



Los Angeles Regional Water Quality Control Board

Mr. Thomas DiGiuseppe
Sondermann Ring Partners
13910 Marquesas Way
Marina Del Rey, CA 90292

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7009 2820 0001 6537 7337

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED PORTSIDE VENTURA HARBOR PROJECT (Corps' Project No. 2015-205-AJS), PACIFIC OCEAN, CITY OF VENTURA, VENTURA COUNTY (File No. 15-036)

Dear Mr. DiGiuseppe:

Board staff has reviewed your request on behalf of Sondermann Ring Partners (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on August 17, 2015

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.

Please read this entire document carefully. 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
Samuel Unger, P.E.
Executive Officer

10-2-15
Date

## DISTRIBUTION LIST

Jack Malone  
Anchor QEA, LLC  
27201 Puerta Real Suite 350  
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Brian Trautwein (via electronic copy)  
Environmental Defense Center  
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Jessie Altstatt  
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Regulatory Branch, Ventura Field Office  
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Ventura, CA 93003

Ventura Coastkeeper  
Attn: Jason Weiner  
Associate Director and Staff Attorney  
3875-A Telegraph Rd #423  
Ventura, CA 93003

**ATTACHMENT A**

**Project Information  
File No. 15-036**

1. Applicant: Mr. Thomas DiGiuseppe  
Sondermann Ring Partners  
13910 Marquesas Way  
Marina Del Rey, CA 90292

Phone: (310) 827-6714

2. Applicant's Agent: Jack Malone  
Anchor QEA, LLC  
27201 Puerta Real Suite 350  
Mission Viejo, CA 92691

Phone: (949) 347-2780

3. Project Name: Portside Ventura Harbor

4. Project Location: Ventura, Ventura County

<u>Latitude</u>	<u>Longitude</u>
34.2486897	119.263834
34.248607	119.264351
34.248426	119.264359
34.248352	119.264583
34.246547	119.264433
34.246590	119.264287
34.245614	119.263967
34.245628	119.263809
34.245382	119.263692
34.245406	119.263615
34.245280	119.263533
34.245500	119.262493
34.246608	119.262434

5. Type of Project: Public Marina Construction

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6. Project Purpose: The proposed project (Project) will provide coastal access and recreational boating opportunities for the public. The proposed Project will construct a marina with slips for use by the public, a public water taxi stop and a dock for non-motorized personal watercraft.
7. Project Description: The Project site is located within Ventura Harbor, which currently has approximately 1,350 recreational and commercial boat slips. The Project will be located at the terminus of Schooner Drive, west of the intersection of Anchors Way Drive and Schooner Drive, in Ventura Harbor. The site is located in the Northeast Harbor Area, immediately seaward of a peninsula that is flanked by a public boat launch and parking area to the north, and boat slips and parking to the south and west. This peninsula is composed of Port District parcels 15, 16, and 18 (Assessor's Parcel Nos. 080-0-240-125 and 080-0-240-245) which encompass approximately 27 acres.
- The new public marina will include 104 slips. The marina structure will be 44,400 square feet, consisting of floating docks, with 99 (driven) 18-inch-diameter concrete guide piles, and four gangways. The marina activities will use land and water emplaced equipment. The water emplaced construction equipment will include work barges and small boats or skiffs. Staging and construction access will be accommodated at the upland portion of the property and via the adjacent launch ramp.
- The planned amenities available for berthing space will include water, electrical power supply, and communications. An in-slip sewage pump-out service (operated by dock personnel) will be available for each berthing space.
- A water taxi stop will be designated to promote harbor connectivity, and a 90-foot-long dock will be constructed for use exclusively by non-motorized personal watercraft such as kayaks and paddleboards.
- On the upland portion of the property outside of Waters of the State, a mixed-use development, including 270 residential apartments, 30 live-work units, approximately 21,300 square feet of ground floor commercial area, a public promenade, private and public coastal access parking, and an approximately two-acre waterfront view park will be constructed.

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The proposed mixed-use development has been designed to avoid adverse effects to the receiving water, Ventura Harbor. The mixed-use development has received approval from the California Coastal Commission and the City of San Buenaventura. The project is designed to manage stormwater in compliance with applicable regulations and must comply with erosion control and stormwater pollution prevention plans during construction.

