



California Regional Water Quality Control Board
Los Angeles Region



Linda S. Adams
 Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger
 Governor

320 W. 4th Street, Suite 200, Los Angeles, California 90013
 Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Mary Joyce Ivers
 City of San Buenaventura
 P.O. Box 99
 Ventura, CA 93002-0099

WATER QUALITY CERTIFICATION FOR PROPOSED PIER REPAIRS AND MAINTENANCE ACTIVITIES PROJECT (Corps' Project No. 2009-162-AJS), VENTURA COUNTY COAST (NEARSHORE), CITY OF VENTURA, VENTURA COUNTY (File No. 09-014)

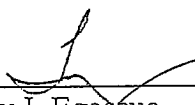
Dear Ms. Ivers:

Board staff has reviewed your request on behalf of the City of San Buenaventura (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 1, 2009.

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.

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 Dana Cole, Section 401 Program, at (213) 576-5733.



 Tracy J. Egoscue
 Executive Officer

9/22/09

 Date

DISTRIBUTION LIST

City of Buena Ventura
P.O. Box 99
Ventura, CA 93002-0099

Vicki Clark, Staff Attorney
Environmental Defense Center
906 Garden Street
Santa Barbara, CA 93101

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

Natasha Lohmus
(via electronic copy)
California Department of Fish and Game
Streambed Alteration Team
4949 View Ridge Avenue
San Diego, CA 92123

Antal Szijj
U.S. Army Corps of Engineers
Regulatory Branch, Ventura Field Office
2151 Alessandro Drive, Suite 255
Ventura, CA 93001

Aaron Setran (WTR-8)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Jim Bartel
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

Diane Noda
U.S. Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, CA 93003

Jessie Altstatt
Santa Barbara Channel Keeper
714 Bond Street
Santa Barbara, CA 93103

ATTACHMENT A

**Project Information
File No. 09-014**

1. Applicant: Mary Joyce Ivers
P.O. Box 99
Ventura, CA 93002-0099
Phone: (805) 652-4539 Fax: (805) 653-6655
2. Applicant's Agent: City of Buenaventura
P.O. Box 99
Ventura, CA 93002-0099
Phone: (805) 652-4539 Fax: (805) 653-6655
3. Project Name: Pier Repairs and Maintenance Activities
4. Project Location: City of Ventura, Ventura County
- | <u>Latitude (decimal degrees)</u> | <u>Longitude (decimal degrees)</u> |
|-----------------------------------|------------------------------------|
| 34.275 | 119.289 |
5. Type of Project: Pier maintenance
6. Project Purpose: To conduct pier repairs and maintenance activities throughout a five year period.
7. Project Description: The project is planned as follows:

In 2009, two old piles will be removed and two new timber piles will be installed as replacement. Wrapping will be replaced on two existing piles. A total of 9 pipe bracings, horizontal timber braces, and missing strap bolts will be repaired or replaced. Steel corrosion will be removed and portions of pier will be painted.

During the period from 2009 to 2010, damaged stringers will be replaced; damaged or missing timber braces will be replaced; 2 corbels, 3 pile collars will be installed; marine growth will be

ATTACHMENT A

Project Information

File No. 09-014

removed; 30 linear feet of decking will be repaired; and seasonal storm damage will be repaired.

During the period from 2010 to 2011, two new timber piles will replace damaged piles. Missing timber braces will be installed as needed along with 10 pile straps, and shim 7 piles. Approximately 25% of the existing hand rails will be replaced along with 30 linear feet of decking. Steel corrosion will be removed and portions of pier painted. Some repair from seasonal storm damage may be required.

During the period from 2011 to 2012, 7 piles will be shimmed, and approximately 25% of the existing hand rails along with 30 linear feet of decking will be replaced. Steel corrosion will be removed and portions of pier painted. Some repair from seasonal storm damage may be required.

