



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

Charlotte Miyamoto
Department of Beaches and Harbors, County of Los Angeles
13837 Fiji Way
Marina del Rey, CA 90292

WATER QUALITY CERTIFICATION FOR PROPOSED MARINA DEL REY TIDE GATE REHABILITATION PROJECT (Corps' Project No. SPL-2007-904-KW), MARINA DEL REY, LOS ANGELES COUNTY (File No. 07-091)

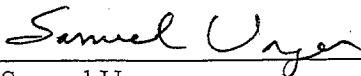
Dear Ms. Miyamoto:

Regional Board staff has reviewed your request on behalf of Department of Beaches and Harbors, County of Los Angeles for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on August 3, 2010.

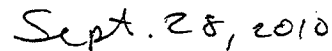
I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), 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, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.

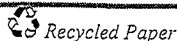


Samuel Unger
Executive Officer



Date

California Environmental Protection Agency



DISTRIBUTION LIST

David P. Howard, Assistant Deputy Director
County of Los Angeles, Dept. of Public Works
900 Fremont Avenue 5th floor
Alhambra, CA 91803

Bill Orme (via electronic copy)
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Kenneth Wong
U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Eric Rafinni (via electronic copy)
U.S. Environmental Protection Agency
600 Wilshire Boulevard, Suite 1460
Los Angeles, CA 90017

Ken Berg
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

ATTACHMENT A

**Project Information
File No. 07-091**

1. Applicant: Charlotte Miyamoto
Department of Beaches and Harbors, County of Los Angeles
13837 Fiji Way
Marina del Rey, CA 90292

Phone: (310) 305-9533 Fax: (310) 821-7856

2. Applicant's Agent: David P. Howard, Assistant Deputy Director
County of Los Angeles, Dept. of Public Works
900 Fremont Avenue 5th floor
Alhambra, CA 91803

Phone: (626) 300-2300 Fax: (626) 979-5320

3. Project Name: Marina del Rey Tide Gate Rehabilitation Project

4. Project Location: Marina del Rey area, Los Angeles County

Longitude Latitude

-118.454956	33.966389
-118.454938	33.966378
-118.454875	33.966412
-118.454895	33.966443
-118.454745	33.966120
-118.454715	33.966089
-118.454645	33.966127
-118.454668	33.966149

5. Type of Project: Tide gate automation and retrofit

1. Project Purpose: The proposed project will rehabilitate and upgrade an existing manually-operated tide gate with automated and electronically-controlled slide gates to enhance the reliability and functionality of the current tide gate while reducing operating costs.

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6. Project Description: The tide gate operation will be automated and controlled via electronic controls rather than manual controls to maintain a constant water surface in the Grand Canal and to allow for a constant tidal exchange with the marina.

The project is located in and adjacent to the Ballona Lagoon Grand Canal, which contains some of the last remaining estuarine habitat in Los Angeles County. The primary land uses in this area are medium to high density urban residential with some light commercial designations and open space. The Ballona Lagoon is a 16 acre, artificially-restricted tidal channel consisting of 14.5 acres of open water habitat and 1.5 acres of intertidal habitat. The lagoon is at the southern end of the drainage that includes both the Venice Canals and Ballona Lagoon and is connected to the Venice Canal to the north via the Grand Canal and to the Pacific Ocean to the south through tide gates that lead to the entrance channel of Marina del Rey. Implementation of the proposed project would not adversely impact vegetation or wildlife movements or the corridors in the project area. No native upland or wetland vegetation is proposed for removal and no traditional dredge or excavation activities are proposed.

To maintain the tide gate facility in operation, the construction will be conducted in phases with each phase incorporating dewatering to allow for the execution of the work. At least one discharge pipe will remain in operation pursuant to current standard operating procedures of the Los Angeles Department of Beaches and Harbors while the other discharge pipes are being cleaned and retrofitted with new gate assemblies. This will be done to avoid temporary impacts to this tidally-influenced environment and to ensure that constant tidal influence within the Grand Canal is maintained while the operational equipment, flap, and slide gates are retrofitted.

Dewatering activities will be conducted such that any fish contained within the coffer dam and conduits will be allowed to exit without harm. The dock and wildlife viewing area associated with the facility will remain operational during the project with minimal intermittent closures to ensure working conditions are safe and efficient.

The existing debris and fouling within the serviceable manual slide gate conduits will be vacuumed out of the facility and contained

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within a coffer dam. Los Angeles County Department of Public Works has limited the work area of the proposed debris cleaning, retrofit, and upgrade activities to less than 0.02 acre on each side of the slide gate facility and will not disrupt the tidally-influenced hydrological regime within the canal. The canal will maintain its tidally-influenced hydrologic regime during tide gate rehabilitation to prevent adverse impacts to fish or other biological resources and localized water-chemistry (including but not limited to: turbidity, salinity, pH, water temperature, and dissolved oxygen).

Adverse impacts to fish or other biological resources and localized water-chemistry will be avoided and minimized by retrofitting only one of the three slide gate conduits at a time. The proposed project site contains less than 0.04 acre of avian foraging habitat and will not directly impact California least tern nesting grounds.

