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GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

May 7, 2014

Certified Mail – Return Receipt Requested

Article Number: 7009 1410 0002 2347 3285

Mr. Chad Christensen
Washington Holdings
10866 Wilshire Blvd., Suite 820
Los Angeles, CA 90024

In reply/refer to:
797087:dbradford

**Subject: Clean Water Act Section 401 Water Quality Certification No. R9-2013-0126
for the Monarch Beach Management Plan Project**

Mr. Christensen:

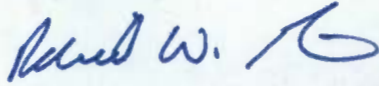
Enclosed find Clean Water Act Section 401 Water Quality Certification No. R9-2013-0126 (Certification) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) in response to the application submitted by Washington Holdings for the Monarch Beach Management Plan Project (Project). A description of the Project and Project location can be found in the Certification and site maps which are included as attachments to the Certification.

Washington Holdings is enrolled under State Water Resources Control Board Order No. 2003-017-DWQ as a condition of the Certification and is required to implement and comply with all terms and conditions of the Certification in order to ensure that water quality standards are met for the protection of wetlands and other aquatic resources. Failure to comply with this Certification may subject Washington Holdings to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring Washington Holdings to cease and desist from violations or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action pursuant to section 3867 of Title 23 of the California Code of Regulations (23 CCR). If no petition is received, it will be assumed that Washington Holdings has accepted and will comply with all terms and conditions of the Certification.

In the subject line of any response, please include reference number 797087:dbradford. For questions or comments, please contact Darren Bradford by telephone at (619) 521-3356 or by email at darren.bradford@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. R9-2013-0126 for the Monarch Beach Management Plan Project

DWG:jgs:db:kd:dlb

cc:

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State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
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LSA Associates
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Tech Staff Info & Use	
Certification No.	R9-2013-0126
Party ID	526970
File No.	R9-2013-0126
WDID	9000002627
Regulatory ID	39236
Place ID	797087
Person ID	526972

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

2375 Northside Drive, Suite.100, San Diego, CA 92108
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Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials

**PROJECT: Monarch Beach Management Plan
Certification Number R9-2013-0126
WDID: 9000002627**

Reg. Meas. ID: 39236 Place ID: 797087 Party ID: 526970 Person ID: 526972

**APPLICANT: Washington Holdings
10866 Wilshire Blvd., Suite 820
Los Angeles, CA 90024**

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017-DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004-DWQ

PROJECT DESCRIPTION

An application dated June 28, 2013 was submitted by Washington Holdings (hereinafter Applicant), for Water Quality Certification pursuant to section 401 of the Clean Water Act (33 U.S.C. § 1341) for the proposed Monarch Beach Management Plan (MBMP) Project (Project). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) deemed the application to be complete on February 10, 2014. The Applicant proposes to discharge dredged or fill material to waters of the United States and/or State associated with construction activity at the Project site. The Applicant has also applied for a Clean Water Act section 404 permit from the United States Army Corps of Engineers for the Project (USACE File No. SPL-2011-00141-JPL).

The Project is located within the City of Dana Point, Orange County, south of the Monarch Bay Club parking lot at 500 Monarch Bay Drive. The Project center reading is located at latitude 33.4815 and longitude -117.724625. The Applicant has paid all required fees for this Certification in the amount of \$3,304.00. On July 22, 2013, the San Diego Water Board provided public notice of the Project application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Project on the San Diego Water Board's web site and providing a period of twenty-one days for public review and comment. No comments were received.

The Applicant proposes to maintain a westward flow path at the mouth of Salt Creek by removing accumulated beach sand from the channel outlet, distributing the sand on the beach above the mean high tide line, and grading the sand placement area to prepare for recreational

use. Without maintenance, the existing northward flow path periodically leads to pooling of water within Salt Creek and occasional high levels of fecal indicator bacteria. The flow path of Salt Creek also creates a channel at the base of the vehicle access ramp that periodically impedes emergency access to the beach.

Channel maintenance activities were previously authorized under Water Quality Certification No. 11C-038. Project activities began on June 27, 2012 as a pilot project to inform the development of the MBMP. The MBMP proposes to implement the same outlet maintenance strategy at Salt Creek that Orange County Public Works implements at five other ocean outlets in Orange County.

Semiannual maintenance will involve a reconfiguration of beach sand that accumulates seaward of the Salt Creek scour pond (Area A, See Site Maps Attachment 3). Sand from this area will be relocated above the high tide line to Area B between the base of the emergency access ramp and the Salt Creek outlet. Semiannual maintenance will involve excavation of sand from the approximately 0.26-acre (ac) Area A, which includes the Salt Creek outlet channel, and relocation of the sand to the approximately 0.2 ac Area B. This semiannual maintenance will occur in the fall, before the wet season, and in the spring, before the summer recreation season. This schedule for major maintenance will also avoid the California grunion season.

