



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

Antonio Gioiello
Port of Los Angeles
425 S. Palos Verdes Street
San Pedro, CA 90731

WATER QUALITY CERTIFICATION FOR PROPOSED BERTHS 97-109 CHINA SHIPPING CONTAINER TERMINAL PROJECT – PHASE II PROJECT (Corps' Project No. 2003-01029-SDM), LOS ANGELES INNER HARBOR, CITY OF SAN PEDRO, LOS ANGELES COUNTY (File No. 10-038)

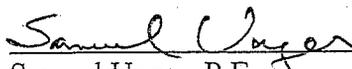
Dear Mr. Gioiello:

Board staff has reviewed your request on behalf of Port of Los Angeles (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on February 8, 2011.

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.

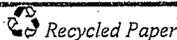
Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.



Samuel Unger, P.E.
Executive Officer

June 14, 2011
Date

California Environmental Protection Agency



DISTRIBUTION LIST

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ATTACHMENT A

**Project Information
File No. 10-038**

1. Applicant: Antonio Gioiello
Port of Los Angeles
425 S. Palos Verdes Street
San Pedro, CA 90731

Phone: (310) 732-3877 Fax: (310) 519-0178

2. Applicant's Agent: Jin Kim
Port of Los Angeles
425 S. Palos Verdes Street
San Pedro, CA 90731

Phone: (310) 732-3080 Fax: (310) 519-0178

3. Project Name: Berths 97-109 China Shipping Container Terminal Project – Phase II

4. Project Location: San Pedro (Port of Los Angeles), Los Angeles County

Berth 102 Wharf

<u>Latitude</u>	<u>Longitude</u>
33.7567	118.2773
33.7561	118.2763
33.7550	118.2755
33.7539	118.2754
33.7536	118.2761
33.7542	118.2771
33.7553	118.2779
33.7564	118.2780

Access Bridge No. 2

<u>Latitude</u>	<u>Longitude</u>
33.7562	118.2837
33.7559	118.2834
33.7554	118.2834
33.7550	118.2835

ATTACHMENT A

Project Information
File No. 10-038

33.7550	118.2838
33.7554	118.2841
33.7558	118.2841
33.7562	118.2840

5. Type of Project: New wharf construction
6. Project Purpose: The Berths 97-109 China Shipping Container Terminal Project's purpose is the development and improvement of a container terminal in the West Basin area of the Port of Los Angeles. This certification is for Phase II of the project (Project).
7. Project Description: Phase II of the "The Berths 97-109 China Shipping Container Terminal Project" is one part of three planned phases. Phase I of the Berths 97-109 China Shipping Container Terminal Project included improvements to the wharf at Berth 100 and was completed in 2003. This phase includes a new wharf and access bridge. Phase III of the project will include relocation of the Catalina Express Terminal from Berth 96 to Berth 95, including installation of pile-supported docks.
- The Project includes construction of 925 linear feet of new concrete wharf at Berth 102 to extend the existing wharf at Berth 100. In addition, five new A-frame cranes will be installed on the new concrete wharf.
- The Project also includes access Bridge No. 2 at Southwest Slip which connects the container terminal at Berths 121-131 to the container terminal at Berths 97-109.
- For the new wharf at Berth 102, the project includes approximately 560, driven, concrete piles driven below water. There is no projected cause of turbidity, and no experience where driving concrete pile causing may cause turbidity.
- The total project area is approximately 10 acres and the water area impacted for this Project (Phase II) is less than 3 acres. The total area of the proposed wharf and bridge over the water is 2.39 acres. The total length of the proposed wharf and bridge over the water is

ATTACHMENT A

Project Information
File No. 10-038

1,280 feet.

8. Federal Agency/Permit:

U.S. Army Corps of Engineers
Permit No. SPL-2003-01029-SDM

9. Other Required
Regulatory Approvals:

Coastal Development Permit 09-02 was issued on May 4, 2009.

10. California
Environmental Quality
Act Compliance:

The Port of Los Angeles, Board of Harbor Commissioners, certified the project's Final Environmental Impact Report (SCH No. 2003061153) on December 11, 2008.

