



California Regional Water Quality Control Board

Santa Ana Region



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Linda S. Adams
*Secretary for
Environmental Protection*

Arnold Schwarzenegger
Governor

March 24, 2008

Gary Gorman
Huntington Beach Wetlands Conservancy
21900 Pacific Coast Highway
Huntington Beach, CA 92646

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE PROPOSED HUNTINGTON BEACH WETLANDS
RESTORATION PROJECT, CITY OF HUNTINGTON BEACH (ACOE REFERENCE
NO. SPL – 2007 – 367 – YJC)**

Dear Mr. Gorman:

On October 10, 2007, we received an application for Clean Water Act Section 401 Water Quality Standards Certification, submitted on your behalf by Moffatt & Nichol, for the proposed Huntington Beach Wetlands Restoration Project in the City of Huntington Beach. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description:

The project entails restoration of wetland and aquatic functions to 130 acres of the Huntington Beach Wetlands. The project involves work in Talbert Marsh, Brookhurst Marsh, and Magnolia Marsh (excluding Upper Marsh). As part of the project, the Talbert Ocean Channel will be excavated to -5 feet North American Vertical Datum (NAVD) and widened to the configuration of the original design (1990). A sediment trap will be excavated within the Channel to -10 feet NAVD, before the Channel enters the Talbert Marsh. Accumulated sediment will be regularly removed as part of maintenance by the County of Orange.

Within Talbert Marsh, a second, main sediment trap will be excavated at the entrance of the Talbert Ocean Channel. The main sediment trap will be excavated to -20 feet NAVD and this depth will also be maintained through regular excavation by the Huntington Beach Wetlands Conservancy. A shoal will also be excavated.

California Environmental Protection Agency



Within Brookhurst Marsh, a meandering main channel will be excavated through the Marsh. An inlet to the main channel will be constructed near the confluence of the Talbert Ocean and Huntington Beach Channels. The main channel through the Marsh will have an elevation of -1 foot NAVD and the adjacent banks will be lowered to between +3.6 and +0.8 feet NAVD in order to create mudflats. A portion of the levee along the Huntington Beach Channel will be lowered to elevations between +4.6 and +6.0 feet NAVD to create pickleweed habitat and allow for additional tidal influence. The levee portion between the new inlet and Brookhurst Street will be realigned with the Brookhurst Street abutment and repaired and armored with rip rap. An oil seep, located near Brookhurst Street and Talbert Ocean Channel, will be contained within an earthen levee.

Within the Magnolia Marsh, a 20-foot wide meandering main channel will be excavated to an elevation of 0-feet NAVD. The levee along the Huntington Beach Channel will be lowered to elevations between +2 and +4 feet NAVD to improve tidal influence and a 100-foot section will be excavated to 0-feet NAVD to connect the Huntington Beach Channel to the Marsh's new main channel. A new levee will be constructed along the existing west perimeter access road.

The project will involve dredging/excavation of a total of approximately 290,000 cubic yards of material. A maximum of 151,000 cubic yards of the excavated material is to be discharged in the nearshore region of Huntington State Beach (Pacific Ocean) and, if suitable, some of that quantity may be placed directly onto Huntington State Beach. In addition, approximately 18,000 cubic yards is to be re-used on-site (i.e. used as part of the construction of the levees) or disposed of on-site in an excavated pit within Talbert Marsh. A maximum of 121,000 cubic yards will be disposed of at an off-site upland landfill. The material that is proposed to be discharged into the Pacific Ocean and Huntington Beach Wetlands is dredged/excavated sandy material from Talbert Marsh and Ocean Channel.

The Huntington Beach Wetlands are located within the City of Huntington Beach, Orange County and are generally bounded by Pacific Coast Highway, the Santa Ana River, the Huntington Beach and Talbert Channels, and the AES power plant. The Wetlands are centered approximately 117.9797° W/ 33.6400° N within Section 24 of Township 6 South, Range 11 West on the USGS *Newport Beach, California* quadrangle.

Receiving water:	Huntington Beach Wetlands and the Pacific Ocean.
Fill area:	130 acres
Dredge/Fill volume:	290,000 cubic yards.
Federal permit:	SPL – 2007 – 367 – YJC

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices (BMPs) will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ (and subsequent water quality orders re-issuing this General Permit), is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of pollutants from the project site.

Discharges associated with the maintenance of the Talbert Ocean Channel were certified by the State Water Resources Control Board on November 19, 2003. Consequently, this Certification does not apply to those discharges. With respect to the Talbert Ocean Channel, this Certification only applies to the proposed Channel modifications summarized above.

Construction de-watering discharges may be regulated under Regional Board Order NO. R8-2003-0061, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2003-0061 at: www.waterboards.ca.gov/santaana/pdf/3-61.pdf.

The proposed project includes construction of a levee around an oil seep and potential disturbance of historic oil production facilities. You are currently investigating soil contamination at these locations. Your investigation may require oversight by staff of the Regional Board's Site Cleanup Program. Please contact John Broderick at (951) 782-4494, or jbroderick@waterboards.ca.gov, in order to initiate oversight.

You have applied for an Individual Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), the County of Orange adopted a Mitigated Negative Declaration on January 29, 2008. The Executive Officer has considered the Mitigated Negative Declaration in the issuance of this Certification.

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

1. Regional Board staff and other authorized representatives shall be allowed:
 - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and applicable waste discharge requirements;

- b. Access to copy any records that are kept under the requirements of this Certification or applicable waste discharge requirements;
 - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
 - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification or applicable waste discharge requirements
2. Materials shall not be placed in a manner where they could be discharged to surface waters except as authorized by this certification. In the event that trash or debris is discharged to surface waters, the discharger shall recover the material to the maximum extent practical.
3. Project activities must not depress the dissolved oxygen content of receiving non-ocean waters below 5 mg/L as a result of controllable water quality factors. When natural dissolved oxygen content is less than 5 mg/L, the discharger must not cause further depression.
4. Project activities must not raise the pH of receiving non-ocean waters above 8.6 or lower pH below 7.0 as the result of controllable water quality factors; ambient pH levels must not be changed by more than 0.2 units.
5. Project-related activities shall not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in receiving non-ocean waters to be increased by values greater than the following Basin Plan objectives at a distance of 100 feet from the activity:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase shall not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase shall not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase shall not exceed 10% of the measured natural turbidity.
6. An effective monitoring plan must be developed and implemented to document compliance with conditions 2, 3, 4, and 5 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be maintained on site for the duration of the proposed discharge and be available for inspection by Regional Board staff.
7. This Certification and any subsequent amendments shall be maintained on site as a denoted element of any project SWPPP or WQMP for the duration of the work and be available for inspection upon request.

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

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.



- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

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

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-

March 24, 2008

DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc: U. S. Army Corps of Engineers, Los Angeles Office – Jae Chung
State Water Resources Control Board, OCC – Erik Spiess
Department of Fish and Game – Erinn Wilson
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Nancy Dagle
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR – 8 – Tim
Vendlinski
Clean Water Now! – Roger Butow

APF:401/certifications/HB wetlands rest 302007-21