During the period from 2012 to 2013, two new timbers will be replace damaged piles. Approximately 25% of the existing hand rails will be replaced along with 30 linear feet of decking. Steel corrosion will be removed and portions of pier painted. Some repair from seasonal storm damage may be required.

The Applicant performed a pre-project aquatic survey on August 24, 2009, which found no *Caulerpa taxifolia*, eelgrass, surf grass, or rocky habitat in areas of potential impact.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
Letter of Permission (Sect 10) Permit No. 2009-162-AJS
9. Other Required Regulatory Approvals: California Coastal Commission Development Permit (Application # 4-08-067)
10. California Environmental Quality Act Compliance: The City of Ventura Found that proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 Replacement or Reconstruction.
11. Receiving Water: Pacific Ocean (Ventura County Coastal – Nearshore)

ATTACHMENT A

Project Information File No. 09-014

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: Pacific Ocean: 0.00028 acres (12 square feet)
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant:
In November 2004, two similar wooden timber pilings were replaced.
In January 2005, a total of 7 similar wooden timber pilings and 10 wooden cross braces were replaced.
16. Avoidance/Minimization Activities:
The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Shelter blasting and spray painting activities by hanging wind blocking tarps to prevent impact to waters.
 - Use secondary containment on paint cans.
 - Paint mixing shall not occur on the dock.
 - Vacuuming up loose paint chips and paint dust can help to prevent paint and other chemical substances from entering waters.
 - Properly dispose of surface chips, used blasting sand, residual paints, and other materials.
 - Use temporary storage containment that is not exposed to rain.
 - Use phosphate-free and biodegradable detergents for all washing.
 - Select nontoxic cleaning products that do not harm humans or aquatic life

ATTACHMENT A

Project Information File No. 09-014

- Provide regular training to employees and sub-contractors regarding Stormwater BMPs for over water activities.
- Clean up spills on docks or boats immediately.
- Employees and sub-contractors will be familiar with techniques for spill containment and cleanup.
- Spill cleanup materials will be readily accessible.
- Store and maintain appropriate spill cleanup materials. Ensure that all employees are familiar with the sites spill control plan and proper spill cleanup procedures.

17. Proposed
Compensatory
Mitigation:

The Applicant has proposed no mitigation due to the small size of the area to be temporarily impacted and because the aquatic survey found no eelgrass, surf grass, or rocky habitat.

18. Required
Compensatory
Mitigation:

Only temporary impacts are associated with replacing piers and no eelgrass, surf grass, or rocky habitat is present. As such, this Regional Board will not require any additional mitigation.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions required in this 401 Certification.

ATTACHMENT B

Conditions of Certification File No. 09-014

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 California Coastal Commission's (CCC) Streambed Alteration Agreement. **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 CCC's Coastal Development Permit, or the ACOE's Section 10 Letter of Permission.
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.

ATTACHMENT B

Conditions of Certification

File No. 09-014

5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
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. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. 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. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
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. All project, construction, or maintenance activities not included in this Certification which may require a permit must be reported to the Regional Board.

ATTACHMENT B

Conditions of Certification

File No. 09-014

13. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until project completion has been achieved and documented. The Annual Reports shall describe in detail all of the project or construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. The Annual Reports shall describe the status of other agreements (e.g., mitigation banking) or any delays in the mitigation process. At a minimum the Annual Reports shall include the following documentation and answer appropriately whether or not mitigation has been performed:
 - (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 a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) A certified Statement of "no net loss" of wetlands associated with this project;
 - (f) Discussion of any monitoring activities and exotic plant control efforts; and
 - (g) A certified Statement from the permittee or their representative that all conditions of this Certification have been met.
14. 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.
15. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

ATTACHMENT B

Conditions of Certification
File No. 09-014

"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)"

16. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **09-014**. Submittals shall be sent to the attention of the 401 Certification Unit.
17. 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.
18. The project shall comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-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.
19. 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.
20. 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.

ATTACHMENT B

Conditions of Certification

File No. 09-014

21. *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 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.

22. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.