Project construction and grading activities will involve on-site operation of heavy equipment and cutting of shallow excavations. While the project site is relatively flat and the potential for soil erosion is considered to be low, peak storm water runoff may result in short-term sheet erosion within areas of exposed or stockpiled soils. On-site compaction of soils by heavy equipment may reduce infiltration capacity of soils and increase runoff and erosion potential.

The marina will be constructed consistent with the California Department of Boating and Waterways' published guidelines and other applicable codes. The dock float structures will be manufactured off-site and then trucked to the site. The staging area will be located at the terminus of Navigator Drive, where the dock float structures will be loaded from the truck and into the water via small crane or fork lift.

The dock sections will be moved into place by skiffs, and the pieces will be assembled. Precast concrete guide piles will then be installed from a water-emplaced derrick barge equipped with a pile driver. The gangway platforms and gangways will be installed, followed by the installation of utilities and dock boxes, which will take place from the docks with the support of skiffs. Construction best management practices will be implemented to minimize project-related sedimentation and surface debris impacts during the Project. The channel and harbor outside of the project area will remain open throughout the course of construction.

The subject marina will include 104 slips ranging in size from 30 to 80 feet, with approximately 40% of slips dedicated to vessels 35 feet and smaller. Six transient berthing spaces will be dedicated to exclusive use by short-term renters, and one transient berthing space will be dedicated, at no cost, for exclusive use by non-profit boating

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groups.

An eelgrass and *Caulerpa taxifolia* (Caulerpa) survey was performed on March 15, 2015. Neither eelgrass nor Caulerpa were detected during the survey. A pre-construction eelgrass and Caulerpa survey will be conducted prior to initiation of construction in compliance with survey requirements from National Marine Fisheries Service and the California Department of Fish and Wildlife.

Project-related construction impacts to essential fish habitat (EFH) assessment will be temporary, localized, minor increases in turbidity associated with construction. The proposed project will result in long-term shading of unvegetated substrate within the harbor as a result of installation of the marina infrastructure. This long-term impact will be minor and localized because the shading caused by the docks will be limited. The docks are relatively narrow and will not result in complete shading of the water column and substrate beneath them.

If turbid conditions are generated during construction, silt curtains will be used to control the turbidity.

Construction activities are expected to result in a heightened sound exposure level that may cause marine mammals in the area to leave the immediate vicinity of the project site. Accordingly, it is possible that marine mammals may temporarily modify their behavior as a result of noise produced by in-water construction activities. Noise levels are expected to be below the level that will be identified as causing harassment during construction operations.

This Authorized portion of the project is expected to take approximately 18 months and will be constructed in coordination with upland project components. The entire property construction is expected to be implemented beginning in August 2015 and will require a duration of 30 to 36 months to complete. Construction of the marina and gangways will take place in one phase concurrently with the related landside development, including the streets, public promenade, and public park. The timing will be such so that the marina is completed concurrently with the landside improvements (and landside utilities), because the landside improvements (such as streets) and utilities are necessary to be in place prior to the marina

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being occupied. Construction of the marina will commence in approximately month 18 to 20 of the overall construction schedule.

8. Federal Agency/Permit: U.S. Army Corps of Engineers  
Individual Permit (Permit No. SPL-2015-205-AJS)
9. Other Required Regulatory Approvals: California Coastal Commission  
Coastal Development Permit
10. California Environmental Quality Act Compliance: On January 22, 2007 and July 15, 2013, a Mitigated Negative Declaration and Addendum, respectively, was Certified by the Ventura City Council for this project.
11. Receiving Water: Pacific Ocean (Hydrologic Unit Code: 180701010904)
12. Designated Beneficial Uses: IND, NAV, REC-1, REC-2, COMM, MAR, WILD, SHELL
13. Impacted Waters of the United States: Ocean/Estuary/Bay: 1.02 permanent acres
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: None
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- The Applicant will conduct a pre-construction *Caulerpa taxifolia* (Caulerpa) and eelgrass survey within 30 to 90 days prior to in-water construction and conduct a post-construction eelgrass survey within 30 days after project construction is complete if eelgrass is identified during the pre-construction survey. Surveys

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will be consistent with National Marine Fisheries Service and California Department of Fish and Wildlife protocols.

