would cause shallow flooding in the adjacent parking lot. This localized flooding would be prevented by the construction of a 200-foot length floodwall along the west creek bank top to ensure a 3-foot freeboard above the capitol flood water surface elevation.

The proposed project also includes public access. This is particularly important because the project is adjacent to a shopping mall and café. Currently, a maintenance access path extends for the project length along the top of the eastern bank. The concrete path would be removed and replaced with a 6ft-wide compacted dirt access path. An additional path would be constructed along the eastern bank, within the proposed 4ft-wide retaining wall. A wooden, hexagonal gazebo would be constructed over the creek and supported by piers. Pedestrian ramps to the gazebo would ensure handicapped accessibility following American Disability Act (ADA) standards.

10. Surrounding Land Uses and Setting:

The project site is located in a highly urbanized area. A commercial shopping center lies to the east of the project reach; a business park is located to the west of the project reach.

11. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreements):

- U.S. Army Corps of Engineers – Clean Water Act section 404 permit
- Regional Water Quality Control Board - Section 401 Water Quality Certification
- California Department of fish and Game – Streambed Alteration Agreement

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The proposed project may have an impact on the environmental factors listed below, and would have at least one "Potentially Significant Impact" on the environment as indicated by the checklist on the following pages.

- | | | |
|--------------------------|---------------------------------|--------------------------------------|
| ♦ Aesthetics | ♦ Hazards & Hazardous Materials | ♦ Public Services |
| ♦ Agricultural Resources | ♦ Hydrology/Water Quality | ♦ Recreation |
| ♦ Air Quality | ♦ Land Use/Planning | ♦ Transportation/Traffic |
| ♦ Biological Resources | ♦ Mineral Resources | ♦ Utilities/Service Systems |
| ♦ Cultural Resources | ♦ Noise | ♦ Mandatory Findings of Significance |
| ♦ Geology/Soils | ♦ Population/Housing | |

DETERMINATION

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	X
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to an earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	



Maureen Tamuri
 City of Calabasas
 Director of Planning and Community Development

2.2.05

Date

EVALUATION OF ENVIRONMENTAL IMPACTS

(Requirements specified in CEQA Guidelines)

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
 - (a) Earlier Analysis Used. Identify and state where they are available for review.
 - (b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - (c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The analysis of each issue should identify: (a) the significance criteria or threshold used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significance.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(1) **LAND USE AND PLANNING.** Would the project:

a) Physically divide an established community?				X
b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural communities conservation plan?				X
d) Result in direct or indirect population related growth inducement impacts (significantly expand employment opportunities, remove policy impediments to growth, or contribute to potential extensions of growth inducing infrastructure)?				X

LAND USE AND PLANNING DISCUSSION:

- a) The project would not result in the physical division of an established community. **No impact** would occur.
- b) The proposed project does not involve any changes in land use, General Plan designations, or zoning. **No impact** to land use plans, policies, or regulations would occur.
- c) The proposed project does not conflict with habitat conservation plans. Rather, the proposed project would be constructed in accordance with the *Las Virgenes Gateway Master Plan*, the *Malibu Creek Watershed Management Area Plan*, and the *Las Virgenes, McCoy and Dry Canyon Creeks Master Plan for Restoration*. Therefore, **no impact** would occur.
- d) The proposed creek restoration project would project would not affect human population growth in any way. **No impact** to population growth would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(2) **BIOLOGICAL RESOURCES.** Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?		X		
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Exhibit 5: Mitigated Negative Declaration

b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?				X
g) Result in damage to, loss of, or removal of native oak trees or other locally identified specimen trees of significance?				X

BIOLOGICAL RESOURCES DISCUSSION:

a) Biological conditions along the project site were discussed in the *Preliminary Design and Feasibility Analysis for Stream Restoration of Las Virgenes Creek* (Questa Engineering Corporation, 2004). The report includes a biological reconnaissance of the project site and a California Natural Diversity Database (CNDDDB) search of special-status species with recorded occurrences within the Calabasas and Malibu Beach USGS 7.5-minute quadrangles. The CNDDDB is maintained by the California Department of Fish and Game (CDFG) and provides occurrences of listed or sensitive plants, animals, and plant communities that correspond to USGS quadrangles.

Review of the CNDDDB indicates three special-status wildlife species and two special-status plant species occur within the project Las Virgenes watershed (see **Tables 1** and **2**). The three special-status wildlife species with recorded occurrences within the project USGS quadrangles (California red-legged frog, Coastal California gnatcatcher, and Southwestern pond turtle) are all unlikely to occur at the project site due to lack of appropriate habitat conditions. The two special-status plant species (Braunton's milk vetch, San Fernando Valley spineflower) are unlikely to occur in the vicinity of the project reach due to lack of availability of preferred habitat and distance from extant communities.

The habitat of the California red-legged frog is permanent ponds and streamsides in grasslands, woodlands, and forests with emergent vegetation that provides cover. Red-legged frogs require cool water. Deep pools are necessary for many aspects of the frog's life cycle. Because of physical barriers to corridor migration and lack of suitable habitat within the trapezoidal concrete channel, the California red-legged frog is considered unlikely to occur at the project site.

The Coastal California gnatcatcher is an obligate, permanent resident of coastal sage scrub habitat below 2500 feet above mean sea level (MSL) in Southern California and Mexico. It occurs in low, coastal sage scrub in arid washes,

on mesas and slopes. This small bird is currently designated as threatened throughout its entire range by the US Fish and Wildlife Service (USFWS). In 2003, the USFWS proposed approximately 495,795 acres (775 square miles) of land in portions of Ventura, Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties as critical habitat for the bird. None of the designated habitat occurs within the Las Virgenes watershed. The Coastal California gnatcatcher is unlikely to occur at the project site due to lack of coastal scrub habitat and distance from extant populations.

The Southwestern pond turtle is typically found in ponds, marshes, and rivers with aquatic vegetation. Optimal habitat is characterized by the presence of adequate emergent basking sites, emergent vegetation, and the presence of suitable shelter or protection in the form of undercut banks, submerged vegetation, mud, rocks, and logs. Due to the lack of permanent or nearly permanent water, or basking sites such as partially submerged logs, vegetation mats, or open mud banks at the project site, the Southwestern pond turtle is unlikely to occur at the project site.

Table 1

Recorded occurrences of special status wildlife species within the CNDDB Frazier Mountain quadrangle. Status of all species is based on the CDFG Threatened and Endangered Animals List for California, September 2003.

Species	Federal Status	State Status	CDFG Status	Potential to Occur at the Project Site
CALIFORNIA RED-LEGGED FROG <i>RANA AURORA DRAYTONII</i>	Threatened	None	Species of Concern	Unlikely
COASTAL CALIFORNIA GNATCATCHER <i>Polioptila californica californica</i>	Threatened	None	Species of Concern	Unlikely
SOUTHWESTERN POND TURTLE <i>Emys (Clemmys) marmorata pallida</i>	Species of Concern	None	Species of Concern	Unlikely

Braunton's milk-vetch is a federally endangered plant that occurs in closed-cone coniferous forests, chaparral, coastal scrub, and valley and foothill grassland habitats. It is often found in recently burned or disturbed areas, or in stiff gravelly clay soils overlying granite or limestone. One record was found in the CNDDB database for an occurrence approximately 2 miles northeast of the project site in 1998 within the Ahmanson Ranch development area near Laskey Mesa in southwestern Ventura County.

The San Fernando Valley spineflower is a special-status plant species that is a candidate for federal listing and a state endangered species. This variety of spineflower was thought to be extinct, having not been seen since 1929 until it was rediscovered on the Ahmanson Ranch site in 1999. It is generally found in coastal scrub habitat on sandy soils associated with the Modelo Formation. It is found often in sparsely vegetated areas where soils are thin, compacted or bedrock is exposed. The spineflower is also found along the interface between coastal sage

scrub habitat and non-native grasslands. The recorded occurrences were located within the Ahmanson Ranch site in areas of open soil habitats concentrated along the outer southern rim of the Laskey Mesa.

Table 2

Recorded occurrences of special status plant species within the CNDDB Frazier Mountain quadrangle. Status of all species is based on the CDFG Threatened and Endangered Animals List of California, September 2003. California Native Plant Society (CNPS) list designations are based on the Inventory of Rare and Endangered Vascular Plants (2003).

Species	Federal Status	State Status	R-E-D code*	CNPS**	Potential to Occur at the Project Site
BRAUTON'S MILK VETCH <i>Atragalus brauntonii</i>	Endangered	None	3-3-3	1B	Unlikely
SAN FERNANDO VALLEY SPINEFLOWER <i>Chorizanthe parryi var fernandina</i>	Candidate	Endangered	3-3-3	1B	Unlikely

* R-E-D Code. **rarity**, which addresses the extent of the plant; **endangerment**, which embodies the perception of the plant's vulnerability to extinction for any reason; and **distribution**, which focuses on the overall range of the plant. In each case, higher numbers indicate greater concern.

