



Los Angeles Regional Water Quality Control Board

Mr. Tom Dore
California State Parks
1925 Las Virgenes Road
Calabasas, CA 91302

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7010 3090 0002 1021 9469

WATER QUALITY CERTIFICATION FOR PROPOSED MALIBU PIER REPAIRS PROJECT, PACIFIC OCEAN, CITY OF MALIBU, LOS ANGELES COUNTY
(File No. 12-150)

Dear Mr. Dore:

Board staff has reviewed your request on behalf of California State Parks (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on December 28, 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.

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
Samuel Unger, P.E.
Executive Officer

1-23-13
Date

DISTRIBUTION LIST

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75 Hawthorne Street
San Francisco, CA 94105

Jim Bartel (via electronic copy)
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

ATTACHMENT A

Project Information File No. 12-150

1. Applicant: California State Parks
1925 Las Virgenes Road
Calabasas, CA 91302
Phone: (818) 880-0365 Fax: (818) 880-6165

2. Applicant's Agent: Tom Dore

3. Project Name: Malibu Pier Repairs

4. Project Location: Malibu Pier, Los Angeles County

Latitude

Longitude

34°02'08.32

118°40'32.14

5. Type of Project: Pier Repairs

6. Project Purpose: The purpose of the proposed project is to rehabilitate the historic Malibu Pier.

7. Project Description: The historic Malibu Pier consists of a framework of 164 wooden pilings. Currently thirteen (13) piles are either broken, missing, or have become deteriorated by rotting. These 13 piles need immediate replacement and there are others in "fair" or "poor" condition, which will need replacement after the original phase of replacing the damaged pilings.

Currently, the existing piles are either fiberglass-wrapped bare wood or treated with creosote. The new replacement pilings will be fiberglass-wrapped wood. The fiberglass treatment is considerably more expensive than traditional methods, but not necessarily longer-lasting. The treatment process allows for the pier aesthetics to remain as close to the historical appearance with the wood pilings as possible. The fiberglass wrapping process will take place within the staging area and then the installation will take place by pile driving them in the original pile locations.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 3

9. Other Required: California Coastal Commission

ATTACHMENT A

Project Information File No. 12-150

- Regulatory Approvals: Coastal Development Permit
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 Replacement or Reconstruction.
11. Receiving Water: Malibu Beach, Pacific Ocean (Hydrologic Unit No. 405.12)
12. Designated Beneficial Uses: IND, NAV, REC-1, REC-2, COMM, MAR, WILD, RARE, MIGR, SPWN, SHELL
13. Impacted Waters of the United States: Ocean: 700 linear feet (temporary impact)
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:
- Protective tarps and nets will be in place during construction to catch any debris from falling into waters.
 - Piles will be wrapped in fiberglass coating in the parking lot staging area (away from the installation area).
 - Work areas will be fenced in to protect the public from construction work, where applicable.
 - Temporary enclosures will be used to reduce airborne debris from escaping the work locations, as necessary.
 - Construction equipment will be staged and utilized away from water areas, as feasible.
 - On especially windy days, construction will be monitored to avoid debris and materials from entering the water.
 - Mixing of any adhesives and other chemical coating products will occur away from water areas.

ATTACHMENT A

Project Information
File No. 12-150

- The pier will remain open during construction activities.

17. Proposed
Compensatory
Mitigation:

The Applicant has not proposed any additional compensatory mitigation.

18. Required
Compensatory
Mitigation:

The Regional Board will not require any additional compensatory mitigation due to the small size of the project and restoration of the pier pilings (in kind replacement).

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. 12-150

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. 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 the Regional Board for further information regarding the disposal of solid wastes.
10. 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.
11. 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.
12. 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.
13. All project activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading,

ATTACHMENT B

Conditions of Certification File No. 12-150

as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.

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 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.

15. Pre-and-post construction surveys for eelgrass and invasive *caulerpa taxifolia* ("*Caulerpa*") shall be in accordance with the most recent National Marine Fisheries Service *Caulerpa* Control Protocol and the Southern California Eelgrass Mitigation Policy, as well as construction-period water quality monitoring to ensure that water quality is being maintained during the construction period.
16. The Applicant shall restore **all areas** 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. 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 **Monitoring Report** (Final Report) by **January 1st** of the year following project completion. The Annual Reports shall describe in detail all of the project/construction activities performed during the

ATTACHMENT B

Conditions of Certification File No. 12-150

previous year and all restoration efforts. At a minimum the Annual Reports shall include the following documentation:

- (a) Color photo documentation before, during and after project construction.
 - (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 (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.

ATTACHMENT B

Conditions of Certification
File No. 12-150

20. 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)"

21. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **12-150**. 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 Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. R4-2012-0175. 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

ATTACHMENT B

Conditions of Certification File No. 12-150

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.

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.