
Santa Ana Regional Water Quality Control Board

August 3, 2012

Davenport Group Homeowners
c/o Tetra Tech
Attention: Sarah McFadden
401 East Ocean Boulevard, Suite 420
Long Beach, CA 90802

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR HUNTINGTON HARBOUR BULKHEAD REPAIR,
DAVENPORT GROUP, CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE,
CALIFORNIA (OUR FILE NO. 302009-37 and USACE REGIONAL GENERAL
PERMIT NO. 84)**

Dear Ms. McFadden:

On July 15, 2009, Santa Ana Regional Water Quality Control Board (Regional Board) staff received an application for a Clean Water Act Section 401 Water Quality Standards Certification (401 Certification) for the above referenced project. On December 22, 2011, staff received a resubmitted application for the proposed project. Included with the applications were the following:

- \$13,571 as the filing fee¹ required to complete the process to issue a 401 Certification for this project, as specified by California Code of Regulations (CCR), Division 3, Chapter 9, Article 1, Section 2200 (a) (3);
- Copies of a California Environmental Quality Act (CEQA) mitigated negative declaration document for the project and of a Notice of Determination indicating that the final negative declaration document for the project was certified by the City of Huntington Beach;
- A copy of a Special Public Notice for a proposed Regional General Permit (RGP) No. 84 to be issued by the United States Army Corps of Engineers (USACE) and a copy of the application for the RGP for the project;
- A copy of an application for Coastal Development Permit to the California Coastal Commission (CCC) for the proposed project; and

¹ The fee as based on the date that the application was originally submitted, July 2009.

- Attachments showing project drawings and plans for each home proposed for bulkhead repair.

It was stated in the application that the project is exempt from the requirement to obtain a California Department of Fish and Game Lake or Streambed Alteration Agreement. This was confirmed by Regional Board staff.

On May 07, 2012, staff received documentation submitted by Tetra Tech that responded to a request by the CCC to provide an engineering assessment of the method of bulkhead repairs proposed in the Coastal Development Permit application.

A CCC permit was required for this project. Staff from the CCC reviewed the project and released a staff report in July 2012. The CCC staff recommended that the CCC approve the project subject to meeting several standard conditions and seven special conditions. The CCC will hear the project at their August 9, 2012 hearing.

1. Project description:

The proposed Huntington Harbour bulkhead project will consist of repairing the existing bulkhead at 28 properties in Huntington Harbour in Huntington Beach, California. Nine properties will undergo a full repair and 19 properties will undergo a rock only repair. At the nine full repair properties, a total of 296 linear feet of 6-ft high vinyl sheet piling will be installed 1'-7" seaward of the bulkhead at lengths of 6 to 80.7 feet per property. Voids beneath the wall footing and sheetpile will be filled with concrete. If an existing timber pile² is deteriorated more than 25%, then it will have to be replaced. This will include clearing the bottom of the footing, cutting off any timber piles deteriorated >25%, installing jacks, installing PVC piping for concrete, driving sheetpile in front of the wall until flush with the top of footing, and pumping concrete into the voids to displace the water. At all 28 properties, rip-rap (8-inch or less quarry waste) will be installed at the toe of the bulkhead (slope 2H:1V)(H=Horizontal; V= vertical) extending a maximum of 6-ft from the bulkhead³ for added protection. Filter fabric will be placed over the sheetpile and underneath all quarry waste in an effort to reduce turbidity. Minimal excavation is required as part of the proposed project.

The seven special conditions listed in the CCC staff report and recommended by CCC staff to be met for approval of the coastal development permit did not substantially change the project. The special conditions included that the area of rip-rap fill be minimized, certain BMPs be implemented, and that eel grass and *Caulerpa taxifolia*

² Timber piles have been inserted inside the bulkheads to support and add strength to them. In some areas, voids underneath the bulkhead have allowed seawater and biological organisms to come in contact with the timbers piles, resulting in deterioration and threatening the integrity of the bulkheads.