** CNPS Plant lists: 1A: Plants presumed extinct in California; 1B: Plants rare, threatened or endangered in California and elsewhere; 2: Plants rare, threatened, or endangered in California, but more common elsewhere.

None of the identified special status species are likely to occur within the proposed restoration reach based on habitat requirements, the distance from extant populations, or physical obstacles to species migration. All of the occurrences were located in the upper watershed (i.e. Ahmanson Ranch area) above developed portions of Las Virgenes Creek; thus, though migration through the watershed and use of the creek as a wildlife corridor is possible, the potential for any of the special status species to occur within the project vicinity is unlikely.

Although the likelihood that special-status wildlife and plant species occur along the project reach is low, and the proposed project will have long-term benefits to riparian habitat, it is still possible that short-term impacts could occur during construction activities. Implementation of **Mitigation Measures BIO-1** through **BIO-4** would reduce construction-related impacts on endangered, threatened, or rare species to **less-than-significant** levels.

b) Rehabilitation of the project reach would be a step towards restoring a link of the highly urbanized creek system through Ventura and Los Angeles counties. Riparian habitat along the project reach is significantly degraded. The concrete trapezoidal channel hinders wildlife migration. Restoration efforts would result in the establishment of significant native riparian vegetation and habitat along the project site.

Las Virgenes Creek, a tributary to Malibu Creek, is not considered to be habitat for migratory fish. The CNDDB database indicates that designated Southern California Steelhead Stream habitat exists along Malibu Creek from approximately one-half mile upstream of the mouth at the upper lagoon to Ringe Dam. This stream corridor encompasses Southern steelhead and Pacific lamprey spawning range. The CNDDB shows no recorded occurrences of the Southern Steelhead within the project watershed due to the fact that Ringe Dam prevents fish

migration north of the dam. However, in the event that the dam is either removed or modified to allow fish passage, the project reach could potentially provide a corridor between the pristine coastal scrub habitat of the Ahmanson Ranch area to the Southern Steelhead Stream habitat below Ringe Dam.

The proposed project would result in an improvement to riparian habitat and a potential improvement to sensitive natural habitat located downstream of the project site. Therefore, **no impact** to riparian habitat or other sensitive natural community would result.

c) Notable wetland habitat was not evident during the June 2004 biological reconnaissance conducted by Questa staff. However, it is possible that seasonal wetlands do occur during the rainy season along the upstream natural channel and along the channelized portion below Agoura Road Bridge. If this is the case, channel restoration efforts may affect seasonal wetlands along the project reach. However, seasonal wetlands will likely reestablish themselves upon project completion. Therefore, potential project impacts associated with seasonal wetlands are considered **less-than-significant**.

d) Currently, the project reach acts as an obstacle to wildlife migration and the movement of resident fish and other aquatic organisms along Las Virgenes Creek. While Las Virgenes Creek is not considered to be habitat for migratory fish species, nonmigratory fish are expected to live along the project reach. Implementation of the proposed project would not further interfere with the movement of wildlife or nonmigratory fish, except during construction. With the proposed stabilization of the creek channel and planting of native riparian trees and vegetation, migratory corridors would be extended and enhanced along the project site. Movement of wildlife and nonmigratory fish would be temporarily impeded during construction, however, this is considered a **less-than-significant** impact.

e) The proposed project does not conflict with existing policies or ordinances protecting biological resources. Therefore, **no impact** would occur.

f) The proposed project does not conflict with existing plans and policies protecting biological resources. Rather, the proposed project would be constructed in accordance with the *Las Virgenes Gateway Master Plan*, the *Malibu Creek Watershed Management Area Plan*, and the *Las Virgenes, McCoy and Dry Canyon Creeks Master Plan for Restoration*. Therefore, **no impact** to adopted habitat conservation plans would occur.

g) The proposed project would not result in damage to, loss of, or removal of native oak trees or other locally identified specimen tree of significance. **No impact** to heritage trees would occur.

BIOLOGICAL RESOURCES MITIGATION MEASURES:

BIO-1 *As close to the beginning of construction as possible, but not more than 14 days prior to construction, a qualified biologist should conduct a final pre-activity survey of the construction zone to ensure that no special status wildlife and/or plant species have recently occupied the site. If any special status wildlife and/or plant species are found, exclusion zones should be established and maintained until all construction activities are completed. In some cases it may be preferable to*

remove and/or relocate the individual plant or animal. If special status species are found during the preconstruction survey, the biologist should be present immediately prior to construction activities that have the potential to impact special status species to identify and protect potentially sensitive resources.

BIO-2 Large shrubs should be avoided to the extent possible to minimize impact to wildlife habitat.

BIO-3 The City of Calabasas Engineering and Public Works Department shall secure appropriate permits from the US Army Corps of Engineers, the CDFG, and the Los Angeles Regional Water Quality Control Board (RWQCB). At the time of this Initial Study, permits applications have been submitted to the agencies. Once the permits have been granted, the Engineering and Public Works Department shall comply with any additional measures imposed as permit conditions beyond those proposed and outlined in this document.

BIO-4 The contractor hired for project construction shall implement erosion control and water quality Best Management Practices (BMPs) to reduce discharges to live streams during and after construction. These measures are listed and described in Section 7 – Hydrology and Water Quality.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(3) **AIR QUALITY.** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?		X		
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?		X		
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?		X		
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

AIR QUALITY DISCUSSION:

a) Less than significant with mitigation incorporation. The U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (ARB) have established ambient air quality standards for common pollutants. The EPA has jurisdiction under the Federal Clean Air Act to develop Federal Air Quality Standards and require

individual states to prepare State Implementation Plans to attain these standards. The ARB has jurisdiction under the California Health and Safety Code and the California Clean Air Act to develop California Air Quality Standards, to require regional plans to attain these standards, and to coordinate the preparation by local air districts of plans required by both the Federal and State Clean Air Acts. The Federal and State standards were developed independently with differing purposes and methods, although both processes attempted to avoid health-related effects. In general, the California State standards are more stringent¹.

ARB has divided California into 15 separate air districts to better manage pollution. The City of Calabasas is located with the South Coast Air Quality Management District (AQMD). This district includes Orange County, the western portion of San Bernardino County, the western portion of Riverside County, and most of Los Angeles County except for Antelope Valley. The South Coast AQMD is responsible for developing air quality plans and implement air quality control measures for its respective district. Currently, the air in this district does not regularly meet all federal and state air quality standards. Policies and measures aimed at compliance with federal and state standards were proposed in the 2003 Air Quality Management Plan (AQMP)².

The proposed project does not involve the construction of infrastructure that would result in a long-term increase in air emissions that would result in changes to regional air quality. However, project construction activities may result in short-term changes to air quality in the immediate vicinity of the project site. Temporary increases in air quality may result from earthmoving activities. Dust can be emitted by the action of equipment and vehicles and as a result of wind erosion over exposed earth surfaces. Grading and earthmoving activities, although minimal, comprise the major source of construction dust emissions, but traffic and general disturbance of the soil also generate dust emissions. Short-term impacts would be mostly related to particulate matter emissions, but an increase in exhaust emissions produced during the transport of workers and machinery to and from the site could also occur.

These impacts are temporary, and therefore considered to be **less-than-significant** with the implementation **Mitigation Measures AIR-1** through **AIR-5**.

b-c) Short term air quality impacts associated with project construction would be **less-than-significant** with the implementation of **Mitigation Measures AIR-1** through **AIR-5**.

d) There are no sensitive receptors (schools, elderly homes, specific crops) in the vicinity of the project reach that would be exposed to substantial pollutant concentrations. **No impact** would occur.

e) Heavy machinery powered by diesel engines that would be used during project construction may create localized odors during the duration of construction operations. It is unlikely that these odors would be noticeable by humans not on the project site. No permanent odors would be created. Therefore, **no impact** associated with questionable odors would occur.

¹ California Air Resources Board (ARB). Online. 29 Dec. 2003

AIR QUALITY MITIGATION MEASURES:

AIR-1: During clearing, grading, or earth moving activities, water shall be sprayed on exposed surfaces and loose dirt and soils to prevent dust from leaving the site. At a minimum, all exposed areas and areas of vehicle movement should be wetted down in the morning and after work is completed for the day and whenever winds exceed 15 mph.

AIR-2: Stockpiled earth material will be sprayed as needed to minimize dust generation.

AIR-3: During construction, the amount of disturbed area will be minimized, and on-site vehicle speeds limited to 15 mph or less.

AIR-4: All trucks hauling dirt, soil, or other loose material shall be covered or shall maintain at least 1 foot of freeboard (minimum vertical distance between the top of the load and the top of the trailer).

