



Santa Ana Regional Water Quality Control Board

March 4, 2015

Susan Brodeur
County of Orange
13042 Old Mycroft Rd.
Irvine, CA 92602

AMENDED CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE SUNSET/HUNTINGTON HARBOR MAINTENANCE DREDGE AND WATER SUPPLY LINE INSTALLATION PROJECT, CITY OF HUNTINGTON BEACH AND SEAL BEACH, COUNTY OF ORANGE, CALIFORNIA (ACOE REFERENCE NO. SPL-2013-00900-SME) (SARWQCB PROJECT NO. 302014-05)

Dear Ms. Brodeur:

On February 18, 2014, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from the County of Orange for a project to perform maintenance dredging for navigation purposes as well as installing a fourteen inch diameter waterline along the bottom of the channel, to be utilized for emergency fire services in the City of Huntington Beach. We received a request from your designated agent to amend the February 19, 2015 Certification for the subject project. We have considered this request and have revised the Certification accordingly. Revisions are shown by striking out removed text and underlining added text. Text that is neither stricken nor underlined remains unchanged. This amended Certification replaces the Certification for this project dated February 19, 2015.

The applicant has also submitted a filing fee of \$1,097.00, which satisfies a portion of this project's \$1,201.00 fee requirement for consideration of a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3). 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) (Basin Plan) and subsequent Basin Plan amendments:

Project Description: Proposed project actions associated with Maintenance Dredging would be limited to dredging in five locations within the main channel of the Harbor, in order to improve boat navigation. Proposed dredging locations include the following.

- Entrance Channel (east of the Pacific Coast Highway)
- Main Channel West and Main Channel Peter's Landing
- Sunset Marina Docks and Adjacent Bolsa Channel
- Bolsa Channel Sediment Trap (adjacent to Sunset Aquatic Marina)
- Main Channel East

The total maximum amount of dredged materials associated with Maintenance Dredging activities is estimated to be 265,000 cubic yards. Dredging activities are anticipated to range from -9 feet mean lower low water (MLLW) in the Sunset Aquatic Marina to -15 feet MLLW in the Bolsa Channel sediment trap; however, the total maximum quantity of dredge material includes an allowance for the following:

- 2 feet of possible overdredge beyond the design depth;
- 25 percent contingency, to account for additional sediment deposition that will likely occur between the 2013 condition survey and dredging, and;
- an incidental sloughing of dredge cut side slopes.

The Emergency Water Supply Line installation activities include the placement of a 14-inch-diameter pipe buried approximately eight (8) feet below the bottom of the main channel of the Harbor. The purpose of the water supply line is to provide redundant fire emergency services in the City of Huntington Beach. The water supply line connection will require dredging a 510 linear foot trench within the main channel, continuing into the landward side of the channel for an additional 250 linear feet. The water supply line will be constructed from a 14-inch-diameter, high density polyethylene and ductile iron pipe material. Once the piping is installed, it will be covered to the redesigned bottom grade with the aforementioned native dredge materials.

The work will take place within Sections 17, 18, 19, 20, & 24 of Township 5 South, Range 11 West, of the U.S. Geological Survey *Seal Beach* 7.5 minute topographic quadrangle map (33° 43' 30.27" N/ -118° 04' 21.94" W).

Receiving water: Huntington Harbor, Bolsa Channel, and Garden Grove Wintersberg Channel, which have present or potential beneficial uses, including: commercial and sportfishing (COMM), marine habitat (MAR), navigation (NAV), preservation of biological habitats of special significance (BIO), contact recreation (REC1), non-contact recreation (REC2), spawning, reproduction and development (SPWN), wildlife habitat (WILD), rare/threatened/endangered species (RARE), municipal and domestic supply (MUN), and shellfish harvesting (SHEL).

