

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

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Clean Water Act Section 401 General Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials

**PROJECT: Coronado Cays HOA Dock Maintenance and Replacement Program Project
Certification Number R9-2019-0021
WDID: 9 000003331**

Reg. Meas. ID: 422954 Place ID: 849370 Party ID: 385061 Person ID: 585650
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**APPLICANT: Coronado Cays Homeowners Association
505 Grand Caribe Causeway
Coronado, CA 92118**

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"/> Enrollment in Isolated Waters Order No. 2004-004-DWQ
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017-DWQ	

PROJECT DESCRIPTION

A revised application dated September 20, 2018 was submitted by the Coronado Cays Homeowners Association (hereinafter Applicant), for Water Quality Certification pursuant to section 401 of the Clean Water Act (United States Code (USC) Title 33, section 1341) for the proposed Coronado Cays HOA Dock Maintenance and Replacement Program Project (Project). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) deemed the application to be complete on November 16, 2018. 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 U.S. Army Corps of Engineers (USACE) has issued Regional General Permit No. 85 (RGP-85; USACE File No. SPL-2015-00366) under the Rivers and Harbors Act section 10 to authorize activities associated with this Project.

The Project is located within the Coronado Cays and the City of Coronado, San Diego County, California (excluding properties within the San Diego Unified Port District jurisdiction; see Figure 1 in Attachment 2). The Project center reading is located at latitude 32.620975 and longitude -117.132967. The Applicant has paid all required application fees for this Certification in the amount of \$13,666.00. On November 16, 2018, 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.

This Certification will cover non-commercial, municipal community, and private residential docking structures that involve in-kind repair and/or replacement projects of up to a cumulative total area of 1.03 acre¹ over its term. Projects may include removal and re-installation of existing docks, piles, gangways, fender, floats, boat lifts, or other infrastructure components related to a dock structure within the Coronado Cays and the City of Coronado's jurisdiction.

Under this Certification, the Applicant will implement a Dock Maintenance and Replacement Program (DMRP) that provides oversight of in-water activities associated with individual community and residential dock replacement projects (DMRP Projects) for the removal and replacement of currently existing dock structures with new permanent dock structures in San Diego Bay. While the majority of DMRP Projects are anticipated to be like-for-like replacements, the configuration of a dock structure may change if necessary, in order to avoid or minimize environmental impacts, to better meet the DMRP Project purpose, or if construction methods, materials, or compliance with Americans with Disabilities Act (ADA) Standards warrant the modification. These changes in configuration are allowable as long as the total footprint of each individual structure results in no net increase in square footage (i.e., the square footage of each structure remains the same or less) of occupied surface area coverage of San Diego Bay water and of fill in the bay floor and complies with the conditions of this Certification. No new docks or dock expansions are authorized under this Certification.

The method for pile installations will utilize the best available technology that reduces disturbance to sediment and vegetation, turbidity, and noise. Such methods include vibratory hammer installation, pile jetting, or the use of helical piles. A turbidity curtain will be installed around each pile or piling and remain in place until the construction has been completed and sediments have settled. In addition, low-pressure jetting techniques that cause less disruption are preferred. Impact pile driving or any other method which may cause excessive sound impacts are not authorized under this Certification.

Under the terms of this Certification, the Applicant must ensure that the design, operation, and degree of treatment expected to be attained from equipment, facilities, or activities (including construction BMPs) will adequately treat waste and reduce effluents which may be discharged. Compliance with the Certification conditions will help ensure that construction discharges from the Project will not cause or contribute to exceedances of water quality standards in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan).

¹ Total cumulative area of occupied surface coverage and pile replacement fill.

The Project will continue a maximum of permanent impacts of up to 1.03 acre (45,000 square feet) in and along the shoreline of San Diego Bay, a water of the United States and 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. Compensatory mitigation is not required for the in-kind repair and/or replacement projects described herein. These projects will not result in any increase in occupied surface area coverage or fill within the San Diego Bay as compared to what is currently existing and, in some cases, may result in a net decrease. However, compensatory mitigation will be required for any DMRP Project that causes direct or indirect impacts to eelgrass habitat resulting from Project implementation.