AIR-5: After clearing, grading, earthmoving, or excavation is completed, the entire area of disturbed soil shall be treated by watering, re-vegetating, and/or spreading soil binders to minimize dust generation.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(4) CULTURAL RESOURCES. Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resources pursuant to Section 15064.5?		X		
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
e) Result in physical disruption of an identified sacred place or other ethnographically documented location of significance to native Californians?				X

CULTURAL RESOURCES DISCUSSION:

a) CEQA defines a historical resource as any resource that: is associated with events that made that have made a significant contribution to broad patterns of California's history and cultural heritage; is associated with lives of persons important in our past; embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of an important creative individual, or possesses high artistic values; or has yielded or may be likely to yield information important in prehistory or prehistory.

The project site consists of roughly 500 feet of highly urbanized creek channel, 370 feet of which consists of a concrete trapezoidal channel. The proposed project does not involve the demolition, destruction, relocation, or alteration of historical resources. **No impact** to historical resources would occur.

b) An archaeological resource implies an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it: contains information needed to answer important scientific questions; has a special or particular quality, such as being the oldest of its type or the best available example of its type; or is directly associated with a scientifically-recognized important prehistoric or historic event or person.

The project site is located in a highly urbanized area of the City of Calabasas. There are no known archaeological resources within or in close proximity to the project site. Due to the fact that project development would occur in a partially armored active stream channel that has undergone significant geomorphic changes, it is unlikely that archaeological resources are present at the project site. Implementation of **Mitigation Measures CUL-1** through **CUL-2** would reduce any potential project-related impacts associated with archaeological resources to **less-than-significant** levels.

c) There are no known unique geological features within the vicinity of the project area. There are no known fossil-bearing surficial sediments in the project area. **No impact** to unique geological features would occur.

d) There are no known human remains in the vicinity of the project site. **No impact** to human remains would occur.

CULTURAL RESOURCES MITIGATION MEASURES:

CUL-1: *If deemed necessary by the City of Calabasas Planning Department, a qualified archaeological monitor shall be present to monitor significant earth movement at the project site.*

CUL-2: *In the event that artifacts of archaeological significance are uncovered, a qualified archaeologist shall be empowered to halt construction in the immediate vicinity of such unearthed artifacts until disposition of the site has been determined by the City Planning Department.*

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(5) GEOLOGY AND SOILS. Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				X
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
(ii) Strong seismic ground shaking?				X
(iii) Seismic-related ground failure, including liquefaction?				X
(iv) Landslides?				X

b) Result in substantial soil erosion or the loss of topsoil?		X		
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
e) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
f) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?				X
g) Result in remediation scars (benched slopes, etc.) whose dimensions cannot be predicted with reasonable accuracy based on a preliminary geotechnical report?				X

GEOLOGY AND SOILS DISCUSSION:

a-i) No known active or potentially active faults have been mapped across the project area and the area is not located in a Fault Rupture Hazard Zone as established by the Alquist-Priolo Earthquake Fault Zoning Act. No evidence of active faulting has been reported at the project site or in the immediate vicinity. **No impact** would occur.

a-ii) The project site is located in a seismically active region of California. Expected seismic shaking intensity and risk to structures at the site is dependent on the distance of the site's structures from the causative fault and earthquake epicenter, the character of the earthquake, and the underlying geologic and soil conditions. The California State Mining and Geology Board defines active faults as faults that have had surface displacement within Holocene time (within the last 11,000 years). Active faults in the vicinity of the project site are listed in **Table 3**.

Table 3
Active Faults in the Vicinity of the Project Site.

Fault	Approximate Distance (miles)	Direction from Project Site	Last Displacement
Malibu Coast	1	south	Holocene
Cayetano	3.5	north	Holocene
San Fernando	3.5	northeast	Historic
Hollywood Fault	4	southeast	Holocene
San Gabriel	4.5	north	Holocene
Newport Inglewood	4.5	southeast	Holocene
San Andreas	8	northeast	Historic

Source: Jennings, Charles, 1994. *Fault Activity Map of California and Adjacent Areas*. California Division of Mines and Geology

Notes: Historic displacement is displacement that has occurred within the last 200 years; Holocene displacement is displacement that occurred between 200 and 11,000 years ago.

Implementation of the proposed project would not increase the exposure or risk to people of structures associated with seismic shaking. The City of Calabasas requires that buildings and structures be designed in accordance with the California Building Code (CBC) design requirements for buildings and structures in Seismic Zone 4 (Type B faults). Geotechnical recommendations for the foundation of the proposed gazebo and retaining walls were included in the *Geotechnical Engineering Investigation* for the proposed project in accordance with CBC design requirements (GeoSoils Consultants Inc., 2004).

No impact associated with strong seismic shaking would occur.

a-iii) Liquefaction hazards may be present in loose, saturated soils, such as sands or silty sands, in which the space between individual particles is completely filled with water. Subsurface investigations performed during the *Geotechnical Engineering Investigation* indicate subsurface soils consist of gravelly, silty, coarse sand and sandy, silty clay from 0 to 15-20 feet bgs. From 15-20 to 50 feet bgs., site soils consist of interbedded, silty, gravelly sand, sandy silt, silty, coarse and fine sand and sandy clay. Soils at the project site may be susceptible to liquefaction under saturated conditions³.

Laboratory soil testing and recommendations for site development and retaining wall design are included in the *Geotechnical Engineering Investigation* for the proposed project. The proposed project will adhere to geotechnical design recommendations included in the report. Therefore, **no impact** associated with liquefaction hazards would occur.

a-iv) Slope stability analyses were performed as part of the Geotechnical Engineering Investigation to assess the impact of the proposed project on the stability of the creek banks. The results of the analyses indicate the proposed slopes will have a factor-of-safety greater than minimum code requirements. Therefore, **no impact** associated with slope stability would occur.

b) Implementation of the project would not result in a long-term increase in soil erosion or loss of topsoil. One of the primary goals of the project is to achieve stable compound channel morphology. Proposed gradient control structures, bank slope reconfiguration, planted rock/stone revetment, riparian planting, and biotechnical bank stabilization methods would mitigate the potential for long-term erosion and soil loss along the project reach.

Effective erosion control during the initial phases of the project construction and establishment is mandatory. Temporary impacts from construction-related activities would result in disturbance of the ground surface and removal of vegetation and concrete cover. Construction activities would expose disturbed and loosened soils to erosion from rainfall, wind, and water. The channel erosion potential would decrease over time as the mature stable vegetation is established. Short-term increases in soil erosion during construction activities would be reduced to **less-than-significant** levels through implementation of **Mitigation Measures WQ-1** through **WQ-3** as discussed in Section 7.

³ California Division of Mines and Geology, 1998. Seismic Hazard Zones, Calabasas Quadrangle. Open File Report 97-13.

Section 7 – Hydrology and Water Quality.

Erosion control measures to address erosion after construction but during the initial phases of the proposed project were included in the *Preliminary Design and Feasibility Analysis*. The measures include softer biotechnical approaches that integrate vegetation and biodegradable products, such as fiber blankets, biologs, coir blocks, small rock revetment with stakes, rip rap, and planted gabion structures. These measures can effectively reduce erosion and while allowing for the vegetation to mature during the first three to five years after project construction. See project plan sheets for erosion control details.

c) There are no known unique geological features within the vicinity of the project area. There are no known fossil-bearing surficial sediments in the project area. **No impact** to unique paleontological resources or geological features would occur.

d-e) The proposed project is not located on a geologic unit or soils that are unstable or that would become unstable as a result of the project. Geotechnical design recommendations based on site soil conditions were included in the *Geotechnical Engineering Investigation*. **No impact** associated with slope stability or expansive soils would occur.

f) The proposed project does not involve the construction of a septic system and/or alternative wastewater disposal system. **No impact** would occur.

g) The dimensions of all proposed restoration features are depicted in both plan form and cross-sectional views in enclosed plan sheets. **No impact** associated with unpredictable dimensions of remediation scars would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(6) HAZARDS AND HAZARDOUS MATERIALS. Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?		X		
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?		X		
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wild lands?				X

HAZARDS AND HAZARDOUS MATERIALS DISCUSSION:

a) The proposed project does not involve the construction of a facility or structure associated with the routine transport, use, or disposal of hazardous materials. No releases of hazardous materials or substances are expected to occur as a result of the implementation of the proposed project. There is, however, a slight risk of fuel and other petroleum spills during construction. Implementation of **Mitigation Measure HAZ-1** would reduce potential impacts associated with the routine transport, use, or disposal of hazardous materials during construction to **less-than-significant** levels.

b) Hazardous materials (i.e. fuel and other petroleum products) would likely be present at the project site during the construction period. However, with the incorporation of **Mitigation Measure HAZ-1**, temporary impacts associated to the accidental release of hazardous materials are considered **less-than-significant**.

c) The proposed project is not located within one-quarter mile of an existing or proposed school. Temporary emissions due to construction activities are addressed **Section 3 – Air Quality**. Other hazardous emissions or the handling of hazardous or acutely hazardous materials, substances, or waste are not predicted to result from the implementation of the proposed project. **No impact** to existing or proposed schools would occur.

d) The project site is not listed as a hazardous materials site. **No impact** would occur.

e-f) The project site is not located within an airport land use plan area, or within two miles of a public use airport. It is also not located within the vicinity of a private airstrip. **No impact** would occur.

g) Implementation of the proposed project would not interfere with an adopted emergency response/evacuation plan. **No impact** would occur.

h) Implementation of the proposed project would not increase the risk of wildfires in the project vicinity. The proposed project would not involve the construction of structures that would result in an increase in exposure of people and property to wildfires hazards. **No impact** would occur.