³ The approval of the CCC permit might modify the proposed placement of rip-rap. See the next paragraph in the text.

surveys be conducted. Specially, CCC Staff recommended that revised plans be submitted that modified the proposed placement of rock toe (riprap) protection. The condition states that the proposed rock toe protection shall extend no more than 1 foot above the bottom of the existing bulkhead footing and that the proposed rock toe protection shall be limited to 3 – 4 ft from the seaward edge of the bulkhead footing at a 2(H) to 1(V) slope.

2. Location: Project area center
Lat. 33°43'17.65" N, Long. 118°03'52.10"W
T 5 S / R 11 W / S-19
Seal Beach, USGS Quadrangle
3. Receiving water: Huntington Harbour, Pacific Ocean
4. Fill Area: 0.25 acres, 1,820.5 linear ft
5. Dredge volume: NA
6. Federal permit: Regional General Permit, No. 84

7. Mitigation:

For Huntington Harbour bulkhead repair projects, the USACE, California Coastal Commission, and Regional Board had approved a Soft Bottom Mitigation Plan (Mitigation Plan). The Mitigation Plan entailed the restoration of 5,358 square feet of salt water marsh to the Bolsa Chica Ecological Reserve at a mitigation site near the visitor center. The restoration was funded by Huntington Harbour residents and completed in 2002. Mitigation credits were accrued through this restoration and will be applied for this project, specifically, for approximately 600 square feet of the restored salt water marsh at the visitor center mitigation site.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board must consider the EIR or Negative Declaration (or Mitigated Negative Declaration, [MND]) prepared for a project by the Lead Agency, and reach its own conclusions on whether and how to approve the project involved. Regional Board staff has considered the project's MND before issuing this 401 Certification, particularly those sections of the MND that relate to water quality. Based on the mitigation proposed and the conditions set forth in this 401 Certification, the Regional Board independently concludes that the project's impacts to water quality will be reduced to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

1. The project proponent shall timely implement the mitigation described above.
2. The conditions of the Coastal Development Permit for the project must be implemented.
3. Using generally accepted protocols, the dischargers shall survey for *Caulerpa taxifolia*, an invasive marine seaweed, to help locate and prevent its spread. If *Caulerpa taxifolia* is found prior to or during implementation of the project, the applicant shall not begin or continue at that location until authorized by Regional Board staff. If the invasive seaweed is discovered, it is not to be disturbed, and the Regional Board shall be notified within 48-hours of the location and date of the discovery. In addition, any sighting of *Caulerpa taxifolia* shall be reported to the California Department of Fish and Game (William Paznokas at (858) 467-4218 (wpaznokas@dfg.ca.gov) and the National Marine Fisheries Service (Robert Hoffman at (562) 980-4043 (bob.hoffman@noaa.gov), or their successors, within 24-hours of discovery. Further information regarding *Caulerpa taxifolia* sightings can be obtained at www.sccat.net. Should no *Caulerpa taxifolia* be observed during the project, the applicant shall notify the Regional Board of this fact when all construction has been completed. Please contact Wanda Cross at (951) 782-4468 concerning issues related to *Caulerpa taxifolia*.
3. Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game shall be completed to ensure that these impacts are mitigated to an acceptable level.
4. The project proponent shall utilize Best Management Practices (BMPs) during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or waters of the United States.
5. Materials shall not be placed in a manner where they could be discharged to surface waters except as authorized by this certification. In the event that trash or debris is discharged to surface waters, the dischargers shall recover the material to the maximum extent practical.
6. Project-related activities shall not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in the receiving waters to be increased by values greater than the following Basin Plan objectives at a distance 100 feet from the activity:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase shall not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase shall not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase shall

not exceed 10% of the measured natural turbidity.

7. Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the United States. All waste concrete shall be removed.
8. Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.
9. This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any of the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in appropriate enforcement action, including imposition of administrative civil liability, the revocation of this Certification, and civil or criminal liability.
10. A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work as a denoted element of any project SWPPP or WQMP.
11. The applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.

Under California Water Code, Section 1058, and Pursuant to 23 CCR 3860, the following shall be included as conditions of all water quality standards certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection 3855 (b) of this Chapter and that application specifically identified

that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (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 Standards Certification. Order No. 2003-0017-DWQ is available at www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf.

This letter constitutes a conditional water quality standards certification. Although we anticipate no further regulatory involvement, if the above conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements for the project.

