



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

February 18, 2014

Certified Mail – Return Receipt Requested
Article Number: 7011.0470 0002 8952 5744

Mr. Bob Montreuil
Continental Maritime of San Diego
1995 Bay Front Street
San Diego, CA 92113

In reply/refer to:
799427:lhonma

**Subject: Clean Water Act Section 401 Water Quality Certification No. R9-2013-0151
for the Fender Replacement Project at Piers 4 and 6**

Mr. Montreuil:

Enclosed find Clean Water Act Section 401 Water Quality Certification No. R9-2013-0151 (Certification) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) in response to the application submitted by Continental Maritime of San Diego for the **Fender Replacement Project at Piers 4 and 6** (Project). A description of the Project and Project location can be found in the Certification and site maps which are included as attachments to the Certification.

Continental Maritime of San Diego is enrolled under State Water Resources Control Board Order No. 2003-017-DWQ as a condition of the Certification and is required to implement and comply with all terms and conditions of the Certification in order to ensure that water quality standards are met for the protection of wetlands and other aquatic resources. Failure to comply with this Certification may subject Continental Maritime of San Diego to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring Continental Maritime of San Diego 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.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action pursuant to section 3867 of Title 23 of the California Code of Regulations (23 CCR). If no petition is received, it will be assumed that Continental Maritime of San Diego has accepted and will comply with all terms and conditions of the Certification.

In the subject line of any response, please include reference number 799427:lhonma. For questions or comments, please contact Lisa Honma by telephone at (619) 521-3367 or by email at Lisa.Honma@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. R9-2013-0151 for the Fender Replacement Project at Piers 4 and 6

DWG:jgs:db:kd:lbh

cc: (via email)

U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
Robert R. Smith
Robert.R.Smith@usace.army.mil

U.S. EPA, OWOW, Region 9
R9-WTR8-Mailbox@epa.gov

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

Tech Staff Info & Use	
Certification No.	R9-2013-0151
Party ID	9293
WDID	9 000002647
Regulatory ID	393425
Place ID	799427
Person ID	57234

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

2375 Northside Drive, Suite 100, San Diego, CA 92108
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**Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials**

**PROJECT: Fender Replacement Project at Piers 4 and 6
Certification Number R9-2013-0151
WDID: 9 000002647**

Reg. Meas. ID: 393425
Place ID: 799427
Party ID: 9293
Person ID: 57234

**APPLICANT: Continental Maritime of San Diego
1995 Bay Front Street
San Diego, CA 92113**

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" 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

An application dated September 26, 2013 was submitted by Continental Maritime of San Diego (hereinafter Applicant), for Water Quality Certification pursuant to section 401 of the Clean Water Act (33 U.S.C. § 1341) for the proposed Fender Replacement Project at Piers 4 and 6 (Project). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) deemed the application to be complete on December 6, 2013. The Applicant proposes to discharge dredged or fill material to waters of the United States and/or State associated with construction activity at the Project site. The Applicant is also seeking a Section 10 Rivers and Harbors Act Letter of Permission from the United States Army Corps of Engineers (Permit No. 2013-00738-RRS).

The Project is located within the City of San Diego, San Diego County, California at 1995 Bay Front Street, San Diego, CA 92113. The Project center reading is located at latitude 32.693613 and longitude -117.150330 for Pier 4 and latitude 32.692824 and longitude -117.149080 for Pier 6. The Applicant has paid all required fees for this Certification in the amount of \$1,607.00. On October 4, 2013, the San Diego Water Board provided public notice of the Project application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Project on the San Diego Water Board's web site and providing a period of twenty-one days for public review and comment. No comments were received.

The Applicant proposes to remove 10 existing floating camel fender systems totaling 2,880 square feet of occupied water area from San Diego Bay and install 14 new foam fenders totaling 1,348 square feet of occupied water area along piers 4 and 6. The purpose of the Project is to improve the safety of docking naval vessels. Installation of the new foam fender systems requires driving a total of 28 new steel H piles within the project area using a vibratory pile hammer, which emits a relatively low continuous sound level as compared to the louder impulsive sound level emitted by an impact pile driving hammer. The total area of the footprint of each H pile is 21.4 square inches. A silt curtain will be used within five feet of the piers to trap sediment that may become suspended as a result of pile driving for the purpose of avoiding the release of a turbidity plume. All materials will be barged in and remain on the barge for storage and staging for the entirety of the Project.

Each foam fender will be backed by a steel panel attached to a group of steel H piles. Two new steel H piles will be installed at each fender assembly. Pier 4 will receive 6 new fenders requiring the installation of 12 new piles and Pier 6 will receive 8 new fenders requiring the installation of 16 new piles. The outer layer of the foam fenders will be constructed of a rubber material that is expected to be maintenance free and maintain a stable integrity for at least 20 years. Fender maintenance is expected to include removal for factory refurbishment on an as needed basis. The steel piles and fender parts will be painted with a marine epoxy coating to prevent corrosion.

