



**DEPARTMENT OF THE ARMY**  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
915 WILSHIRE BOULEVARD, SUITE 930  
LOS ANGELES, CALIFORNIA 90017

December 21, 2020

## **DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT 54**

**Permittee:** Chris Miller, City of Newport Beach

**Project Name:** Newport Bay Maintenance Dredging Program (Regional General Permit 54)

**Permit Number:** SPL-2013-00020-GS

**Issuing Office:** Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the Permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Location:** Regional General Permit (RGP) 54 covers portions of Newport Bay, within the boundaries shown on the enclosed Figure 1 - Vicinity Map and Figure 2 - Proposed RGP 54 Boundaries Map (except for the exclusion areas, in the city of Newport Beach, Orange County, California).

**Project Description:** RGP 54 authorizes: small-scale maintenance dredging; discharge of dredged material at adjacent beach sites (for beach nourishment), the LA-3 Ocean Dredged Material Disposal Site (ODMDS), nearshore ocean beaches, or an approved upland disposal site outside the coastal zone; dredging deeper to remove impacted material in areas that have higher concentrations and to achieve a clean Z-layer; streamlining application review and processing by delegating responsibility to the City for approval of routine bay beach maintenance and small projects with minimal or no temporary impacts to eelgrass projects; and adopting the Eelgrass Plan as a part of the RGP 54 program.

Specifically, the RGP covers the following regulated activities in eligible areas of Newport Bay:

- 1) Maintenance dredging under and adjacent to private, public, and commercial docks, floats, and piers. Maintenance dredging would occur to a maximum depth of -10 feet mean lower low water (MLLW), plus 2 feet of overdepth allowance (1 foot paid and 1 foot unpaid), with an annual maximum dredge volume of 75,000 cy within the coverage areas and not to exceed 8,000 cy per individual project;
- 2) Discharge of dredged material at adjacent beach sites (for beach nourishment), the LA-3 Ocean Dredged Material Disposal Site (ODMDS), nearshore ocean beaches, or an approved

- upland disposal site outside the coastal zone; and
- 3) Streamlining application review and processing by delegating responsibility to the City for approval of:
  - i. Routine bay beach maintenance projects (i.e., relocating sloughed sand from low to high tide) to prevent sediment accumulating below docks;
  - ii. Small projects with minimal or no temporary impacts to eelgrass.
- 4) In conformance with the City's Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay: An Ecosystem Based Management Program (Eelgrass Plan), the maximum amount of allowable temporary impacts to eelgrass within the RGP 54 Plan Area is limited to a fixed percentage of each zone per year. The City is not proposing any changes to the approved October 2015 Plan, including all conditions and commitments stipulated in the Eelgrass Plan.

The RGP 54 Plan Area within the harbor is defined as bulkhead to pierhead line plus 20 feet bayward, including only those exceptions for structures that extend beyond this boundary in conformance with harbor development regulations defined by Chapter 17.35 of the Newport Beach Municipal Code. This reauthorization is not proposing any changes to the RGP 54 Plan Area.

Areas of Newport Bay have been separated into distinct classifications pertaining to dredging depths and other requirements under RGP 54, as shown on Figure 2 - Proposed RGP 54 Boundaries Map:

