



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

Mr. Jesse Salem
J&J Marine Acquisition Company, LLC
151 Shipyard Way, Suite 500
Newport Beach, CA 92663

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7009 2820 0001 6537 9775

WATER QUALITY CERTIFICATION FOR PROPOSED BELLPORT ANACAPA MARINE SERVICES MARINA REPLACEMENT PROJECT (Corps' Project No. 2012-00717-AJS), CHANNEL ISLANDS HARBOR (PACIFIC OCEAN), CITY OF OXNARD, VENTURA COUNTY (File No. 12-112)

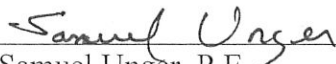
Dear Mr. Salem:

Board staff has reviewed your request on behalf of J&J Marine Acquisition Company, LLC (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on April 12, 2013.

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 LB Nye, Section 401 Program, at (213) 576-6785.



Samuel Unger, P.E.
Executive Officer

April 17, 2013
Date

DISTRIBUTION LIST

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ATTACHMENT A

Project Information

File No. 12-112

1. Applicant: Mr. Jesse Salem
J&J Marine Acquisition Company, LLC
151 Shipyard Way, Suite 500
Newport Beach, CA 92663

Phone: (805) 985-1818
2. Applicant's Agent: Adam Gale
Anchor QEA, L.P.
26300 La Alameda, Suite 240
Mission Viejo, CA 92691

Phone: (949) 334-9635 Fax: (949) 334-9646
3. Project Name: Bellport Anacapa Marine Services Marina Replacement Project
4. Project Location: Channel Islands Harbor, Ventura County
- | <u>Latitude</u> | <u>Longitude</u> |
|-----------------|------------------|
| 34°10'14.54" | -119°13'22.75" |
| 34°10'14.55" | -119°13'22.28" |
| 34°10'14.52" | -119°13'21.82" |
| 34°10'12.48" | -119°13'21.83" |
| 34°10'10.79" | -119°13'21.84" |
| 34°10'10.73" | -119°13'22.36" |
| 34°10'10.71" | -119°13'22.89" |
| 34°10'12.48" | -119°13'22.85" |
5. Type of Project: Replacement of existing dock, increasing size and number of boat slips.
6. Project Purpose: The existing marina facility is nearing the end of its useful life. Replacement is needed in order to operate effectively. Additionally, the average length and beam of recreational vessels has increased significantly since the marina was originally constructed, which requires marinas to redevelop their facilities and reduce the number

ATTACHMENT A

Project Information

File No. 12-112

of smaller slips available.

7. Project Description:

J&J Marine Acquisition Company, LLC, proposes to replace the existing BellPort Anacapa Marine Services Marina (Marina) located in Channel Islands Harbor in Oxnard, California. The Marina currently comprises 27 slips, a 10,760-square-foot building consisting of marine-related businesses, a concrete boatyard and boat storage area, a travel lift with piers, and parking spaces. The proposed project involves the complete removal of the existing dock and pier structure and replacement with a larger structure that will increase the number of slips available to transient boaters as well as the overall number of slips in the marina.

The proposed project (Project) will increase the number of smaller slips available, which are in high demand and low supply regionally. In addition, slips for the most sought after lengths of 50-foot and above will be created (which are completely absent from the existing layout). The Project will create fully dedicated transient slips which are in serious shortage in the region.

Additionally, the Project is designed to comply with Policy 10 in the Channel Islands Harbor Public Works Plan (PWP). Policy 10 sets strict requirements for slip size distribution for all marinas in the harbor. In order to address the previously-described slip mix needs of the region and to comply with PWP Policy 10, the proposed project would remove the existing 27-slip marina and replace it with a 55-slip marina. This would result in an increase in slip area and associated over-water coverage of 5,075 sf. The increase in over-water coverage is unavoidable in order to accomplish the objectives of the proposed project.