Overall, this Project will not add length or width to the current pier structures and will result in an overall net decrease of 1,532 square feet of occupied water area within San Diego Bay. Pier 4 is 29 feet wide and consists of a 470-foot long timber access pier inshore and a 226-foot long concrete structure for an overall length of 700 feet. The water depth at both sides of Pier 4 is about -36 feet mean lower low water (MLLW). At Pier 4, the farthest east that a pile will be driven is 490 feet from the seaward end of the pier. Pier 6 is 47 feet wide and 656 feet long. It is a concrete structure that was built around 1990. The water depth on either side is about -32 feet MLLW. At Pier 6, the farthest east that a pile will be driven is 220 feet from the seaward end of the pier.

Construction-related turbidity impacts in San Diego Bay waters will be limited to short-term and localized turbidity increases in the water column associated with re-suspension of bottom sediments from vibratory pile driving and barge and tug operations, such as anchoring and propeller wash. These turbidity increases would be spatially limited to the construction site and areas immediately adjacent that may be impacted by re-suspended bottom sediments. The underwater vibratory pile driving will also disrupt benthic habitats and organisms, directly through removal or burial, or indirectly through effects related to the disturbance of bottom sediments. During pile installation, benthic organisms within the pile footprint would be lost or buried as the piles are hammered into the bay bottom substrate. Any nearby fish, marine mammals or sea turtles could also be affected by noise and vibration from pile installation equipment. The Project area does not contain sea turtle habitat. A bay-wide eelgrass survey conducted in 2011 indicates that no eelgrass exists within the Project site

Project construction will permanently impact 0.0001 acre (33.8 linear feet) of waters of the United States and/or State as a result of the replacement of habitat once occupied by benthic organisms with project infrastructure. The Applicant reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impacts to

aquatic resources considering all potential practicable alternatives, such as the potential for alternate available locations, designs, reductions in size, configuration or density. Turbidity increases in the water column during construction activities is not expected to last long and thus the impact should be temporary and minor. The Applicant proposes to implement BMPs, including the deployment of silt curtains to contain re-suspended sediment and turbidity within the area of pile installation, to ensure that impacts attributable to the Project will not violate applicable water quality standards. To further reduce potential impacts from increased turbidity, this Certification requires the Applicant to conduct visual observations and water quality monitoring at the Project site during construction activities. Benthic community impacts will be limited to the immediate area of disturbance. The impact footprint of the Project is small and should be offset to some extent by benthic species re-colonization following completion of the Project. In addition, the removal of the existing floating camels along the piers will result in a net 1,532 square foot increase in the area of open bay waters available for foraging birds and in the area of un-shaded bay bottom habitat. Given the short duration and nature of the low level noise emitted by the vibratory hammer during pile driving, Project noise impacts to fish, marine mammals or sea turtles are expected to be negligible. The proposed Project is a class 2 project under the California Environmental Quality Act (CEQA) that replaces existing structures located on the same site and will have substantially the same purpose and capacity as the structures being replaced. The Project has been determined not to have a significant effect on the environment and is, therefore, categorically exempt from the requirements of CEQA. Compliance with the Certification conditions will protect the beneficial uses of the waters of San Diego Bay in conformance with the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan).

Pier 6 project activities are scheduled to begin in the winter of 2014 and be completed by April 1, 2014. Pier 4 project activities are scheduled to be completed in two phases, one side completed between September 15, 2014 and December 31, 2014 and the other side completed between September 15, 2015 and December 31, 2015.

Additional Project details are provided in Attachments 1 through 3 of this Certification.

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Attachments:

- 1. Definitions**
- 2. Project Location Maps**
- 3. Project Site Plans**

I. STANDARD CONDITIONS

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to all water quality certification actions:

- A. This 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 chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from 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 California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

II. GENERAL CONDITIONS

- A. **Term of Certification.** Water Quality Certification No. R9-2013-0151 (Certification) shall expire upon a) the expiration or retraction of the Clean Water Act section 404 (33 U.S.C. §1344) permit issued by the U.S. Army Corps of Engineers for this Project, or b) five (5) years from the date of issuance of this Certification, whichever occurs first.
- B. **Duty to Comply.** The Applicant must comply with all conditions and requirements of this Certification. Any Certification noncompliance constitutes a violation of the Water Code and is grounds for enforcement action or Certification termination, revocation and reissuance, or modification.
- C. **General Waste Discharge Requirements.** The requirements of this Certification are enforceable through 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* (Water Quality Order No. 2003-0017-DWQ). This provision shall apply irrespective of whether a) the federal permit for which the Certification was obtained is subsequently retracted or is expired, or b) the Certification is expired. Water Quality Order No. 2003-0017-DWQ is accessible at:

http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/gowdr401regulated_projects.pdf

- D. Project Conformance with Application.** All water quality protection measures and BMPs described in the application and supplemental information for water quality certification are incorporated by reference into this Certification as if fully stated herein. Notwithstanding any more specific conditions in this Certification, the Applicant shall construct, implement and comply with all water quality protection measures and BMPs described in the application and supplemental information. The conditions within this Certification shall supersede conflicting provisions within the application and supplemental information submitted as part of this Certification action.
- E. Project Conformance with Water Quality Control Plans or Policies.** Notwithstanding any more specific conditions in this Certification, the Project shall be constructed in a manner consistent with the Basin Plan and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter Cologne Water Quality Act (Division 7, commencing with Water Code Section 13000) or section 303 of the Clean Water Act (33 U.S.C §1313.)