HAZARDS AND HAZARDOUS MATERIALS MITIGATION MEASURES:

HAZ-1: Incorporate a hazardous materials plan into the overall SWPPP. The SWPPP is subject to approval by the Los Angeles RWQCB. This portion of the plan shall include, but not be limited to, the following:

- The SWPPP shall include measures for containing hazardous materials, such as accidental fuel spills.
- No construction equipment shall be left overnight in the creek channel.
- All refueling and/or maintenance of heavy equipment shall take place at a minimum of 100 feet away from the top of bank of the creek channel.
- All personnel, contractors, and subcontractors shall comply with all applicable standards and conditions set forth by the RWQCB.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(7) HYDROLOGY AND WATER QUALITY. Would the project:

a) Violate any water quality standards or waste discharge requirements?		X		
b) Substantially degrade groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off site?		X		
d) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
e) Otherwise substantially degrade water quality?				X
f) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
h) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
i) Inundation by seiche, tsunami, or mudflow?				X

HYDROLOGY AND WATER QUALITY DISCUSSION:

a) Construction of the proposed project would involve some grading and earthwork within the Las Virgenes Creek channel. Disturbed and exposed surfaces would be susceptible to the erosional forces of wind and water and could result in the degradation of water quality in Las Virgenes Creek. Implementation of *Mitigation Measures WQ-1* through *WQ-3* would reduce potential construction-related impacts to water quality to *less-than-significant* levels.

b) The proposed project does not require additional water supplies that could substantially deplete existing groundwater supplies, or result in a net deficit in aquifer volume or lowering of the local groundwater table. While the revegetation plan associated with the project would likely include irrigation of riparian plantings during dry months for a period of 2-3 years after construction, or until the plantings are well established, this water would likely be derived from the Las Virgenes Municipal Water District and would not affect local groundwater levels.

The proposed project would not result in the construction of additional structures or impervious surfaces that would interfere with groundwater recharge. In fact, removal of the 370-foot long trapezoidal concrete channel would improve groundwater recharge along the project reach.

No impact to groundwater resources would occur.

c) The proposed project would not result in an increase in erosion or siltation on- or off-site. Erosion control measures inherent in the project description would address the potential erosion and/or siltation along the project site in the long term and during the initial phases of the project and create a geomorphically-stable stream channel. Construction-related erosion and siltation impacts would be addressed by **Mitigation Measures WQ-1** through **WQ-3**. Temporary construction impacts associated with erosion and siltation are considered **less-than-significant** with mitigation.

d) The proposed project would not create or contribute additional runoff to Las Virgenes Creek. However, the project could potentially raise water surface elevations above the creek banks and cause localized flooding in the parking area to the west of the site during large storm events.

Existing and post-construction hydraulic conditions along the project reach are discussed in the *Preliminary Design and Feasibility Analysis for Stream Restoration, Las Virgenes Creek*. A HEC-RAS hydraulic model was developed to determine existing conditions and provide an analysis of the impact of restoring the channel to a more natural condition. Three different scenarios were modeled: existing conditions, proposed conditions – right after construction, and proposed conditions – with full vegetation established.

The existing 370-foot trapezoidal concrete segment of the project reach is vegetation-free, has low frictional resistance, and is capable of transporting a high discharge rate within a relatively small cross-sectional area. Revegetation that would occur as part of the proposed project would increase frictional resistance and decrease flow velocity along the project reach. Once the vegetation has fully matured, the restoration project would significantly alter the efficiency of the channel in conveying flow and would raise flood levels. The hydraulic modeling indicated the rise in flood levels could cause shallow flooding in the parking areas to the west of the channel. Potential flooding that would result once vegetation is fully established would be mitigated by the 200-foot long floodwall along the western creek bank. The floodwall would have a 3-foot freeboard above the capitol flood water surface elevation.

Given that the floodwall is inherent in the project description, **no impact** associated with flooding would occur.

e) See response to Item 7-a. **No impact** would occur.

- f) The proposed project does not involve the construction of any housing units within the 100-year flood hazard zone of Las Virgenes Creek. **No impact** would result.
- g) The proposed rock weirs (drop structures) would effectively reduce slope while facilitating fish passage. These weirs would not impede flows in such a way that would result in increased flooding on- or off-site. **No impact** would occur.
- h) The proposed project would not result in an increased exposure of people or structures to flood hazards associated with the potential failure of a levee or dam. **No impact** would occur.
- i) The project site is not located near a lake or large body of water. The project is not located in an area that is susceptible to mudflows. **No impact** associated with seiches, tsunamis, or mudflows would result.

HYDROLOGY AND WATER QUALITY MITIGATION MEASURES:

WQ-1: *The Los Angeles RWQCB would require that, prior to construction, a project SWPPP be prepared that identifies BMPs to reduce erosion of disturbed soils during construction activities. The plan would describe measures that would be used to minimize wind and water erosion and the transport of sediments during construction. The SWPPP would be subject to approval by the RWQCB, pursuant to the States NPDES Construction Permit requirements and Section 401 of the Clean Water Act. The plan would be prepared and approved before construction activities begin. At a minimum, the plan shall include the following measures:*

- *Temporary measures such as flow diversion, temporary ditches, and silt fencing.*
- *Surface disturbance of soil and vegetation would be kept to a minimum; existing access and maintenance roads would be used wherever feasible.*
- *Any stockpiled soil would be placed and sloped so that it would not be subject to accelerated erosion.*
- *Discharge of all project-related materials and fluids into the creek would be avoided to the extent possible by using hay bales or silt fences, constructing berms or barriers around construction materials, or installing geofabric in the area of disturbance.*
- *After ground-disturbing activities are complete, all graded or disturbed areas would be covered with protective material such as mulch, or re-seeded with native plant species. The plan would include details regarding seeding material, fertilizer, and mulching.*
- *Measures outlined in Mitigation Measure HAZ-1.*

WQ-2: *Limit in-channel construction activities to the summer low-precipitation period. The channel bottom and channel banks shall be dewatered during the construction period.*

WQ-3: Ensure that construction activities do not result in increased turbidity during and after construction.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(8) AESTHETICS. Would the project:

a) Obstruct any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive development open to public view?				X
b) Substantially damage scenic resources including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the project site and its surroundings?				X
d) Create sources of incompatibility with the existing scenic and aesthetic environment, community or residents' quality of life?				X
e) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
f) Significantly impact any existing streetscape or public space which has been designed to provide areas of public assembly and congregation?				X
g) Conflict with adopted design guidelines or development standards which have been implemented to improve the quality of architecture in the community?				X

AESTHETICS DISCUSSION:

a) The proposed project would result in the enhancement of a 500-foot length of highly urbanized creek channel. Implementation of the proposed project would improve the aesthetics of the creek channel by promoting native riparian vegetation in the creek channel. **No impact** to scenic vistas or views would occur.

b) The portion of Highway 101 adjacent to the project site is designated as an eligible state scenic highway⁴. However, the proposed removal of the concrete trapezoidal channel and the creation of a natural revegetated creek channel would improve the aesthetics of the project site. Therefore, **no impact** to state scenic highways would occur.

c-d) The proposed restoration of the creek channel and enhancement of riparian habitat would enhance the visual character and quality of the site and its surrounds. The project would be compatible with the existing scenic and aesthetic environment, community, and residents' way of life. **No impact** to visual character or quality would occur.

e) The project does not involve the installation of any large outdoor lights that could be a source of substantial light or glare. **No impact** to daytime or nighttime views of the area would occur.

⁴ California Scenic Mapping System. *Officially Designated State Scenic Highways and Historic Parkways*, Los Angeles County. Online. 21 Dec. 2004.

f) The project would not impact any streetscape or public space that has been designed to provide areas of public assembly and congregation. **No impact** would occur.

g) The project would not conflict with adopted design guidelines or development standards. **No impact** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(9) MINERAL AND NATURAL RESOURCES. Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

MINERAL AND NATURAL RESOURCES DISCUSSION:

a-b) The project would not affect the availability of mineral resources in the vicinity of the project site. No impact would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(10) NOISE. Would the project:

a) Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project, or in rural areas, an increase in ambient noise levels greater than 5 dbs?				X
d) A substantial, temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?		X		
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

NOISE DISCUSSION:

a-c) The proposed project would not result in the exposure of people to long-term noise levels exceeding local noise standards. The project would not generate excessive ground vibration. The project would not result in a substantial permanent increase in ambient noise levels. **No impact** would occur.

d) The project would result in the generation of temporary construction noise. Project construction is expected to last 2 months. Temporary increases in noise levels during project construction would result from construction activities and the use of heavy machinery. Earthwork and the placement of rock rip rap are the activities expected to generate the most noise. Noise levels in construction areas would temporarily increase and could be heard by people in adjacent structures. Implementation of **Mitigation Measures NOI-1** through **NOI-2** would reduce temporary impacts associated with elevated noise levels to **less-than-significant** levels.

e) The project site is not located within an airport land use plan area, or within two miles of a public use airport. It is also not located within the vicinity of a private airstrip. **No impact** would occur.

NOISE MITIGATION MEASURES:

NOI-1: Construction activities shall be limited to daylight hours; weekdays from 7:00 am to 7:00 pm, and Saturdays 9:00 am to 5:00 pm, and no work on Sundays.

NOI-2: Equipment and trucks used for construction of the project shall use the best available noise control techniques. Where feasible, quieter equipment and methods of construction shall be employed.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(11) POPULATION AND HOUSING. Would the project:

a) Result in impacts to an established ethnic community?				X
b) Create substantial demands for affordable low income housing in a jurisdiction which does not have an adequate stock of such housing?				X
c) Result in substantial conflicts between type, size, and quality of proposed and existing housing in the project vicinity?				X
d) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X

POPULATION AND HOUSING DISCUSSION:

a-d) The proposed project would not result in impacts to an established ethnic community. The project would not result in the construction of housing or structures that would attract additional visitors or residents to the area. The project would not displace any housing or people nor would it necessitate the construction of additional housing elsewhere. Therefore, **no impact** on population and housing would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(12) **PUBLIC SERVICES.** Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

a) Fire protection				X
b) Police protection				X
c) Schools				X
d) Parks				X
e) Other public facilities				X

PUBLIC SERVICES DISCUSSION:

a-e) The project would not result in the alteration of and/or increase in demand for public services. **No impact** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(13) **RECREATION.** Would the project:

a) Increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

RECREATION DISCUSSION:

a-b) The project would not result in an increase in the use of existing neighborhood or regional parks or other recreational facilities. The project also does not require the construction or expansion of recreational facilities. Therefore, **no impact** to recreational resources would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(14) **TRANSPORTATION/TRAFFIC.** Would the project:

Exhibit 5: Mitigated Negative Declaration

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency or City General Plan Circulation Element threshold?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards related to existing intersections or roadway design features (e.g., sharp curves or dangerous intersections), or to incompatible uses (e.g., residential traffic conflicts with farm equipment)?				X
e) Result in inadequate secondary or emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

TRANSPORTATION/TRAFFIC DISCUSSION:

a-b) The project is located in a highly urbanized area of Los Angeles County. The project area has adequate internal circulation capacity including entrance and exit routes. Construction vehicles at the project site would not significantly impact traffic on adjacent streets, nor exceed level-of-service standards. Temporary truck traffic to and from the project site during construction is considered **less-than-significant**.

c) The project would not result in a change in air traffic patterns. **No impact** would result.

d) The project would not increase hazards due to a design feature or incompatible uses. **No impact** would occur.

e) The proposed project would not affect emergency access to the adjacent shopping center or business park. **No impact** would occur.

f) Construction vehicles would temporarily be parked in a temporary staging area located in the Albertsons and Starbucks parking lot east of the creek. During the four months of construction, the capacity of this parking area would be reduced. However, the size of the staging area would be minimized to the maximum extent possible. The short-term impact to parking in the eastern shopping center would be **less-than-significant**.

g) The proposed project does not impact any plans, policies, or programs aimed at supporting alternative transportation. **No impact** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(15) UTILITIES AND SERVICE SYSTEMS. Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs for a minimum ten year period?			X	
g) Comply with federal, state, and local statues and regulations related to solid waste?				X
h) Provide for on-site source separation and recycling facilities which are adequately sized for the proposed use?				X

UTILITIES AND SERVICE SYSTEMS DISCUSSION:

- a) The proposed project would not result in an increase in wastewater generation nor the need for additional treatment capacity. **No impact** would occur.
- b) No water or wastewater facilities would need to be constructed. The revegetation plan would likely include seasonal irrigation of new plantings for 2-3 years after construction, or until they become well-established. However, it is not likely the construction of the irrigation system would result in environmental effects. **No impact** would occur.
- c) The project would not require the construction of new stormwater drainage facilities nor the expansion of existing facilities. **No impact** would occur.
- d) Irrigation of new plantings along the project reach would be temporary (2-3 years) and would only occur during dry months. Irrigation water would likely be derived from the Las Virgenes Municipal Water District. The irrigation of new plantings would result in **less-than-significant** impacts to water resources.
- e) See response to Item 15-a. **No impact** would occur.

f-h) The project would not result in the generation of waste. Local landfills would not be affected. Recycling facilities would not be needed. **No impact** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(16) MANDATORY FINDINGS OF SIGNIFICANCE.

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?		X		
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?		X		

MANDATORY FINDINGS OF SIGNIFICANCE DISCUSSION:

a) Without mitigation, the proposed project has the potential (although unlikely) to result in short-term impacts to air quality, biological resources, cultural resources, geology (soil erosion), hazards and hazardous materials, hydrology and water quality, and noise. Mitigation Measures have been developed to address these concerns. These Mitigation Measures were described under each topic summary. Implementation of these measures would reduce short-term impacts to **less-than-significant** levels. In the long-term, the proposed project would substantially increase the quality of the environment in the project area. No permanent detrimental impacts would result from project construction.

b) The project does not have any potentially cumulative impacts. **No impact** would occur.

c) The development of the project, as proposed, would not cause any substantial adverse environmental effects to human beings, either directly or indirectly. All potentially adverse environmental impacts associated with the project would be mitigated to a less of **less-than-significant** through the implementation of the Mitigation Measures identified above.



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

RECEIVED

MAY 25 2005

PUBLIC WORKS DEPT.
CITY OF CALABASAS

REPLY TO
ATTENTION OF:

May 23, 2005

Office of the Chief
Regulatory Branch

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

City of Calabasas
Attention: Charles Mink
26135 Mureau Road
Calabasas, California 91302

Dear Mr. Mink:

This is in reply to your letter (No. 200501094-JLB) dated February 2, 2005, concerning our permit authority under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) over your proposal to remove a concrete channel and construct habitat enhancements according to the design and specifications in your February 2, 2005 application, in Las Virgenes Creek in Calabasas, Los Angeles County, California.

The Corps of Engineers has determined that your proposed activity complies with the terms and conditions of nationwide permit NW27 as described in enclosure 1.

Furthermore, you must comply with the following non-discretionary Special Conditions:

Special Conditions:

1. No less than 30-days prior to beginning construction, you must submit a schedule for restoration monitoring and reporting, including proposed success criteria, subject to approval by USACE.
2. Within 45-days of completing the project, you must send a post-project completion report that includes pre- and post-project photos and a complete set of as-built plans. Please be aware that maintenance and other remedial actions within the jurisdiction of USACE may require DA permits.
3. You must submit an annual monitoring report based on the agreed upon success criteria, and additionally include information on any damage to the restoration site; and any remedial measures either undertaken or proposed that may or may not need DA permits.

This letter of verification is valid through March 19, 2007. All nationwide permits expire on March 19, 2007. If you either contract the work or begin construction on or before March 19,

2007 you will have an additional 12 months to complete the activity under the attached nationwide permit terms and conditions. If the work is not under construction or contract by March 19, 2007 the work will be subject to regulations in effect at the time when you re-apply for a permit. It is incumbent upon you to remain informed of changes to the nationwide permits. If the Corps of Engineers modifies, reissues, or revokes any nationwide permit at an earlier date, we will issue a public notice announcing the changes.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Joshua L. Burnam, D.Env. of my staff at (213) 452-3294.