Minor maintenance will be conducted on an as-needed basis and will consist of year-round breaching activities, on a smaller scale than the semiannual maintenance, when the outflow is impeded by sand accumulation due to wave action. Minor maintenance will not occur more frequently than twice per month and will re-establish direct channel flow, eliminating ponding or meandering in order to prevent beach erosion and impediment of beach access. Minor maintenance activities will include excavation of a notch in the accumulated sand berm between the Salt Creek scour pond and the surf zone (Area A). Sand from the notch will be placed in Area B above the high tide line.

Both semi-annual and minor maintenance will require heavy machinery to move and redistribute sand and sediment from the outlet. Duration of construction for both types of maintenance activities is expected to be one day of heavy machinery work. Any necessary maintenance during California grunion season (March–August) will be scheduled to occur on the day before the first date of a predicted run series.

The anticipated shape of the beach following each excavation is dependent on the amount and distribution of sand within Areas A and B prior to each sand relocation event. However, excavation of sand within Area A will not exceed 835 cubic yards (CY) per each sand relocation event and will not be deeper than 2 feet as compared to the adjacent beach. The sand relocated from Area A to Area B will not exceed a height of 3 feet in Area B as compared to the adjacent beach. Kelp and wrack will be relocated on-site on the beach.

The Project application includes a description of the design objective, operation, and degree of treatment expected to be attained from equipment, facilities, or activities (including construction and post-construction BMPs) to treat waste and reduce runoff or other effluents which may be discharged. Compliance with the Certification conditions will help ensure that construction and post-construction discharges from the Project will not cause on-site or off-site

downstream erosion, damage to downstream properties, or otherwise damage stream habitats in violation of water quality standards in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan).

Project construction and maintenance will result in maximum recurring temporary impacts of 0.30 acre (250 linear feet) of coastal waters of the United States and/or State. The Applicant reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impacts to aquatic resources considering all potential practicable alternatives, such as the potential for alternate available locations, designs, reductions in size, configuration or density.

The Project goal is to reduce pooling and the potential for stagnation along the flow path of Salt Creek and to improve emergency access to the beach. Because the Project impacts are temporary and the Project has the potential to improve water quality by reducing stagnation, no compensatory mitigation is required at this time.

Detailed written specifications and work descriptions for the Project including, but not limited to, the geographic boundaries of the project, timing, sequence, monitoring, maintenance, and management strategies of the Project areas are described in the *Monarch Beach Management Plan* (Management Plan), dated June 2013. The Management Plan is incorporated in this Certification by reference as if set forth herein.

Additional Project details are provided in Attachments 1 through 3 of this Certification.

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Attachments:

- 1. Definitions**
- 2. Project Location Maps**
- 3. Project Site Plans**

I. STANDARD CONDITIONS

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to all water quality certification actions:

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from 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 California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

II. GENERAL CONDITIONS

- A. **Term of Certification.** Water Quality Certification No. R9-2013-0126 (Certification) shall expire upon a) the expiration or retraction of the Clean Water Act section 404 (33 U.S.C. §1344) permit issued by the U.S. Army Corps of Engineers for this Project, or b) five (5) years from the date of issuance of this Certification, whichever occurs first.
- B. **Duty to Comply.** The Applicant must comply with all conditions and requirements of this Certification. Any Certification noncompliance constitutes a violation of the Water Code and is grounds for enforcement action or Certification termination, revocation and reissuance, or modification.
- C. **General Waste Discharge Requirements.** The requirements of this Certification are enforceable through Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification* (Water Quality Order No. 2003-0017-DWQ). This provision shall apply irrespective of whether a) the federal permit for which the Certification was obtained is subsequently retracted or is expired, or b) the Certification is expired. Water Quality Order No. 2003-0017-DWQ is accessible at:

http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/gowdr401regulated_projects.pdf
- D. **Project Conformance with Application.** All water quality protection measures and BMPs described in the application and supplemental information for water quality

certification are incorporated by reference into this Certification as if fully stated herein. Notwithstanding any more specific conditions in this Certification, the Applicant shall construct, implement and comply with all water quality protection measures and BMPs described in the application and supplemental information. The conditions within this Certification shall supersede conflicting provisions within the application and supplemental information submitted as part of this Certification action.

- E. Project Conformance with Water Quality Control Plans or Policies.** Notwithstanding any more specific conditions in this Certification, the Project shall be constructed in a manner consistent with the *California Ocean Plan* (Ocean Plan), Basin Plan and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter Cologne Water Quality Act (Division 7, commencing with Water Code Section 13000) or section 303 of the Clean Water Act (33 U.S.C §1313.)
- F. Project Modification.** The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this Certification, to the San Diego Water for prior review and written approval. If the San Diego Water Board is not notified of a significant change to the Project, it will be considered a violation of this Certification.
- G. Certification Distribution Posting.** During Project construction, the Applicant must maintain a copy of this Certification at the Project site. This Certification must be available at all times to site personnel and agencies. A copy of this Certification shall also be provided to any contractor or subcontractor performing construction work, and the copy shall remain in their possession at the Project site.
- H. Inspection and Entry.** The Applicant must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required under law, to:
1. Enter upon the Project premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Certification;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;
 3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and
 4. Sample or monitor, at reasonable times, for the purposes of assuring Certification compliance, or as otherwise authorized by the Clean Water Act or Water Code, any substances or parameters at any location.
- I. Enforcement Notification.** 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.

