California Regional Water Quality Control Board
Santa Ana Region

Linda S. Adams
Secretary for Environmental Protection

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Arnold Schwarzenegger
Governor

June 5, 2007

Glen Ellis
United States Navy
Seal Beach Naval Weapons Station
Building 230
Seal Beach, CA 90740

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR ROADWAY EMBANKMENT REPAIRS AND ARMORING, SEAL BEACH NAVAL WEAPONS STATION (ACOE REFERENCE NO. 200601971 – SJH)

Dear Mr. Ellis:

On October 28, 2006, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the repair and armoring of roadway embankments adjacent to coastal wetlands at the Seal Beach Naval Weapons Station. On April 30, 2007, following various discussions with Navy representatives, we received a letter describing the rationale for the Navy's mitigation proposal for impacts to wetlands. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description: Repair of two roadway embankment sections alongside coastal wetlands. The roadways have been undermined as the result of tidal action in the adjacent wetlands, associated with nearby culverts that have been constructed in a manner that directs tidal flow obliquely into the embankments. The embankments are part of a channel system that maintains tidal influence for portions of wetlands contiguous with Seal Beach National Wildlife Reserve. The project involves the placement of fill to restore the original embankments and armoring them utilizing geo-textile overlain with 3 to 12-inch diameter rock slope protection. The rock will be non-native fill from San Bernardino County. The project will result in impacts to wetlands vegetated by pickleweed and frankenia. The project sites are located near one another in Section 12,

	Township 5 South, Range 12 West of the U.S. Geological Survey *Seal Beach, California* 7.5-minute topographic quadrangle map (33.74534 degrees N/-118.08529 degrees W and 33.74720 degrees N/-118.07883 degrees W, Site 1 and Site 2 respectively)
Receiving water:	Seal Beach National Wildlife Reserve Wetlands and adjacent wetlands on U.S. Navy property.
Fill area:	0.021 acres of permanent impact to shoreline, including 0.0023 acres of wetlands at Site 1; 0.012 acres of permanent impact to shoreline, including 0.002 acres of wetlands at Site 2 (150 linear feet total).
Dredge/Fill volume:	N/A
Federal permit:	U.S. Army Corps of Engineers Nationwide Permit Nos. 3 and 13.

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 the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project will occur in an area that is less than one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is not required.

On August 23, 1993, the Governor of the State of California developed the California Wetlands Conservation Policy (Wetlands Policy). The State Wetlands Policy adopted a goal to "ensure no overall net loss and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property". The Regional Board adopted the State Wetlands Policy in the Water Quality Control Plan for the Santa Ana River Basin (1995). The project proposes to impact wetlands that are a part of, or adjacent to, the Seal Beach National Wildlife Reserve, a nationally recognized reserve that is one of the last remaining salt marshes in Southern California. As discussed in their April 30, 2007 letter, the Navy has been engaged in the protection and enhancement of wetlands within and outside of the current boundary of the Seal Beach National Wildlife Refuge. Although a large portion of subsequent work has been completed as part of compensatory mitigation for wetlands impacts for projects, the

Navy has also voluntarily restored over 150-acres of wetlands. Additional work to further improve wetlands is planned in the Navy's Integrated Natural Resources Management Plan and a pending Comprehensive Conservation Plan. While the proposed project will result in impacts to wetlands habitat, in consideration of past and future work by the Navy, Regional Board staff does not believe that there will be a *net loss* of wetlands in terms of either acres or functions and values.

You have applied for Nationwide Permits from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have submitted a Negative Determination to the California Coastal Commission. The U.S. Navy has determined that the project is categorically excluded from the requirements of the National Environmental Policy Act (NEPA). Pursuant to the California Environmental Quality Act (CEQA), the Executive Officer has determined that the project qualifies under a Class 3 Categorical Exemption, Guidelines Section 15303.

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

1) The discharger shall implement an effective combination of best management practices to reduce pollutants in storm water and non-storm water discharges from the project site to the maximum extent practicable using best available technology and best conventional technology.
2) Project activities shall not cause increases in receiving water turbidity that exceed the following Basin Plan objectives at a distance of 100 feet from the activity:

Natural Turbidity (nephelometric turbidity units)	Maximum Increase
0-50 NTU	20%
50-100 NTU	10 NTU
>100NTU	10%

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.

Although we anticipate no further regulatory involvement, 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, we may formulate Waste Discharge Requirements.

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.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional 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 Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

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.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

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

Sincerely,

GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Stephanie Hall
State Water Resources Control Board, OCC – Erik Spiess
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Jenny Chen
California Coastal Commission – Ryan Todaro
California Department of Fish and Game, Ontario Office – Naeem Siddiqui
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Tim Vendlinski

APF:401/certifications/bank maint seal beach NWS 302006-27