Sincerely,



AS Antal Szijj
Acting Chief, North Coast Section

Enclosure

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT**

Permit Number: 200501094-JLB

Name of Permittee: City of Calabasas

Date of Issuance: May 23, 2005

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Branch
ATTN: CESPL-CO-R-200501094-JLB
P.O. Box 532711
Los Angeles, California 90053-2325

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Signature of Permittee

Date

NATIONWIDE PERMIT NUMBER NW27 TERMS AND CONDITIONS

1. Nationwide Permit NW27 Terms:

Your activity is authorized under NW27 subject to the following terms:

27. *Stream and Wetland Restoration Activities.* Activities in waters of the United States associated with the restoration of former waters, the enhancement of degraded tidal and non-tidal wetlands and riparian areas, the creation of tidal and non-tidal wetlands and riparian areas, and the restoration and enhancement of non-tidal streams and non-tidal open water areas as follows:

(a) The activity is conducted on:

(1) Non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration, or creation agreement between the landowner and the U.S. Fish and Wildlife Service (FWS) or the Natural Resources Conservation Service (NRCS) or voluntary wetland restoration, enhancement, and creation actions documented by the NRCS pursuant to NRCS regulations; or

(2) Any Federal land; or

(3) Reclaimed surface coal mined lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining or the applicable state agency (the future reversion does not apply to streams or wetlands created, restored, or enhanced as mitigation for the mining impacts, nor naturally due to hydrologic or topographic features, nor for a mitigation bank); or

(4) Any private or public land;

(b) Notification: For activities on any private or public land that are not described by paragraphs (a)(1), (a)(2), or (a)(3) above, the permittee must notify the District Engineer in accordance with General Condition 13; and

(c) Only native plant species should be planted at the site, if permittee is vegetating the project site.

Activities authorized by this NWP include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the enhancement, restoration, or creation of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or create stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation; mechanized landclearing to remove undesirable vegetation; and other related activities.

This NWP does not authorize the conversion of a stream to another aquatic use, such as the creation of an impoundment for waterfowl habitat. This NWP does not authorize stream channelization. This NWP does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. However, this NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands, on the project site provided there are net gains in aquatic resource functions and values. For example, this NWP may authorize the creation of an open water impoundment in a non-tidal emergent wetland, provided the non-tidal emergent wetland is replaced by creating that wetland type on the project site. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Reversion. For enhancement, restoration, and creation projects conducted under paragraphs (a)(2) and (a)(4), this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion. For restoration, enhancement, and creation projects conducted under paragraphs (a)(1) and (a)(3), this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or creation activities) within five years after expiration of a limited term wetland restoration or creation agreement or permit, even if the discharge occurs after this NWP expires. This NWP also authorizes the reversion of wetlands that were restored, enhanced, or created on prior-converted cropland that has not been abandoned, in accordance with a binding agreement between the landowner and NRCS or FWS (even though the restoration, enhancement, or creation activity did not require a Section 404 permit). The five-year reversion limit does not apply to agreements without time limits reached under paragraph (a)(1). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate State agency executing the agreement or permit. Prior to any reversion activity, the permittee or the appropriate Federal or State agency must notify the District Engineer and include the documentation of the prior condition. Once an area has reverted back to its prior physical condition, it will be

subject to whatever the Corps regulatory requirements will be at that future date. (Sections 10 and 404)

Note: Compensatory mitigation is not required for activities authorized by this NWP, provided the authorized work results in a net increase in aquatic resource functions and values in the project area. This NWP can be used to authorize compensatory mitigation projects, including mitigation banks, provided the permittee notifies the District Engineer in accordance with General Condition 13, and the project includes compensatory mitigation for impacts to waters of the United States caused by the authorized work. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition.

2. Nationwide Permit General Conditions:

The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. *Navigation.* No activity may cause more than a minimal adverse effect on navigation.
2. *Proper Maintenance.* Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. *Equipment.* Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)). Additionally, any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. *Tribal Rights.* No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. *Water Quality.* (a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).
(b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).
This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.
10. *Coastal Zone Management.* In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).
11. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District

Engineer may add species-specific regional endangered species conditions to the NWP.

(b) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and http://www.nfms.gov/prot_res/esahome.html respectively.

12. *Historic Properties.* No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. *Notification.*

(a) *Timing:* where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or
- (2) If notified in writing by the District or Division Engineer that an Individual Permit is required; or
- (3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Notification:* The notification must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));
- (5) For NWP 7 (Outfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;
- (6) For NWP 14 (Linear Transportation Crossings), The PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;
- (7) For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;
- (8) For NWP 27 (Stream and Wetland Restoration), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;
- (9) For NWP 29 (Single-Family Housing), the PCN must also include:
 - (i) Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;
 - (ii) A statement that the single-family housing activity is for a personal residence of the permittee;
 - (iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose

of this NWP, parcels of land measuring ¼-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than ¼-acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

- (iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;
- (10) For NWP 31 (Maintenance of Existing Flood Control Projects), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:
 - (i) Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;
 - (ii) A delineation of any affected special aquatic sites, including wetlands; and,
 - (iii) Location of the dredged material disposal site;
- (11) For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;
- (12) For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;
- (13) For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;
- (14) For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent non-tidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;
- (15) For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;
- (16) For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);
- (17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and
- (18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) *Form of Notification:* The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

(d) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the

applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) that the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

(e) *Agency Coordination*: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) *Wetland Delineations*: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than 1/4-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. *Compliance Certification*. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:
 - (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;
 - (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.
15. *Use of Multiple Nationwide Permits*. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3-acre).
16. *Water Supply Intakes*. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. *Shellfish Beds*. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.
18. *Suitable Material*. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the CWA).
19. *Mitigation*. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.
- (a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).
- (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
- (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.
- (d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, ¼-acre of wetlands cannot be created to change a ¾-acre loss of wetlands to a ½-acre loss associated with NWP 39 verification. However, ½-acre of created wetlands can be used to reduce the impacts of a ½-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.
- (e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.
- (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.
- (g) Compensatory mitigation proposals submitted with the "notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.
- (h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.
20. *Spawning Areas*. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.
21. *Management of Water Flows*. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their

- effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.
22. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.
 23. *Waterfowl Breeding Areas.* Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
 24. *Removal of Temporary Fills.* Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.
 25. *Designated Critical Resource Waters.* Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.
 - (a) Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.
 - (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.
 26. *Fills Within 100-Year Floodplains.* For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.
 - (a) *Discharges in Floodplain; Below Headwaters.* Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.
 - (b) *Discharges in Floodway; Above Headwaters.* Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.
 - (c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.
 27. *Construction Period.* For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date may be requested. This request must be submitted at least one month before the previously approved completion date.

3. Regional Conditions for the Los Angeles District

In accordance with General Condition Number 6, "Regional and Case-by-Case Conditions," the following Regional Conditions, as added by the Division Engineer, must be met in order for an authorization by any Nationwide to be valid:

1. For coastal watersheds from the southern reach of the Santa Monica Mountains in Los Angeles County to the San Luis Obispo County/Monterey County boundary, all road crossings must employ a bridge crossing design that ensures passage and/or spawning of steelhead (*Oncorhynchus mykiss*) is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources conducive to the recovery of federally listed *Anadromous salmonids*, including migration of adults and smolts, or rearing and spawning. This proposal also excludes approach embankments into the channel unless they are determined to have no detectable effect on steelhead.
2. For the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo

Exhibit 5: Mitigated Negative Declaration

County), no nationwide permit, except Nationwide Permits 1 (Aids to Navigation), 2 (Structures in Artificial Canals), 3 (Maintenance), 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities), 5 (Scientific Measurement Devices), 6 (Survey Activities), 9 (Structures in Fleeting and Anchorage Areas), 10 (Mooring Buoys), 11 (Temporary Recreational Structures), 20 (Oil Spill Cleanup), 22 (Removal of Vessels), 27 (Stream and Wetland Restoration Activities), 30 (Moist Soil Management for Wildlife), 31 (Maintenance of Existing Flood Control Projects), 32 (Completed Enforcement Actions), 35 (Maintenance Dredging of Existing Basins), 37 (Emergency Watershed Protection and Rehabilitation), and 38 (Cleanup of Hazardous and Toxic Waste), or other nationwide or regional general permits that specifically authorize maintenance of previously authorized structures or fill, can be used to authorize the discharge of dredged or fill material into a jurisdictional special aquatic site as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes).

3. For all projects proposed for authorization by nationwide or regional general permits where prior notification to the District Engineer is required, applicants must provide color photographs or color photocopies of the project area taken from representative points documented on a site map. Pre-project photographs and the site map would be provided with the permit application. Photographs should represent conditions typical or indicative of the resources before impacts.
4. Notification pursuant to general condition 13 shall be required for projects in all special aquatic sites as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes), and in all perennial watercourses or waterbodies in the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), excluding the Colorado River from Davis Dam downstream to the north end of Topock and downstream of Imperial Dam.
5. Notification pursuant to general condition 13 shall be required for projects in all areas designated as Essential Fish Habitat by the Pacific Fishery Management Council (i.e., all tidally influenced areas).
6. Notification pursuant to general condition 13 shall be required for projects in all watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south.
7. Individual permits shall be required for all jurisdictional vernal pools.
8. Individual permits shall be required in Murrieta Creek and Temecula Creek watersheds in Riverside County for new permanent fills in perennial and intermittent watercourses otherwise authorized under NWP 39, 42 and 43, and in ephemeral watercourses for these NWPs for projects that impact greater than 0.1 acre.
9. Individual permits shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.