- J. **Certification Actions.** This Certification may be modified, revoked and reissued, or terminated for cause including but not limited to the following:
1. Violation of any term or condition of this Certification;
 2. Monitoring results indicate that continued Project activities could violate water quality objectives or impair the beneficial uses of Salt Creek and the Pacific Ocean or its tributaries;
 3. Obtaining this Certification by misrepresentation or failure to disclose fully all relevant facts;
 4. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
 5. Incorporation of any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

The filing of a request by the Applicant for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Certification condition.

- K. **Duty to Provide Information.** The Applicant shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Certification or to determine compliance with this Certification.
- L. **Property Rights.** This Certification does not convey any property rights of any sort, or any exclusive privilege.

III. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Approvals to Commence Construction.** The Applicant shall not commence Project construction until all necessary federal, state, and local approvals are obtained.
- B. **Personnel Education.** Prior to the start of the Project, and annually thereafter, the Applicant must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures.
- C. **Spill Containment Materials.** The Applicant must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent

release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.

- D. **General Construction Storm Water Permit.** Prior to start of Project construction, the Applicant must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity*, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Applicant must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.
- E. **Waste Management.** The Applicant must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, state, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination or nuisance as defined in Water Code section 13050. Upon Project completion, all Project generated debris, building materials, excess material, waste, and trash shall be removed from the Project site(s) for disposal at an authorized landfill or other disposal site in compliance with federal, state and local laws and regulations.
- F. **Waste Management.** Except for a discharge permitted under this Certification, the dumping, deposition, or discharge of trash, rubbish, unset cement or asphalt, concrete, grout, damaged concrete or asphalt, concrete or asphalt spoils, wash water, organic or earthen material, steel, sawdust or other construction debris waste from Project activities directly into waters of the United States and or State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited.
- G. **Downstream Erosion.** Discharges of concentrated flow during construction or after Project completion must not cause downstream erosion or damage to properties or stream habitat.
- H. **Construction Equipment.** All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.
- I. **Process Water.** Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm water runoff flows. Pollutants discharged to areas within a stream diversion must be removed at the end of each work day or sooner if rain is predicted.

- J. **Hazardous Materials.** Except as authorized by this Certification, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.
- K. **Vegetation Removal.** Removal of vegetation must occur by hand, mechanically, or through application of United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to minimize adverse effects to beneficial uses of waters of the United States and/or State. Discharges related to the application of aquatic pesticides within waters of the United States must be done in compliance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, the *Statewide General National Pollution Discharge Elimination System Permit for the Discharge of Aquatic Weed Control in Waters of the United States*, and any subsequent reissuance as applicable.
- L. **Limits of Disturbance.** The Applicant shall clearly define the limits of Project disturbance to waters of the United States and/or State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.
- M. **On-site Qualified Biologist.** The Applicant shall designate an on-site qualified biologist to monitor Project construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work on-site if a violation of this Certification occurs or has the potential to occur. Records and field notes of the biologist's activities shall be kept on-site and made available for review upon request by the San Diego Water Board.
- N. **Beneficial Use Protection.** The Applicant must take all necessary measures to protect the beneficial uses of waters of Salt Creek and the Pacific Ocean. This Certification requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately and the San Diego Water Board shall be notified in accordance with Notification Requirement VII.A of this Certification. Associated Project activities may not resume without approval from the San Diego Water Board.
- O. **Turbidity Control.** Sediment shall be removed, disposed, and handled in a manner that will not cause sustained, significant turbidity increases in Salt Creek or the Pacific Ocean. If post-project turbidity is increased for more than one hour over pre-project turbidity, or if visual monitoring indicates that a sediment plume is persisting in the ocean longer than 30 minutes following a maintenance activity, the Applicant shall modify the MBMP to include appropriate management measures to reduce Project related turbidity prior to the next maintenance dredging or excavation activity.