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.

In response to a suspected violation of any condition of this certification, the Regional Board 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 Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

It is the intention of the Regional Board that this 401 Certification "run with the land." If the ownership of the property associated with this 401 Certification is changed, and the conditions of the 401 Certification have not been met, it is the intention of the Regional Board that the terms and conditions of this 401 Certification shall be binding on any subsequent owners unless agreements have been made that other parties will be responsible to meet the conditions of the 401 Certification. The Regional Board must be notified of changes of ownership and of any parties that will be responsible to meet the conditions of the 401 Certification within 30 days.

Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. This letter constitutes a technically conditioned water quality certification. Please notify our office five (5) days before construction begins on this project.

If you have any questions, please call David G. Woelfel at (951) 782-7960 or dwoelfel@waterboards.ca.gov, or Mark Adelson at (951) 782-3234 or madelson@waterboards.ca.gov.

Sincerely,



Kurt V. Berchtold
Executive Officer

cc: U.S. Environmental Protection Agency, Supervisor of the Wetlands Regulatory Office – Tim Vendlinski (WTR-8)
State Water Resources Control Board, DWQ - Water Quality Certification Unit
State Water Resources Control Board, OCC – David Rice
California Department of Fish and Game – Matt Chirdon
USACE – Jason Lambert
California Coastal Commission – Liliana Roman (liliana.roman@coastal.ca.gov)
Tetra Tech, Inc. – Sarah McFadden

Exhibit 1
List of Applicants for Certification of the Davenport Group Bulkhead Repairs
Huntington Harbour, Huntington Beach, California

Applicant Name		Applicant Mailing Address Huntington Beach, CA 92649	Project Address
Last Name	First Name	Mailing Street	
Goodwin	Don	16492 Somerset Lane	16492 Somerset Lane
D'Onofrio	Paula	P.O. Box 1651, Hernando, FL 34442	17019 Edgewater Lane
Fujioka	Tad	16842 Baruna Lane	16842 Baruna Lane
Mulvania	Richard	16612 Nalu Circle	16612 Nalu Circle
Langston	Oren & Carol	16611 Nalu Circle	16611 Nalu Circle
Ritchie	William & Joyce	16631 Bolero Lane	16631 Bolero Lane
Unatin	Gilbert & Rory	16661 Bolero Lane	16661 Bolero Lane
Appel / Stanko	Al & Sharon	16771 Bolero Lane	16771 Bolero Lane
Nisbet	Walter	16777 Bolero Lane	16777 Bolero Lane
Woods	Michael	16781 Bolero Lane	16781 Bolero Lane
Giesy	Samuel	17011 Bolero Lane	17011 Bolero Lane
Wong	Ing	8811 Sailport Drive	16891 Bolero Lane
Younessi	Michael	4022 Morning Star Drive	4022 Morning Star Drive
Campbell	Tobin	15421 Chemical Lane	4012 Morning Star Drive
Myers / Rieder	Michael & Pamela	4002 Morning Star	4002 Morning Star Drive
Campbell	Tobin	15421 Chemical Lane	4001 Morning Star Drive
Ross	Leigh	4021 Morning Star Drive	4021 Morning Star Drive
Wood	Thera-Fae	4031 Morning Star Drive	4031 Morning Star Drive
Lacy	Lois	4041 Morning Star Drive	4041 Morning Star Drive
Thorne	Ralph	4141 Morning Star Drive	4141 Morning Star Drive
Kawaguchi	Ken & Karen	4151 Morning Star Drive	4151 Morning Star Drive
Rieser	R. Bruce	4171 Morning Star Drive	4171 Morning Star Drive
Opdahl	Dick & Joyce	4181 Morning Star Drive	4181 Morning Star Drive
Preston	Carrie	16572 Ensign Circle	16572 Ensign Circle
Gallaughher	Thomas & Sandra	3781 Ragtime Circle	3781 Ragtime Circle
Malchow	Elmer & Lincolna	3741 Nimble Circle	3741 Nimble Circle
Butler	Vera J.	3481 Sagamore Drive	3481 Sagamore Drive
Azoulay	Isaac	3432 Venture Drive	3432 Venture Drive