4. Further information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. Limits of this authorization.
 - (a) This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - (b) This permit does not grant any property rights or exclusive privileges.
 - (c) This permit does not authorize any injury to the property or rights of others.
 - (d) This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - (a) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - (b) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - (c) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity

Exhibit 5: Mitigated Negative Declaration

authorized by this permit.

- (d) Design or construction deficiencies associated with the permitted work.
- (e) Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant.

Circumstances that could require a reevaluation include, but are not limited to, the following:

- (a) You fail to comply with the terms and conditions of this permit.
- (b) The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- (c) Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.

7. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition H below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

8. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

9. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.



DEPARTMENT OF FISH AND GAME

1508 North Harding Avenue
Pasadena, CA 91104
(626) 797-3170



March 8, 2005



Mr. Syd Temple
Questa Engineering Corp.
1220 Brickyard Cove Road, Ste. 206
Pt. Richmond, CA 94801

Re: Lake or Streambed Alteration Notification

Notification No: 1600-2005-0018-R5

Project: Las Virgenes Creek Stream Restoration

Water: Las Virgenes Creek

County: Los Angeles

Dear Mr. Temple:

The Department of Fish and Game (Department) received your Notification and deemed it complete on 2/7/05.

The purpose of this letter is to inform you that the Department failed to meet our deadline for the project you described in the above-referenced notification. As a result, and as explained in greater detail below, you do not need a Lake or Streambed Alteration Agreement from the Department of Fish and Game to complete the project you described in your notification.

Under the Fish and Game Code section 1602, (a) (4) (D) the Department had a total of 60 days to act on your notification by submitting to you project conditions the Department believes are necessary to protect existing fish and wildlife resources. This means that **from the date of this letter**, by law you may go forward with your project without an Agreement from the Department.

If you decide to complete the project as described in your notification, please keep a copy of this letter and the Notification available at the project site. The project described in the Notification includes not only the project impacts, but also includes all of your proposed minimization and mitigation measures.

Your project must terminate no later than 5 years from the date of this letter. Your project

Mr. Syd Temple

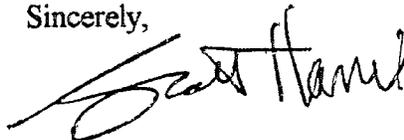
March 8, 2005

Page 2

is described as the restoration of 500 feet of partially armored and urbanized Las Virgenes Creek with a stable, natural, vegetated channel from Highway 101 south to the Agoura Road Bridge, City of Calabasas, Los Angeles County. Gradient improvements to allow fish passage will also be a component of this project, as well as public access paths along the eastern bank of the channel. If the project changes so that it differs from the one described in the original notification, including but not limited to working outside the specified work period dates, you will need to submit a new notification to the Department for that project.

If you have any questions regarding this matter, please contact Scott Harris, Associate Wildlife Biologist at the above address or telephone number.

Sincerely,

A handwritten signature in black ink that reads "Scott Harris". The signature is written in a cursive style with a large, sweeping initial "S".

Scott Harris
Associate Wildlife Biologist



Dr. Alan Lloyd
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Los Angeles Region



Arnold Schwarzenegger
Governor

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Charles S. Mink
City of Calabasas
26135 Mureau Road
Calabasas, CA 91302

WATER QUALITY CERTIFICATION FOR PROPOSED LAS VIRGENES CREEK RESTORATION PROJECT (Corps' Project No. 2005-01094-JLB), LAS VIRGENES CREEK, CITY OF CALABASAS, COUNTY LOS ANGELES (File No. 05-007)

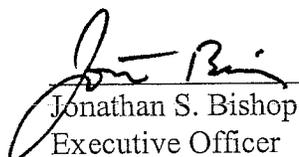
Dear Mr. Mink:

Regional Board staff has reviewed your request on behalf of City of Calabasas (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on May 6, 2005.

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.

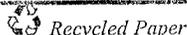
The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.


Jonathan S. Bishop
Executive Officer

5/16/05
Date

California Environmental Protection Agency



DISTRIBUTION LIST

Sydney Temple
Questa Engineering Company
1220 Brickyard Cove Road, Suite 206
Pt. Richmond, CA 94807

Oscar Balaguer
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Betty Courtney
California Department of Fish and Game
Streambed Alteration Team
4949 View Ridge Avenue
San Diego, CA 92123

Joshua Burnam
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Steven John
U.S. Environmental Protection Agency
600 Wilshire Boulevard, Suite 1460
Los Angeles, CA 90017

Tim Vendlinski
Supervisor, Wetlands Regulatory Office (WTR-8)
US EPA, Region 9
75 Hawthorne
San Francisco, CA 94105

Ken Berg
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

ATTACHMENT A

Project Information

File No. 05-007

1. Applicant: Charles S. Mink
City of Calabasas
26135 Mureau Road
Calabasas, CA 91302

Phone: (818) 878-4225 Fax: (818) 878-4215

2. Applicant's Agent: Sydney Temple
Questa Engineering Company
1220 Brickyard Cove Road, Suite 206
Pt. Richmond, CA 94807

Phone: (510) 236-6114 EXT 220 Fax: (510) 236-2423

3. Project Name: Las Virgenes Creek Restoration Project

4. Project Location: City of Calabasas area, Los Angeles County

Longitude: 118o 42' 4"; Latitude: 34o 8' 38"

5. Type of Project: Restoration of riparian habitat.

6. Project Description: *Purpose:* The project will remove 500 feet of concrete lined channel and replace it with a natural bed stream and extensive native riparian plantings.

Description: In 1977, a trapezoidal concrete channel lining with a 45-foot bottom width was constructed in the Las Virgenes Creek between Route 101 and the Agoura Road Bridge, disrupting the wildlife corridor between the Baldwin Open Space and Malibu Creek State Park. The concrete channel is to be removed by the program called the Las Virgenes Creek Restoration Project. This project places priority on the viable habitat and wildlife connectivity so as to enable the City to implement the best restoration strategy suitable for this area that can meet the stated project goals while still providing adequate flood and erosion control. The restoration project will also include a river-walk setting

ATTACHMENT A

Project Information
File No. 05-007

to facilitate pedestrian access and community enjoyment.

- | | |
|--|--|
| 7. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 27 (Permit No. 2005-01094-JLB) |
| 8. Other Required Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement |
| 9. California Environmental Quality Act Compliance: | The City of Calabasas approved the project's Negative Declaration on March 3, 2005. |
| 10. Receiving Water: | Receiving water from Basin Plan (Hydrologic Unit No. 404.22) |
| 11. Designated Beneficial Uses: | MUN, REC-1, REC-2, WARM, COLD, WILD, RARE, MIGR, SPWN, WET |
| 12. Impacted Waters of the United States: | Non-wetland waters (vegetated streambed): 0.00 temporary and 0.50 permanent acres

Non-wetland waters (unvegetated streambed): 0.00 temporary and 0.50 permanent acres |
| 13. Dredge Volume: | None |
| 14. 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. |
| 15. Avoidance/Minimization Activities: | The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following: |

ATTACHMENT A

Project Information

File No. 05-007

- All construction will be completed under dry creek bed conditions.
- Temporary water diversions will be constructed upstream of the project site.
- Summer low flow water will be redirected into the downstream channels so that no loss of water to downstream reaches occurs.
- Extensive use of erosion control blankets, hydroseeding, revegetation, bio-degradable coir (cocnut palm fiber) blocks, planted rock revetment, and the creation of a lower flow channel configuration.

16. Proposed
Compensatory
Mitigation:

- The Applicant proposes to create 0.5 acres of streambed (vegetated) and enhance approximately 1.0 acres of streambed (vegetated).
- Since the project is restoration, the Regional Board will not require any additional compensatory mitigation.

17. Required
Compensatory
Mitigation:

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

ATTACHMENT B

**Conditions of Certification
File No. 05-007**

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' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
3. 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.

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4. 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.
5. 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.
6. 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.
7. 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.
8. 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. 2004-0008-DWQ and 2004-0009-DWQ.
9. 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.
10. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). 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.

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11. 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** 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.
12. 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.
13. 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 to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a daily basis during the first week of diversion 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. 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. Restoration shall include grading of disturbed areas and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.

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15. The Applicant shall also provide restoration for the proposed permanent impacts to **1.00 acres** of vegetation within waters of the United States/Federal jurisdictional wetlands by creating and enhancing riparian habitat at a minimum 1.5:1 area replacement ratio (1.50 acres).
16. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
17. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st /May 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report 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. This report shall include as a minimum, 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 of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of "no net loss" of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
18. Prior to any subsequent maintenance activities within the subject drainages, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the drainage's existing condition and/or capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any

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proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.

19. 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.

20. 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)”

21. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **05-007**. Submittals shall be sent to the attention of the Nonpoint Source Unit.

22. 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.

23. 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. 99-08-DWQ. All stormwater treatment systems shall be

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located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

24. 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.
25. 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.
26. *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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27. This Certification shall expire five (5) years from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.