11. Receiving Water:

Los Angeles Inner Harbor (Hydrologic Unit No. 405.12)

12. Designated Beneficial
Uses:

IND, NAV, POW, REC-1, REC-2, COMM, MAR, RARE, SHELL

13. Impacted Waters of the
United States:

Ocean/Estuary/Bay: 2.4 permanent acres

14. Dredge Volume:

None

15. Related Projects
Implemented/to be
Implemented by the
Applicant:

Projects anticipated for implementation in next 5 years:

Berths 97-109 China Shipping Container Terminal Project- Phase III: Phase III will include construction of an approximately 375-foot-long southern-extension to the existing Berth 100 concrete wharf, including the placement of rock (116,000 cubic yards) and clean fill (24,000 cubic yards) into approximately 2.4 acres of water of the U.S., the installation of approximately 215 concrete piles, and the construction of wharf deck. Separate permits or approvals will be required for Phase III.

ATTACHMENT A

Project Information File No. 10-038

16. Avoidance/ Minimization Activities:

The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

- A stormwater treatment unit, catch basin storm water filters, and an infiltration trench will be installed.
- Earth, construction materials, sediments, trash, construction-related wastes, other potential pollutants, or stockpiles of these materials shall not be moved by wind, storm, or wash water from the site into swales, area drains, natural drainage, storm drains, or streets.
- Hazardous materials will be handled in conformance with OSHA as well as fire, applicable federal, state, and local regulations.
- Concrete wastes will be retained on-site until they can be appropriately disposed or recycled.
- Accumulated concrete wastes on site shall be allowed to set up, be broken apart, and disposed of at the Applicant's material crushing site.
- Trash and construction-related solid wastes will be disposed of in covered receptacles.
- Rainwater will be not be allowed to percolate through trash.
- Sediments and other materials from the site will be prevented from tracking by vehicle traffic.
- Construction entrance roadways will be stabilized to inhibit sediments from being deposited into the public ways.
- Non-stormwater runoff from equipment and vehicle washing and any other activity shall be contained at the Project site.
- Any on-site washout areas will be located in designated areas away from drains, ditches, and streets.

17. Proposed Compensatory

The Applicant has not proposed any compensatory mitigation for this project.

ATTACHMENT A

Project Information

File No. 10-038

Mitigation:

Applicant will apply mitigation credits available in the Bolsa Chica or Outer Harbor mitigation banks to compensate for loss of fish and wildlife habitat due to the construction of fill during Phase I and Phase III of this project, this Project, Phase II, does not include fill.

18. Required
Compensatory
Mitigation:

Since compensatory mitigation is required for the Project as a whole (including Phases I, II and III) the Regional Board will not require any additional compensatory mitigation for this phase.

See *Attachment B, Conditions of Certifications, Additional Conditions* for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification

File No. 10-038

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 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.

ATTACHMENT B

Conditions of Certification File No. 10-038

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.
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. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the

ATTACHMENT B

Conditions of Certification File No. 10-038

target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.

14. 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.
15. All project/construction/maintenance 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, are subject to restoration and revegetation requirements, and may require additional Certification action.
16. The Applicant shall restore any 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. 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 Reports** (Annual Reports) by **January 1st** of each year for a minimum period of **five (5) years** following this issuance of 401 Certification. The Annual Reports shall describe in detail all of the project and construction activities performed during the previous year and all restoration and mitigation efforts. At a minimum the Annual Reports shall include the following documentation
 - (a) The overall status of project including a detailed schedule of work including planning for additional phases;
 - (b) Copies of all permits revised as required in Additional Condition 1;
 - (c) Any water quality monitoring results compiled in an easy to interpret format;
 - (d) A certified Statement of "no net loss" of wetlands associated with this project;
 - (e) Discussion of any monitoring activities; and
 - (f) A certified Statement from the Applicant 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:

ATTACHMENT B

Conditions of Certification
File No. 10-038

- (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)"

- 20. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **10-038**. 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. The project shall also 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.

ATTACHMENT B

Conditions of Certification

File No. 10-038

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. *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.
25. 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.