



Linda S. Adams  
Agency Secretary

# California Regional Water Quality Control Board Los Angeles Region



Arnold Schwarzenegger  
Governor

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

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Trancas Property Owners Association  
Kenneth A. Ehrlich  
1900 Avenue of the Stars, 7<sup>th</sup> Floor  
Los Angeles, CA 90067

## WATER QUALITY CERTIFICATION FOR PROPOSED BROAD BEACH EMERGENCY SHORE PROTECTION PROJECT (Corps' Project No. 2009-00979-PHT), BROAD BEACH, CITY OF MALIBU, LOS ANGELES COUNTY (File No. 10-003)

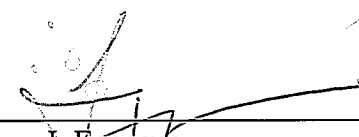
Dear Mr. Ehrlich:

Board staff has reviewed your request on behalf of the Trancas Property Owners Association (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on January 12, 2010.

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.

  
\_\_\_\_\_  
Tracy J. Egoscue  
Executive Officer

1/21/10  
\_\_\_\_\_  
Date

**California Environmental Protection Agency**



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

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**ATTACHMENT A**

**Project Information  
File No. 10-003**

1. Applicant: Trancas Property Owners Association  
Kenneth A. Ehrlich  
1900 Avenue of the Stars, 7<sup>th</sup> Floor  
Los Angeles, CA 90067  
  
Phone: (310) 785-5395 Fax: (310) 712-3395

2. Applicant's Agent: Russell H. Boudreau  
Moffatt & Nichol  
3780 Kilroy Airport Way, Suite 600  
Long Beach, CA 90806  
  
Phone: (562) 426-9551 Fax: (562) 424-7489

3. Project Name: Broad Beach Emergency Shore Protection

4. Project Location: Malibu, Los Angeles County

| <u>Latitude</u> | <u>Longitude</u> |
|-----------------|------------------|
| 34.0333         | 118.8516         |

5. Type of Project: Shoreline protection project

6. Project Purpose: The purpose of the proposed project is to provide shoreline protection for homes along Broad Beach and their associated on-site wastewater treatment systems (OSWT) from damage caused by wave and tidal action.

7. Project Description: The proposed project will construct an emergency rock revetment along approximately 4,500 linear feet of sandy beach. On-site wastewater treatment systems and multiple residences and structures are in imminent threat of significant damage from anticipated pending El Nino winter storm waves. The shoreline has already retreated significantly landward such that fill above the high

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tide line, alone, is not possible.

Over time, this reach of Broad Beach has experienced significant beach erosion. These changes on the beach indicate that the hydraulic conditions under which the OSWT were permitted, have changed.

The emergency revetment will be constructed from the beach, using common tire and/or tractor mounted earthmoving equipment. Staging of construction equipment and material will be on vacant lots (private property) at the Broad Beach site and at the adjacent Zuma Beach parking lot.

The revetment will be constructed using 0.5 to 2 ton armor stone, imported from upland quarries. The total quantity of stone to be placed will be a maximum of 28,000 tons (18,400 cubic yards). The revetment will have a crest elevation of +12 feet MLLW, a width of 20 to 25 feet, and a total footprint of approximately 2.38 acres. The landward edge of the revetment will be against the existing scarp face. The seaward edge will be above the Mean High Water (MHW) line (as of October 2009 survey), but below the High Tide Line as defined by the U.S. Army Corps of Engineers for Section 404 jurisdiction. It will include a toe apron for scour protection and a geotextile filter fabric underlayer.

The project will ensure that beach access for the public is available. In addition, any broken sandbags will be removed before the installation of any rock. Every month the structure shall be inspected and any additional broken sand bags will be removed in order to prevent the litter entering the ocean.

The rock revetment is a temporary and emergency measure and as such, will be completely removed by June 30, 2010.

The Applicant will develop a Long-Term Plan for Broad Beach including removal or protection for the OSWT systems within 18 months of issuance of this Certification, for Executive Officer approval.

8. Federal Agency/Permit:

U.S. Army Corps of Engineers  
Individual Permit - Emergency Authorization

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Permit No. 2009-00979-PHT

9. Other Required Regulatory Approvals: California Coastal Commission  
Coastal Development Emergency Authorization
10. California Environmental Quality Act Compliance: The proposed project is exempt from CEQA pursuant to the CEQA Guidelines, Section 15269.
11. Receiving Water: Broad Beach, Pacific Ocean (Hydrologic Unit No. 404.21)
12. Designated Beneficial Uses: NAV, REC-1, REC-2, COMM, MAR, WILD, MIGR, SPWN, SHELL
13. Impacted Waters of the United States: Ocean/Beach: 2.38 temporary
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: This emergency rock revetment will be temporary. A Long-Term Beach Renourishment and Septic Abatement Plan will be developed.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Construction contractors will be required to utilize Best Management Practices for sediment and erosion control on the beach;
- Access will take place from designated access points and storage of equipment will be located at the Zuma Beach parking lot or within vacant lots on Broad Beach;
- Although construction will occur from the beach, the contractor will avoid work within the water to the maximum extent possible;
- All identified broken sand bags will be removed and properly

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disposed of before any rock installation takes place;

Throughout the life of the structure, broken sand bags will be removed upon inspection and properly disposed of and;

The constructed structure shall not block public beach access once it is completed.

17. Proposed  
Compensatory  
Mitigation:

The Applicant has proposed to develop a long-term Beach Nourishment Plan.

18. Required  
Compensatory  
Mitigation:

Because the project is temporary, no compensatory mitigation will be required.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions.

## ATTACHMENT B

### Conditions of Certification

File No. 10-003

#### 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 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, Coastal Commission 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.

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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 and/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) 620-6119 for further information.
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.



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13. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. 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 Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
14. 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. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
15. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions.

- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids(TSS)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to diversion and then monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

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. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Downstream TSS shall be maintained at ambient levels.

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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. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. Restored areas shall be monitored and maintained with native species as necessary for five years. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
17. A long-term plan for the beach will be developed. The Long Term Plan shall include: the analysis of alternatives for the replacement of OSWT systems with a centralized wastewater treatment system or relocation on the landward side of the homes; and a Beach Nourishment Plan to remove rock installed by this project and re-nourish the beach with sand. The risk to human health and property should be assessed within the development of the Long-Term Plan. Long-Term Plan shall be submitted to the Regional Board within 18 months of issuance of this Certification.
18. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and any restoration efforts (including broken sand bag removal). The Annual Reports shall describe the status and provide an update on the Long-Term Plan. At a minimum the Annual Reports shall include the following documentation:
  - (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) 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 restoration efforts including broken sand bag or trash removal (with narrative and photo documentation); and
  - (h) A Certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.



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### Conditions of Certification File No. 10-003

23. 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.
24. 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. 01-182. 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. 99-08-DWQ.
25. 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.
26. 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.
27. *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

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### Conditions of Certification

File No. 10-003

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.
28. 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.