IV. SPECIES PROTECTION

- A. **Western snowy plover.** From March 1 through September 30, no construction or maintenance activities authorized under this Certification will be conducted within 300 feet of breeding Western snowy plovers. The Western snowy plover (*Charadrius alexandrinus nivosus*) is a federally threatened and State species of concern that has the potential to occur in the project area. The on-site qualified biologist shall document the presence or absence of breeding Western snowy plovers.
- B. **California grunion.** No excavation, construction, or maintenance activities authorized under this Certification shall be conducted within potential spawning habitat of the California grunion, except as provided below. California grunion (*Leuresthes tenuis*) is a State managed species, and the intertidal zone at the Project site is potential spawning habitat. A fact sheet describing the unique reproductive behavior of grunion is available at: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=36316&inline=true>.
- a. To the greatest extent possible, any work seaward of the semilunar high tide line must be scheduled to occur outside of the grunion spawning season, which is March 1 through August 31.
 - b. If work during grunion spawning season is essential for Project effectiveness, the following conditions shall apply from March 1 through August 31. These conditions are slight modifications to the Applicant's Grunion Avoidance Protocol (*Revised Monarch Beach Monitoring and Maintenance Plan*, LSA Associates, Inc., Feb 23, 2011).
 - i. **Four-day predicted runs.** No project activity that entails sand disturbance seaward of the semilunar high tide line shall be conducted during the four-day periods of predicted grunion runs that are posted by the California Department of Fish and Game (<http://www.dfg.ca.gov/marine/grunionschedule.asp>). As an example, if a predicted run series starts on July 18, no sand-disturbance activity seaward of the semilunar high tide line would be allowed on July 18, 19, 20, or 21.
 - ii. **Day before the first date of a run series.** Project activity that entails sand disturbance seaward of the semilunar high tide line can be conducted on the day before the first date of a predicted run series. This day constitutes a narrow window of time during which egg nests and developing larvae are unlikely to be present in the sand; larvae from the previous run series likely would have been flushed by the previous night's high tide, and new eggs likely won't be deposited for at least 24 hours. As an example, sand disturbance seaward of the semilunar high tide line could occur on July 17, which is the day before the first date of the predicted run series that starts July 18 (the predicted four-day run series is July 18, 19, 20, and 21). Sand-disturbance activity performed on the day before the first date of a predicted run series allows time for the intertidal spawning zone to be smoothed by one spring high tide subsequent to the sand disturbance and prior to the first predicted spawning.

- iii. **Other days.** Prior to Project activity that entails sand disturbance seaward of the semilunar high tide mark on other days during the spawning season, the presence or absence of egg nests in or near the work area must first be determined by monitoring for the presence of adult grunion on the beach during predicted runs.
 - (1) A qualified biologist or appropriately trained personnel shall monitor for the presence of adult grunion during the predicted grunion runs. Monitoring must be done on all four nights of the predicted run series prior to the work activity, except that if grunion are observed spawning within the work area or a 10-yard buffer on a given night, the presence of egg nests can be assumed and surveys on subsequent nights are not required. For example, if grunion are observed in the work area or the 10-yard buffer on night 1, then monitoring on nights 2, 3, and 4 would not be required. If grunion are not observed within the work area or the 10-yard buffer on night 1, then night 2 must be surveyed and so forth.
 - (2) Monitoring must start at the time of the high tide and continue for two hours or until the grunion stop running, whichever is later. For each night of monitoring, recorded information must include the time period monitored, grunion run time and duration, approximate grunion density within the work area and 10-yard buffer, and approximate grunion density in a broader area (i.e., within approximately 50 yards up-coast or 50 yards down-coast of the work area).
 - (3) If grunion spawning is observed within the work area or 10-yard buffer on any night of a four-day run series, then Project activity that entails sand disturbance seaward of the semilunar high tide line shall be postponed until after the egg incubation period (i.e., until the day before the first date of the next predicted run, as described above in *ii*).
 - (4) If grunion spawning is *not* observed within the work area or 10-yard buffer on all four nights of a predicted run series, then the absence of egg nests and incubation activity near the work area can be assumed and, if needed, Project activity that entails sand disturbance can be conducted seaward of the semilunar high tide line up to and including the day before the date of the next predicted run. For example, if no grunion were observed during the predicted runs on July 4, 5, 6 and 7, and the date of the next predicted run is July 18, then work can occur seaward of the semilunar high tide line from July 8 through July 17.
- iv. **April and May.** To protect grunion during their peak spawning season (and closed season for the recreational fishery), Project activity that entails sand disturbance seaward of the semilunar high tide line shall, to the greatest extent possible, be scheduled to avoid April and May.

V. PROJECT IMPACTS AND COMPENSATORY MITIGATION

- A. **Project Impact Avoidance and Minimization.** The Project must avoid and minimize adverse impacts to waters of the United States and/or State to the maximum extent practicable.

B. Project Impacts and Compensatory Mitigation. Unavoidable Project impacts to Salt Creek and the Pacific Ocean and its unnamed tributaries within the San Juan Creek Watershed must not exceed the type and magnitude of impacts described in the table below.

	Impacts (acres)	Impacts (linear ft.)	Mitigation for Impacts (acres)	Mitigation Ratio (area mitigated :area impacted)	Mitigation for Impacts (linear ft.)	Mitigation Ratio (linear feet mitigated :linear feet impacted)
Streambed and Riparian ¹	0.26	250	N/A	N/A	N/A	N/A

1. Temporary impacts to Salt Creek and the Pacific Ocean.

C. Temporary Project Impact Areas. The Applicant must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge of pollutants to waters of the United States and/or State. The Applicant must implement all necessary BMPs to control erosion and runoff from areas associated with the Project.

VI. MONITORING AND REPORTING REQUIREMENTS

- A. Representative Monitoring.** Samples and measurements taken for the purpose of monitoring under this Certification shall be representative of the monitored activity.
- B. Monitoring Reports.** Monitoring results shall be reported to the San Diego Water Board at the intervals specified in section VI of this Certification.
- C. Monitoring and Reporting Revisions.** The San Diego Water Board may make revisions to the monitoring program at any time during the term of this Certification and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.
- D. Records of Monitoring Information.** Records of monitoring information shall include:
- The date, exact place, and time of sampling or measurements;
 - The individual(s) who performed the sampling or measurements;
 - The date(s) analyses were performed;
 - The individual(s) who performed the analyses;
 - The analytical techniques or methods used; and
 - The results of such analyses.

E. Annual Project Monitoring Reports. The Applicant must submit annual Project progress reports describing status of BMP implementation and compliance with all requirements of this Certification to the San Diego Water Board prior to **March 1** of each year following the issuance of this Certification. Monitoring must be conducted in accordance with Washington Holding's *Revised Monarch Beach Management Plan For Coastal Development Permit* (LSA Associates, Inc., June, 2013). The report must include the following information:

1. The names, qualifications, and affiliations of the persons contributing to the report;
2. The status, progress, and anticipated annual schedule for Project maintenance activities; including estimates of the volume of material dredged and excavated during each channel maintenance event;
3. Estimates of the volume of material deposited within receiving waters and on the beach above the high tide line for each channel maintenance event;
4. A description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;
5. **Physical Condition and Function.** For each channel maintenance event, appropriately trained personnel shall take photographs from established photo points to show conditions immediately before and immediately after maintenance activities. At least one photo point must provide an overview of the project in relation to permanent landmark(s) and the shoreline. Photo-documentation must be done in reasonable accordance with guidance at: http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/Strea_mPhotoDocSOP.pdf, including the use of Geographic Positioning System (GPS) coordinates for each of the photo points referenced. Each month, appropriately trained personnel shall inspect the channel to assess the physical condition and determine if re-construction or repair is needed to maintain the function in directing flow. Photo-documentation shall be incorporated into an assessment of physical condition and function in the annual monitoring report; and
6. **Water Quality.** The level of fecal indicator bacteria at the mouth of Salt Creek and in the surf zone shall be monitored to determine if Project activity causes or contributes to elevated bacteria levels. Monitoring of coastal creek outlets and their respective ocean receiving waters is currently required pursuant to the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit issued by the San Diego Water Board to Orange County and the incorporated cities of South Orange County (Order No. R9-2009-0002 adopted December 16, 2009). Samples are collected from the mouth of Salt Creek and from the surf zone 25 yards up-coast and 25 yards down-coast of the creek ocean interface. Sampling is typically completed weekly during dry weather, and both 24 hours before and 72-96 hours after a minimum of five storm events per year. The Applicant shall, if

necessary, supplement the County's monitoring efforts to ensure sampling is done at least twice per month and both 24 hours before and 72-96 hours after a minimum of five storm events during the year. The Applicant shall provide an evaluation, interpretation and tabulation of the fecal indicator bacteria data including interpretations and conclusions as to whether applicable bacteriological standards have been attained at each sample station, a comparison of data from before and after each channel maintenance event, and a comparison of data with that from past years.

- I. Where monitoring procedures are not otherwise specified, sampling, analysis, and quality assurance/quality control must be conducted in accordance with the Surface Water Ambient Monitoring Program (SWAMP) Quality Assurance Program Plan (QAPP) adopted by the State Water Resources Control Board. The SWAMP QAPP is available on the State Water Board's website at:
http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/qapp/qaprp082209.pdf.
- J. **Reporting Authority.** The submittal of information required under this Certification, or in response to a suspected violation of any condition of this Certification, is required pursuant to Water Code section 13267 and 13383. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to Water Code sections 13268 or 13385.
- K. **Electronic and Paper Media Documents.** The Applicant must submit all reports and information required under this Certification in both hardcopy (paper) and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable. All paper and electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. R9-2013-0126:PIN 797087.
- L. **Document Signatory Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be signed as follows:
 1. For a corporation, by a responsible corporate officer of at least the level of vice president.
 2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
 4. A duly authorized representative may sign applications, reports, or information if:
 - a. The authorization is made in writing by a person described above.

- b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
- c. The written authorization is submitted to the San Diego Water Board Executive Officer.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

- M. Document Certification Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

- N. Document Submittal Address.** The Applicant must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. R9-2013-0126:PIN 797087
2375 Northside Drive, Suite 100
San Diego, California 92108

VII. NOTIFICATION REQUIREMENTS

- A. Twenty Four Hour Non-Compliance Reporting.** The Applicant shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the San Diego Water Board 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 San Diego Water Board, 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.

- B. Hazardous Substance Discharge.** Except for a discharge which is in compliance with this Certification, any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the County of Orange, in accordance with California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Applicant is in violation of a Basin Plan prohibition.
- C. Oil or Petroleum Product Discharge.** Except for a discharge which is in compliance with this Certification, any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition.
- D. Anticipated Noncompliance.** The Applicant shall give advance notice to the San Diego Water Board of any planned changes in the Project or the Compensatory Mitigation project which may result in noncompliance with Certification conditions or requirements.
- E. Transfers.** This Certification is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:
- 1. Transfer of Property Ownership:** The Applicant must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, but not be limited to, a statement that the Applicant has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the San Diego Water Board **within 10 days of the transfer of ownership.**

2. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Certification must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.**

3. **Transfer of Post-Construction BMP Maintenance Responsibility:** The Applicant assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the Applicant must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Applicant must provide such notification to the San Diego Water Board within **10 days** of the transfer of BMP maintenance responsibility.