- The Applicant will conduct a visual scan before commencing any pile-driving operations to ensure that no marine mammals are within the immediate vicinity of pile driving, and will employ “soft start” techniques for impact pile driving. This technique entails a slow increase in pile driving to allow time for any undetected marine mammals in the area to depart voluntarily.
- No construction materials, debris, or waste will be placed or stored where it may be subject to wave or tidal action, erosion, or dispersion.
- Any and all debris resulting from marina construction activities will be removed from the water as soon as possible and disposed of in an appropriate receptacle or location at the end of each construction day.
- Floating booms will be used to contain debris discharged into coastal waters, and any debris discharged shall be removed as soon as possible and disposed of in an appropriate receptacle or location at the end of each construction day.
- Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- Reasonable and prudent measures will be taken to prevent any discharge of fuel or oily waste from heavy machinery or construction equipment into coastal waters. The applicant and applicant’s contractors will have adequate equipment available to contain any such spills immediately.
- All debris and trash will be disposed of in the proper trash and recycling receptacles at the end of each construction day.
- Any wood treatment used will conform to the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) will be used where it could come into direct

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contact with the water. All treated timber will be free of chromium and arsenic.

17. Proposed  
Compensatory  
Mitigation:

No compensatory mitigation is proposed.

18. Required  
Compensatory  
Mitigation:

The Applicant will conduct a pre-construction *Caulerpa taxifolia* and eelgrass survey within 30 to 90 days prior to in-water construction. See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

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### Conditions of Certification File No. 15-036

#### 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 Coastal Commission (CCC) Coastal Development Permit. **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 CCC Coastal Development Permit, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies 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. 16, are incorporated as additional conditions herein.
5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.

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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 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.
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.
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.

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14. If rain is predicted after operations have begun, 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.
15. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge (ROWD)** 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. All project and construction activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances and may require additional Certification action.
17. Ocean water quality monitoring shall be performed by the Applicant. A Water Quality Monitoring Plan shall be submitted prior to any project construction activities. Baseline sampling may be conducted at one location within the project boundary for each phase. All other sampling shall take place at a minimum of two locations. Should silt curtains be deployed, sampling shall take place at a minimum of two locations on both sides of silt curtains (4 locations total). Monitoring for the following shall be included:
  - pH
  - temperature
  - dissolved oxygen
  - turbidity
  - total suspended solids (TSS)
  - visual assessment for floating particulates (oil and grease shall not be visible)

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be measured at least once prior to project commencement (baseline sampling) and then monitored on a daily basis during the first week of construction, and then on a weekly basis, thereafter, until the work is complete. Monitoring shall ensure compliance with all water quality objectives specified in the 2012 Ocean Plan.

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**Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month.** A map or drawing indicating the locations of sampling points shall be included with each submittal. Construction activities shall not result in the degradation of beneficial uses or non-compliance of any water quality objectives. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

18. The Applicant shall restore **all areas** 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.
19. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until project completion has been achieved and documented. The Annual Reports shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts. The Annual At a minimum the Annual Reports shall include the following documentation:
  - (a) Color photo documentation of the pre- and post-project site conditions;
  - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project areas;
  - (c) The overall status of project including whether or not work has begun on the Project and a detailed schedule;
  - (d) Copies of all permits revised as required in Additional Condition 1;
  - (e) Water quality monitoring results for each reach (as required) compiled in a spreadsheet 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.
20. 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.

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- (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.
21. 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)”

22. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **15-036** Submittals shall be sent to the attention of the 401 Certification Unit.
23. 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.
24. The project shall comply with the local regulations associated with the Regional Board’s Municipal Stormwater Permit issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. R4-2010-0108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment.
25. 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. 2012-0011-DWQ. All stormwater treatment systems shall

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be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

26. 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.
27. 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.
28. *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.

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29. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application at least 90 days prior to termination of this Certification if renewal is requested.