- (a) For areas designated with a solid blue line, maintenance dredging shall occur to a maximum depth of -10 feet mean lower low water (MLLW), plus 2 feet of overdepth allowance with disposal conditionally approved at the LA-3 ODMDS, subject to the attached U.S. Environmental Protection Agency (USEPA) LA-3 condition. Grain size analysis shall be required prior to the discharge of sediment at beach sites to demonstrate suitability;
- (b) For areas designated with a hashed orange line, maintenance dredging shall occur to a maximum depth of -10 feet MLLW, plus 2 feet of overdepth allowance with disposal conditionally approved at the LA-3 ODMDS, subject to the attached USEPA LA-3 condition (Attachment 1). Z-layer testing is required to confirm the post-dredge surface contains DDT levels less than 18 ppb prior to dredging to ensure the newly exposed surface is clean. Grain size analysis, chemical testing, and suitability verification by the Corps of Engineers shall be required prior to the discharge of sediment at beach sites;
- (c) For areas designated with a solid red line, chemical testing for mercury and PCBs with agency concurrence is required to verify suitability prior to disposal. Z-layer testing is required to confirm post-dredge surface contains mercury less than 1 ppm and PCBs less than 100 ppb prior to dredging to demonstrate newly exposed surface is clean. Grain size analysis, chemical testing, and suitability verification by the Corps of Engineers shall be required prior to the discharge of sediment at beach sites and by the USEPA prior to discharge of sediments at the LA-3 ODMDS;
- (d) For areas designated with a solid light blue line, chemical testing for mercury with agency concurrence is required to verify suitability prior to disposal. Z-layer testing is required to confirm post-dredge surface contains mercury less than 1 ppm prior to dredging to demonstrate newly exposed surface is clean. Grain size analysis, chemical testing, and suitability verification by the Corps of Engineers shall be required prior to the discharge of sediment at beach sites and by the USEPA prior to discharge of sediments at the LA-3 ODMDS;
- (e) For areas designated with a solid green line, the maximum dredging depth shall be -7 feet MLLW plus 1 foot of overdepth allowance with disposal conditionally approved at the LA-3 ODMDS, subject to the attached USEPA LA-3 conditions (Attachment 1). Z-layer testing shall

be required to confirm the post-dredge surface contains mercury levels less than one ppm prior to dredging to ensure the newly exposed surface is clean. A grain size analysis shall be required prior to the discharge of sediment at beach sites to demonstrate suitability; and,

(f) Areas designated with a dashed yellow line are not eligible for coverage under RGP 54 at this time.

The annual maximum dredge volume authorized under RGP 54 is 75,000 cubic yards (CYs) within the authorized areas and individual maintenance dredging projects shall not exceed 8,000 CYs.

**Permit Conditions:**

**General Conditions:**

1. The time limit for completing the authorized activity ends on **December 21, 2025**.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

**Special Conditions:**

1. Section 401 Water Quality Certification No. 302019-21 expires on December 18, 2025. Therefore, no work shall occur after December 18, 2025 unless the City of Newport Beach (Permittee) receives an extension or additional authorization from the Santa Ana Regional Water Quality Control Board (RWQCB). The Permittee intending to obtain coverage under RGP 54 shall notify the Santa Ana Water Board at least thirty (30) days prior to commencing work. If the prospective enrollee is not contacted by the Santa Ana Water Board within thirty (30) days after the notification is received by the Santa Ana Water Board, the prospective enrollee may proceed with the project.
2. The Permittee shall submit a Pre-Construction Notification for maintenance dredging projects to the California Coastal Commission pursuant to Coastal Development Permit No. 5-14-0200 and Consistency Certification CC-0002-15 and receive written authorization per Special Condition 1.D. of the Coastal Development Permit prior to project commencement.
3. Sediment characterization data obtained from sediment samples in September 2017 are valid through September 2022. Appropriate sediment testing must be conducted and approved by the Corps Regulatory Division prior to October 1, 2022 for RGP 54 to remain valid after that date. Areas of Newport Bay eligible for RGP 54 would be determined based on testing results and other factors.
4. Overall Special Conditions applicable to all uses of RGP 54:
  - a. Annual maintenance dredging is limited to 75,000 CYs of material. Individual dredging projects shall be no more than 8,000 CYs. Individual disposal projects shall be no more than 8,000 CYs.
  - b. The following tiered approach shall be applicable to projects potentially qualifying for RGP 54:
    - i. If the dredge material is suitable for beneficial reuse, it shall be disposed of in a manner that minimizes adverse effects to the environment and public health.
    - ii. If the dredge material is not suitable for beneficial reuse, it shall be disposed of in a manner that minimizes adverse effects to the environment and public health.

