



**California Regional Water Quality Control Board
Los Angeles Region**



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

Matthew Rodriguez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

Ms. Barbara Long
Aquarium of the Pacific
100 Aquarium Way
Long Beach, CA 90802

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7010 3090 0002 1021 9278

WATER QUALITY CERTIFICATION FOR PROPOSED AQUARIUM OF THE PACIFIC—SEA WATER INTAKE SYSTEM PROJECT (Corps' Project No. 2011-01139-GS), QUEENSWAY BAY, LONG BEACH, LOS ANGELES COUNTY (File No. 11-196)

Dear Ms. Long:

Board staff has reviewed your request on behalf of Aquarium of the Pacific (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on February 21, 2012.

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 Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

Samuel Unger

Samuel Unger, P.E.
Executive Officer

April 30, 2012
Date

DISTRIBUTION LIST

Tonia McMahon (via electronic copy)
Moffatt & Nichol
3780 Kilroy Airport Way, Suite 600
Long Beach, CA 90806

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

Gerardo Salas (via electronic copy)
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Paul Amato (via electronic copy)
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

ATTACHMENT A

Project Information
File No. 11-196

1. Applicant: Ms. Barbara Long
Aquarium of the Pacific
100 Aquarium Way
Long Beach, CA 90802
Phone: (562) 951-1636 Fax: (562) 951-1629

2. Applicant's Agent: Ms. Tonia McMahon
Moffatt & Nichol
3780 Kilroy Airport Way, Suite 600
Long Beach, CA 90806
Phone: (562) 426-9551 Fax: (562) 434-9214

3. Project Name: Aquarium of the Pacific—Sea Water Intake System

4. Project Location: Long Beach, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
33.760133	118.197266
33.760402	118.197156
33.760704	118.197156
33.761403	118.197732

5. Type of Project: Submersible pump and sea water intake pipe construction

6. Project Purpose: The purpose of the proposed project is to extract seawater from the shoreline of the Los Angeles River/Queensway Bay to the Aquarium.

7. Project Description: The Applicant proposes to construct a submersible pump and pipe to extract seawater from the shoreline of the Los Angeles River/Queensway Bay using a submersible pump attached to the pier and pump it via pipeline approximately 450 feet to the Aquarium's holding tanks. This pipeline will eliminate an estimated 1,100 diesel truck round trips per year, which is the current means to obtain sea water for the aquarium. The project is expected to be constructed within approximately 3 months.

ATTACHMENT A

Project Information File No. 11-196

Submersible pump and stainless steel support platform

The pump will sit on a stainless steel support platform (approximately 4 square feet) below the water line and affixed to the piling of the pier along the Queensway Bay shoreline. As the pump will be suspended from the pier, no structure would be required to be placed on the bed of the Los Angeles River. The platform supporting the pump will sit approximately 3 feet above the mudline. A fine mesh screen housing will cover the sea water pumping system. The pump will run intermittently at times of high tide only and will pump an estimated 50,000 gallons per day.

Project aspects

The project will include the following: construction of a new sea water intake line from the valve vault at the entrance to the Pier Point Parking lot directly south to the Los Angeles River enrockment; installation of a stainless steel support platform to support the sea water intake pump and screen structure; construction of both power and signal conduits including wiring from the southwest corner of the Aquarium of the Pacific site to the new sea water intake pump; construction of piping from the enrockment of the Los Angeles River to the sea water intake pump; and installation of a small electrical panel on the pier to house the disconnect switch.

Construction activities will involve trenching from the Aquarium to landside of the pier. PVC piping for sea water conveyance and power and signal conduits will be laid down. Resodding will occur once piping and conduits are in place. The staging area will most likely be located along Aquarium Way. Required equipment is anticipated to include a backhoe and a truck mounted 'stinger' as well as a paving roller. A diver will attach the mounting bracket under the pier and the submersible pump will be lowered from the pier on guide rails for installation.

Impacts

Waters will be impacted by having a seawater intake pump of 500 gallons per minute capacity permanently immersed below the Shoreline fishing pier. The proposed seawater intake will operate intermittently. The anticipated entrainment impacts from the pump system are roughly 167 fish larvae and 80 shellfish larvae per day. The intake will also be modified with a fine-mesh screen to minimize entrainment. The screen will consist of 2-mm stainless

ATTACHMENT A

Project Information

File No. 11-196

steel mesh, designed to provide a low through-screen velocity. The screen will be installed around the pump structure, and be cleaned of fouling organisms by hand at intervals sufficient to maintain ample water flow.

The Aquarium holds industrial waste discharge permits (014833 through 014837), issued by the Los Angeles County Sanitation District, which authorizes to the sewer system as a non-significant industrial user. The sewer system is the only point of discharge for the aquarium.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
Permit No. 2011-01139-GS
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 15303 New Construction or Conversion of Small Structures.
11. Receiving Water: Queensway Bay (Hydrologic Unit No. 405.12)
12. Designated Beneficial Uses: IND, NAV, REC-1, REC-2, COMM, MAR, RARE, SHELL
13. Impacted Waters of the United States: Ocean: 0.00009 permanent 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:
- No welding will be performed during this project as the pump mounting bracket will be clamped to the pier support piles.

ATTACHMENT A

Project Information
File No. 11-196

- A containment system will be properly installed prior to the beginning of any operation that may impact a water body to prevent discharge of pollutants to surface waters.
- A fine-mesh screen will be used to minimize entrainment by providing a low through-screen velocity.

17. Proposed
Compensatory
Mitigation:

The Applicant has not proposed any compensatory mitigation due to the anticipated low impact of the proposed project.

18. Required
Compensatory
Mitigation:

The Regional Board will not require any additional compensatory mitigation, due to the de minimus nature of the proposed project, and the overall improvement with reduced truck trips for transport of aquarium water.

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. 11-196

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) 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 CCC's Coastal Development Permit, or the ACOE 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. 11-196

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. 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.
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. Please contact the Land Disposal Unit at (213) 620-2253 for further information regarding the disposal of solid wastes.
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.
13. Sufficient time should be allowed to obtain any such permits (generally 180 days). ~~If~~ groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste

ATTACHMENT B

Conditions of Certification

File No. 11-196

Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

14. All project/construction activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting.
15. 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 sampling may be conducted at one location within the project boundary. 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 2005 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.

16. The Applicant shall restore **all areas** of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
17. The Applicant shall submit to this Regional Board a **Final Project Report** by **January 1st** of the year following project completion. The report shall describe in detail all of the project activities performed and all restoration efforts. At a minimum the report shall include the following documentation:
 - (a) Color photo documentation of the pre- and post-project site conditions;

ATTACHMENT B

Conditions of Certification

File No. 11-196

- (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) Water quality monitoring results for each reach (as required) compiled in an easy to interpret 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. Prior to any subsequent maintenance activities within the subject drainages/basin, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the drainage's/basin's existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (d) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (e) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
19. 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.
- ~~20. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:~~

ATTACHMENT B

Conditions of Certification
File No. 11-196

"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)"

21. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number 11-196. Submittals shall be sent to the attention of the 401 Certification Unit.
22. 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.
23. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to the City of Long Beach under NPDES No. CAS004003 and Waste Discharge Requirements Order No. 99 - 06 - DWQ. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and 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. 2009-009-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.
24. 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.
25. 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

ATTACHMENT B

Conditions of Certification File No. 11-196

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.

26. *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.

27. 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.