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the Applicant will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Applicant of this Certification in the event that a transferee fails to comply.

- F. **Discharge Commencement.** The Applicant must notify the San Diego Water Board in writing **at least 5 days prior** to the start of Project construction.

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

- A. The City of Dana Point is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)), and promulgated a Notice of Exemption on July 18, 2013 under CEQA Guidelines Title 14, California Code of Regulations. The City of Dana Point has determined the project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15304.

- B. A Notice of Exemption was filed by City of Dana Point on July 18, 2013. The San Diego Water Board has reviewed the lead agency's Notice of Exemption and also finds that the project is categorically exempt and will not have a significant effect on the environment.

IX. SAN DIEGO WATER BOARD CONTACT PERSON

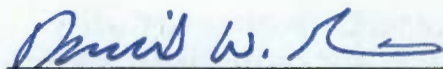
Darren Bradford, Environmental Scientist
California Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, California 92108
Telephone: (619) 521-3356
Email: darren.bradford@waterboards.ca.gov

X. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the **Monarch Beach Management Plan** (Certification No. R9-2013-0126) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the applicants' Project description and/or the description in this Certification, and (b) compliance with all applicable requirements of the Basin Plan.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Certification No. R9-2013-0126 issued on May 7, 2014.



DAVID W. GIBSON
Executive Officer
San Diego Water Board

7 May 2014
Date

ATTACHMENT 1

DEFINITIONS

Activity - when used in reference to a permit means any action, undertaking, or project including, but not limited to, construction, operation, maintenance, repair, modification, and restoration which may result in any discharge to waters of the state.

Buffer - means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

California Rapid Assessment Method (CRAM) - is a wetland assessment method intended to provide a rapid, scientifically-defensible and repeatable assessment methodology to monitor status and trends in the conditions of wetlands for applications throughout the state. It can also be used to assess the performance of compensatory mitigation projects and restoration projects. CRAM provides an assessment of overall ecological condition in terms of four attributes: landscape context and buffer, hydrology, physical structure and biotic structure. CRAM also includes an assessment of key stressors that may be affecting wetland condition and a "field to PC" data management tool (eCRAM) to ensure consistency and quality of data produced with the method.

Compensatory Mitigation Project - means compensatory mitigation implemented by the Applicant as a requirement of this Certification (i.e., applicant -responsible mitigation), or by a mitigation bank or an in-lieu fee program.

Discharge of dredged material – means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States and/or State.

Discharge of fill material – means the addition of fill material into waters of the United States and/or State.

Dredged material – means material that is excavated or dredged from waters of the United States and/or State.

Ecological Success Performance Standards – means observable or measurable physical (including hydrological), chemical, and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

Enhancement – means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment – means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist. Creation results in a gain in aquatic resource area.

Fill material – means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body.

Isolated wetland – means a wetland with no surface water connection to other aquatic resources.

Mitigation Bank – means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing mitigation for impacts authorized by this Certification.

Preservation - means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/ historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/ historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Start of Project Construction - For the purpose of this Certification, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfilling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the United States and/or State.

Uplands - means non-wetland areas that lack any field-based indicators of wetlands or other aquatic conditions. Uplands are generally well-drained and occur above (i.e., up-slope) from nearby aquatic areas. Wetlands can, however, be entirely surrounded by uplands. For example, some natural seeps and constructed stock ponds lack aboveground hydrological connection to other aquatic areas. In the watershed context, uplands comprise the landscape matrix in which aquatic areas form. They are the primary sources of sediment, surface runoff, and associated chemicals that are deposited in aquatic areas or transported through them.

Water quality objectives and other appropriate requirements of state law – means the water quality objectives and beneficial uses as specified in the appropriate water quality control plan(s); the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act; and any other appropriate requirement of state law.

