



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board

Central Coast Region



Arnold Schwarzenegger
Governor

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September 23, 2010

Steve Scheiblauser
Office of the Harbormaster
City of Monterey
256 Figueroa Street
Monterey, CA 93940

BY ELECTRONIC AND REGULAR MAIL

Dear Mr. Scheiblauser:

WATER QUALITY CERTIFICATION NUMBER 32710WQ06 FOR MONTEREY HARBOR MAINTENANCE DREDGING PROJECT, MONTEREY COUNTY

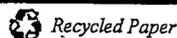
Thank you for the opportunity to review your July 1, 2010 application for water quality certification of the Monterey Harbor Maintenance Dredging Project. The application was completed on July 26, 2010. The project appears to protect beneficial uses of State waters. We are issuing the enclosed Technically Conditioned Letter of Certification.

At this time, we do not anticipate issuing additional requirements based on your application. Should new information come to our attention that indicates a water quality problem, we may require additional monitoring and reporting, issue Waste Discharge Requirements, or take other action.

Your Section 401 Water Quality Certification application and CEQA documents indicate that project activities may affect beneficial uses and water quality. The Central Coast Regional Water Quality Control Board (Water Board) issues this certification to protect water quality and associated beneficial uses from project activities. We need reports to determine compliance with this certification. All technical and monitoring reports requested in this certification, or anytime after, are required per Section 13267 of the California Water Code.

Your failure to submit reports required by this certification, or your failure to submit a report of technical quality acceptable to the Executive Officer, may subject you to enforcement action per Section 13268 of the California Water Code. The Water Board will base enforcement actions on the date of certification. Any person affected by this Water Board action may petition the State Water Resources Control Board (State Board) to review this action in accordance with California Water Code Section 13320; and Title 23, California Code of Regulations, Sections 2050 and 3867-3869. The State Board, Office of Chief Counsel, PO Box 100, Sacramento, CA 95812, must receive the petition within 30 days of the date of this certification. We will provide upon request copies of the law and regulations applicable to filing petitions.

California Environmental Protection Agency



Item No. 10 Attachment No. 2
WDR Monterey Bay Wharf Dredging
March 16-17, 2011 Meeting

If you have questions please contact Peter Von Langen at (805) 549-3688 or via email at pvonlangen@waterboards.ca.gov, or Phil Hammer at (805) 549-3882. Please mention the above certification number in all future correspondence pertaining to this project.

Sincerely,



for Roger W. Briggs
Executive Officer

Enclosure: Action on Request for CWA Section 401 Water Quality Certification

cc: Enclosures with

Jeff Olberding
Olberding Environmental, Inc.
jeff@olberdingenv.com

Bruce Henderson
U.S. Army Corps of Engineers
Ventura Office
Regulatory Section
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

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401 Program Manager
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Stateboard401@waterboards.ca.gov

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Action on Request for
Clean Water Act Section 401 Water Quality Certification
for Discharge of Dredged and/or Fill Materials

PROJECT: Monterey Harbor Maintenance Dredging Project
APPLICANT: Steve Scheiblaue
City of Monterey, Office of the Harbormaster
256 Figueroa Street
Monterey, CA 93940

ACTION:

1. Order for Standard Certification
2. Order for Technically Conditioned Certification
3. Order for Denial of Certification

STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment per section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed per 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license was being sought.
3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.
4. This certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
5. In the event of a violation or threatened violation 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.
6. In response to a suspected violation of any condition of this certification, the Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Water Board deems appropriate,

provided that the burden, including costs, of the reports shall have a reasonable relationship to the need for the reports and the benefits obtained from the reports.

7. The 2010 fee for this project is \$1,150 which includes the \$640 application fee. For each subsequent year the project is covered by this certification, an additional fee based on the amount of material dredged will be submitted to the Water Board no later than December 31 of each year. The application fee will not be included in this annual fee.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Peter von Langen

Central Coast Region, Region 3
(805) 549-3688

pvonlangen@waterboards.ca.gov

Please refer to the above certification number when corresponding with the Water Board concerning this project.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the Monterey Harbor Maintenance Dredging Project shall 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.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