<b>Class</b>	<b>Dredge Activities Covered</b>	<b>Structural Activities Covered</b>	<b>Review Terms</b>
I	Projects dredging up to 2,500 CYs of material with temporary or no potential to impact existing eelgrass  or  Bay Beach Maintenance	None	No Pre-Construction Notification to the Corps is required. However, the Permittee shall submit a Pre-Construction Notification to the California Coastal Commission and receive written authorization per Special Condition 1.D. of the Coastal Development Permit prior to project commencement. In addition, the Permittee shall submit a Pre-Construction Notification to the Santa Ana RWQCB for maintenance dredging projects at least 30 days prior to commencing work to determine whether a project qualifies under the 401 certification for the Program (per Certification Condition 1), or as authorized through a new or modified certification. If it is determined a project does not qualify for a Coastal Development Permit and/or section 401 water quality certification, the project would then be considered denied without prejudice by the Corps Regulatory Division.
II	Projects dredging between 2,500 and 8,000 CYs		The Permittee shall submit a Pre-Construction Notification to the regulatory agencies, including the Corps Regulatory Division, and work shall not commence until written authorizations have been issued. No in-kind repair or replacement of structures is authorized under this RGP.

- c. The Permittee shall be the primary point of contact for applicants seeking authorization under RGP 54 and applications will be screened through the Permittee's office. If the Permittee determines a project qualifies as Class II, then applications, along with written certifications, shall be forwarded to the Corps Regulatory Division in batches each month. Pre-construction notifications shall include the following information:

- i. Confirmation that the proposed application meets the terms and conditions of RGP 54, with special emphasis on the presence or absence of eelgrass;
  - ii. Maps of the project area, including location within Newport Bay, site address, site latitude and longitude coordinates (e.g., decimal degree format), and drawings of the proposed action to scale (i.e., plan and cross-section view of proposed activity), including boundaries of any proposed dredging and disposal work;
  - iii. The proposed area of permanent and temporary impacts to waters of the United States (in acres or square feet) and proposed dredge and disposal quantities (in CYs);
  - iv. The results of eelgrass and Caulerpa (*Caluerpa taxifolia*) surveys of the project area(s);
  - v. For projects proposing the discharge of sediment for beach nourishment purposes, the results of sediment grain size analyses (and chemical testing, if applicable) of the proposed dredge and discharge sites;
- d. Annual Reporting: The Permittee shall submit annual reports to the Corps Regulatory Division, unless otherwise amended, documenting activities authorized under RGP 54 during the preceding year. Annual reports shall be submitted by January 1 of each year. The annual report shall include the following information:
    - i. Summary of dredge operations and structural work including:
      - a. Whether a project was processed as Class I or Class II;
      - b. Location (address and coordinates) of each project;
      - c. Areas and volumes of material dredged (in acres and CYs); and
      - d. Disposal location(s) and volumes for each method used (i.e., beach site, LA-3 ODMDS, inland site, or other approved area);
    - ii. An estimate of the total acreage of waters of the United States impacted for each activity type (e.g., dredge area and discharge area);
    - iii. Summary of any direct and indirect eelgrass impacts for each activity type, and the eelgrass monitoring and/or mitigation completed or in progress; and
    - iv. An updated, to-scale map showing the locations of all activities authorized under RGP 54. All maps and drawings shall be in compliance with the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated August 6, 2012 (<http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/map.pdf>).
  - e. RGP 54 Annual Report for Summary of disposal of Dredged Sediments at LA-3 Ocean Dredged Material Disposal Site (ODMDS): The Permittee shall submit as part of the annual reports to the Corps Regulatory Division and USEPA Region 9 documenting disposal activities, specific information for disposal at LA-3 authorized under RGP 54 during the preceding year. Annual reports shall be submitted by January 1 of each year. The annual report shall include the following information:
    - i. Name and permit number of each dredge project;
    - ii. The start and end date;
    - iii. Did the project cross calendar years;
    - iv. Method of disposal at sea (i.e. Barge, Hopper, Pipeline, Scow, Other).
    - v. Total quantity for each project placed at the ODMDS;
    - vi. Source used to determine quantity placed at ODMDS (DIS, DQM, PayOut, Other).
    - vii. Annual report shall be submitted in a spreadsheet type of report (Excel), summarizing subtotal of quantity for each project, and a total for the calendar year.

f. Eelgrass-related requirements:

- i. If maintenance dredging projects may result in impacts to existing eelgrass, the Permittee and individual applicants shall adhere to the provisions of the Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay: An Ecosystem Based Management Program (City of Newport Beach; October 14, 2015) (Newport Bay Eelgrass Protection and Mitigation Plan), California Eelgrass Management Policy (CEMP), or any subsequent Corps-approved policies. The following exceptions to the Newport Bay Eelgrass Protection and Mitigation Plan have been incorporated into RGP 54:
  - a. Following review of the biennial eelgrass survey data proposed in the Newport Bay Eelgrass Protection and Mitigation Plan, or should there be a net loss in eelgrass in the impacted areas of Newport Bay relative to the reference sites, the Permittee, Corps Regulatory Division, National Marine Fisheries Service (NMFS), California Coastal Commission, California Department of Fish and Wildlife (CDFW), and other interested resource agencies would coordinate to resolve implementation issues that were unforeseen when RGP 54 and the Newport Bay Eelgrass Protection and Mitigation Plan were developed. In addition, if the Corps determines, in consultation with NMFS, that the development authorized by RGP 54 is causing adverse impacts to habitat which are not being adequately mitigated, the Corps may suspend commencement of and/or authorization of any further dredging and/or disposal until the Permittee addresses the unforeseen impacts to EFH and Habitats of Particular Concern.
  - b. The final report for the six-year trial period of the Newport Bay Eelgrass Protection and Mitigation Plan shall assess the net effect of dredging and restoration activities on the presence of eelgrass within the plan area in the context of natural trends. The Permittee, using the biennial survey data and reference sites within the plan area that have not been affected by maintenance dredging or replenishment, shall report on the trends in eelgrass abundance over the permit period. Should reference sites indicate a decline in overall eelgrass abundance at the end of six years, the Permittee, Corps Regulatory Division, NMFS, California Coastal Commission, CDFW, and other applicable resources agencies would evaluate the causes of such decline and use that information in assessing the success of mitigation efforts undertaken by the Permittee during the period of the plan. If, through these discussions, the Corps, in consultation with NMFS, determines there is a shortfall in the necessary mitigation to offset temporary or permanent losses of eelgrass, a revised Eelgrass Mitigation and Monitoring Plan shall be prepared by the Permittee to provide the necessary additional eelgrass mitigation.
- ii. For RGP 54-eligible dredging projects, should it be determined dredged material is suitable for placement on a beach or in front of an existing bulkhead(s), the following eelgrass monitoring requirements apply:
  - a. If eelgrass is not present within 30 feet (in any direction) of the proposed dredge or dredge material disposal footprint, no additional eelgrass monitoring requirements apply.
  - b. If eelgrass is present between 15-30 feet from the proposed dredge material disposal

footprint (in any direction), then monitoring of the site for potential eelgrass impacts from disposal operations shall be required per the monitoring guidelines specified in the CEMP. Monitoring shall consist of pre- and post- project transects placed perpendicular to the shoreline and spaced five feet apart which map the eelgrass bed. Enough transects will be used to extend the length of the project footprint. Along each transect, the extent of eelgrass will be measured. Any decrease in eelgrass extent along any transect (pre-project vs. post-project) will constitute an impact. The pre-project transects shall be conducted no sooner than 60 days prior to the start of dredging and the post- project transects shall be conducted no later than 30 days following the completion of dredging.

- c. If eelgrass is present within 15 feet from the proposed dredge material disposal footprint (in any direction), then the disposal location is not authorized by RGP 54.
  - d. Should the monitoring required in Special Condition “4.e.ii.b.” above identify an impact to the mapped eelgrass bed, then mitigation consistent with the provisions of the Newport Bay Eelgrass Protection and Mitigation Plan, CEMP, or any subsequent Corps-approved policies shall apply. An eelgrass monitoring report shall be submitted by the Permittee to the Corps Regulatory Division, NMFS, and the California Coastal Commission no later than 90 days following completion of dredging. If an impact was detected (as defined above), the report shall include a summary of how the applicable eelgrass mitigation plan shall be complied with.
- iii. For purposes of this RGP, the Permittee and project-specific applicants may use the Permittee’s biennial eelgrass surveys of Newport Bay to determine the presence and amount of eelgrass at a particular location per the provisions of the Newport Bay Eelgrass Protection and Mitigation Plan. All other eelgrass survey/mapping efforts shall be completed during the active growth phase for the vegetation (typically March through October) and shall be valid for a period of 120 days with the exception of surveys completed from August through October. A survey completed from August through October shall be valid until the resumption of active growth (i.e., March 1). Work shall only occur with a valid survey. If the survey expires prior to commencement of work, a new survey shall be required prior to commencement of any work.
  - iv. Prior to commencement of any activity authorized under RGP 54, the boundaries of any eelgrass to be avoided shall be marked with buoys so that equipment and vessel operators avoid impacting these areas.
  - v. Barges and other vessels used for any activity authorized under RGP 54 shall be anchored to avoid encroachment into avoided eelgrass beds. Barges and other vessels shall avoid transit over any eelgrass beds to the maximum extent practicable. Where transit over eelgrass beds is unavoidable, such transit shall only occur during high tides when grounding and potential damage to eelgrass can be avoided.
- g. Caulerpa-related requirements: All projects proposed for authorization under RGP 54 shall meet the following requirements:
    - i. For purposes of this RGP, the Permittee and project-specific applicants may use the Caulerpa presence/absence determination from the biennial eelgrass surveys in lieu of commissioning one or more Caulerpa surveys as part of the application and pre-construction permit

requirements. All other Caulerpa surveys shall be conducted in accordance with the Caulerpa Control Protocol

([http://www.westcoast.fisheries.noaa.gov/publications/habitat/caulerpa\\_taxifolia/caulera控制协议4.pdf](http://www.westcoast.fisheries.noaa.gov/publications/habitat/caulerpa_taxifolia/caulera控制协议4.pdf)) and submitted to the Corps Regulatory Division not earlier than 90 calendar days prior to planned construction or dredging-related activities and not later than 30 calendar days prior to construction or dredging-related activities. The results of that survey shall be provided to the Corps Regulatory Division, NMFS, California Coastal Commission, and the CDFW at least 15 calendar days prior to initiation of work in navigable waters. In the event that Caulerpa is detected within the project area, the Permittee shall not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps Regulatory Division, in consultation with NMFS, the California Coastal Commission and CDFW.

- h. The Permittee shall maintain a copy of RGP 54 and any signed Notice to Proceed (NTP) on all vessels used to dredge, transport, and dispose of dredged material or conduct structural work authorized under this permit.
        - i. The Permittee shall implement standard Best Management Practices (BMPs) during construction.
  5. Maintenance dredging under and adjacent to previously authorized private, public, and commercial docks, floats, and piers:
    - a. For this RGP, the term “dredging operations” shall mean: navigation of the dredging vessel at the dredging site, excavation of dredged material within the project boundaries, and placement of dredged material into a hopper dredge or disposal barge or scow.
    - b. Areas of Newport Bay have been separated into distinct classifications pertaining to dredging depths and other requirements under RGP 54, as shown on Figure 2 - Proposed RGP 54 Boundaries Map:
      - i. For areas designated with a solid blue line, maintenance dredging shall occur to a maximum depth of -10 feet mean lower low water (MLLW), plus 2 feet of overdepth allowance with disposal conditionally approved at the LA-3 ODMDS, subject to the attached USEPA LA-3 conditions (Attachment 1). Grain size analysis shall be required prior to the discharge of sediment at beach sites to demonstrate suitability;
      - ii. For areas designated with a hashed orange line, maintenance dredging shall occur to a maximum depth of -10 feet MLLW, plus 2 feet of overdepth allowance with disposal conditionally approved at the LA-3 ODMDS, subject to the attached USEPA LA-3 conditions (Attachment 1). Z-layer testing is required to confirm the post-dredge surface contains DDT levels less than 18 ppb prior to dredging to ensure the newly exposed surface is clean. Grain size analysis, chemical testing, and suitability verification by the Corps of Engineers shall be required prior to the discharge of sediment at beach sites;
      - iii. For areas designated with a solid red line, chemical testing for mercury and PCBs with agency concurrence is required to verify suitability prior to disposal. Z-layer testing is required to confirm post-dredge surface contains mercury less than 1 ppm and PCBs less than 100 ppb prior to dredging to demonstrate newly exposed surface is clean. Grain size analysis, chemical testing, and suitability verification by the Corps of Engineers shall be required prior to the discharge of sediment at beach sites and by the USEPA prior to discharge of sediments at the LA-3 ODMDS;
      - iv. For areas designated with a solid light blue line, chemical testing for mercury with agency concurrence is required to verify suitability prior to disposal. Z-layer testing is required to