Washington Holdings
Monarch Beach Management Plan
Certification No. R9-2013-0126

**ATTACHMENT 2
PROJECT LOCATION MAPS**

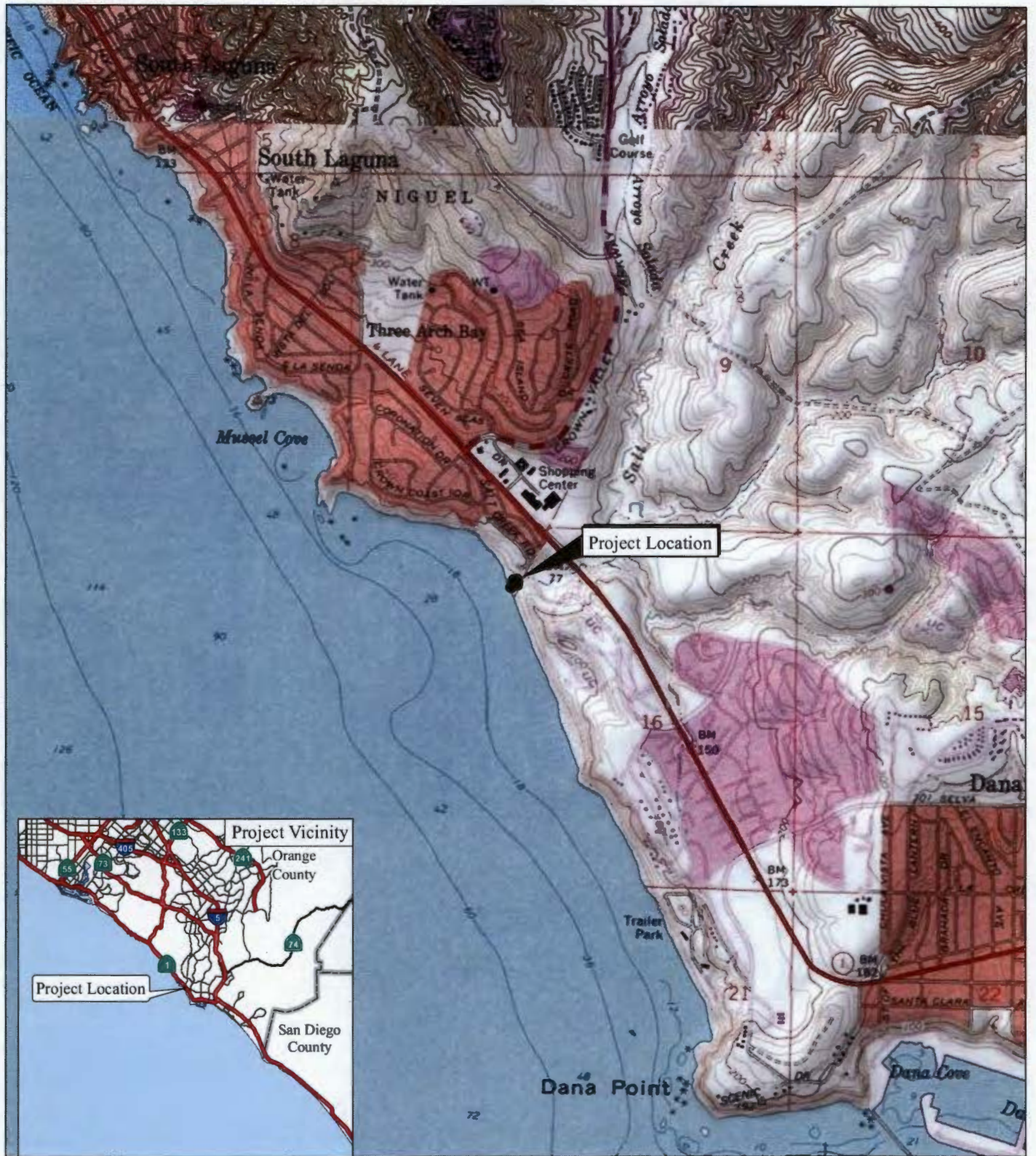
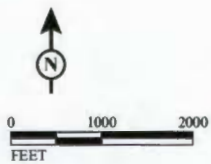


FIGURE 1



SOURCE: USGS 7.5' QUAD - DANA POINT (75)
 E:\WAH1001\GIS\Fig1_ProjLoc.mxd (10/28/2010)

Washington Holdings
Monarch Beach Management Plan
Certification No. R9-2013-0126

**ATTACHMENT 3
PROJECT SITE PLANS**

1 Staging Area

All mechanized equipment will be staged, stored, and serviced (e.g., refueled) within the designated staging area, located in the parking area for the Monarch Beach Club. The designated staging area is outside beach and habitat areas in order to minimize impacts to these areas. The equipment stored in the designated staging area will not obstruct public parking or beach access areas. Spill prevention and control measures will be implemented when refueling or servicing the mechanized equipment. No long-term storage of equipment on the site will occur, and no construction materials, debris, or waste will be placed or stored where it may be subject to water, wind, rain, or dispersion.

2 Construction Corridor

Construction equipment will enter and exit the work area via the construction corridor shown and all construction or maintenance activities will be monitored by a biological monitor or appropriately trained personnel.

3 Construction Site

The construction area consists of Areas A and B within the construction corridor. Construction activities will be contained within these boundaries and will be monitored by a qualified biologist or appropriately trained personnel to ensure that Best Management Practices (BMPs) are being implemented.

4 Location of Construction Fencing

Temporary construction fencing will be installed, as shown, at the beginning of each day to prevent the public from entering the work area where mechanized equipment will be used during that day. The temporary fencing will consist of caution tape or rope mounted on T-posts or wooden stakes at 10 foot intervals. The fencing will be removed and stored in the designated staging area at the end of each day.



