

Los Angeles Regional Water Quality Control Board

Mr. Tim O'Brien
Mariner's Bay LLC C/O Legacy Partners
5141 California Avenue
Irvine, CA 92617

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7016 0750 0000 8035 0567

TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION FOR PROPOSED MARINER'S BAY MARINA REPLACEMENT PROJECT (Corps' Project No. 2015-00639-JMV), PACIFIC OCEAN, CITY OF MARINA DEL REY, LOS ANGELES COUNTY (File No. 15-113)

Dear Mr. O'Brien:

Board staff has reviewed your request on behalf of Mariner's Bay LLC C/O Legacy Partners (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on October 25, 2016.

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, P.E.
Executive Officer



Date

DISTRIBUTION LIST

<p>Gegam Burnazyan Bellingham Marine Ind.,Inc 8810 Sparling Lane Dixon, CA 95620</p>	
<p>Bill Orme (via electronic copy) State Water Resources Control Board Division of Water Quality P.O. Box 944213 Sacramento, CA 94244-2130</p>	
<p>Zach Rehm California Coastal Commission 200 Oceangate, 10th Floor Long Beach, CA 90802</p>	
<p>Jessica Vargas U.S. Army Corps of Engineers Regulatory Branch, Los Angeles District 915 Wilshire Blvd., Suite 1101 Los Angeles, CA 90017</p>	
<p>Melissa Scianni Elizabeth Goldmann (via electronic copy) U.S. Environmental Protection Agency, Region 9 WRT-2-4 75 Hawthorne Street San Francisco, CA 94105</p>	
<p>G. Mendel Stewart Johnathan Snyder U.S. Fish and Wildlife Service 2177 Salk Avenue Carlsbad CA 92008</p>	

ATTACHMENT A

**Project Information
File No. 15-113**

1. Applicant: Mr. Tim O'Brien
Mariner's Bay LLC C/O Legacy Partners
5141 California Avenue
Irvine, CA 92617

Phone: (949) 930-7700
2. Applicant's Agent: Gegam Burnazyan
Bellingham Marine Ind.,Inc
8810 Sparling Lane
Dixon, CA 95620

Phone: (818) 522-3181 Fax: (707) 678-1760
3. Project Name: Mariner's Bay Marina Replacement
4. Project Location: Marina Del Rey, Los Angeles County
- | <u>Latitude</u> | <u>Longitude</u> |
|-----------------|------------------|
| 33°58'57.77"N | 118°27'22.12"W |
| 33°58'57.82"N | 118°27'7.20"W |
| 33°58'55.72"N | 118°27'7.27"W |
| 33°58'55.75"N | 118°27'18.78"W |
| 33°58'52.40"N | 118°27'20.26"W |
| 33°58'52.25"N | 118°27'8.26"W |
| 33°58'50.27"N | 118°27'8.28"W |
| 33°58'50.20"N | 118°27'21.61"W |
5. Type of Project: Marina replacement
6. Project Purpose: The original marina was constructed in late 1960s and has reached end of useful life. The applicant proposed to replace the existing 91,598 square foot marina with a new 87,030 square foot marina.
7. Project Description: The proposed project (Project) is located in Marina del Rey Harbor

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in Basins D and E near 14000 Palawan Way. The new marina will be comprised of concrete floating docks, pilings, gangways and small piers for access. Utilities will include electrical power, domestic water, sewer pump-outs, fire protection and communications (internet, telephone and television). The new marina is anticipated to have a 50-year life span.

All existing dock floats, gangways, and piling within the parcel's water area will be removed and new dock floats, ramps, and pilings will be constructed within the same parcel footprint. The *existing* marina is configured in 17 docks with 15 gangways and includes 371 slips. The *proposed* dock system will be configured in 15 docks with 9 gangways and includes 301 slips. Two of the nine gangways will be ADA compliant gangways which will be fixed on pile supported gangway access piers to comply with access and structural requirements.

The docks will be constructed of durable state-of-the-art floating concrete dock system equipped with internal utility chase (to keep pipes and wires contained). The new construction will provide for a clean, modern appearance that requires minimal maintenance. The docks will not require to be painted. The dock system pontoons will have a six sided concrete shell with expanded polystyrene foam core fully encapsulated in the concrete shell.

The dock pontoons will be rafted together with wooden walers (structural lumber used in marine environments that is 3.5 inches or larger in width). Walers will be constructed with either Yellow Pine or Douglas Fir.

All wood treatment will be done at a certified treatment facility and be treated in compliance with Western Wood Preservers Institute recommendations and best management practices. The wood walers used will be constructed with either Southern Yellow Pine or Douglas Fir Larch. Wood treatment will use approved preservatives for salt water splash zone areas. Southern Yellow Pine will be treated with Copper Azol Type C (CA-C) with 0.31 pounds per cubic foot of retention. Douglas Fir Larch will be treated with Ammoniacal Copper Zinc Arsenate (ACZA) with 0.60 pounds per cubic foot of retention.

The existing marina does not have any sewer pumpout capabilities.

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Two new pumpout systems will be built..

The *existing* dock overwater coverage is approximately 91,598 square feet including 162, 16-inch round pilings. The *proposed* dock overwater coverage will be reduced to 87,030 square feet with 66, 18-inch square pilings plus 72, 16-inch square pilings for a total of 138 pilings.

There will be a net loss of 70 slips with the reduction of two docks. The loss of slips is due to the need to provide ADA (Americans with Disabilities Act) accessibility, while meeting slip and fairway width compliance per the California Department of Boating and Waterways (DBAW) guidelines.