Additional Project details are provided in Attachments 2 of this Certification.

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Attachments:

1. Definitions
2. Project Figures and Plans

The San Diego Water Board has independently reviewed the record of the Project to analyze the extent and nature of proposed Project impacts to the water quality and beneficial uses of waters of the United States and/or State and associated compensatory mitigation required to offset impacts attributed to the Project. In accordance with this Certification, the Applicant may proceed with the Project under the following terms and conditions:

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. R9-2019-0021 (Certification) shall expire upon a) the expiration or retraction of the Clean Water Act section 404 (33 USC Title 33, section 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 non-compliance 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 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 USC section 1313). The Basin Plan is accessible at:
- http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml
- 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 Board 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.** The Applicant must maintain a copy of this Certification at the Applicant's on-site office. This Certification must be available at all times to Coronado Cays residents, site personnel and agencies. A copy of this Certification shall also be provided to any Coronado Cays homeowner(s) who has been approved by the Applicant to implement a DMRP Project under this Certification (HOA Approved Homeowners, hereafter referred to as Homeowners) and their contractor(s) or subcontractor(s) performing construction work, and the copy shall remain in their possession at the DMRP 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 DMRP Project or Compensatory Mitigation site(s) 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 San Diego Bay;
 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 non-compliance 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.

M. **Petitions.** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

III. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Approvals to Commence Construction.** The Applicant shall not commence Project activities until all necessary federal, State, and local approvals are obtained.
- B. **Personnel and Homeowners Education.** The Applicant must educate personnel on the requirements in this Certification, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures. Prior to the start of any DMRP Project the Applicant must educate all Homeowners, contractor(s), and subcontractor(s) 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 and ensure that Homeowners (of homeowner DMRP Projects) 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. **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 completion of each DMRP Project, all project-generated debris, building materials, excess material, waste, and trash shall be removed from the project site for disposal at an authorized landfill or other disposal site in compliance with federal, state and local laws and regulations.
- E. **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 DMRP 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.

- F. **Construction Equipment.** All equipment must be washed prior to transport to any DMRP 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.
- G. **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.
- H. **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 DMRP Project activity involving hazardous materials.
- I. **Limits of Disturbance.** The Applicant shall clearly define, or ensure that Homeowners clearly define, the limits of each DMRP Project's disturbance to waters of the United States and/or State using a highly visible marker, such as a floating boom, prior to commencement of DMRP Project activities within those areas.
- J. **Silt Curtain Deployment.** When pile replacement activities are performed, the Applicant shall ensure that a continuous length of silt curtain is deployed and maintained, which fully surrounds the active discharge activities, including pile removal, pile driving, and work barge/vessel, in conformance with the following requirements:
1. The silt curtains must restrict the surface visible turbidity plume or surface debris to the area of construction and dredging and must control and contain the migration of re-suspended sediments or debris at the water surface and at depth;
 2. The bottom of the silt curtains must be weighted with ballast weights or rods affixed to the base of the fabric to resist the natural buoyancy of the silt curtain fabric and lessen its tendency to move in response to currents. Where feasible and applicable, the floating silt curtains must be anchored and deployed from the surface of the water to just above the substrate;
 3. The silt curtain must be monitored for damage, dislocation or gaps and must be immediately repaired where it is no longer continuous or where it has loosened; and
 4. The silt curtain must not be removed until the visible turbidity plume has dissipated and/or surface debris is skimmed and removed.

K. Protection of Eelgrass Beds. As required in section V.C. of this Certification, a pre-construction eelgrass survey must be completed in accordance with the requirements of the *California Eelgrass Mitigation Policy (CEMP)*² by a qualified biologist, prior to initiation of construction activities at the site. If eelgrass is found during the pre-construction survey, the Applicant shall also comply with the following requirements:

1. Prior to construction, the boundaries of adjacent eelgrass beds must be staked with ridged PVC markers or self-centering buoys visible at all tide heights. The PVC markers or self-centering buoys must be protected, replaced, and maintained as needed to ensure that they remain in place and properly stake at the boundaries of the eelgrass beds; and
2. Any silt curtains must be kept a minimum of 5 feet away from staked eelgrass beds in order to prevent damage to eelgrass beds from curtain drag or movement.