for 

Roger W. Briggs
Executive Officer
Regional Water Quality Control Board

9/23/10

Date

PROJECT INFORMATION AND CONDITIONS

Application Date	Received: July 1, 2010 Completed: July 26, 2010
Applicant	Steve Scheiblaue – City of Monterey (Monterey)
Applicant Representatives	Jeff Olberding – Olberding Environmental, Inc.
Project Name	Monterey Harbor Maintenance Dredging Project
Water Board Application Number	32710WQ06
Type of Project	Harbor dredging
Project Location	City of Monterey Longitude: 121°53'22" Latitude: 36°36'04"
County	Monterey
Receiving Water(s)	Monterey Bay
Water Body Type	Bay
Designated Beneficial Uses	Industrial Service Supply (IND) Water Contact Recreation (REC-1) Non-Contact Recreation (REC-2) Rare, Threatened or Endangered Species (RARE) Navigation (NAV) Commercial and Sport Fishing (COMM) Shellfish Harvesting (SHELL) Marine Habitat (MAR)
Project Description (purpose/goal)	The purpose of the project is to remove up to 100,000 cubic yards of accumulated sand from Monterey Harbor over a 10-year period, depositing the dredged material on a designated section of the adjacent Del Monte Beach. The dredge volume of the project shall not exceed 5,000 cubic yards in 2010 or 10,000 cubic yards each year thereafter.
Preliminary Water Quality Issues	The Water Board finds the project has the potential to cause sedimentation, siltation, and pollutant release to the harbor. Pollutants could be released from construction equipment (e.g., oil, gasoline, hydraulic fluid, and other liquid contaminants associated with dredging equipment) associated with the dredging of the harbor. The Water Board finds the project has the potential to adversely impact coastal dunes milk-vetch, robust spineflower, Seaside bird's-beak, Menzie's wallflower, Yaden's rein orchid, Hickman's cinquefoil, Monterey clover, Smith's blue butterfly, California least tern and their habitats. The application indicates that the species that are listed above would not be impacted since the highly disturbed nature of the site precludes the use of the project area by a variety of special-status species. No special-status fish species are listed since the work window suggested by the Essential Fish Habitat Assessment report avoids disturbances of such species.

	The Water Board finds the project does not have the potential to cause a loss of functional wetlands due to filling and dredging activities.
Water Board Mitigation Requirements	<p><u>Mitigations required to comply with 401 Water Quality Certification are as follows:</u></p> <ol style="list-style-type: none"> 1. Dredging shall be limited to October 1 through May 30 each year in order to minimize impacts to the brown pelican. 2. All dredged material shall be disposed of in an upland location. 3. All construction vehicles and equipment used on site must be well maintained and checked daily for fuel, oil, and hydraulic fluid leaks or other problems that could result in spills of toxic materials. 4. Monterey is required to have a spill plan and appropriate spill control and clean up materials (e.g., oil absorbent pads) onsite in case spills occur. 5. Monterey shall confine all trash and debris in appropriate enclosed bins and dispose of the trash and debris at an approved site at least weekly. 6. Monterey must designate a staging area for equipment and vehicle fueling and storage at least 100 feet away from waterways, in a location where fluids cannot flow into waterways. 7. All vehicle fueling and maintenance activity shall be at least 100 feet away from waterways, and in designated staging areas. 8. All temporary erosion and sediment control materials shall be removed and cleaned up before completing the project. 9. Water Board staff must be notified if mitigations as described in the 401 Water Quality Certification application for this project are altered by the imposition of subsequent permit conditions by any local, state or federal regulatory authority. Monterey must inform Central Coast Water Board staff of any modifications that interfere with compliance with this certification.
Area of Disturbance	Approximately 3.00 acres Ocean/Bay/Estuary: 3.00 acres temporary
Fill/Excavation Area	Approximately 50,000 cubic yards excavated
Dredge Volume	Approximately 50,000 cubic yards
U.S. Army Corps of Engineers Permit No	Individual Permit
Federal Public Notice	N/A
Dept. of Fish and Game Streambed Alteration Agreement	No Streambed Alteration Agreement is required
Status of CEQA Compliance	Categorical Exemption Lead Agency: City of Monterey
Water Board Compensatory Mitigation Requirements	N/A
Total Certification Fee Provided	\$1,150 for 2010 activities

<p>Additional Conditions</p>	<p>Contact Water Board staff when the project begins to allow for a site visit. Monterey will notify Water Board staff at least 24 hours before harbor dredge operations commence.</p> <p>The 100,000 cubic yards of dredge material from the harbor shall have physical and chemical properties that do not impact or threaten to impact beneficial uses.</p> <p>The Water Board requires visual monitoring and reports for this project:</p> <ul style="list-style-type: none"> • Visually inspect the site after completion of each dredging event to ensure that the project is not causing water quality problems. If the project does cause water quality problems, contact the Water Board staff member overseeing the project. You will be responsible for obtaining any additional permits necessary for implementing plans to prevent further water quality problems. • First Report: By December 31, 2015, submit a project completion status report that contains a summary of daily activities, monitoring observations, and problems incurred and actions taken; include properly identified project photos. The report must include a sampling analysis plan and if necessary, physical, chemical, and/or biological testing results. The report must include verification that payments were sent in years dredging occurred. • Final Report: By December 31, 2020, submit a project completion report that contains summary of daily activities, monitoring observations, problems incurred and actions taken; include properly identified post-project photos. The report must include a sampling analysis plan and if necessary, physical, chemical, and/or biological testing results. The report must include verification that payments were sent in years dredging occurred.
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