Construction impacts may include temporary displacement of foraging birds in the immediate vicinity of the project site due to construction activities. These impacts are not considered significant because of the relatively small amount of functional foraging habitat (less than 0.04 acres, or less than 0.01% of the 16-acre tidal channel foraging area) affected by the project. The Annual Report for the Ballona Lagoon identifies a sufficient quantity of least tern foraging habitat is available in the local area, and nesting least terns have shown tolerance to substantial noise and other anthropogenic disturbances close to the nesting site. Therefore, the project is not anticipated to adversely affect sensitive or State- or Federally-listed species protected by the Federal or the California Endangered Species Acts.

The construction will include:

- Building temporary cofferdams by manual placement of sand bags and/or coffer walls (or similar structures) to divert water away from the tide gate inlet and outlet.
- Scaffolding for gates and concrete removal.
- Minor saw cutting and jack hammering or chipping to repair the existing damaged concrete walls at the inlet/outlet structure.
- Small directional boring machine for 2 inch-diameter electrical

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conduit across Via Marina Street.

- Using a crane or similar heavy equipment to lift and install the gates, liner pipes and other constructed objects from street level.
- The use of a vacuum truck or similar equipment to remove and haul away sediment debris and construction material from the discharge pipes.
- Repair of the discharge pipes by inserting a liner pipe and grouting the space between the new liner pipe and the existing discharge pipe.

The debris or silt to be hauled away at is estimated at 50 cubic yards. In order to prevent debris or sediment discharges into the Grand Canal from the retrofit activities, debris will be captured by the use of silt curtains and other applicable best management practices.

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|---|---|
| 7. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 03 (Permit No. SPL-2007-904-KW) |
| 8. Other Required Regulatory Approvals: | California Coastal Commission Coastal Development Permit |
| 9. California Environmental Quality Act Compliance: | A Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act and a Notice of Determination filled by the City of Los Angeles, Department of Public Works on July 20, 2010. |
| 10. Receiving Water: | Marina Del Rey (Hydrologic Unit No. 405.13) |
| 11. Designated Beneficial Uses: | NAV, REC-1, REC-2, COMM, MAR, WILD, RARE, SHELL. |
| 12. Impacted Waters of the United States: | Ocean/Estuary/Bay: 0.04 temporary and 0.00 permanent acres |

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13. Dredge Volume: None
14. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has identified the following indirectly related project carried out in the last 5 years:

The following has an overlapping study area in the same vicinity of Venice: URS 2005, Venice Pumping Plant Dual Force Main Project E, prepared for the City of Los Angeles.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Debris will be vacuumed out of the serviceable public works facility.
 - Debris will be removed from each discharge pipe separately, allowing the other two pipes will remain in operation.
 - Dewatering to create a temporary dry construction area shall pump water through a sediment settling device before returning water to the water body.
 - Any substance used to assemble or maintain diversion structures, or minimize seepage underneath diversion structures shall be non-toxic, non-hazardous and as close to a neutral pH as possible.
 - A floating barrier curtain will be used to isolate suspended sediment.
 - The curtain should be inspected daily for holes or other problems, and make any repairs promptly.
 - Sediment shall be allowed to settle for 6 to 12 hours prior to removal of sediment or curtain.
16. Proposed Compensatory: The Applicant has not proposed any compensatory mitigation due to the temporary nature of impacts associated with the project and

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Mitigation: the location of the project within an existing structure.

17. Required
Compensatory
Mitigation: Since the project impacts are temporary in nature, the Regional Board will not require any additional compensatory mitigation . See *Attachment B Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification

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STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to 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 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. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and polices set forth in the *Water Quality Control Plan, Los Angeles Region (1994)* as amended.
4. The Avoidance/Minimization activities proposed by the Applicant as described in **Attachment A, No. 15**, are incorporated as **additional conditions herein**.

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Conditions of Certification File No. 07-091

5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact the Land Disposal Unit, at the Regional Board for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State. If rain is predicted, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
14. The Applicant shall not conduct any maintenance activities within waters of the State during a rainfall event, or at any period when site conditions would lead to excessive erosion. If any maintenance activities are to be held within five (5) days of a predicted rainfall event, the Applicant shall stage materials necessary to prevent water degradation on site, and shall ensure that all stabilization procedures are completed prior to the rainfall event.
15. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
16. The Applicant shall restore the proposed **0.04 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
17. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until project completion has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;

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- (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
18. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
19. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)”

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Conditions of Certification File No. 07-091

20. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **07-091**. Submittals shall be sent to the attention of the 401 Certification Unit.
21. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
22. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment.
23. The project shall comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 2009-009-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
24. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
25. A copy of this Certification shall be kept at the project site during any period while project activities are being conducted, and shall be available upon request to any staff from this Regional Board.
26. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer 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 Executive Officer, 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.

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27. *Enforcement:*

- (a) 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.
- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) 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 SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

28. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.