LSA



0 50 100
FEET

SOURCE: Aerial- Google Earth (3/7/2011)

I:\WAH1001\GMB Management Plan\Wrack Area_Site Plan.cdr (10/7/13)

Property Limit (APN: 670-151-55)

Construction Corridor

Temporary Construction Fencing

Mean High Tide or Mean High Water Line *

Typical Observed High Tide Line

Area A

Area B

Wrack Removal Area

Wrack Placement Area

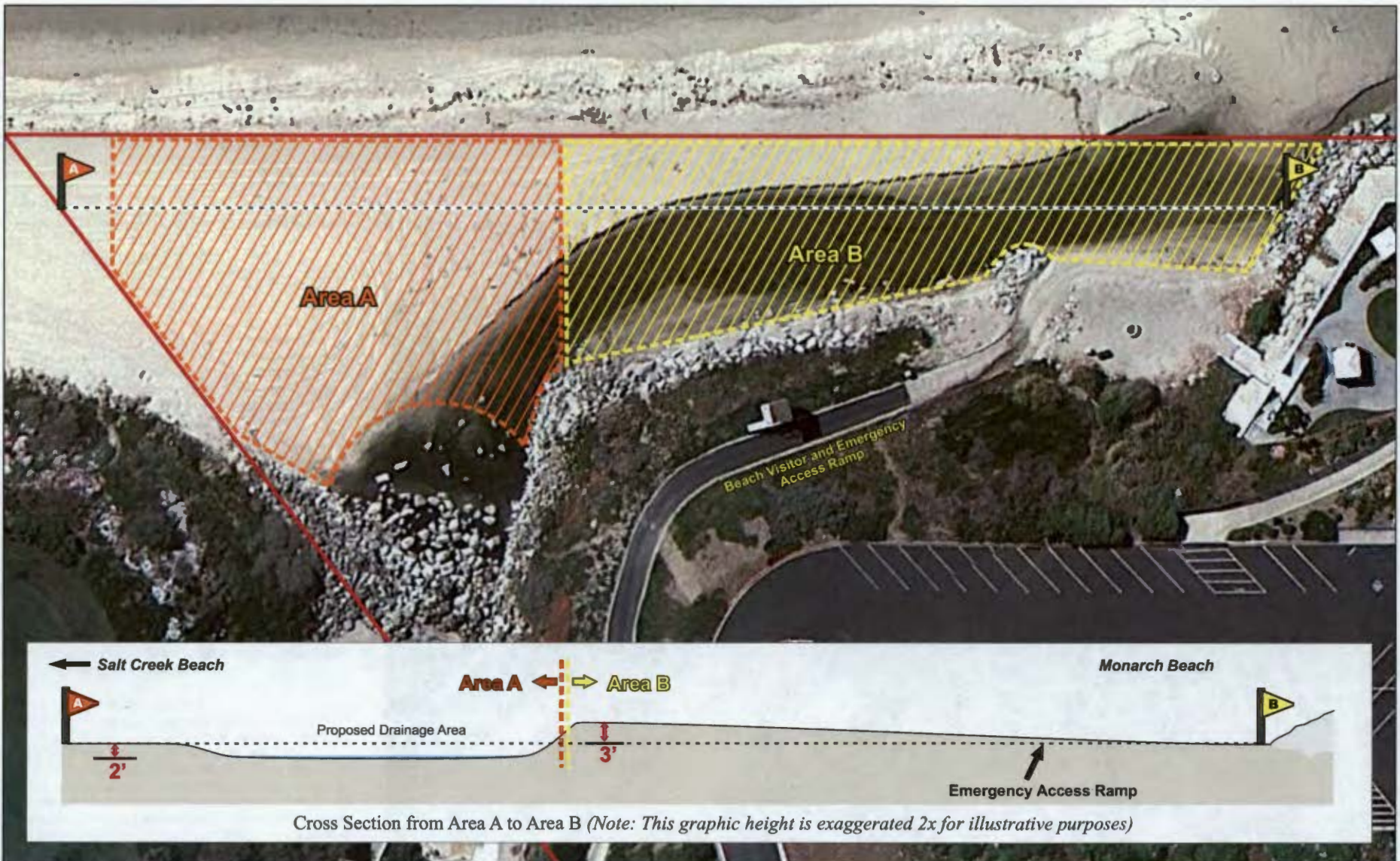
Photo Point and Direction

Beach Access

Footnote: Details may be revised in the field according to natural conditions, which frequently change.

* Surveyed by Hunsaker & Associates - November 29, 2011. Under California law, the Mean High Tide (MHT or Mean High Water [MHW]) line, is the boundary that separates private property and State property (See California Civil Code §830). In California, the MHT or MHW is determined by taking an 18.6 year average of all high tides. That average for Monarch Beach is determined to be approximately 4.48 ft (Referenced to NAVD88).

FIGURE 2



LSA





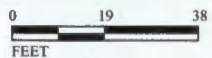
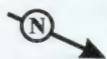
-  Area A
-  Area B
-  Section Line Between Area A and Area B
-  Property Limit

FIGURE 3



SOURCE: Aerial- Google Earth Pro

Monarch Beach Management Plan
Construction Areas A and B Profile