



California Regional Water Quality Control Board

Santa Ana Region



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Secretary for
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Arnold Schwarzenegger
Governor

December 15, 2008

Vince Mastrosimone
Director of Public Works
City of Seal Beach
211 8th Street
Seal Beach, CA 90740

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE EAST BEACH SAND NOURISHMENT PROJECT, CITY OF SEAL BEACH (ACOE REFERENCE NO. SPL 2008 – 00439 – CJF)

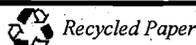
Dear Mr. Mastrosimone:

On March 21, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification"), submitted on your behalf by Moffatt & Nichol, for the East Beach Sand Nourishment Project. The application was deemed complete on March 28, 2008 and denied without prejudice on April 8, 2008, pending the adoption of a final environmental document by the City of Seal Beach pursuant to the California Environmental Quality Act ("CEQA"). On October 27, 2008, Regional Board staff received a Notice of Determination indicating that the final environmental document had been adopted on October 13, 2008. On December 5, 2008, we received an electronic message notifying Regional Board staff of material changes in the discharge.

This letter responds to your request for certification that the proposed project, described in your application and in subsequent submittals, and summarized below, will comply with State water quality standards outlined in the 1995 Water Quality Control Plan for the Santa Ana River Basin ("Basin Plan") and subsequent Basin Plan amendments:

Project Description: Dredging up to 100,000 cubic yards of sediment from a submarine borrow site located 0.4 mile offshore from Surfside Colony – Sunset Beach. The dredged material will be transported approximately 1.5 mile via submerged pipeline to East Beach. The material will be dredged using a cutter suction dredge and has been found by the U.S. Army Corps of Engineers to be suitable for beach sand replenishment. The material will be discharged directly on the shore behind a containment dike where it will be de-

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watered and further distributed on the beach with heavy equipment. Work will occur during the 2008-2009 winter season, or in early spring 2009, over a period of approximately four weeks. The dredge site is located within an un-sectioned portion of Township 5 South, Range 12 West, of the U.S. Geological Survey *Seal Beach, California*, 7.5-minute topographic quadrangle map (33.70880 degrees N/ -118.09653 degrees W). East Beach is located within Section 14 of Township 5 South, Range 12 West, of the U.S. Geological Survey *Seal Beach, California*, 7.5-minute topographic quadrangle map (33.74464 degrees N/ -118.10544 degrees W).

Receiving water: Pacific Ocean

Fill area: 11.2 acres of shore area.

Dredge/Fill volume: approximately 100,000 cubic yards (40 acres at the dredge site).

Federal permit: U.S. Army Corps of Engineers Permit No. SPL – 2008 – 00439 – CJF and/or Regional General Permit 67 (“RGP 67”).

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and/or the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level.

The project is subject to a Permit from the U.S. Army Corps of Engineers in compliance with Section 10 of the Rivers and Harbors Act. Pursuant to CEQA, the City of Seal Beach adopted a Mitigated Negative Declaration on October 13, 2008. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to reaching a decision on the project. The Regional Board has considered the City's Mitigated Negative Declaration in the issuance of this Certification and finds that changes or alterations have been incorporated into the proposed project, which avoid or mitigate impacts to water quality to a less than significant level.

On July 27, 2006, the State Water Resources Control Board issued a general Certification for projects subject to the Corps' General Permit, RGP 67, for beach nourishment in Southern California. In the event that the disposal activities of the



proposed project qualify for coverage under RGP 67, the scope of this Certification will be limited only to the dredging activities; the disposal activities will be covered under RGP 67 for which the State Board has already issued a General Certification.

This 401 Certification is contingent upon the execution of the following conditions:

1. The proposed discharge must not adversely affect recreational use of the receiving waters or cause a condition of nuisance as the result of controllable water quality factors. If any adverse impacts to recreation or a condition of nuisance is noted, the discharger must immediately take corrective actions, which may include additional control measures and/or suspension of activities causing the adverse impacts.
2. The discharger must survey the project area for *Caulerpa taxifolia*, an invasive marine seaweed, to help locate and prevent its spread using generally accepted protocols. If *Caulerpa taxifolia* is found prior to, or during implementation of the project, the applicant must not begin or continue at that location until authorized by Regional Board staff. If the invasive seaweed is discovered, it is not to be disturbed, and the Regional Board must be notified within 48-hours of the location and date of the discovery. In addition, any sightings of *Caulerpa taxifolia* must be reported to the California Department of Fish and Game (William Paznokas at (858) 467-4218 (wpaznokas@dfg.ca.gov)) or the National Marine Fisheries Service (Robert Hoffman at (562) 980-4043 (bob.hoffman@noaa.gov)) within 24-hours of discovery. Further information regarding a *Caulerpa taxifolia* sighting can be obtained at www.sccat.net. Should no *Caulerpa* be observed during the project, the applicant must notify the Regional Board of this fact when all construction has been completed. Please contact Wanda Cross of this office at (951) 782-4468 concerning issues related to *Caulerpa taxifolia*.
3. The discharge of trash and debris into waters of the U.S. is prohibited.
4. The applicant must comply with the requirements of the Clean Water Act section 404 permit and/or the Rivers and Harbors Act Section 10 permit.
5. For the duration of work, the applicant must post notices in prominent locations advising visitors of the nature of the work and to report any *water quality-related problems* to the Regional Board at (951) 782-4130.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every 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 Article 6 (commencing with Section 3867) of this Chapter.

- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification 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. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at:

www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf



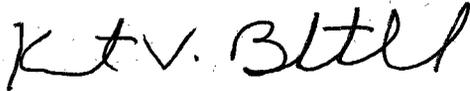
City of Seal Beach

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December 15, 2008

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



for GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Corice Farrar
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Bill Orme
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini
and David Smith

APF:401/certifications/seal bch replnshmnt 302008-04

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