L. On-site Qualified Biologist. The Applicant shall designate or ensure that the Homeowner designates an on-site qualified biologist to perform the monitoring described in section VI.E. of this Certification during DMRP Project activities within waters of the United States and/or State. 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. All records, field notes, and/or field logs created by biologist(s) for the purpose of documenting observations during in-water activities shall be submitted with the Annual Program Report.

M. Beneficial Use Protection. The Applicant must take all necessary measures to protect the beneficial uses of waters of San Diego Bay. This Certification requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to surface waters occurs or monitoring indicates that the DMRP Project is violating, or threatens to violate, water quality objectives, the associated DMRP 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 DMRP Project activities may not resume without approval from the San Diego Water Board.

IV. POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

A. Post-Construction Discharges. The Applicant shall not allow post-construction discharges from any of the DMRP Project sites to cause or contribute to on-site or off-site erosion or damage to properties or Bay habitats.

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.

² National Oceanic and Atmospheric Administration, National Marine Fisheries, West Coast Region. California Eelgrass Mitigation Policy and Implementing Guidelines, October 2014. An electronic copy can be found at the following web page: http://www.westcoast.fisheries.noaa.gov/publications/habitat/california_eelgrass_mitigation/Final%20CEMP%20October%202014/cemp_oct_2014_final.pdf

B. Project Impacts and Compensatory Mitigation. Unavoidable Project impacts to San Diego Bay must not exceed the type and magnitude of impacts described in the table below. At a minimum, compensatory mitigation required to offset unavoidable temporary and permanent Project impacts to waters of the United States and/or State must be achieved as 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)
Permanent Impacts						
San Diego Bay	1.03 ^a	a	b	b	b	b

- a. Total cumulative permanent impacts of up to 1.03 acre (45,000 square feet) of occupied surface area cover and/or fill of waters of the United States and/or State from in-kind repair and/or replacement projects of docks, piles, gangways, fenders, floats, boat lifts or other infrastructure components (i.e., DMRP Projects). A change in the configuration of a dock is allowable, only if necessary in order to avoid or minimize environmental impacts, to better meet the project purpose, or if construction methods, materials, or compliance with Americans with Disabilities Act (ADA) Standards warrant the modification as long as the total footprint of each individual structure results in no net increase in square footage (the square footage of each structure remains the same or less) and complies with the conditions of this Certification. No new docks, dock expansions, increases in number of piles, or impact pile driving are authorized under this Certification. Linear-foot impacts are not being quantified for this Certification as the individual projects covered by this Certification are replacements of existing structures.
- b. No compensatory mitigation is required for in-kind repair and/or replacement impacts for occupied surface area coverage and fill, as described in this Certification, with the exception of impacts to eelgrass habitat. If eelgrass habitat is impacted in the course of Project activities, the Applicant and/or Homeowner will provide in-kind compensatory mitigation with the purpose of providing a no net loss in eelgrass habitat function in accordance with the terms specified in the California Eelgrass Mitigation Policy.

C. Eelgrass. A pre-construction eelgrass survey must be completed in accordance with the requirements of the California Eelgrass Mitigation Policy (CEMP; National Marine Fisheries Service 2014)³ by a qualified biologist, prior to initiation of construction activities at the site. This survey must include both aerial and density characterization of the beds. If eelgrass is found during the pre-construction survey, a post-construction survey must be performed by a qualified biologist within 30 days following any DMRP Project completion to quantify any unanticipated losses to eelgrass habitat. Impacts must then be determined from a comparison of pre- and post-construction survey results. Any impacts to eelgrass habitat must be mitigated through conformance with the CEMP, which defines the mitigation ratio and other requirements to achieve mitigation for eelgrass impacts. In certain situations, additional post-construction

³ National Oceanic and Atmospheric Administration, National Marine Fisheries, West Coast Region. California Eelgrass Mitigation Policy and Implementing Guidelines, October 2014. An electronic copy can be found at the following web page: http://www.westcoast.fisheries.noaa.gov/publications/habitat/california_eelgrass_mitigation/Final%20CEMP%20October%202014/cemp_oct_2014_final.pdf

surveys may be required as specified by CEMP. If required following the post-construction survey(s), the Applicant must develop and submit a mitigation plan to USACE for approval and provide a copy to the San Diego Water Board.