Fill area: N/A

Dredge/Fill volume: 270,000 cubic yards

Federal permit: U.S. Army Corps of Engineers Permit No. SPL-2013-00900-SME

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- The creation of eelgrass beds within the harbor or elsewhere to mitigate loss of eelgrass from dredging impacts. There is an estimated impact area of 0.77 acres.
- In accordance with the Southern California Eelgrass Mitigation Policy (SCEMP), an updated pre-construction eelgrass and invasive algae survey will be completed within 30 days of the proposed water supply line construction.
- In accordance with the SCEMP, a post-construction project eelgrass survey will be completed within 30 days of the completion of the project.

Offsite Water Quality Standards Mitigation Proposed:

- Should post construction conditions within the immediate area of the proposed activity warrant, off-site eelgrass mitigation is proposed.

Unavoidable impacts to eelgrass habitat are subject to management measures specified in the SCEMP. The applicant may apply for an exemption to the mitigation requirements of the SCEMP, for projects that impact less than 10 square meters of eelgrass.

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 Wildlife will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0030 (NPDES Permit No. CAS618030), commonly known as the Orange County Municipal Storm Water Permit, and subsequent iterations thereof. Order No. R8-2009-0030 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR or Negative Declaration prepared by the lead agency in determining whether to approve a project.

A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the Mitigated Negative Declaration (MND) prepared for the proposed project and filed by the County of Orange on August 20, 2014, and information provided subsequently in the applicant's application, in approving this Certification. More specifically, the Regional Board has considered those sections of the MND relating to water quality. Based on the mitigation proposed in the MND, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. Thus, the Regional Board independently finds that changes or alterations have been required in, or incorporated into the project, which avoid or mitigate impacts to water quality to a less than significant level.

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

1. Using generally accepted protocols, the discharger must survey for *Caulerpa taxifolia*, an invasive marine seaweed, to help locate and prevent its spread. 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* should 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 (Bryant Chesney

(Bryant.Chesney@noaa.gov)) within 24-hours of discovery. Further information regarding *Caulerpa taxifolia* sightings 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 at (951) 782-4468 concerning issues related to *Caulerpa taxifolia*.

2. Materials must not be placed in a manner where they could be discharged to surface waters except as authorized by this certification. In the event that trash or debris is discharged to surface waters, the discharger must recover the material to the maximum extent practical.
3. Project-related activities must not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in the receiving waters to be increased by values greater than the following Basin Plan objectives at a distance of 100 feet from the activity:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase must not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase must not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase must not exceed 10% of the measured natural turbidity.
4. An effective monitoring plan must be developed and implemented to document compliance with conditions 2 and 3 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be maintained on site for the duration of the proposed discharge and be available for inspection by Regional Board staff.
5. Pre- and Post-Construction Eelgrass Surveys: The Applicants must conduct an eelgrass survey within two months of the commencement of dredging. Mitigation for identified eelgrass losses must be performed in accordance with the SCEMP (http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf).
- ~~6. Post-Construction Shading Effects Survey: The Applicants must conduct the post-construction shading effects survey specified in the Eelgrass Impact Assessment Report that was submitted with the Certification application. The Applicants must prepare and submit for approval an eelgrass mitigation plan consistent with the requirements of the SCEMP to address eelgrass habitat losses due to shading caused by this project. Impacts to eelgrass habitat identified from these surveys, shall be mitigated at a ratio of 1:2:1 (mitigation to impact).~~
7. A copy of this Certification must remain at the project site for the duration of the work and be available for inspection upon request.

8. Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
9. All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
10. Motorized equipment shall not be maintained or parked within or near any stream crossing, channel, shoreline or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project.
11. Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.
12. This Water Quality 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.

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.

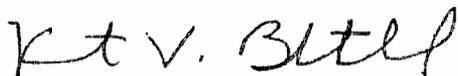
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean 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 certify 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. 2003-0017-DWQ is available at: www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584.

Sincerely,



Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

Moffat & Nichol – Kim Garvey – kgarvey@moffatnichol.com
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife - Kevin Hupf, KHupf@dfg.ca.gov
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme