

California Regional Water Quality Control Board, San Diego Region

June 27, 2014

Certified Mail – Return Receipt Requested
Article Number: 7007 1490 0003 8753 5667

William J. Dodds
Vice President, Development
KSL Resorts
1500 Orange Avenue
Coronado, CA 92118

In reply/refer to:
766816:dbradford

Subject: Amendment No. 3 to Clean Water Act Section 401 Water Quality Certification No. 11C-038 for the Monarch Beach Management Plan: Salt Creek Pilot Project

Mr. Christensen:

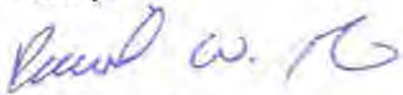
Enclosed find Amendment No. 3 Clean Water Act Section 401 Water Quality Certification No. 11C-038 (Amendment) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) in response to an amendment request submitted by LSA Associates on behalf of KSL Capital Partners for the Monarch Beach Management Plan: Salt Creek Pilot Project (Project). The Certification Amendment shows changes in underline/strikeout format to indicate added and removed language. Water Quality Certification No. 11C-038 (Certification) and Amendments Nos. 1 and 2 have also been enclosed for your reference.

Failure to comply with this Certification Amendment may subject KSL Capital Partners to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring KSL Capital Partners 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 Amendment 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 KSL Capital Partners has accepted and will comply with all terms and conditions of the Certification Amendment.

In the subject line of any response, please include reference number 766816:dbradford. For questions or comments, please contact Darren Bradford by telephone at (619) 521-3356 or by email at Darren.Bradford@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

Enclosure:

Amendment No. 3 to Clean Water Act Section 401 Water Quality Certification No. 11C-038 for the Monarch Beach Management Plan: Salt Creek Pilot Project

Clean Water Act Section 401 Water Quality Certification No. 11C-038 and Amendments Nos. 1 and 2 for the Monarch Beach Management Plan: Salt Creek Pilot Project

DWG:jgs:kd

cc (Via U.S. Mail):

Chad Christensen
Senior Vice President
Washington Holdings, LLC
10866 Wilshire Blvd., Suite 820
Los Angeles, CA 90024

Tech Staff Info & Use	
Certification No.	11C-038
Party ID	526970
WDID	9000002271
Regulatory ID	379228
Place ID	766816

cc (Via E-mail):

U.S. Army Corps of Engineers
Jason Lambert
Jason.P.Lambert@usace.army.mil

California Department of Fish and Wildlife
Loni Adams
loni.adams@wildlife.ca.gov

California Coastal Commission
Fernie Sy
Fernie.Sy@coastal.ca.gov

Mr. Dodds
Amendment No. 3
Certification No. 11C-038

- 3 -

June 27, 2014

U.S. Department of the Interior
Fish and Wildlife Service
Katy Kughen
katy_kughen@fws.gov

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

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

2375 Northside Drive, Suite. 100, San Diego, CA 92108
Phone (619) 516-1990 • Fax (619) 516-1994
<http://www.waterboards.ca.gov/sandiego/>

**Amendment No. 3 to Clean Water Act Section 401
Water Quality Certification No. 11C-038**

**PROJECT: Monarch Beach Management Plan:
Salt Creek Pilot Project
Certification Number 11C-038
WDID No. 900002271**

Reg. Meas. ID: 379228 Place ID: 766816 Party ID: 526970

**APPLICANT: KSL Capital Partners
1500 Orange Avenue
Coronado, CA 92118**

On May 15, 2012, Water Quality Certification No. 11C-038 (Certification) was issued to Washington Holdings, LLC for the Monarch Beach Management Plan: Salt Creek Pilot Project (Project). On August 31, 2012, the Certification was amended for the first time to accommodate a project modification. On June 10, 2013, the Certification was amended for a second time to allow changes to the monitoring program and extend the Project until a certification is obtained for the long-term Monarch Beach Management Plan (MBMP).

By letter dated March 30, 2014, LSA Associates Inc., on behalf of Washington Holdings LLC and KSL Capital Partners, requested a change of ownership of the Project property from Washington Holdings, LLC to KSL Capital Partners. The letter also provided acknowledgement of the transfer of all permit requirements related to Water Quality Certification No. 11C-038 to KSL Capital Partners.

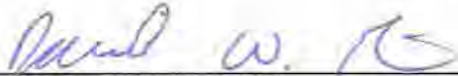
By e-mail dated June 23, 2014, LSA Associates Inc., on behalf of KSL Capital Partners requested the Certification be amended to extend the expiration date of Certification No. 11C-038 to continue monthly berm and channel maintenance activities until all necessary permits have been obtained for the long term MBMP Project. The MBMP project was recently permitted by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) under Water Quality Certification No. R9-2013-0126, however, permits from other agencies are still outstanding.

Based on the LSA Associates' requests, the San Diego Water Board is amending the Certification to extend this Certification and change the applicant to KSL Capital Partners. The following changes are made to Certification No. 11C-038 and are shown in underline/strikeout format to indicate added and removed language:

Page 3, GENERAL CONDITION B.1 is modified as follows:

This Water Quality Certification No. 11C-038 (Certification) authorizes project construction and maintenance activity for a period of ~~24~~ 30 consecutive months after initial construction of the sand berms and channel.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Amendment No. 3 to Certification No. 11C-038 issued on June 27, 2014.



David W. Gibson
Executive Officer
Regional Water Quality Control Board

27 JUNE 2014

Date



California Regional Water Quality Control Board, San Diego Region

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: Monarch Beach Management Plan: Salt Creek Pilot Project
Certification Number 11C-038**

**APPLICANT: Washington Holdings, LLC
Chad Christensen, Senior Vice President
10866 Wilshire Blvd., Suite 820
Los Angeles, CA 90024**

CIWQS
WDID: 9000002271
Reg. Meas. ID: 379228
Place ID: 766816
Party ID: 526970

ACTION:

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

PROJECT DESCRIPTION:

The project aims to reestablish a westward flow path at the mouth of Salt Creek by constructing and maintaining temporary sand berms and a shallow channel to direct creek flow across the beach from the outlet structure to the ocean. The existing northward flow path leads to pooling and occasional high levels of fecal indicator bacteria on Monarch Beach. It also creates a channel at the base of the vehicle access ramp that impedes emergency access to the beach. The berm and channel will be constructed on private property; the berm will be above the reach of all but the highest tides, and the channel will extend seaward to the private property line only as far as needed to effectively direct flow. In addition, a temporary 'sand bridge' will be built at the base of the vehicle access ramp, if needed, so that emergency vehicles can cross to the beach. Any work seaward of the private property line will require prior permission from the California State Lands Commission. The project is a one-year pilot project to inform a future beach management plan. Initial construction of the sand berm and channel and periodic maintenance during the year constitutes recurring temporary impacts to up to 314 linear feet of waters of the State. The outlet of Salt Creek is in the City of Dana Point, Orange County, California. Attachment 1 provides a more detailed project description.



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A. STANDARD CONDITIONS

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

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 (CWC) and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
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 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.

B. GENERAL CONDITIONS

1. This Water Quality Certification No. 11C-038 (Certification) authorizes project construction and maintenance activity for a period of 12 consecutive months after initial construction of the sand berms and channel. If construction has not commenced, this Certification will expire one year from the date this Certification was signed. To request renewal of this Certification, Washington Holdings, LLC (Washington Holdings) must submit an amendment request to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at least two months prior to expiration.
2. Washington Holdings 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 Requirements are accessible at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
3. Washington Holdings must comply with the engineering plans, specifications and technical reports submitted to San Diego Water Board to support this 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 San Diego Water Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.

4. Washington Holdings must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
5. Washington Holdings must permit the San Diego Water Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which project activity occurs 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 Certification.
6. Any discharges must comply with the *California Ocean Plan* (Ocean Plan) and the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) and amendments thereto. The Ocean Plan is available at:
http://www.waterboards.ca.gov/water_issues/programs/ocean/index.shtml
The Basin Plan is available at:
http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml
7. The treatment, storage, and disposal of wastewater must be done in accordance with waste discharge requirements established by the San Diego Water Board pursuant to CWC section 13260.
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 San Diego Water Board may, pursuant to CWC sections 13267 and 13383, require the holder of any permit or license subject to this Certification to investigate, monitor, and report information on the violation. The only restriction is that the burden, including costs of preparing the reports, must bear a reasonable relationship to the need for and the benefits to be obtained from the reports.
10. In response to any violation of the conditions of this Certification, the San Diego Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.

C. CONSTRUCTION CONDITIONS

1. Personnel education. Prior to the start of the project, Washington Holdings must educate all project-related personnel on the requirements of this Certification, pollution prevention measures, spill response, and implementation of Best Management Practices (BMPs).
2. Beach location. Project construction and maintenance activities must occur on private property except that, if project activity occurs seaward of the property line, Washington Holdings shall submit proof of prior permission from the California State Lands Commission or proof that no such permission is required.
3. Sand movement. Sand for berm formation must be obtained from within the allowed work area ("Construction Site" on map, Attachment 4), and shall be from the natural berm or from areas that are subject to soaking by freshwater or storm water, and not from areas subject to soaking by sea water. Sand shall be excavated, moved, and deposited in a manner that does not cause sustained turbidity in coastal waters. Sand for the 'sand bridge' may be from a commercial source, provided it is comparable in grain size and appearance to that of beach sand. No further fill activities, beyond those described in Attachment 1, are authorized by this amended certification.
4. Pollution prevention.
 - a. Except insofar as sand placement authorized by this Certification, substances hazardous to aquatic life (including petroleum products) must not contaminate the sand or enter waters of the United States and/or State.
 - b. Construction and maintenance work must be conducted when the tide is low enough to avoid direct contact between seawater and vehicles.
 - c. Appropriate types and sufficient quantities of materials must be kept on site to contain any spill or inadvertent release of substances that may cause a condition of pollution or nuisance if the substances reach waters of the United States and/or State.
 - d. Vehicles used for project activities must be inspected for fluid leaks. Vehicles with leaks must not enter the beach area.
 - e. Vehicles and equipment must not be staged, stored, cleaned, fueled, or serviced (other than emergency repairs) on the beach. Any contaminated water, sludge, spill residue, and other hazardous compounds must be disposed of at a lawfully authorized designation.
 - f. Project activities must not be conducted if existing conditions indicate such activity would cause a violation of water quality standards for total coliform, fecal coliform, or *Enterococcus* in ocean receiving waters. Planned project activities must be

postponed until the threat of causing a violation of water quality standards has abated.

D. POST-CONSTRUCTION CONDITIONS

Not applicable to this project.