The new dock system will be outfitted with two *Americans with Disabilities Act* (ADA)-compliant gangways and will retain the existing travel lift piers (which allow the boats to be lifted and moved). The improved facilities will also provide modern fire suppression systems, new dock boxes, electrical utility systems, and other modern dock amenities. Additional upland improvements include a new restroom building, expanded parking, a pedestrian walkway, and associated landscaping.

The proposed project will involve the removal of 15 guide piles and the installation of approximately 32 concrete guide piles to support

ATTACHMENT A

Project Information

File No. 12-112

the new marina. Additional piles are necessary in order to support the increase in larger slip area. The existing dock and pier structure will be disassembled in the water and then hauled upland to the boat repair yard area, where it will be stored temporarily to dry out and then transported to an approved upland disposal site. Guide pile removal and installation will be completed with the use of a pile-driving barge, which will act as a staging area for pile driving and equipment storage. New piles will be installed using a combination of jetting and driving methodologies.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
Letter of Permission (2012-00717-AJS)
9. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15301. *Existing Facilities*. The Ventura County Harbor Department filed a Notice of Exemption with the County of Ventura County Recorder on March 16, 2009 for this project.
10. Receiving Water: Channel Islands Harbor (Hydrologic Unit No. 403.11)
11. Designated Beneficial Uses: IND, NAV, REC-1, REC-2, COMM, MAR, WILD
12. Impacted Waters of the United States: Ocean/Estuary/Bay: 0.26 temporary and 0.116 permanent acres
13. Dredge Volume: None
14. 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.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

ATTACHMENT A

Project Information

File No. 12-112

- The contractor will be trained on the terms and conditions of the permits, trash and debris control, and control of equipment staging and maintenance areas.
- Floating debris will be removed from the water and disposed of properly.
- Spill kits and cleanup materials will be present during construction should there be a leak into the surrounding water.
- All construction activities shall occur within the designated project footprint.
- All debris will be transported to, and disposed of, at an appropriate upland disposal site, or recycled, if appropriate.

Water quality BMPs are as follows:

- The discharge of oil, fuel, or chemicals to waters of the state is prohibited.

Essential Fish Habitat, Endangered Species Act, and Marine Mammal Protection Act BMPs are as follows:

- A biological survey will be completed prior to construction that delineates existing trees and the location of any active nests within 300 feet of the proposed project. If an active nest is identified, construction activities (including pile driving) are limited to 65 decibels at any point in time through the duration of the nesting, thereby limiting the potential to affect any of the aforementioned listed species.
- Operators of construction equipment and all other project workers shall not harass any marine mammals, waterfowl, or fish in the project area.

16. Proposed
Compensatory
Mitigation:

None.

17. Required
Compensatory
Mitigation:

The Applicant performed an eelgrass and *Caulerpa* Surveys on August 15, 2012 and no eelgrass or *Caulerpa* was observed. The impacts associated with this project are minimal and temporary in nature. Therefore, compensatory mitigation will not be required by the Regional Board.

ATTACHMENT A

Project Information
File No. 12-112

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. 12-112

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. **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, 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. 15, 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.
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

ATTACHMENT B

Conditions of Certification

File No. 12-112

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. 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.

ATTACHMENT B

Conditions of Certification File No. 12-112

14. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality and runoff from the site.
15. 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, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
16. 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 for each phase. All other sampling shall take place at a minimum of two locations. 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.

17. The Applicant shall restore any 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.
18. The Applicant shall submit to this Regional Board **Annual 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. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and all restoration

ATTACHMENT B

Conditions of Certification File No. 12-112

and mitigation efforts. 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 whether or not work has begun on the Project;
 - (d) Copies of all permits, all revised permits 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.
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:

"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,

ATTACHMENT B

Conditions of Certification
File No. 12-112

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 **12-112**. 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 Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. R4-2010-0108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) 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 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. 12-112

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 at least 90 days prior to termination of this Certification if renewal is requested.