



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Agency Secretary

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Arnold Schwarzenegger
Governor

Mr. Remco Buis
Carnival Corporation
231 Windsor Way
Long Beach, CA 90802

WATER QUALITY CERTIFICATION FOR PROPOSED LONG BEACH CRUISE TERMINAL NEW DOLPHINS PROJECT (Corps' Project No. 2010-00758-PHT), PACIFIC OCEAN, CITY OF LONG BEACH, LOS ANGELES COUNTY (File No. 10-117)

Dear Mr. Buis:

Board staff has reviewed your request on behalf of Carnival Corporation (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 8, 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 Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.



Samuel Unger
Executive Officer

10-28-10
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

Project Information

File No. 10-117

1. Applicant: Carnival Corporation
231 Windsor Way
Long Beach, CA 90802

Phone: (562) 562-901-3232 ext : 11 Fax: (562) 901-3246

2. Applicant's Agent: Tonia McMahon
Moffatt & Nichol
3780 Kilroy Airport Way, Suite 600
Long Beach, CA 90802

Phone: (562) 426-9551 Fax: (562) 424-7489

3. Project Name: Long Beach Cruise Terminal New Dolphins

4. Project Location: City of Long Beach, Los Angeles County

<u>Latitude</u>	<u>Longitude</u>
33.752955	118.187082
33.752736	118.187283
33.749833	118.187259
33.749630	118.187041

5. Type of Project: Construction of two new dolphins for adequate cruise ship mooring

6. Project Purpose: The purpose of the proposed project is to construct two (2) new dolphins in order to provide an adequate mooring arrangement. The new dolphin structures will ensure protection of the wharf, cruise vessels, and fendering system from future possible damage caused by a combination of wind and ocean swells.

7. Project Description: The project will consist of constructing two (2) new dolphins at different locations by installing nine 36-inch diameter steel piles, at each location. These will be in a square configuration. The approximate pile height is 100 feet.

In addition, the project will include the construction of a deck (approximately 18-feet by 18-feet) on top of piles and two mooring bollards on the top of the deck. The total area for both of the decks will be within 0.01 acres. Finally, a catwalk will be constructed (approximately 4-feet wide and 45-feet long) from existing mooring dolphins to the new mooring dolphin deck, at each location.

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The 18-inch diameter steel piles will be driven using a vibratory hammer, in order to avoid any underwater turbidity impacts. Should the penetration of the ocean bed material prove to be impossible with this method, an internal drilling approach will be implemented. The impact hammer method will be considered only as a last resort.

8. Federal Agency/Permit: U.S. Army Corps of Engineers
Section 10 (33 U.S.C. 403)
Permit No. 2010-00758-PHT
9. Other Required Regulatory Approvals: California Coastal Commission
Coastal Development Permit
10. California Environmental Quality Act Compliance: The proposed project is Categorical Exempt from CEQA pursuant to the CEQA Guidelines, Section 15303, New Construction or Conversion of Small Structures
11. Receiving Water: Long Beach, Pacific Ocean (Hydrologic Unit No. 406.40)
12. Designated Beneficial Uses: NAV, REC-1, REC-2, COMM, MAR, WILD, BHIOL, RARE, SPWN, SHELL
13. Impacted Waters of the United States: Ocean/Bay: 0.015 permanent acres (Two 18 x 18 foot docks)
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Implement Best Management Practices to contain and minimize the spread of any construction-related turbidity

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plume resulting from the project, including, but not limited to sand bagging, runoff diversions, and silt curtains where applicable.

- Prohibit the discard of construction and trash debris into the intertidal zone or the near shore waters.
- Maintain all construction-related equipment and fuel pier operation equipment in good working order to minimize the potential for hazardous waste spills. Maintain current hazardous material spill prevention and cleanup plans on site.
- Pre-and-post construction surveys for eelgrass and invasive *caulerpa taxifolia* (“*Caulerpa*”) will take place in accordance with the *Caulerpa* Control Protocol, as well as construction-period water quality monitoring to ensure that water quality is being maintained during the construction period.
- Installation of silt screens will take place in order to confine the work area and minimize turbidity.

17. Proposed
Compensatory
Mitigation:

The Applicant has not proposed any additional compensatory mitigation.

18. Required
Compensatory
Mitigation:

The Regional Board will require the Applicant to conduct eelgrass surveys and compensatory mitigation in compliance with the National Marine Fisheries Service’s Southern California Eelgrass Mitigation Policy.

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 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 shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the 2005 Ocean Plan. The 2005 Ocean Plan sets forth limits or levels of water quality characteristics

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for ocean waters to ensure the reasonable protection of beneficial uses and the prevention of nuisance. 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.

6. 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. 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 2005 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.

7. 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.
8. 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.

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9. 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.
10. 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.
11. 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.
12. 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.
13. All project/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.
14. 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. Restoration shall include ensuring temporarily impacted areas are returned to pre-project existing conditions, and may include removal of any invasive/noxious species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
15. Surveys shall be performed for *Caulerpa* and eelgrass within the project area. The Applicant shall comply with the National Marine Fisheries Service's Southern California Eelgrass Mitigation Policy and the *Caulerpa* Control Protocol.
16. The Applicant shall submit to this Regional Board **Annual Mitigation 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 mitigation success 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; including percent survival by plant species and percent cover. The Annual Reports shall

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describe the status of other agreements (e.g., mitigation banking). At a minimum the Annual Reports shall include 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;
- (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.

17. 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.

18. 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

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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)"

19. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number 10-117. Submittals shall be sent to the attention of the 401 Certification Unit.
20. 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.
21. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to the City of Long Beach and co-permittees under NPDES No. CAS004003 and Waste Discharge Requirements Order No. 99-060. 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. 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.
22. 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.
23. 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

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authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

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.