Mitigated Negative Declaration Monitoring Plan

Las Virgenes Creek Restoration Project, Calabasas, CA

Mitigation Measure		Monitoring Actions	Verification Frequency	Compliance
Biological Resources:				
1	As close to the beginning of construction as possible, but not more than 14 days prior to construction, a qualified biologist should conduct a final pre-activity survey of the construction zone to ensure that no special status wildlife and/or plant species have recently occupied the site. If any special status wildlife and/or plant species are found, exclusion zones should be established and maintained until all construction activities are completed. In some cases it may be preferable to remove and/or relocate the individual plant or animal. If special status species are found during the preconstruction survey, the biologist should be present immediately prior to construction activities that have the potential to impact special status species to identify and protect potentially sensitive resources.	Contractor shall notify the construction manager. The construction manager will notify a qualified biologist.	Once every week.	Final approval obtained from a qualified biologist.
2	Large shrubs should be avoided to the extent possible to minimize impact to wildlife habitat.	City's Landscape Manager monitors the shrubs.	Continuous for the life of the project	Final approval by City's landscape manager.
3	The City of Calabasas Public Works Department shall secure appropriate permits from the US Army Corps of Engineers, the CDFG, and the Los Angeles Regional Water Quality Control Board (RWQCB). At the time of this Initial Study, permits applications have been submitted to the agencies. Once the permits have been granted, the Public Works Department shall comply with any additional measures imposed as permit conditions beyond those proposed and outlined in this document.	All permits have been secured. The construction manager will verify compliance with all conditions.	Once every week.	Final approval City's Environmental Services Manager.
4	The contractor hired for project construction shall implement erosion control and water quality Best Management Practices (BMPs) to reduce discharges to live streams during and after construction. These measures are listed and described in Section 7 – Hydrology and Water Quality.	Contractor to prepare and submit to the City the Storm Water Pollution Prevention Plan (SWPPP) for review and approval.	Continuous activity thru the life of project	City Environmental Services Manager to verify completion of all required NPDES plans. Field verification of improvements.
5	The City of Calabasas would install appropriate protection measures on both inlet and outlet faces of the Agoura Road Bridge by March 1, 2005 to prevent cliff swallow nesting activities below the bridge. The installation of bird netting during the non-nesting season below the bridge would prevent nesting and impacts to these species. If measures were installed prior to March 1, 2005, bird nesting surveys would not be required. <ul style="list-style-type: none"> • If construction during the breeding season cannot be avoided, then CDFG- 	City to hire a qualified contractor to install bird netting on the bridge.	One time activity	Environmental Services Manager to verify completion.

Mitigated Negative Declaration Monitoring Plan

Las Virgenes Creek Restoration Project, Calabasas, CA

	<p>approved exclusionary devices such as netting, panels, or metal projectors would be installed over the entrances to the identified cavities and/or nest sites prior to the birds' arrival in mid-March. No exclusionary devices shall be installed after the breeding season begins (i.e., March 1 through August 15) nor shall the cavities or external nests be blocked if birds are occupying them. All installation of exclusionary devices would be supervised by the CDFG-approved biologist.</p> <ul style="list-style-type: none"> • Alternatively, no pre-construction surveys would be conducted. However, all drainage holes or other cavities, or suitable nest substrates associated with human-made structures within the project corridor that may be used by nesting swallows would be fitted with the exclusionary devices described above prior to the birds' arrival March 1st. • All exclusionary devices would be monitored and maintained throughout the breeding season to ensure that they are successful in preventing the birds from accessing the cavities or nest sites. Upon the project's completion, the exclusionary devices would be removed from the site unless otherwise authorized by the CDFG. 			
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Air Quality

1	<p>During clearing, grading, or earth moving activities, water shall be sprayed on exposed surfaces and loose dirt and soils to prevent dust from leaving the site. At a minimum, all exposed areas and areas of vehicle movement should be wetted down in the morning and after work is completed for the day and whenever winds exceed 15 mph.</p>	<p>Dust reduction program to be incorporated into contractors monitoring scope of service</p>	<p>During plan preparation, continuous during the demolition and dirt import</p>	<p>Filed verification by City inspectors</p>
2	<p>Stockpiled earth material will be sprayed as needed to minimize dust generation.</p>	<p>Same as above</p>	<p>Same as above</p>	<p>Same as above</p>
3	<p>During construction, the amount of disturbed area will be minimized and on-site vehicle speeds limited to 15 mph or less.</p>	<p>Contractor's responsibility</p>	<p>continuous</p>	<p>Filed verification by City inspectors</p>
4	<p>All trucks hauling dirt, soil, or other loose material shall be covered or shall maintain at least 1 foot of freeboard (minimum vertical distance between the top of the load and the top of the trailer).</p>	<p>Same as above</p>	<p>Same as above</p>	<p>Same as above</p>
5	<p>After clearing, grading, earthmoving, or excavation is completed, the entire area of disturbed soil shall be treated by watering, re-vegetating, and/or spreading soil binders to minimize dust generation.</p>	<p>A condition of awarding contract</p>	<p>Continuous after the construction is completed</p>	<p>City's Landscape manager to oversee the work</p>

Cultural Resources

Mitigated Negative Declaration Monitoring Plan
Las Virgenes Creek Restoration Project, Calabasas, CA

1	If deemed necessary by the City of Calabasas Planning Department, a qualified archaeological monitor shall be present to monitor significant earth movement at the project site.	Contractor to suspend construction in the vicinity of any cultural resources	Continuous during excavation	Work stoppage and site investigation by a qualified archeologist
2	In the event that artifacts of archaeological significance are uncovered, a qualified archaeologist shall be empowered to halt construction in the immediate vicinity of such unearthed artifacts until disposition of the site has been determined by the City Planning Department.	Same as above	Same as above	Same as above

HAZARDS AND HAZARDOUS MATERIALS

	<p>Incorporate a hazardous materials plan into the overall SWPPP. The SWPPP is subject to approval by the City's Environmental Services Manager. This portion of the plan shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> • The SWPPP shall include measures for containing hazardous materials, such as accidental fuel spills. • No construction equipment shall be left overnight in the creek channel. • All refueling and/or maintenance of heavy equipment shall take place at a minimum of 100 feet away from the top of bank of the creek channel. • All personnel, contractors, and subcontractors shall comply with all applicable standards and conditions set forth by the RWQCB. 	Contractor shall incorporate a hazardous material plan into the overall SWPPP.	Continuous. Any incident shall be reported to the City's Environmental Services Manager.	City inspector shall monitor compliance with the hazardous material plan.
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HYDROLOGY AND WATER QUALITY

1	<p>The Los Angeles RWQCB would require that, prior to construction, a project SWPPP be prepared that identifies BMPs to reduce erosion of disturbed soils during construction activities. The plan would describe measures that would be used to minimize wind and water erosion and the transport of sediments during construction. The SWPPP would be subject to approval by the City's Environmental Services Manager. The plan would be prepared and approved before construction activities begin. At a minimum, the plan shall include the following measures:</p> <ul style="list-style-type: none"> • Temporary measures such as flow diversion, temporary ditches, and silt fencing. • Surface disturbance of soil and vegetation would be kept to a minimum; existing access and maintenance roads would be used wherever feasible. • Any stockpiled soil would be placed and sloped so that it would not be subject 	Contractor to prepare storm water pollution prevention plan per the US EPS Template and submit to the City for review and approval.	One time activity prior to construction.	City inspector to verify compliance with the approved SWPPP.
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Mitigated Negative Declaration Monitoring Plan

Las Virgenes Creek Restoration Project, Calabasas, CA

	<p>to accelerated erosion.</p> <ul style="list-style-type: none"> Discharge of all project-related materials and fluids into the creek would be avoided to the extent possible by using hay bales or silt fences, constructing berms or barriers around construction materials, or installing geofabric in the area of disturbance. After ground-disturbing activities are complete, all graded or disturbed areas would be covered with protective material such as mulch, or re-seeded with native plant species. The plan would include details regarding seeding material, fertilizer, and mulching. Measures outlined in Mitigation Measure HAZ-1. 			
2	Limit in-channel construction activities to the summer low-precipitation period. The channel bottom and channel banks shall be dewatered during the construction period.	Construction between April 15 th and October 1 st .	One time activity	Inspectors to verify the dewatering process.
3	Ensure that construction activities do not result in increased turbidity during and after construction	Same as above	Continuous	Same as above
Noise				
1	Construction activities shall be limited to daylight hours; weekdays from 7:00 am to 7:00 pm, and Saturdays 9:00 am to 5:00 pm, and no work on Sundays.	Conditions of construction contract	Continuous	Inspector to verify compliance
2	Equipment and trucks used for construction of the project shall use the best available noise control techniques. Where feasible, quieter equipment and methods of construction shall be employed.	Same as above	Same as above	Same as above.