The existing slip distribution within the subject parcel includes 50% of slips 30 feet and under, 76% of slips 35 feet and under, and 24% of slips larger than 35 feet. The proposed slips mix will have more slip length distribution and will meet current Local Coastal Plan requirements.

The following is the general procedure for demolition of existing dock system and installation of new dock system:

- The existing dock system will be disassembled by hand via work boat.
- The disassembled pieces will be rafted together with rope and floated to a location where the docks can be moved out of the water by either a land based crane, forklift, or waterside barge mounted crane. The removed materials will be taken to a legal point of disposal. Copper piping, concrete pile, recyclable plastics, and metals will be recycled where suitable.
- The new dock pontoon system and concrete piles will be manufactured off-site and shipped to the site by truck.
- The new docks will be placed in the water from truck by land-based crane or forklift.
- The new piles will be transported from truck to floating work barge by either barge mounted crane or land-based crane.

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- The dock modules will be assembled and connected together by hand.
- Piles will be driven through predetermined openings in the dock system. The piles will be driven into place with a barge-mounted crane.
- After the docks are assembled and piles driven, the final assembly will include the installation of fendering, cover boards, pile guides, wet and dry utilities, and dock components including fire standpipes, power centers, and dock boxes.

Preconstruction eelgrass and Caulerpa surveys have completed in the project area (*Mariner's Bay Marina Pre-permit Eelgrass (Zostera marina) Survey Marina Del Rey, CA Final Report* dated June 10 2015).

Marine mammal presence at the site will likely be a function of opportunity more than permanence, given the lack of available resources and existing water clarity within the project area. Closer to the entrance of MDR the haul out areas and open water habitat are the preferred habitat for both seals and sea lions, but with the implementation of best management practices to control turbidity, allow for animal relocation prior to the beginning of pile driving, and minimize noise impacts during the nesting season of sensitive bird species, impacts from project construction will be temporary and minimized.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
Letter of Permission (File No. 2015-00639-JMV)
9. Other Required Regulatory Approvals: California Coastal Commission
Coastal Department Permit No. 5-15-1426
10. California Environmental Quality Act Compliance: The Los Angeles Water Board has determined that the Project is exempt from review under CEQA pursuant to California Code of Regulations, title 14, section 15061. Specifically, the issuance of this Order and the activities described herein meet the exemption criteria under California Code of Regulations, title 14, section(s) 15302 Replacement or Reconstruction. Additionally, the Los

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Angeles Water Board concludes that no exceptions to the CEQA exemption apply to the activities approved by this Order.

11. Receiving Water: Marina del Rey, Harbor (Hydrologic Unit Code: 180701040403)
12. Designated Beneficial Uses: NAV, COMM, MAR, WILD, SHELL, REC -1, REC-2
13. Impacted Waters of the United States: Ocean/Estuary/Bay: 10.1 temporary acres
14. Related Projects Implemented/to be Implemented by the Applicant: Landside improvements to buildings and site within same parcel and development are planned to occur in next five years. The Applicant plans to remodel the buildings and provide improvements for access throughout the site.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Silt curtains will be utilized to control turbidity during removal and placement of piles.
 - Floating booms shall be maintained around the project site in order to capture floating debris during all demolition and construction phases.
 - Divers will recover non-buoyant debris discharged into coastal waters as quickly as possible.
 - Floating debris will be removed from the water and disposed of properly.
 - Disturbance to the ocean bottom and intertidal areas will be minimized.
 - Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.

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- Operators of construction equipment and all other project workers shall not harass any marine mammals, waterfowl, or fish in project area.
- Netting, sandbags, tarps and barriers shall be installed between the water and work and equipment storage areas to prevent any material from entering waters.
- The Applicant will ensure that no debris, soil, silt, sand, sawdust, rubbish, wet cement, oil, or petroleum products will be allowed to enter into or placed where it may be washed by rainfall or runoff into waters for the entire length of the project.
- All floatable debris and trash generated by construction activities within the project area shall be disposed of as soon as possible or at the end of each day.
- The site will be cleaned at end of every construction day.
- Turning areas and pavement entrances will be cleaned as needed.

16. Proposed
Compensatory
Mitigation:

None

17. Required
Compensatory
Mitigation:

The applicant will comply with the NOAA Fisheries California Eelgrass Mitigation Policy, October 2014, and the Caulerpa Control Protocol. No additional compensatory mitigation will be required due to the reduction in overall over-water area and the quantity and area of pilings. In addition, the development may provide for increased water quality.

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. 15-113

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's 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. 15, 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. 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 on both sides of silt curtains at a minimum of two locations (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.

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.

In addition, in order to demonstrate water quality improvement associated with the installation of the dock pumpout system, water quality monitoring shall be conducted for bacterial indicators before and after the project. Bacterial indicators shall be measured on an approximately **weekly basis** such that at least **12** samples are collected prior to relocation of boats currently occupying slips and construction activities and at least **12** after the project is complete and slips are reoccupied. The bacterial indicators shall include fecal coliform (or *E. coli*), total coliform and enterococcus.

16. The Applicant shall restore **all 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.

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17. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification or until project success and completion has been achieved and documented. The Annual Reports shall describe in detail all of the project and construction activities performed during the previous year. The Annual Reports shall describe the status of other agreements or requirements (eelgrass and Caulerpa surveys) or any delays in the mitigation process. 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.
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.

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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)”

20. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **15-113**. 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. R4-2012-0175. 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 be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
23. 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.
24. 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

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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.

25. *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.

26. 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.