E. SPECIES PROTECTION CONDITIONS

1. General. A qualified biologist or other appropriately trained personnel will be present onsite during project activities and will have the authority to halt, postpone, or modify work if necessary to avoid adverse effects on fish, birds or other wildlife.
2. Western snowy plover. From March 1 through September 30, no construction or maintenance activities authorized under this Certification will be conducted within 300 feet of breeding Western snowy plovers. The Western snowy plover (*Charadrius alexandrinus nivosus*) is a federally threatened and State species of concern that has the potential to occur in the project area. A qualified biologist shall document the presence or absence of breeding Western snowy plovers.
3. California grunion. No excavation, construction, or maintenance activities authorized under this Certification will be conducted within potential spawning habitat of the California grunion, except as noted below. California grunion (*Leuresthes tenuis*) is a federally managed species, and the intertidal zone at the project site is potential spawning habitat. A fact sheet describing the unique reproductive behavior of grunion is available at: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=36316&inline=true>.
 - a. To the greatest extent possible, any work seaward of the semilunar high tide line will be scheduled to occur outside of the grunion spawning season, which is March 1 through August 31.
 - b. If work during grunion spawning season is essential for project effectiveness, the following conditions shall apply from March 1 through August 31. These conditions are slight modifications to the applicant's Grunion Avoidance Protocol (*Revised Monarch Beach Monitoring and Maintenance Plan*, LSA Associates, Inc., Feb 23, 2011).
 - i. *Four-day predicted runs*: No project activity that entails sand disturbance seaward of the semilunar high tide line will be conducted during the four-day periods of predicted grunion runs that are posted by the California Department of Fish and Game (<http://www.dfg.ca.gov/marine/grunionschedule.asp>).
 - ii. *Day before the first date of a run series*: Project activity that entails sand disturbance seaward of the semilunar high tide line can be conducted on the day before the first date of a predicted run series. This day constitutes a narrow window of time during which egg nests and developing larvae are unlikely to be

present in the sand; larvae from the previous run series likely would have been flushed by the previous night's high tide, and new eggs likely won't be deposited for at least 24 hours. As an example, sand disturbance seaward of the semilunar high tide line could occur on July 17, 2012, which is the day before the first date of the predicted run series that starts July 18 (the predicted four-day run series is July 18, 19, 20, and 21).

- iii. Other days:* Prior to project activity that entails sand disturbance seaward of the semilunar high tide mark on other days during the spawning season, the presence or absence of egg nests in or near the work area must first be determined by monitoring for the presence of adult grunion on the beach during predicted runs.
- (1) A qualified biologist or appropriately trained personnel shall monitor for the presence of adult grunion during the predicted grunion runs. Monitoring must be done on all four nights of the predicted run series prior to the work activity, except that if grunion are observed spawning within the work area or a 10-yard buffer on a given night, the presence of egg nests can be assumed and surveys on subsequent nights are not required. For example, if grunion are observed in the work area or the 10-yard buffer on night 1, then monitoring on nights 2, 3, and 4 would not be required. If grunion are not observed within the work area or the 10-yard buffer on night 1, then night 2 would be surveyed and so forth.
 - (2) Monitoring must start at the time of the high tide and continue for two hours or until the grunion stop running, whichever is later. For each night of monitoring, recorded information must include the time period monitored, grunion run time and duration, approximate grunion density within the work area and 10-yard buffer, and approximate grunion density in a broader area (i.e., within approximately 50 yards up-coast or 50 yards down-coast of the work area).
 - (3) If grunion spawning is observed within the work area or 10-yard buffer on any night of a four-day run series, then project activity that entails sand disturbance seaward of the semilunar high tide line shall be postponed until after the egg incubation period (i.e., until the day before the first date of the next predicted run, as described above in *ii*).
 - (4) If grunion spawning is *not* observed within the work area or 10-yard buffer on all four nights of a predicted run series, then the absence of egg nests and incubation activity near the work area can be assumed and, if needed, project activity that entails sand disturbance can be conducted seaward of the semilunar high tide line up to and including the day before the date of the next predicted run. For example, if no grunion were observed during the predicted runs on July 4, 5, 6 and 7, and the date of the next predicted run is July 18, then work can occur seaward of the semilunar high tide line from July 8 through July 17, 2012.
- iv. April and May:* To protect grunion during their peak spawning season (and closed season for the recreational fishery), project activity that entails sand disturbance

seaward of the semilunar high tide line will, to the greatest extent possible, be scheduled so as to avoid April and May.

F. COMPENSATORY MITIGATION

The project aims to reduce the pooling and potential for stagnation along the flow path, and to improve emergency access to the beach. No compensatory mitigation is proposed or required at this time. If the project causes or contributes to unforeseen adverse impacts to waters of the State, the San Diego Water Board has the authority to amend this Certification to retroactively require compensatory mitigation for those adverse impacts, at no more than a mitigation:impact ratio of 1:1.