The receiving water limitations set forth below for San Diego Bay waters are based on applicable water quality standards contained in the Basin Plan, other water quality control plans and policies and federal regulations and are a required part of this Certification. Project activities shall not cause or contribute to exceedances of these receiving water limitations in San Diego Bay. Compliance with these limitations shall be determined from samples collected at the points of compliance described in the Monitoring Requirements in section V of this Certification.

1. **Visual.** Floating particulates and grease and oil shall not be visible.
2. **Color.** Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.
3. **Hydrogen Ion Concentration.** The pH shall not be changed at any time more than 0.2 units from that which occurs naturally.
4. **Hydrogen Ion Concentration.** The pH shall not be depressed below 7.0 nor raised above 9.0.
5. **Turbidity.** If natural turbidity is between 0 to 50 nephelometric turbidity units (NTUs), the maximum increase from dredge activities must not exceed 20 percent of the measured natural turbidity. If natural turbidity is between 51 to 100 NTUs, the maximum increase from dredge activities must not exceed 10 NTUs. If natural turbidity is greater than 100 NTUs, the maximum increase from dredge activities must not exceed 10% above natural background levels.
6. **Dissolved Oxygen.** The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally.
7. **Benthic Communities.** Pollutants in sediments shall not be present in quantities that, alone or in combination, are toxic to benthic communities.

8. **Human Health.** Pollutants shall not be present in sediments at levels that will bioaccumulate in aquatic life to levels that are harmful to human health.
 9. **Water Quality Objectives.** Water quality objectives applicable to San Diego Bay established in Chapter 3 of the San Diego Water Board's Water Quality Control Plan for the San Diego Basin (Basin Plan) shall not be exceeded.
 10. **Priority Pollutant Criteria.** Priority pollutant criteria applicable to San Diego Bay promulgated by the U.S. Environmental Protection Agency (U.S. EPA) through the a) National Toxics Rule (NTR) (40 CFR 131.36 promulgated on December 22, 1992 and amended on May 4, 1995) and b) California Toxics Rule (CTR) (40 CFR 131.38, (65 Fed. Register 31682-31719), adding Section 131.38 to Title 40 of the Code of Federal Regulations, on May 18, 2000) shall not be exceeded.
- F. **Project Modification.** The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this Certification, to the San Diego Water for prior review and written approval. If the San Diego Water Board is not notified of a significant change to the Project, it will be considered a violation of this Certification.
- G. **Certification Distribution Posting.** During Project construction, the Applicant must maintain a copy of this Certification at the Project site. This Certification must be available at all times to site personnel and agencies. A copy of this Certification shall also be provided to any contractor or subcontractor performing construction work, and the copy shall remain in their possession at the Project site.
- H. **Inspection and Entry.** The Applicant must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required under law, to:
1. Enter upon the Project or Compensatory Mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Certification;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;
 3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and
 4. Sample or monitor, at reasonable times, for the purposes of assuring Certification compliance, or as otherwise authorized by the Clean Water Act or Water Code, any substances or parameters at any location.
- I. **Enforcement Notification.** 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.

J. Certification Actions. This Certification may be modified, revoked and reissued, or terminated for cause including but not limited to the following:

1. Violation of any term or condition of this Certification;
2. Monitoring results indicate that continued Project activities could violate water quality objectives or impair the beneficial uses of San Diego Bay;
3. Obtaining this Certification by misrepresentation or failure to disclose fully all relevant facts;
4. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
5. Incorporation of any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

The filing of a request by the Applicant for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Certification condition.

K. Duty to Provide Information. The Applicant shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Certification or to determine compliance with this Certification.

L. Property Rights. This Certification does not convey any property rights of any sort, or any exclusive privilege.

III. CONSTRUCTION BEST MANAGEMENT PRACTICES

A. Approvals to Commence Construction. The Applicant shall not commence Project construction until all necessary federal, state, and local approvals are obtained.

B. Personnel Education. Prior to the start of the Project, and annually thereafter, the Applicant must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures.

C. Spill Containment Materials. The Applicant must, at all times, maintain appropriate types and sufficient quantities of materials on-site 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 United States and/or State.

- D. **Silt Curtain Deployment.** The Applicant shall deploy and maintain a continuous length of silt curtain, fully surrounding the pile driving area and installed within five feet of the piers, to trap sediment that may become suspended as a result of pile driving. The bottom of the silt curtains must be weighted with ballast weights or rods affixed to the base of the fabric to resist the natural buoyancy of the silt curtain fabric and lessen its tendency to move in response to currents. Where feasible and applicable, the floating silt curtains must be anchored and deployed from the surface of the water to just above the substrate. The silt curtain must be monitored for damage, dislocation or gaps and must be immediately repaired where it is no longer continuous or where it has loosened. The silt curtain must restrict the surface visible turbidity plume to the area of pile construction and must control and contain the migration of re-suspended sediments at the water surface and at depth.
- E. **General Construction Storm Water Permit.** Prior to start of Project construction, the Applicant must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity*, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Applicant must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.
- F. **Waste Management.** The Applicant must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, state, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination or nuisance as defined in Water Code section 13050. Upon Project completion, all Project generated debris, building materials, excess material, waste, and trash shall be removed from the Project site(s) for disposal at an authorized landfill or other disposal site in compliance with federal, state and local laws and regulations.
- G. **Waste Management.** Except for a discharge permitted under this Certification, the dumping, deposition, or discharge of trash, rubbish, unset cement or asphalt, concrete, grout, damaged concrete or asphalt, concrete or asphalt spoils, wash water, organic or earthen material, steel, sawdust or other construction debris waste from Project activities directly into waters of the United States and or State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited.

- H. **Construction Equipment.** All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.
- I. **Process Water.** 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 State or placed in locations that may be subjected to storm water runoff flows.
- J. **Hazardous Materials.** Except as authorized by this Certification, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.
- K. **Limits of Disturbance.** The Applicant shall clearly define the limits of Project disturbance to waters of the United States and/or State using highly visible markers such as flag markers, barriers, or buoys prior to commencement of Project construction activities within those areas.
- L. **On-site Qualified Biologist.** The Applicant shall designate an on-site qualified biologist to monitor Project construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work on-site if a violation of this Certification occurs or has the potential to occur. Records and field notes of the biologist's activities shall be kept on-site and made available for review upon request by the San Diego Water Board.
- M. **Eelgrass.** A pre-construction eelgrass survey must be completed in accordance with the requirements of the Southern California Eelgrass Mitigation Policy (SCEMP) by a qualified biologist, prior to initiation of construction activities at the site. This survey must include both aerial and density characterization of the beds. A post-construction survey must be performed by a qualified biologist within 30 days following project completion to quantify any unanticipated losses to eelgrass habitat. Impacts must then be determined from a comparison of pre- and post-construction survey results. Impacts to eelgrass, if any, must be mitigated through conformance with the SCEMP, which defines the mitigation ratio and other requirements to achieve mitigation for significant eelgrass impacts. If required following the post-construction survey, the SCEMP defined mitigation must be developed; approved by the San Diego Water Board, U.S. Army Corps of Engineers and National Marine Fisheries Service; and implemented to offset losses to eelgrass.

- N. California Least Tern.** In-water construction activities are anticipated to be scheduled to occur between September 16 and March 31 outside the California least tern nesting season. Should in-water Project activities be conducted during the least tern breeding season, a qualified Biological Monitor familiar with the California least tern and other special status seabirds and waterfowl shall be retained by the Applicant to conduct monitoring within 500 feet of construction activities. The monitor shall be empowered to delay commencing work, and shall do so if terns are actively foraging (e.g., searching and diving) within the work area. Should adverse impacts to terns occur (e.g., agitation or startling during foraging activities), the Biological Monitor shall be empowered to delay or halt construction, and shall do so until California least terns have left the project site.
- O. Sound Impacts.** The Applicant shall monitor sound pressure levels during pile driving to ensure the sound level threshold of 190 decibels (dB) for marine life injury is not exceeded. If sound pressure levels exceed 190 dB, the Applicant shall implement the following additional BMPs in order to ensure marine life injury does not occur:
1. The pile shall be surrounded by an air bubble curtain system or air-filled coffer dam.
 2. A smaller hammer or a hydraulic hammer shall be used to reduce sound pressure.
 3. The pile driving shall be conducted during periods of reduced currents to minimize the exposure of marine life to underwater sound.
- P. Beneficial Use Protection.** The Applicant must take all necessary measures to protect the beneficial uses of the waters of San Diego Bay. This Certification requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately and the San Diego Water Board shall be notified in accordance with Notification Requirement VII.A of this Certification. Associated Project activities may not resume without approval from the San Diego Water Board.

IV. PROJECT IMPACTS AND COMPENSATORY MITIGATION

- A. Project Impact Avoidance and Minimization.** The Project must avoid and minimize adverse impacts to waters of the United States and/or State to the maximum extent practicable.
- B. Project Impacts and Compensatory Mitigation.** Unavoidable Project impacts to San Diego Bay must not exceed the type and magnitude of impacts described in the table below.

	Impacts (acres)	Impacts (linear ft.)	Mitigation for Impacts (acres)	Mitigation Ratio (area mitigated: area impacted)	Mitigation for Impacts (linear ft.)	Mitigation Ratio (linear feet mitigated :linear feet impacted)
Permanent Impacts						
Wetland	0.0001	33.8	0 ¹	N/A ¹	0 ¹	N/A ¹

¹ Compensatory mitigation is not required for this Project because impacts, while permanent, will not have a significant effect on San Diego Bay resources.

V. MONITORING AND REPORTING REQUIREMENTS

- A. **Representative Monitoring.** Samples and measurements taken for the purpose of monitoring under this Certification shall be representative of the monitored activity.
- B. **Monitoring Reports.** Monitoring results shall be reported to the San Diego Water Board at the intervals specified in section V of this Certification.
- C. **Monitoring and Reporting Revisions.** The San Diego Water Board may make revisions to the monitoring program at any time **during the term of this Certification and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.**
- D. **Records of Monitoring Information.** Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling, measurements, or visual observation;
 - b. The individual(s) who performed the sampling, measurements, or visual observation;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
- E. **Receiving Water Visual Observation Monitoring.** The Applicant must conduct visual observation monitoring of the Project pile driving activities in San Diego Bay prior to, during, and after each period of project construction. The visual observation monitoring documentation must be included in the Project annual progress and final completion reports.

1. **Parameters.** The following parameters shall be visually monitored immediately outside of the construction area:
 - a. No floating particulates, suspended materials, grease, or oil; and
 - b. No significant discoloration of the water surface;
 2. **Field Documentation.** Visual observations shall be recorded throughout Project pile driving activities. In addition to the requirements listed in section V.D., monitoring field logs shall include observations of water quality conditions including sheen, color, odor, floating particulates, and surface visible turbidity plume. Logs shall also include weather conditions, such as wind speed/direction and cloud cover; and
 3. **Response Actions.** If the condition of the silt curtain is observed to be damaged, has become dislocated, or has gaps to where a visible turbidity plume is forming outside of the silt curtain, a response action shall be taken immediately to correct the situation. Response actions may include, but are not limited to, work stoppage until silt curtain repair is completed, implementation of operational modifications, and/or implementation of additional BMPs (e.g., a second silt curtain). Response actions, if needed, shall be documented in the monitoring field log.
- F. **Receiving Water Quality Monitoring.** The Applicant shall conduct weekly receiving water monitoring during pile driving activities to verify that applicable water quality standards for pH, dissolved oxygen and turbidity are not violated outside of the construction area. The monitoring plan shall contain the following elements:
1. **Monitoring Stations.** During each monitoring event, water quality parameters including turbidity, dissolved oxygen, and pH shall be measured at four stations. Monitored water quality measurements shall be compared to “ambient” San Diego Bay reference measurements outside the construction area. Three of the stations shall be compliance stations and one of the stations shall be a reference station. Monitoring station positions shall be located using a Global Position System (GPS) accurate to within ± 3 meters. Station descriptions are as follows:
 - a. **Compliance Stations.** Three monitoring stations shall be located evenly along an arc located 50 feet from the construction area to capture all tidal and current conditions. The compliance stations shall be located approximately the same distance from shore as the construction activity. The locations shall be adjusted in the field to better target a visible turbidity plume, if a visible plume is observed;
 - b. **Reference Station.** The reference station shall be located 1,000 feet from the construction activity in the direction of the head of the bay and beyond the influence of construction activities. Natural turbidity, dissolved oxygen, and pH shall be determined through measurements at the reference station. The reference station shall be monitored during every event, because the turbidity water quality objective is based on an acceptably small increase in the vicinity of the construction activity relative to ambient reference levels. The location of the

reference station shall remain the same for all monitoring events;

2. **Water Quality Measurements.** Monitored water quality measurements for turbidity, dissolved oxygen, and pH at the Compliance Stations shall be compared to Reference Station measurements outside the construction area. Water quality measurements shall be collected from a depth of 10 feet below the water surface at each of the stations. Monitoring depths shall be determined using a depth finder with an accuracy of ± 0.5 feet. Water quality shall be monitored using instrumentation capable of measuring dissolved oxygen (DO), pH, and turbidity (in nephelometric turbidity units (NTU's));
 3. **Monitoring Frequency.** Water quality monitoring shall be conducted on a weekly basis after pile driving activities have been underway for at least 30 minutes. During the weekly water column monitoring all water quality parameters will be measured during one monitoring event per week;
 4. **Sample Integrity.** The integrity of each water sample collected shall be maintained from the time of collection to the point of data reporting. Proper record keeping and chain of custody (COC) procedures shall be implemented to allow samples to be traced from collection to final disposition. After collection of water samples, documentation on various logs and forms shall be required to adequately identify and catalog sample information; and
 5. **Compliance Criteria.** Receiving Water Limitations are provided in section II.E of this Certification. The point of compliance with these receiving water limitations shall be located 50 feet from the edge of the construction area. The construction area is defined as the area(s) occupied by the pile driving equipment and silt curtains, and associated work activities.
- G. **Receiving Water Monitoring Report.** The Applicant shall prepare and submit a monthly monitoring report that contains the results of receiving water quality and visual observation monitoring activities for each week of that month. The reports must be submitted no later than 30 days following the monthly monitoring period and must include:
1. The following identification numbers in the header or subject line: Certification No. R9-2013-0151, PIN 799427;
 2. The names, qualifications, and affiliations of the persons contributing to the report;
 3. A summary table of the monitoring results with a comparison to receiving water limitation compliance criteria;
 4. An evaluation, interpretation, and tabulation of the visual observations required under section V.E and water quality data required under section V.F including interpretations and conclusions as to whether applicable receiving water limitations were attained at each monitoring station;

5. A description of all incidents of non-compliance and its cause, the period of the 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 reoccurrence of the noncompliance; and
 6. For any weekly monitoring period in which no pile driving activities were conducted, the monitoring report must still be submitted and include a statement certifying that no pile driving activities occurred during the monitoring period.
- G. Annual Project Progress Reports.** The Applicant must submit annual Project progress reports describing Project status and compliance with all requirements of this Certification to the San Diego Water Board prior to **April 30** of each year following the issuance of this Certification, until the Project has reached completion. The report must include the following information:
1. The names, qualifications, and affiliations of the persons contributing to the report;
 2. The status, progress, and anticipated schedule for completion of Project construction activities including, as applicable, the installation and operational status of best management practice project features for erosion and storm water quality treatment; and
 3. A description of Project construction delays encountered or anticipated that may affect the schedule for construction completion.
- H. Final Project Completion Report.** The Applicant must submit a Final Project Completion Report to the San Diego Water Board **within 30 days of completion of the Project**. The final report must include the following information:
1. Dates of construction initiation;
 2. Dates of construction completion;
 3. As applicable, BMP installation and operational status for the Project;
 4. As-built drawings of the Project, no bigger than 11"X17"; and
 5. Visual observation records required under section V.E of this Certification and a discussion of any response actions taken.
- I. Reporting Authority.** The submittal of information required under this Certification, or in response to a suspected violation of any condition of this Certification, is required pursuant to Water Code section 13267 and 13383. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to Water Code sections 13268 or 13385.

J.

K. **Electronic and Paper Media Documents.** The Applicant must submit all reports and information required under this Certification in both hardcopy (paper) and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable. All paper and electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. R9-2013-0151:PIN 799427.

L. **Document Signatory Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be signed as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice president.
2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
3. 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 may sign applications, reports, or information if:
 - a. The authorization is made in writing by a person described above;
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity; or
 - c. The written authorization is submitted to the San Diego Water Board Executive Officer.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

M. **Document Certification Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be 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."

N. Document Submittal Address. The Applicant must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. R9-2013-0151:PIN 799427
2375 Northside Drive, Suite 100
San Diego, California 92108

VI. NOTIFICATION REQUIREMENTS

- A. Twenty Four Hour Non-Compliance Reporting.** The Applicant shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the San Diego Water Board 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 San Diego Water Board, 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.
- B. Hazardous Substance Discharge.** Except for a discharge which is in compliance with this Certification, any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the County of San Diego, in accordance with California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Applicant is in violation of a Basin Plan prohibition.

- C. **Oil or Petroleum Product Discharge.** Except for a discharge which is in compliance with this Certification, any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition.
- D. **Anticipated Noncompliance.** The Applicant shall give advance notice to the San Diego Water Board of any planned changes in the Project which may result in noncompliance with Certification conditions or requirements.
- E. **Transfers.** This Certification is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:
1. **Transfer of Property Ownership:** The Applicant must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, but not be limited to, a statement that the Applicant has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the San Diego Water Board **within 10 days of the transfer of ownership.**
- Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the Applicant will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Applicant of this Certification in the event that a transferee fails to comply.
- F. **Discharge Commencement.** The Applicant must notify the San Diego Water Board in writing **at least 5 days prior to** the start of Project construction.

VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

- A. The San Diego Unified Port District is the Lead Agency under the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et seq.) section 21067, and CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.) section 15367, and has determined that the Project is categorically exempt.¹ The Applicant has filed a Notice of Exemption dated October 16, 2013.
- B. The San Diego Water Board is a Responsible Agency under CEQA (Public Resources Code section 21069; CEQA Guidelines section 15381). The San Diego Water Board has independently determined that the project is categorically exempt because the project replaces existing structures located on the same site and will have substantially the same purpose and capacity as the structures being replaced.²
- C. As a Responsible Agency under CEQA, the San Diego Water Board will file a Notice of Exemption in accordance with CEQA Guidelines section 15096 subdivision (i).

VIII. SAN DIEGO WATER BOARD CONTACT PERSON

Lisa Honma, Environmental Scientist
California Regional Water Quality Control Board, San Diego Region
2375 Northside Drive, Suite 100
San Diego, California 92108
Telephone: (619) 521-3367
Email: Lisa.Honma@waterboards.ca.gov

IX. WATER QUALITY CERTIFICATION

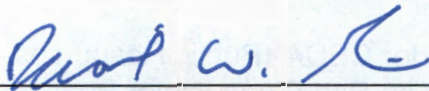
I hereby certify that the proposed discharge from the **Fender Replacement Project at Piers 4 and 6** (Certification No. R9-2013-0151) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards 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 San Diego Water Board may issue individual waste discharge requirements at that time.

¹ 14 CCR section 15302(b) and/or section 15303(e)

² 14 CCR section 15302

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the applicants' Project description and/or the description in this Certification, and (b) compliance with all applicable requirements of the Basin Plan.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Certification No. R9-2013-0151 issued on February 18, 2014.



DAVID W. GIBSON
Executive Officer
San Diego Water Board

18 February 2014
Date

ATTACHMENT 1

DEFINITIONS

Activity - when used in reference to a permit means any action, undertaking, or project including, but not limited to, construction, operation, maintenance, repair, modification, and restoration which may result in any discharge to waters of the state.

Buffer - means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

California Rapid Assessment Method (CRAM) - is a wetland assessment method intended to provide a rapid, scientifically-defensible and repeatable assessment methodology to monitor status and trends in the conditions of wetlands for applications throughout the state. It can also be used to assess the performance of compensatory mitigation projects and restoration projects. CRAM provides an assessment of overall ecological condition in terms of four attributes: landscape context and buffer, hydrology, physical structure and biotic structure. CRAM also includes an assessment of key stressors that may be affecting wetland condition and a "field to PC" data management tool (eCRAM) to ensure consistency and quality of data produced with the method.

Compensatory Mitigation Project - means compensatory mitigation implemented by the Applicant as a requirement of this Certification (i.e., applicant -responsible mitigation), or by a mitigation bank or an in-lieu fee program.

Discharge of dredged material – means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States and/or State.

Discharge of fill material – means the addition of fill material into waters of the United States and/or State.

Dredged material – means material that is excavated or dredged from waters of the United States and/or State.

Ecological Success Performance Standards – means observable or measurable physical (including hydrological), chemical, and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

Enhancement – means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment – means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist. Creation results in a gain in aquatic resource area.

Fill material – means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body.

Isolated wetland – means a wetland with no surface water connection to other aquatic resources.

Mitigation Bank – means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing mitigation for impacts authorized by this Certification.

Preservation - means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/ historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/ historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Start of Project Construction - For the purpose of this Certification, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfilling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the United States and/or State.

Uplands - means non-wetland areas that lack any field-based indicators of wetlands or other aquatic conditions. Uplands are generally well-drained and occur above (i.e., up-slope) from nearby aquatic areas. Wetlands can, however, be entirely surrounded by uplands. For example, some natural seeps and constructed stock ponds lack aboveground hydrological connection to other aquatic areas. In the watershed context, uplands comprise the landscape matrix in which aquatic areas form. They are the primary sources of sediment, surface runoff, and associated chemicals that are deposited in aquatic areas or transported through them.

Water quality objectives and other appropriate requirements of state law – means the water quality objectives and beneficial uses as specified in the appropriate water quality control plan(s); the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act; and any other appropriate requirement of state law.

Continental Maritime of San Diego
Fender Replacement Project – Piers 4 and 6
Certification No. R9-2013-0151

**ATTACHMENT 2
PROJECT LOCATION MAPS**



Location Map
 Pier 4 and 6 Fender Replacement Project at Continental Maritime
 San Diego, California

FIGURE

1





Project Site Map
Pier 4 and 6 Fender Replacement Project at Continental Maritime
San Diego, California

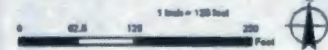
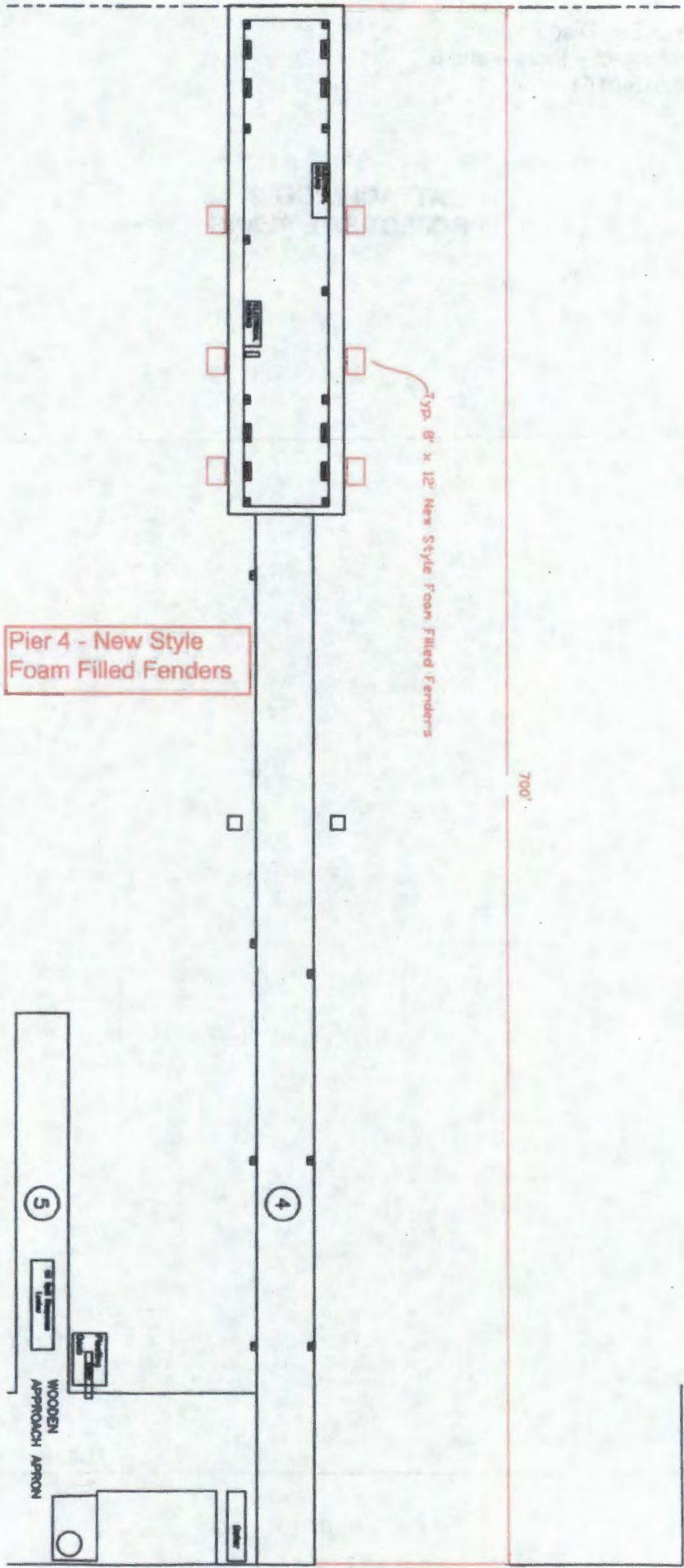


FIGURE
2

Continental Maritime of San Diego
Fender Replacement Project – Piers 4 and 6
Certification No. R9-2013-0151

**ATTACHMENT 3
PROJECT SITE PLANS**



Pier 4 - New Style
Foam Filled Fenders

Typ. 8' x 12' New Style Foam Filled Fenders

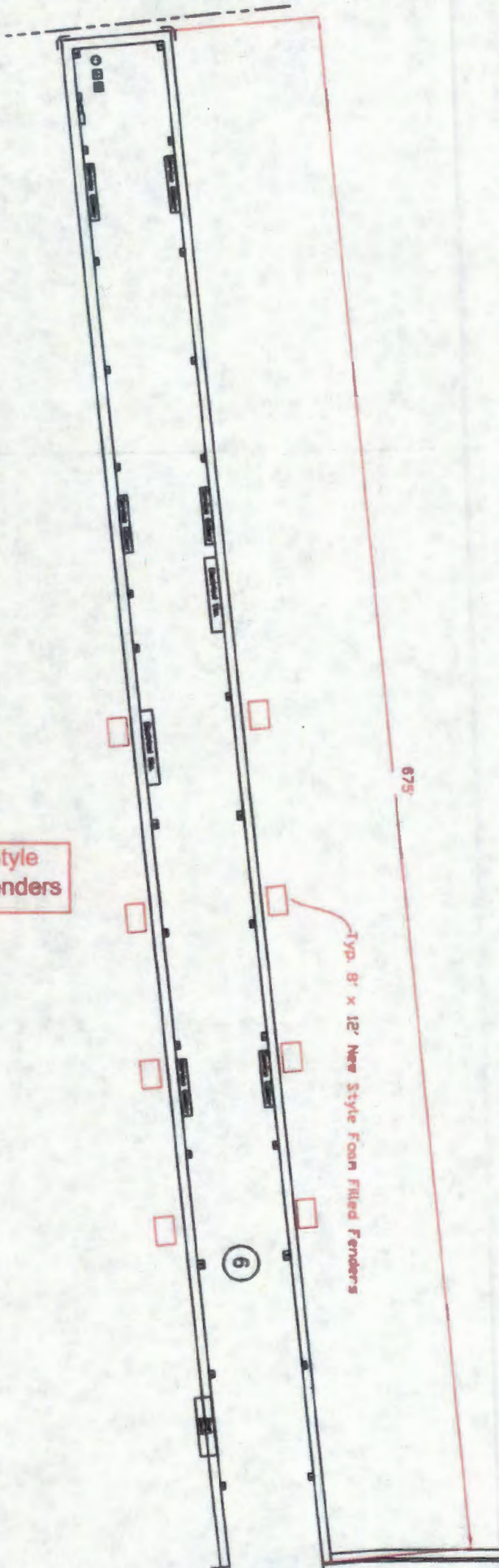
700'

5

4

WOODEN
APPROACH APRON

Pier 6 - New Style
Foam Filler Fenders



Typ. 8' x 12' New Style Foam Filled Fenders

6

675