

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Steve Dalberg
Kissel Corporation
28128 Pacific Coast Highway
Malibu, California

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7012 3460 0001 6366 0670

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED PARADISE COVE PIER REPAIR PROJECT (Corps' Project No. SPL-2014-00131-YK), PACIFIC OCEAN, CITY OF MALIBU, LOS ANGELES COUNTY (File No. 14-143)


Dear Mr. Dalberg:

Board staff has reviewed your request on behalf of Kissel Corporation (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on January 5, 2015.

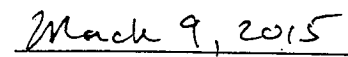
I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), 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, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Please read this entire document carefully. The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo Zara, P.G., Lead, Section 401 Program, at (213) 576-6759



Samuel Unger, P.E.
Executive Officer



Date

DISTRIBUTION LIST

Jeff Holt (via electronic copy)
Mountain Geology
5158 Cochran Street
Simi Valley, CA 93063

Bill Orme (via electronic copy)
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Yoel Kirschner (via electronic copy)
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
915 Wilshire Blvd., Suite 1101
Los Angeles, CA 90017

Paul Amato (via electronic copy)
U.S. Environmental Protection Agency, Region 9
WRT-2-4
75 Hawthorne Street
San Francisco, CA 94105

Jim Bartel (via electronic copy)
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011

Amber Tysor (via electronic copy)
California Coastal Commission
South Central Coast Area
89 South California St., Suite 200
Ventura, CA 93001

ATTACHMENT A

Project Information
File No. 14-143

1. Applicant: Mr. Steve Dalberg
Kissel Corporation
28128 Pacific Coast Highway
Malibu, California

Phone: (310) 457-2511 Fax: (310) 457-7805
2. Applicant's Agent: Jeff Holt
Mountain Geology
5158 Cochran Street
Simi Valley, CA 93063

Phone: (805) 231-9000 Fax: (805) 582-1228
3. Project Name: Paradise Cove Pier Repair
4. Project Location: Paradise Cove, Malibu, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
34.0202	118.7863
5. Type of Project: Pier restoration
6. Project Purpose: The purpose of the proposed project is to replace timber piles which have been washed into the ocean.
7. Project Description: The project consists of replacing 10 timber piles on the existing pier. The piles will be installed through the pile driving process and will be an in-kind replacement. The piles will be attached with cross braces and support beams with bolts. The project is expected to be completed within three to four weeks.
8. Federal Agency/Permit: U.S. Army Corps of Engineers
Permit No. SPL-2014-00131-YK
9. Other Required Regulatory Approvals: California Coastal Commission
Coastal Development Permit
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15301 (Reconstruction).

ATTACHMENT A

Project Information File No. 14-143

11. Receiving Water: Pacific Ocean (Hydrologic Unit Code: 180701010202)
12. Designated Beneficial Uses: IND, NAV, REC-1, REC-2, COMM, MAR, WILD, BIOL, RARE, MIGR, SPWN, SHELL
13. Impacted Waters of the United States: Ocean: 0.17 temporary acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- The contractor's preparation for operation and storage of materials shall be in a fenced area on the parking lot immediately north and east of the pier. This space shall be kept clean and orderly at all times.
 - The contractor's construction equipment and materials may be stored in the fenced area on the parking lot.
 - During progress of work, premises will be maintained free of unnecessary accumulation of tools, equipment, surplus material and debris.
 - At the end of the workday, the work site shall be cleaned and free from debris and all waste shall be properly disposed of and recycled.
 - The contractor shall make all efforts possible to keep construction debris from entering the ocean. Should any debris enter the ocean, the Contractor shall immediately remove the debris that has fallen into the ocean. The Contractor shall comply with all sections of the storm water pollution prevention plan to prevent activities that have the potential to pollute ocean waters.

ATTACHMENT A

Project Information
File No. 14-143

- Contractor shall prevent all fluid leaks from equipment. Any leaking equipment shall be promptly repaired, leaks contained, or equipment removed from the pier site.

17. Proposed
Compensatory
Mitigation:

None

18. Required
Compensatory
Mitigation:

The Applicant will comply with the NOAA Fisheries California Eelgrass Mitigation Policy and Implementing Guidelines.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification File No. 14-143

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to 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 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the Coastal Development Permit. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this Certification, the Coastal Development Permit or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*, as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 16, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

ATTACHMENT B

Conditions of Certification

File No. 14-143

6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State.
8. All waste or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith.
9. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
10. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
11. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
12. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
13. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting.
14. Ocean water quality monitoring shall be performed by the Applicant. A Water Quality Monitoring Plan shall be submitted prior to any project construction activities. Baseline

ATTACHMENT B

Conditions of Certification File No. 14-143

sampling may be conducted at one location within the project boundary for each phase. Monitoring for the following shall be included:

- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids (TSS)
- visual assessment for floating particulates (oil and grease shall not be visible)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to project commencement (baseline sampling) and then monitored on a daily basis during the first week of construction, and then on a weekly basis, thereafter, until the work is complete. Monitoring shall ensure compliance with all water quality objectives specified in the 2012 Ocean Plan.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Construction activities shall not result in the degradation of beneficial uses or non-compliance of any water quality objectives. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

15. The Applicant shall restore **all acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State.
16. The Applicant shall comply with the National Marine Fisheries Service's Caulerpa Control Protocol and Southern California Eelgrass Mitigation Policy.
17. The Applicant shall submit to this Regional Board a **Final Monitoring Report** by **January 1st** of the year following project completion. The Report shall describe in detail all of the project/construction activities performed and all restoration and mitigation efforts. At a minimum the Report shall include the following:
 - (a) Color photo documentation of the pre- and post-project site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project areas;
 - (c) The overall status of project including whether or not work has begun on the Project and a detailed schedule;

ATTACHMENT B

Conditions of Certification
File No. 14-143

- (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in a spreadsheet format;
 - (f) A certified Statement of "no net loss" of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
18. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
19. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

"I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)"

ATTACHMENT B

Conditions of Certification File No. 14-143

20. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **14-143**. Submittals shall be sent to the attention of the 401 Certification Unit.
21. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
22. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. R4-2012-0175. This includes all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2012-0011-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
23. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
24. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer 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 noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance 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 noncompliance. The Executive Officer, 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.
25. *Enforcement:*
 - (a) 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

ATTACHMENT B

Conditions of Certification File No. 14-143

limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.

- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) 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 SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
26. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application at least 90 days prior to termination of this Certification if renewal is requested.