G. MONITORING REQUIREMENTS

1. Monitoring will be conducted in accordance with Washington Holding's *Revised Monarch Beach Monitoring and Maintenance Plan* (LSA Associates, Inc., February 23, 2011) and the following requirements.
 - a. Physical Condition and Function. For initial construction and each subsequent re-construction or repair event, appropriately trained personnel shall take photographs from established photo points to show conditions immediately before and immediately after. At least one photo point must provide an overview of the project in relation to permanent landmark(s) and the shoreline. Photo-documentation must be done in reasonable accordance with guidance at: http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/StreamPhotoDocSOP.pdf, including the use of Geographic Positioning System (GPS) coordinates for each of the photo points referenced. Each month following initial construction, appropriately trained personnel will inspect the sand berm and channel to assess their physical condition and determine if re-construction or repair is needed to maintain their function in directing flow. Photo-documentation shall be incorporated into an assessment of physical condition and function in the final project report.
 - b. Emergency Access. In conjunction with the monitoring of physical condition and function, appropriately trained personnel will document access conditions for emergency vehicles/emergency personnel. Observations must include the depth and width of the channel and flow that would need to be crossed at two locations: (1) the base of the paved access road, and (2) the creek's flow path to the ocean measured at approximately the mean high tide line. This information shall be incorporated into the assessment of physical condition and function in the final project report.
 - c. Water Quality. The level of fecal indicator bacteria at the mouth of Salt Creek and in the surf zone will be monitored throughout the one-year project to determine if project activity causes or contributes to elevated bacteria levels. As explained in the Revised Final Monitoring and Maintenance Plan, these sites are routinely monitored for total

coliform, fecal coliform, and *Enterococcus* by the Orange County Watersheds Program, and the applicant intends to rely on data obtained from that program. The monitoring of coastal creek outlets and their respective ocean receiving waters is done pursuant to the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit issued by the San Diego Water Board to Orange County and the incorporated cities of South Orange County (Order No. R9-2009-0002 adopted December 16, 2009). Samples are collected from the mouth of Salt Creek and from the surf zone 25 yards up-coast and 25 yards down-coast of the creek-ocean interface. Sampling is typically weekly during dry weather, and both 24 hours before and 72-96 hours after five storm events per year. The applicant states that, if necessary (e.g., due to budget or staff reductions), it will supplement the County's monitoring efforts to ensure sampling is done at least twice per month and both 24 hours before and 72-96 hours after five storm events during the project year. A comparison of data from before and after each construction/reestablishment event, and a comparison of data with that from past years will be incorporated into a water quality assessment in the final project report.

- d. Wildlife. Prior to, during, and monthly after the construction of the berms and channel, a qualified biologist or appropriately trained personnel will conduct biological surveys of wildlife using the pond at the mouth of Salt Creek. Survey results will be incorporated into a biological assessment in the final project report.
2. Washington Holdings shall submit a final project report to the San Diego Water Board **within 45 days of completion** of the one-year project. The report shall contain raw and summarized data in tabular and/or graphical form, and an assessment of compliance with the conditions of this Certification. Data in electronic format shall be submitted to the San Diego Water Board upon request.
3. Where monitoring procedures are not otherwise specified, sampling, analysis, and quality assurance/quality control must be conducted in accordance with the Surface Water Ambient Monitoring Program (SWAMP) Quality Assurance Program Plan (QAPP) adopted by the State Water Resources Control Board. The SWAMP QAPP is available on the State Water Board's website at:
http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/qapp/qaprp082209.pdf
4. The San Diego Water Board may make revisions to the monitoring program at any time during the project term.

H. NOTIFICATION REQUIREMENTS

1. Commencement of Project: Washington Holdings must notify the San Diego Water Board in writing **at least 5 days prior to** the actual commencement of each excavation, fill, and discharge event.

2. **Unauthorized Discharges:** Washington Holdings must notify the San Diego Water Board within **24 hours** of (1) any unauthorized discharge to waters of the United States and/or State, including discharges of hazardous or toxic materials; (2) measures taken to stop and contain the discharge; (3) measures taken to clean-up the discharge; (4) the volume and type of materials discharged and recovered; and (5) additional measures that will be implemented to prevent future discharges.
3. **Transfer of Property Ownership:** This Certification is not transferable in its entirety or in part to any person except after notice to the Executive Officer of the San Diego Water Board in accordance with the following terms. Washington Holdings 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 Washington Holdings has provided the purchaser with a copy of the 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 Executive Officer of the San Diego Water Board **within 10 days of the transfer of ownership**. Upon properly noticed transfer of ownership, the transferee assumes responsibility for compliance with this Certification and references in this Certification to Washington Holdings will be interpreted to refer to the transferee as appropriate. Transfer of ownership does not necessarily relieve Washington Holdings of this Certification in the event that a transferee fails to comply.
4. **Protection of Species:** To protect rare, threatened, or endangered species, Washington Holdings must implement all Conservation Measures included in the United States Fish and Wildlife Service Section 7 Consultation, if such consultation is required.

I. REPORTING AND SIGNATURE REQUIREMENTS

1. All information requested in this Certification is pursuant to CWC section 13267. Civil liability may be administratively imposed by the San Diego Water Board for failure to furnish requested information pursuant to CWC section 13268.
2. All reports and information submitted to the San Diego Water 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) capable.
3. All applications, reports, or information submitted to the San Diego Water 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.
 - d. A duly authorized representative may sign applications, reports, or information if:
 - i. The authorization is made in writing by a person described above.
 - ii. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - iii. The written authorization is submitted to the San Diego Water Board Executive Officer.
4. All applications, reports, or information submitted to the San Diego Water 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."*
5. Reports required under this Certification, or other information required by the San Diego Water Board, must be submitted to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 11C-038
9174 Sky Park Court, Suite 100
San Diego, California 92123

J. CEQA FINDINGS

1. The San Diego Water Board finds that the project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15304 (Class 4–Minor alterations to land). The exemption applies because the project constitutes a minor alteration in the condition of the land and does not entail removal of vegetation. The project entails the movement of sand within a small area of beach; it does not add or remove sand and does not affect the amount of creek flow.
2. Previously, the City of Dana Point found the project to be categorically exempt from CEQA pursuant to CEQA Guidelines section 15304 (Class 4–Minor alterations to land). The City filed a Notice of Exemption with the Orange County Recorder on March 30, 2012. The California Coastal Commission found that, as conditioned, the project conforms to CEQA consistent with the requirements of the Coastal Act. The Commission approved Administrative Permit No. 5-10-237 for the project on February 11, 2011, a discretionary action that was subject to environmental review.

K. PUBLIC NOTIFICATION OF PROJECT APPLICATION

On May 23, 2011, receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public. No comments were received concerning the application. No one requested to be designated as an interested party or to receive a copy of the Certification.

L. SAN DIEGO WATER BOARD CONTACT PERSON

Deborah Woodward
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
(858) 637-7140
dwoodward@waterboards.ca.gov

M. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the **Monarch Beach Management Plan: Salt Creek Pilot Project** (Project No. 11C-038) 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.

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 Water Quality Control Plan for the San Diego Basin Region (9) (Basin Plan).


James G. Smith, AEO

DAVID W. GIBSON
Executive Officer
Regional Water Quality Control Board

31 Aug 2012
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location Map
 4. Site Map
 5. Checklist of Required Reports and Notifications

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Washington Holdings, LLC,
Chad Christensen, Senior Vice President
10866 Wilshire Blvd., Suite 820
Los Angeles, CA 90024
Telephone: 310-234-6731
Email: cchristensen@waholdings.com

Applicant
Representatives: LSA Associates
Attention: Art Homrighausen
20 Executive Park, Suite 200
Irvine, CA 92614
Telephone: 949-553-0666
Email: art.homrighausen@lsa-assoc.com

Project Name: Monarch Beach Management Plan: Salt Creek Pilot Project

Project Location: Latitude: 33° 28' 53.626" N
Longitude: 117° 43' 28.649" W

Type of Project: Beach maintenance; sand berms and sand channel.

Need for Project: The current northward flow path leads to occasional high levels of fecal indicator bacteria on Monarch Beach and creates a channel at the base of the vehicle access ramp that impedes emergency access to the beach.

Project Description: *Purpose:* The proposed project is a one-year pilot project to reestablish a westward flow path from the Salt Creek outlet to the ocean by constructing and maintaining a temporary channel and sand berms on the beach to direct flow. The applicant (owner of the St. Regis Monarch Beach Resort) intends this pilot project to inform a future, longer-term management plan for Monarch Beach.

Location and setting: Salt Creek enters the beach in the City of Dana Point, Orange County, California, south of the Monarch Bay Club parking lot at 500 Monarch Bay Drive. Its watershed is approximately six square-miles and lies mainly within the Cities of Dana Point and Laguna Niguel. Creek flows enter the beach through a hardened outlet structure, then flow across the sand to the ocean. Immediately upstream, an ozone treatment plant disinfects dry weather flow prior to discharge during summer months. The

disinfected flow, however, sometimes remains stagnant for extended periods as it meanders across the beach and occasional high levels of fecal indicator bacteria have been documented. The project aims to reduce the potential for stagnation by directing flow more directly to the ocean. The Monarch Beach shoreline is within the Dana Point State Marine Conservation Area, a marine protected area that extends from the mean high water line to 1,200 feet offshore.

Construction: A sand berm on the north side of the outlet pond and a channel extending seaward will be constructed to establish a westward flow path to the ocean, and to block the current northward flow across Monarch Beach (Attachment 4). A berm on the south side of the outlet pond might also be constructed if the existing natural berm shifts its position. Berms will be formed on private property from sand at the project site. Each would be approximately 3 feet tall, 4 feet wide, and the minimum effective length (maximum length approximately 132 feet each). The created channel would be approximately 4 feet wide, approximately 2 feet deep, and the minimum effective length (maximum length approximately 50 feet). If the channel must extend seaward beyond the private property limit to be effective, then prior permission will be obtained from the California State Lands Commission and/or other appropriate authority(ies). Hand tools and mechanized equipment will be used, and the berms and channel will be reconstructed periodically during the year if needed to maintain their shape and function. If water remains pooled at the base of the vehicle access ramp, a temporary 'sand bridge' will be constructed at the base of the vehicle access ramp so that emergency vehicles can cross to the beach. The sand bridge would be approximately 10 feet wide, 4 feet deep and 45 feet long.

Duration and frequency of construction: Five days for initial construction. Periodic reconstruction, if needed, one day per month for one year. The California Coastal Commission's Development Permit No. 5-10-237 for the project requires prior written approval from the Commission's Executive Director for reconstruction activities in excess of once per month.

Impacts: Initial construction and periodic maintenance of the channel and berms are recurring temporary impacts to up to 314 linear feet of coastal waters of the State. The maximum berm and channel footprint is approximately 1,256 square

feet, or 0.03 acres. No mitigation is proposed; the project aims to reduce the potential for stagnation of the Salt Creek flow on the beach and improve access for emergency vehicles without adversely affecting beneficial uses of waters of the State or United States.

Monitoring: Monitoring will be done in accordance with the requirements of this Certification and the applicant’s *Revised Monarch Beach Monitoring and Maintenance Plan* (LSA Associates, Inc., February 23, 2011; received August 4, 2011). Monitoring will document (a) physical condition and function of the berm and channel; (b) channel depth at points of access; (c) levels of fecal indicator bacteria at the creek outlet and surf zone; and (d) wildlife at the creek outlet. Monitoring of California grunion will follow the “Salt Creek Maintenance Grunion Avoidance Protocol” (Appendix D of above-referenced plan), as modified by this Certification.

Beneficial Uses

The Porter-Cologne Act calls for protection of beneficial uses of waters of the State. Designated beneficial uses of ocean waters directly offshore of the project area include, but are not limited to:

- Contact Water Recreation (REC 1)
- Non-contact Recreation (REC 2)
- Marine Habitat (MAR)
- Preservation of Biological Habitats of Special Significance (BIOL)
- Spawning, Reproduction and/or Early Development (SPWN)
- Wildlife Habitat (WILD)
- Rare, Threatened, or Endangered Species (RARE)

Designated beneficial uses of waters in Salt Creek include, but are not limited to:

- Non-Contact Recreation (REC 2)
- Warm Freshwater Habitat (WARM)
- Wildlife Habitat (WILD)

Beneficial uses are defined in Chapter 2 of the Basin Plan at: http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml.

Federal Agency/Permit:

U.S. Army Corps of Engineers §404, NWP 18, NWP 3
Stephen Estes

Other Required Regulatory Approvals:

California Coastal Commission Coastal Development Permit No. 5-10-237, Karl Schwing

California Environmental Quality

Categorical Exemption (Class 4 – Minor Alterations to Land), San Diego Water Board

Act (CEQA)
Compliance:

Receiving Water: Monarch Beach and coastal Pacific Ocean in the City of Dana Point (901.14, San Juan HU, Laguna HA, Dana Point HAS)

Affected Waters of the United States and/or State: Temporary impact to 0.03 acres (314 linear feet) of beach, recurring for one year.

Dredge Volume: None

Related Projects Implemented/to be Implemented by the Applicant(s): Applicant states the project will help inform a future, longer-term Monarch Beach Management Plan.

Compensatory Mitigation: None proposed

Best Management Practices (BMPs): Construction:
Excavated sand associated with berm and channel maintenance will be free of trash and man-made debris.

Substances hazardous to aquatic life including, but not limited to, petroleum products will not be allowed to contaminate the sand or enter waters of the United States and/or State.

Water containing mud, silt, or other pollutants from equipment washing or other activities, will not be discharged to ocean waters of the United States and/or the State.

Vehicles will not be stored, cleaned, or repaired (other than emergency repairs) on the beach.

Maintenance activities will be postponed if existing conditions indicate such activity would cause a violation of water quality standards for fecal coliform, total coliform, or enterococcus concentrations in the surf zone.

Public Notice: May 23, 2011 (no comments received)

Fees: Total Due: \$3,908
Paid: \$640 (Check No.105388 dated May 16, 2011)
Paid: \$3,268 (Check No. 312 dated May 11, 2012)

CIWQS: Regulatory Measure ID: 379228
Place ID: 766816
Party ID: 526970

**ATTACHMENT 2
DISTRIBUTION LIST**

cc via email:

Stephen Estes, U.S. Army Corps of Engineers
Stephen.M.Estes@usace.army.mil

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

Karl Schwing, California Coastal Commission, South Coast Area Office
kschwing@coastal.ca.gov

Marilyn Fluharty, California Department of Fish and Game
MFluharty@dfg.ca.gov

David Zoutendyk, U.S. Fish and Wildlife Service
David_Zoutendyk@fws.gov

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

Art Homrighausen, LSA Associates
Art.homrighausen@lsa-assoc.com

ATTACHMENT 3
LOCATION MAP

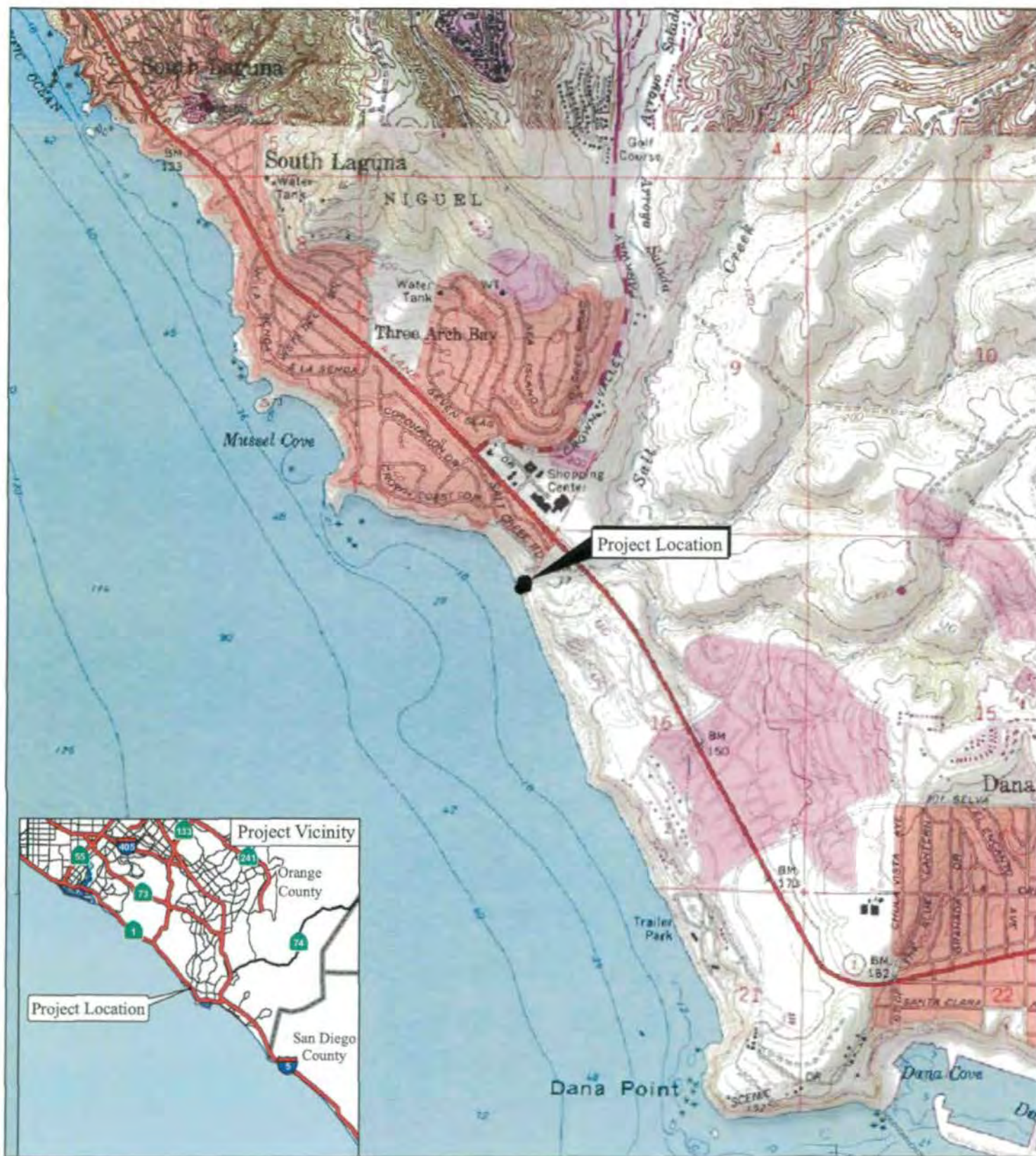


FIGURE 1



SOURCE: USGS 7.5' QUAD - DANA POINT (75)
 I:\WAH1001\GIS\Fig1_ProjLoc.mxd (10/28/2010)

**ATTACHMENT 4
SITE MAP**

1) Staging Area

All mechanized equipment will be staged, stored, and serviced (e.g., refueled) within the designated staging area, located in the private parking area for the Monarch Beach Club. The designated staging area is outside beach and habitat areas in order to minimize impacts to these areas. The equipment stored in the designated staging area will not obstruct public parking or beach access areas. Spill prevention and control measures will be implemented when refueling or servicing the mechanized equipment. No long-term storage of equipment on the site would occur, and no construction materials, debris, or waste will be placed or stored where it may be subject to water, wind, rain, or dispersion.

2) Construction Corridor

Construction equipment will enter and exit the work area via the construction corridor shown and all construction or maintenance activities will be monitored by a biological monitor or appropriately trained personnel.

3) Construction Site

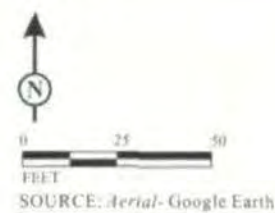
The construction area indicates where the berm and channel construction will take place. Construction activities will be contained within these boundaries and will be monitored by a qualified biologist or appropriately trained personnel to ensure that Best Management Practices (BMPs) are being implemented.











4) Location of Construction Fencing

Temporary construction fencing will be installed, as shown, at the beginning of each day to prevent the public from entering the work area where mechanized equipment will be used during that day. The temporary fencing will consist of orange construction fencing mounted on T-posts at 10 foot intervals. The fencing will be removed and stored in the designated staging area at the end of each day.



LSA



 Property Limit	 Observed Current Approximate High Tide Line, Spring 2011	 Proposed Berm
 Construction Corridor	 Mapped High Tide Line	 Location of Future Berm if Necessary
 Construction Site	 Mean High Water Line	
 Existing Natural Berm	 Sea Level	

Footnote: Construction details may be revised in the field according to natural conditions, which frequently change.

FIGURE 2

Map rec'd by San Diego Water Board on Aug 4, 2011, with supplemental/response package (supersedes map rec'd May 18, 2011 with 401 application).

Monarch Beach Management Plan
Monarch Beach Proposed Site Plan

Attachment 5 Checklist of Required Reports and Notifications

Required Reports and Submittals

Required Report	Due Date	Condition To Be Met	Date Received
Request for renewal of Certification (if applicable)	2 months prior to Certification expiration	B.1	
Proof of permission from State Lands Commission, or proof that permission is not needed (if applicable)	Prior to any work seaward of the private property line	C.2	
Final Project Report	Within 45 days after project completion	G.2	

Required Notifications

Notification Requirement	Notification Period	Condition To Be Met	Date Notified
Commencement of Project	5 days prior to commencement	H.1	
Unauthorized Discharge	Within 24 hours of discharge	H.2	
Transfer of Property Ownership	Within 10 days of transfer	H.3	
Consultation for Rare, Threatened, or Endangered Species (if needed)	Prior to Construction Activities	H.4	



LSA ASSOCIATES, INC.
20 EXECUTIVE PARK, SUITE 200
IRVINE, CALIFORNIA 92614

949.553.0666 TEL
949.553.8076 FAX

BERKELEY
CARLSBAD
FORT COLLINS

FRESNO
PALM SPRINGS
PT. RICHMOND

RIVERSIDE
ROCKLIN
SAN LUIS OBISPO

April 23, 2013

Deborah Woodward
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, California 92123

Subject: Request for Amendment to Water Quality Certification No. 11C-038 to Extend the
Monarch Beach/Salt Creek Pilot Project

Dear Ms. Woodward:

This letter serves as a request to amend Clean Water Act Section 401 Water Quality Certification (certification) No. 11C-038 (as amended on August 31, 2012, Attachment A) for the Monarch Beach/Salt Creek Pilot Project in order to extend the project's monthly maintenance activities (as described in the Monitoring and Maintenance Plan) beyond the certification's July 2013 expiration.

A long-term beach management plan is currently being drafted for Monarch Beach, including proposed management of Salt Creek's outfall flow on Monarch Beach. Prior to the expiration of the year-long Monitoring and Maintenance Plan, the Monarch Beach Management Plan (MBMP) will be submitted to the Regional Water Quality Control Board (RWQCB) (as well as to the California Coastal Commission and United States Army Corps of Engineers) in conjunction with an application for a 401 Certification for the MBMP. However, considering that the permit application may not be processed prior to the expiration of the existing certification, an extension to Certification No. 11C-038 is requested. This extension would allow the currently approved monitoring and maintenance activities to continue until a certification is obtained for the MBMP.

If you have any questions regarding this request, please do not hesitate to contact Erin Martinelli or me at (949) 553-0666.

Sincerely,
LSA ASSOCIATES, INC.

Art Homrighausen
Principal

cc: Darren Bradford, RWQCB
Chad Christensen, Washington Holdings

Attachment A: Clean Water Act Section 401 Water Quality Certification No. 11C-038, as Amended
on August 31, 2012

California Regional Water Quality Control Board, San Diego Region

Amendment No. 2 to Clean Water Act Section 401 Water Quality Certification No. 11C-038

PROJECT: Monarch Beach Management Plan: Salt Creek Pilot Project
Water Quality Certification No. 11C-038

APPLICANT: Washington Holdings, LLC
Attention: Chad Christensen
10866 Wilshire Blvd., Suite 820
Los Angeles, CA 90024

WDID	9 000002271
CIWQS:	
Party ID:	526970
Place ID:	766816
Reg. M. No.	379228

The following changes have been made to Clean Water Act Section 401 Water Quality Certification No. 11C-038, Monarch Beach Management Plan: Salt Creek Pilot Project. Changes below are shown in redline/strikeout format to indicate added and removed language.

1. **Page 3, GENERAL CONDITION B.1 has been modified as follows:**

This Water Quality Certification No. 11C-038 (Certification) authorizes project construction and maintenance activity for a period of ~~12~~²⁴ consecutive months after initial construction of the sand berms and channel. If construction has not commenced, this Certification will expire one year from the date this Certification was signed. To request renewal of this Certification, Washington Holdings, LLC (Washington Holdings) must submit an amendment request to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at least two months prior to expiration.

2. **Page 6, SPECIES PROTECTION CONDITION E.3 has been modified as follows:**

California grunion. No excavation, construction, or maintenance activities authorized under this Certification will be conducted within potential spawning habitat of the California grunion, except as noted below. California grunion (*Leuresthes tenuis*) is a ~~federally~~^{State} managed species, and the intertidal zone at the project site is potential spawning habitat. A fact sheet describing the unique reproductive behavior of grunion is available at: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=36316&inline=true>.

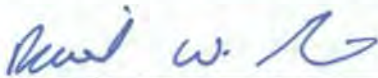
3. Page 6, SPECIES PROTECTION CONDITION E.3.b.i. has been modified as follows:

Four-day predicted runs: No project activity that entails sand disturbance seaward of the semilunar high tide line will be conducted during the four-day periods of predicted grunion runs that are posted by the California Department of Fish and Game (<http://www.dfg.ca.gov/marine/grunionschedule.asp>). As an example, if a predicted run series starts on July 18, 2012, no sand-disturbance activity seaward of the semilunar high tide line would be allowed on July 18, 19, 20, or 21.

4. Page 6, SPECIES PROTECTION CONDITION E.3.b.ii. has been modified as follows:

Day before the first date of a run series: Project activity that entails sand disturbance seaward of the semilunar high tide line can be conducted on the day before the first date of a predicted run series. This day constitutes a narrow window of time during which egg nests and developing larvae are unlikely to be present in the sand; larvae from the previous run series likely would have been flushed by the previous night's high tide, and new eggs likely won't be deposited for at least 24 hours. As an example, sand disturbance seaward of the semilunar high tide line could occur on July 17, 2012, which is the day before the first date of the predicted run series that starts July 18 (the predicted four-day run series is July 18, 19, 20, and 21). Sand-disturbance activity performed on the day before the first date of a predicted run series allows time for the intertidal spawning zone to be smoothed by one spring high tide subsequent to the sand disturbance and prior to the first predicted spawning.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Amendment No.2 to Certification No. 11C-038 issued on June 10, 2013.



David W. Gibson
Executive Officer
Regional Water Quality Control Board

10 June 2013

Date