- D. **Compensatory Mitigation Plan Implementation.** If compensatory mitigation for eelgrass impacts is required, the Applicant must fully and completely implement the approved mitigation plan.
- E. **Performance Standards.** If compensatory mitigation for eelgrass impacts is required, compensatory mitigation required under this Certification shall be considered achieved once it has met the ecological success performance standards contained in the approved mitigation plan to the satisfaction of the San Diego Water Board.
- F. **Timing of Mitigation Site Construction.** If compensatory mitigation for eelgrass impacts is required, the construction of proposed mitigation must be completed no later than 9 months following the earliest time of either the direct impact to eelgrass beds or as directed in accordance with CEMP. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of 10% of the cumulative compensatory mitigation for each month of delay.
- G. **Temporary Project Impact Areas.** The Applicant must restore or ensure that Homeowners 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 or ensure that Homeowners implement all necessary BMPs to control erosion and discharge from areas associated with the Project are implemented.

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:
 - 1. The date, exact place, and time of sampling or measurements;
 - 2. The individual(s) who performed the sampling or measurements;
 - 3. The date(s) analyses were performed;
 - 4. The individual(s) who performed the analyses;

5. The analytical techniques or methods used; and
6. The results of such analyses.

E. Receiving Water Visual Observation Monitoring. The Applicant must conduct visual observation monitoring of all DMRP Project activities in the San Diego Bay prior to, during, and after each period of project in-water activities. The visual observation monitoring documentation must be included in Annual Program Reports.

1. **Parameters.** The following parameters shall be visually monitored immediately outside of the construction area:
 - a. No floating particulates, suspended materials, grease, or oil; and
 - b. No significant discoloration of the water surface.
2. **Field Documentation.** All visual observations shall be recorded throughout DMRP Project in-water activities in monitoring field logs. In addition to the requirements listed in section VI.D., monitoring field logs shall include, but are not limited to, observations of water quality conditions including sheen, color, odor, floating particulates, condition of silt curtain, surface visible turbidity plume. Logs shall also include observations of sensitive biological species and resources and weather conditions, such as wind speed/direction and cloud cover.

Photo documentation shall be used in support of visual observations of water quality conditions and should be conducted in accordance with guidelines posted at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation should include Global Positioning System (GPS) coordinates for each of the photo points referenced; and,

3. **Response Actions.** A response action shall be taken immediately to correct any situation that causes or threatens to cause a condition of pollution (e.g., deviation of water quality from natural/ambient conditions). One example of a response action is to immediately take action to repair or fix a silt curtain that is observed to be damaged, has become dislocated, or has gaps where a visible turbidity plume is forming outside of the silt curtain at a DMRP Project site. Response actions may include, but are not limited to, work stoppage until silt curtain repair is completed, removal or cleanup of floating particulates, suspended materials, grease, oil, etc., implementation of operational modifications, work stoppage due to the presence of sensitive species until area is vacated, and/or implementation of additional BMPs (e.g., a second silt curtain). Response actions shall be documented in the monitoring field log.

F. **Annual Work Plan Reporting of Planned Projects.** The Applicant must submit an annual work plan that lists the planned/expected DMRP projects for the upcoming year (Year 1) **no later than 30 days** after issuance of this Certification and by **January 30** of each subsequent year. The Annual Work Plan must include, at a minimum, the proposed DMRP Project name, a brief project description, and a summary of the planned in-water activities.

G. **Annual Program Reporting.** The Applicant must submit annual Program reports during the term of this Certification. Each Annual Program Report must provide complete information about all DMRP Projects completed during each calendar year and describe the status of BMP implementation, compliance with all requirements of this Certification, and compensatory mitigation (if required by CEMP) to the San Diego Water Board prior to **January 30** of each year following the issuance of this Certification. Annual Program Reports must be submitted even if no DMRP Projects have been implemented. The monitoring period for each Annual Program Report shall be January 1st through December 31st of each year. Annual Program Reports must include, at a minimum, the following:

1. **Program Status and Compliance Reporting.** The Annual Program Report must include the following Program status and compliance information:
 - a. Project Reference Number. The following identification number is included at the end of the header or subject line description of the transmittal letter/email:
Certification No. R9-2019-0021:849370:lhonma;
 - b. List of Contributors. The names, qualifications, and affiliations of the persons contributing to the report;
 - c. Status of Annual Work Plan. The status, progress, and, if not completed, the anticipated schedule for completion of the DMRP Project's listed in the Annual Work Plan that was submitted for the annual monitoring period;
 - d. Summary of Completed DRMP Projects. Provide a summary of the DMRP Projects completed during the annual monitoring period. The summary must include, but is not limited to, the following for each DMRP Project:
 - (1) DMRP Project name and name of the project proponent;
 - (2) A brief summary description of the project purpose and the associated in-water activities performed;
 - (3) A description of the structures repaired or replaced, including the number of and total area of piles, the total area (in square feet and acres) of dock structures, and the shoreline length (in linear feet) where the activity occurred;
 - (4) A list of projects requiring compensatory mitigation for impacts to eelgrass including a description of the mitigation project and status.

- (5) A list of any incidents of non-compliance during the annual monitoring period. Include the associated project name and a brief description of the incident.
 - e. The total quantity of impacts approved through the Program to date.
2. **DMRP Project Reporting.** The Applicant must provide a complete information package for each DMRP Project completed during the annual monitoring period that includes, at a minimum, the following:
- a. Construction Dates. Provide the dates of DMRP Project initiation and complete;
 - b. RGP-85 Notification Package and USACE Approval. Provide a copy of the notification information submitted to USACE for coverage under RGP-85 and a copy of the USACE written verification of approval;
 - c. Pre-construction Caulerpa Survey Reporting. Provide a copy of the *Caulerpa* Survey Reporting Form documenting the pre-construction survey.
 - d. Receiving Water Visual Observation Monitoring Reporting. Provide a monitoring report that contain the results of visual observation monitoring activities for each week of monitoring. The reports must include, at a minimum:
 - (1) The names, qualifications, and affiliations of the persons contributing to the report;
 - (2) Copies of records, monitoring field logs, and photo documentation of the visual observations required under section VI.E; and
 - (3) A summary, evaluation, and interpretation of the visual observations recorded, and any response actions taken as required under section VI.E, including, but not limited to, interpretations and conclusions as to whether applicable receiving water limitations were attained at the site.
 - e. Construction BMPs. Provide a list and summary description of construction BMPs utilized during project implementation. For DMRP Projects that include in-water work that uses a working barge/vessel (e.g., pile replacement), provide a copy of a site-specific plan that addresses vessel pollution response and construction best management practices for each project;
 - f. Non-Compliance Incidents. Provide a complete description of each incident of non-compliance during project implementation and its cause, the period of the non-compliance including exact dates and times, and the steps taken to reduce, eliminate, and prevent reoccurrence of the non-compliance;
 - g. Post-Construction Eelgrass Survey. Provide a copy of the post-construction eelgrass surveys as required under section V.C of this Certification. Summarize the actions that will be taken by the Applicant/Homeowner to mitigate for impacts to eelgrass habitat beyond what is expected;

- h. Post-Construction Drawings. Provide a copy of as-built drawings of the DMRP Project site, no bigger than 11"X17"; and
- i. CEMP Reporting. Provide a statement on the requirement for and/or the status of any post-action surveys or compensatory mitigation as specified by CEMP. Provide a copy of any required post-action survey or compensatory mitigation report, as appropriate.

H. 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.

I. Electronic Document Submittal. The Applicant must submit all reports and information required under this Certification in electronic format via e-mail to SanDiego@waterboards.ca.gov. Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc and delivered to:

California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. R9-2019-0021:849370:lhonma
2375 Northside Drive, Suite 100
San Diego, California 92108

Each electronic document must be submitted as a single file, in Portable Document Format (PDF), and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. R9-2019-0021:849370:lhonma.

J. 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.

- K. **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."

VII. NOTIFICATION REQUIREMENTS

- A. **Twenty-Four Hour Non-Compliance Reporting.** The Applicant shall report any non-compliance which may endanger health or the environment. Any such information shall be provided orally or by written email 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 non-compliance and its cause; the period of non-compliance, including exact dates and times, and if the non-compliance 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 non-compliance. 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. **Caulerpa Taxifolia.** The Applicant must ensure that a surveillance-level survey for *Caulerpa taxifolia* is conducted, in accordance with the requirements in the National Marine Fisheries Service's *Caulerpa* Control Protocol (version 4), dated February 25, 2008, not more than 90 days before the initiation of in-water activities at each DMRP Project to determine presence/absence of this species within the immediate vicinity of the project. If *Caulerpa taxifolia* is identified during a survey, or at any other time before, during, or within 120 days following completion of authorized activities, both National Marine Fisheries Service and California Department of Fish and Wildlife must be contacted within 24 hours of first noting the occurrence. In the event *Caulerpa taxifolia* is detected, all disturbing activity must cease until such time as the infestation has been isolated and treated, or the risk of spread from the disturbing activity is eliminated in accordance with the *Caulerpa* Control Protocol.

- C. Hazardous Substance Discharge.** Except as provided in Water Code section 13271(b), 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 San Diego, 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.
- D. Oil or Petroleum Product Discharge.** Except as provided in Water Code section 13272(b), 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.
- E. Anticipated Non-compliance.** 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 non-compliance with Certification conditions or requirements.
- F. 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.**

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 responsibility for compliance with this Certification in the event that a transferee fails to comply.

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

- A. The City of Coronado is the Lead Agency under the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et seq.) section 21067 and CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.) section 15367. The Lead Agency has determined the Project is categorically exempt and filed a Notice of Exemption with the County Clerk on March 5, 2018.⁴
- B. The San Diego Water Board is a Responsible Agency under CEQA (Public Resources Code section 21069; CEQA Guidelines section 15381). The San Diego Water Board has independently determined that the Project, as proposed, is categorically exempt because the Project consists of reconstruction of existing structures where the new structures will be located on the same site as the structures replaced and will have substantially the same purpose and capacity as the structures replaced.⁵
- C. As a Responsible Agency under CEQA, the San Diego Water Board will file a Notice of Exemption in accordance with CEQA Guidelines section 15062.

IX. SAN DIEGO WATER BOARD CONTACT PERSON

Lisa Honma, Environmental Scientist
Telephone: 619-521-3367
Email: Lisa.Honma@waterboards.ca.gov

⁴ California Code of Regulations (CCR), Title 14, section 15302

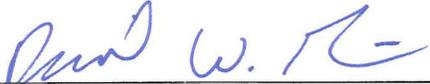
⁵ 14 CCR section 15302

X. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the Coronado Cays HOA Dock Maintenance and Replacement Program Project (Certification No. R9-2019-0021) 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. R9-2019-0021 issued on March 14, 2019.



DAVID W. GIBSON
Executive Officer
San Diego Water Board

14 March 2019
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., permittee-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.

Waters of the State - means any surface water or groundwater, including saline waters, within the boundaries of the State. [Water Code section 13050, subd. (e)].

Coronado Cays Homeowners Association
Coronado Cays HOA Dock Maintenance and Replacement Project
Certification No. R9-2019-0021

ATTACHMENT 2
PROJECT LOCATION MAPS

Figure 1- Project Location and Permit Coverage Areas

Coronado Cays Homeowners Association
Coronado Cays HOA Dock Maintenance and Replacement Project
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Figure 1- Project Location and Permit Coverage Areas