



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold
Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

February 09, 2009

In reply refer to: WP:08C-095: cloflen

Amir K. Ilkhanipour
City of San Clemente
910 Calle Negocio, Suite 100
San Clemente, CA 92673

WDID:	9000001873
CIWQS:	
Place	731433
Reg. Measure	359327
Party	490274
Person	495942
Cert. Mail	7008 0150 0003
	7457 8506

Dear Mr. Ilkhanipour:

SUBJECT: Action on Request for Clean Water Act Section 401 Water Quality Certification for the **City of San Clemente Municipal Pier Repairs/Maintenance No. 08C-095**.

Enclosed find Clean Water Act Section 401 Water Quality Certification for the **City of San Clemente Municipal Pier Repairs/Maintenance** (Project). A description of the Project and project location can be found in the information sheet, location map and site map, which are included as Attachments 1 through 3.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it is expected that the City of San Clemente has accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the California Regional Water Quality Control Board, San Diego Region (Regional Board), including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

Recycled Paper



Amir K. Ilkhanipour
City of San Clemente
401 Certification 08C-095

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February 09, 2009

If you have any questions regarding this notification, please contact Chad Loflen directly at 858-467-2727 or by email via cloflen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosure:

- Clean Water Act Section 401 Water Quality Certification No. 08C-095 for the City of San Clemente Municipal Pier Repairs/Maintenance, with 3 attachments

cc: Refer to Attachment 2 of Certification No. 08C-095 for the E-mail Distribution List.



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Action on Request for
Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials

PROJECT: City of San Clemente Municipal Pier
Repairs/Maintenance
(File No. 08C-095, WDID No. 9 000001873)

APPLICANT: Amir K. Ilkhanipour
City of San Clemente
910 Calle Negocio, Suite 100
San Clemente, CA 92673

In reply refer to: WP:08C-095: cloflen

ACTION:

<input checked="" type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION: This 5 year Programmatic Certification will cover like-for-like repairs and maintenance of aging infrastructure on the San Clemente Pier. Repairs and replacement are required due to continual deterioration of infrastructure due to storms and the corrosive marine environment. Repairs and like-for-like replacement of pier piles, pile wraps, pile caps and protective coatings are required to ensure public safety.

STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials (Action 3).

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

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Recycled Paper



2. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility 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. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, the City of San Clemente must satisfy the following:

A. GENERAL CONDITIONS:

1. The City of San Clemente must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (Regional Board), to support this 401 Water Quality Certification (Certification) and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the Regional Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.
2. This 401 Certification will be valid for a period of 5 years following the date of issuance.
3. During construction, the City of San Clemente must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
4. City of San Clemente must permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.

- d. Sampling of any discharge or surface water covered by this Order.
5. The City of San Clemente must notify the Regional Board within 24 hours of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.
6. The City of San Clemente must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
7. This Certification is not transferable to any person except after notice to the Executive Officer of the Regional Board. The City of San Clemente must also notify the Regional Board of any change in ownership of the project area. Notification must include, but not be limited to, a statement that the property owner has provided the purchaser or transferee with a copy of the Section 401 Water Quality Certification and that the purchaser or transferee understands the Certification requirements and must implement them. If the property is sold, the seller and purchaser must sign and date the notification. If the Certification is transferred, the Certification holder and transferee must sign and date the notification. The notification for transfer of mitigation responsibility shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification. Notification must be provided within **10 days** of the sale and/or transfer of the property.
8. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must 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.
9. 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, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

10. 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.
11. The City of San Clemente and successor owners must submit annual progressive reports to the Regional Board prior to **August 1** of each year following the issuance of this Certification until expiration of this Certification. Annual reports must contain a status update for the project including, but not limited to, a summary of activities done under this Certification and a report on the required annual training for pollution prevention measures, spill response, and BMP implementation and maintenance.

B. PIER MAINTENANCE WORK:

1. The City of San Clemente is authorized to perform routine pier maintenance activities including only like-for-like repair or replacement of damaged or broken wooden, concrete pier pilings and any pile wraps, as needed, in the Pacific Ocean.
2. No permanent impacts from dredging, discharge of fill, or increases in shading are authorized by this Certification.
3. Prior to the start of the project, and annually thereafter, the City of San Clemente must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
4. The City of San Clemente must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that have received State Water Quality Certification. These General Waste Discharge Requirement are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
5. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC § 13260.
6. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows.

7. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.
 - a) All equipment shall be inspected for leaks immediately prior to the start of beach operations, and regularly inspected thereafter until project completion. Vehicles with leaks shall not enter the beach area.
 - b) Equipment shall be cleaned and repaired (other than emergency repairs) at least 500 feet from waters of the United States. All contaminated water, sludge, spill residue or hazardous compounds from said activities shall be disposed of at a lawfully authorized designation.
8. The City of San Clemente shall use Best Management Practices (BMPs) as described in the 401 Certification Application. At a minimum, BMPs shall be implemented to contain and capture debris generated during project activities, for the storage of project materials, and to contain sediment during pile repairs and replacement. BMPs must be implemented to protect water quality for any other aspects of the project that could potentially result in discharges to the Pacific Ocean.
9. Above water repair and maintenance activities have the potential to discharge debris or materials in the Pacific Ocean. The City of San Clemente shall utilize catch devices and/or sheeting to capture and contain debris and materials generated by the project.

C. REPORTING:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. All reports and information submitted to the Regional Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) readable.
3. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

- a. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
4. A duly authorized representative of a person designated in Items 4.a. through 4.c. above may sign documents if:
- a. The authorization is made in writing by a person described in Items 4.a. through 4.c. above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the Regional Board Executive Officer.
5. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

6. The City of San Clemente must submit reports required under this Certification, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 08C-095
9174 Sky Park Court, Suite 100
San Diego, California 92123

7. Required Reports: The following list summarizes the reports, excluding spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Report Topic	Certification Condition	Due Date(s)
Project Annual Report	A.11	August 1 st Annually

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On January 14, 2009 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.


REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Chad L. Loflen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
(858) 467-2727
cloflen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the City of San Clemente Municipal Pier Repairs/Maintenance Project (Project No. 08C-095) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the Regional Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

2/9/2009
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location and Site Map

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Amir K. Ilkhanipour
City of San Clemente
910 Calle Negocio, Suite 100
San Clemente, CA 92673
Telephone: 949-361-6140
E-mail: IlkhanipourA@san-clemente.org

Applicant
Representatives: TranSystems Corporation
Attention: Cameron Duncan
1850 Hotel Circle North, Suite 201
Telephone: 619-295-4353
Facsimile: 619-295-4396
Email: cdduncan@transystems.com

Project Name: City of San Clemente Municipal Pier Repairs/Maintenance

Project Location: City of San Clemente, Pacific Ocean, 92673

Type of Project: Pier Repair and Maintenance

Need for Project: Pier components need to be repaired, replaced and maintained due to storm damage and continual wear from the marine environment.

Project Description: This 5 year Programmatic Certification will cover like-for-like repairs and maintenance of aging infrastructure on the San Clemente Pier. Repairs and replacement are required due to continual deterioration of infrastructure due to storms and the corrosive marine environment. Repairs and like-for-like replacement of pier piles, pile wraps, pile caps and protective coatings are required to ensure public safety.

Federal Agency/Permit: U.S. Army Corps of Engineers NWP 3a – non-notifying

Other Required
Regulatory Approvals: California Coastal Commission Coastal Development Permit
File no. 05-08-217

California Environmental
Quality Act (CEQA)
Compliance: Notice of Exemption.
Lead Agency: City of San Clemente

Receiving Water: Pacific Ocean

Affected Waters of the
United States: Temporary:
Ocean: less than 0.001 acre
Permanent:
No Permanent Impacts are authorized by this Certification

Dredge Volume: N/A

Related Projects
Implemented/to be
Implemented by the
Applicant(s):

None

Compensatory
Mitigation:

No mitigation is necessary.

Best Management
Practices (BMPs):

The City of San Clemente shall use Best Management Practices (BMPs) as described in the 401 Certification Application. At a minimum, BMPs shall be implemented to containment and capture debris generated during project activities, for the storage of project materials, and to contain sediment during pile repairs and replacement. BMPs must be implemented to protect water quality for any other aspects of the project that could potentially result in discharges to the Pacific Ocean.

Above water repair and maintenance activities have the potential to discharge debris or materials in the Pacific Ocean. The City of San Clemente shall utilize catch devices and/or sheeting to capture and contain debris and materials generated by the project.

Public Notice:

January 14, 2009

Inspection:

N/A

Fees:

Total Due: \$640
Total Paid: \$640 (check No.799266)

CIWQS:

Regulatory Measure ID: 359327
Place ID: 731433
Party ID: 490274

**ATTACHMENT 2
E-MAIL DISTRIBUTION LIST**

Corice Farrar
United States Army Corps of Engineers
Regulatory Division
Corice.J.Farrar@usace.army.mil

Bill Orme
State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

David W. Smith
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
R9-WTR8-Mailbox@epa.gov

Cameron Duncan
TranSystems Corporation
cdduncan@transystems.com

**ATTACHMENT 3
PROJECT AND SITE LOCATION**



SAN CLEMENTE PIER STRUCTURAL SURVEY & ASSESMENT		
LOCATION AND VICINIY MAPS SAN CLEMENTE PIER – SAN CLEMENTE, CALIFORNIA		
TRANSYSTEMS CORP. MARINE DIVISION STRUCTURAL ENGINEERS SAN DIEGO, CALIFORNIA	DATE: APRIL 2008	FIG. No. 1-1
PROJECT NUMBER: 28703		