



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Antonio V. Gioiello
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7006 2760 000 1339 3689

WATER QUALITY CERTIFICATION FOR PROPOSED INNER CABRILLO BEACH WATER QUALITY IMPROVEMENT, BIRD EXCLUSION STRUCTURE EXPANSION PROJECT (Corps' Project No. SPL-2011-00688-TS), INNER CABRILLO BEACH, LOS ANGELES OUTER HARBOR, CITY OF LOS ANGELES, LOS ANGELES COUNTY (File No. 11-115)

Dear Mr. Gioiello:

Board staff has reviewed your request on behalf of Port of Los Angeles (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 9, 2011..

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.

Samuel Unger, P.E.
Executive Officer

Sept. 21, 2012

Date

DISTRIBUTION LIST

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

Theresa Stevens (via electronic copy)
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Paul Amato (via electronic copy)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Jim Bartel
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

ATTACHMENT A

**Project Information
File No. 11-115**

1. Applicant: Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Phone: (310) 732-3877 Fax: (310) 519-0178
2. Applicant's Agent: Antonio V. Gioiello, Chief Harbor Engineer
Port of Los Angeles
425 South Palos Verdes Street
San Pedro, CA 90731

Phone: (310) 732-3877 Fax: (310) 519-0178
3. Project Name: Inner Cabrillo Beach Water Quality Improvement Project/TMDL,
Bird Exclusion Structure Expansion
4. Project Location: Los Angeles Outer Harbor, Los Angeles
- | <u>Latitude</u> | <u>Longitude</u> |
|-----------------|------------------|
| 33.711132 | -118.283401 |
5. Type of Project: Bird exclusion structure
6. Project Purpose: The purpose of the project is to deter birds from landing at the lower Inner Cabrillo Beach face, thus reducing fecal matter that they introduce into the area in order to minimize bacterial contamination.
7. Project Description: The Inner Cabrillo Beach Bird Structure extension project will expand the existing bird structure at Inner Cabrillo Beach towards the water.

The project will excavate approximately 21 cubic yards of sand to allow the installation of seven steel poles in concrete foundations along the beach at approximately 0.0 feet mean lower low water

ATTACHMENT A

Project Information File No. 11-115

(MLLW). Each pole will be approximately 35 feet high with a 3 foot diameter concrete foundation and each pole will be spaced approximately 140 feet apart. At the top of each pole, stainless steel wires will be fastened and also connected to the existing poles as well. When completed, a wire mesh canopy 35 feet above the beach will extend along the entire 1100 foot stretch of Inner Cabrillo Beach.

Excavated sand will be exported to an upland site or spread uniformly on the existing beach.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
(Permit No. SPL-2011-00688-TS)
9. Other Required Regulatory Approvals: California Coastal Commission Coastal Zone Management consistency concurrence
10. California Environmental Quality Act Compliance: The City of Los Angeles Harbor Department filed a Notice of Exemption with the Clerk of Los Angeles County on July 25, 2011.

The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 Replacement or Reconstruction.
11. Receiving Water: Los Angeles Outer Harbor (Hydrologic Unit No. 405.12)
12. Designated Beneficial Uses: NAV, REC-1, REC-2, COMM, MAR, WILD RARE, SPWN, SHELL
13. Impacted Waters of the United States: Ocean/Estuary/Bay: 0.007 permanent acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: Since September 2005, the Applicant has implemented Tier 2 and 3 BMPs to improve water quality at Inner Cabrillo Beach in accordance with the Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL.

ATTACHMENT A

Project Information

File No. 11-115

The Inner Cabrillo Beach Phase II Sand Replacement Project was certified by the Regional Board on December 19, 2008 (File No. 08-046). This project removed the existing beach sand from elevation 0.0 ft Mean Lower Low Water to elevation +7.0 ft MLLW, and replaced it with clean, coarse sand and re-contoured the beach face.

The Inner Cabrillo Beach Boat launch Rock Groin Modification Project was certified by this agency on December 23, 2008 (File No. 08-051). This Project removed part of the rock groin.

16. Avoidance/ Minimization Activities:

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

- A pre-construction survey of the project area for *Caulerpa taxifolia* shall be conducted in accordance with the National Marine Fisheries Service's Caulerpa Control Protocol not earlier than 90 calendar days prior to planned construction and not later than 30 calendar days prior to construction.
- A pre-project eelgrass survey shall be conducted in accordance with the National Marine Fisheries Service's Southern California Eelgrass Mitigation Policy (SCEMP). If the pre-project survey demonstrates eelgrass presence within the project vicinity, a post-project survey shall be conducted and impacts to eelgrass mitigated in accordance to the SCEMP.
- Only clean construction materials suitable for use in the oceanic environment shall be used. No debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States.
- Upon completion of the project any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.

ATTACHMENT A

Project Information

File No. 11-115

17. Proposed
Compensatory
Mitigation:

The Applicant has not proposed any compensatory mitigation due to the small size of impact associated with the project and the potential improvements to water quality.

18. Required
Compensatory
Mitigation:

Due to the small size of impact and the potential for improvements to water quality, the Regional Board will not require any additional 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. 11-115

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this Certification, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. **16**, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

ATTACHMENT B

Conditions of Certification

File No. 11-115

6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact the Land Disposal Unit at the Regional Board for further information regarding the disposal of solid wastes.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.

ATTACHMENT B

Conditions of Certification

File No. 11-115

14. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
15. All project/construction/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting.
16. The Applicant shall restore all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours.
17. The Applicant shall submit to this Regional Board **Annual Reports** by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until project completion has been achieved and documented. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts. At a minimum the Annual Reports shall include the following documentation:
 - (a) Color photo documentation of the pre- and post-project site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project 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) A certified Statement of “no net loss” of wetlands associated with this project;
 - (f) Discussion of any monitoring activities and exotic plant control efforts; and
 - (g) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
18. All applications, reports, or information submitted to the Regional Board shall be signed:
 - (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.

ATTACHMENT B

Conditions of Certification

File No. 11-115

- (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.
19. 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)”

- 20. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number 11-115. Submittals shall be sent to the attention of the 401 Certification Unit.
- 21. 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.
- 22. The project shall comply with the local regulations associated with the Regional Board’s **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2009-009-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
- 23. 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

ATTACHMENT B

Conditions of Certification

File No. 11-115

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.

24. The Applicant or their agents shall report any noncompliance. Any such information shall be provided electronically 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.
25. *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.
26. 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.