- confirm post-dredge surface contains mercury less than 1 ppm prior to dredging to demonstrate newly exposed surface is clean. Grain size analysis, chemical testing, and suitability verification by the Corps of Engineers shall be required prior to the discharge of sediment at beach sites and by the USEPA prior to discharge of sediments at the LA-3 ODMDS;
- v. For areas designated with a solid green line, the maximum dredging depth shall be -7 feet MLLW plus 1 foot of overdepth allowance with disposal conditionally approved at the LA-3 ODMDS, subject to the attached USEPA LA-3 conditions (Attachment 1). Z-layer testing shall be required to confirm the post-dredge surface contains mercury levels less than one ppm prior to dredging to ensure the newly exposed surface is clean. A grain size analysis shall be required prior to the discharge of sediment at beach sites to demonstrate suitability; and,
- vi. Areas designated with a dashed yellow line are not eligible for coverage under RGP 54 at this time. Discharge or disposal of material dredged from below these depths or dredged from outside the project boundaries (Figure 2 - Proposed RGP 54 Boundaries Map) is not authorized by this permit. Any such material shall be disposed in uplands or in an approved confined fill. However, the Corps Regulatory Division and USEPA may approve offshore disposal and/or beach discharge for a particular site if additional sediment testing is conducted to the depth requested [via Corps- and USEPA-approved Sampling and Analysis Plan (SAP)] and the material is found to be suitable;
- vii. If the results of the Z-layer testing exceed the allowable thresholds, the Permittee and project-specific applicants are authorized to dredge deeper to remove impacted material and achieve a clean Z-layer. This would only occur within the hashed orange line presented as shown on Figure 2 - Proposed RGP 54 Boundaries Map.
- Individual applicants would be required to collect and composite a full core length for any material proposed for dredging below -12 feet MLLW. The composite sample would be analyzed for full confirmatory chemistry and compared against the composite samples from the areas designated with a hashed orange line presented as shown on Figure 2 - Proposed RGP 54 Boundaries Map. If the composite sample chemistry is within the range found to be suitable for ocean disposal based on the full Tier III testing program, then USEPA approval would be required for consideration under a Tier I exclusion.
  - In addition to the 2018 data for this particular composite, a comparison can be made with the Z-layer chemistry to all the composite area results from 2018 as well as past RGP results and USACE results
  - If multiple owners are testing at the same time, the cores can be composited for the ocean disposal assessment. If owners would like to pursue this option, the owners and the City should coordinate with USEPA Region 9 in advance so discussion regarding the compositing and ensuring they understand the risks of that approach (i.e. if the composite fails, then all of the areas within the composite would fail unless the individual cores were tested).
- viii. Sediments from areas within the RGP 54 boundary identified as containing elevated mercury levels, i.e., designated on Figure 2 - Proposed RGP 54 Boundaries Map in yellow, are ineligible for sediment dredging or disposal operations under this RGP. However, the Corps Regulatory Division and USEPA may approve sediment dredging or disposal operations under RGP 54 at these locations if additional sediment testing is conducted (via a Corps- and USEPA-approved SAP) and the material is found to be suitable.
- ix. Sediment from authorized areas (Figure 2 - Proposed RGP 54 Boundaries Map) within the RGP 54 boundary that meet the grain size criteria (at least 75% sand) are suitable for discharge

onto beach sites within 1,000 feet of dredging operation sites, unless otherwise approved by the Corps Regulatory Division. No use of sediments from areas identified as containing elevated mercury levels are authorized for beach nourishment unless individual stations were to be retested and found by the Corps Regulatory Division to be suitable for beach nourishment.

- e. Routine bay beach maintenance projects on an as-needed basis at designated beaches for the relocation of sloughed sand from the low tide line (-1 foot MLLW) to the high tide line. Designated bay beach maintenance under the RGP 54 and limited to beaches on Balboa Island, Beacon Bay, publicly owned street-end beaches, and other locations. Bay beach maintenance would occur along 25,000 linear feet of shoreline in Newport Harbor. The beach width would be approximately 10 feet wide, requiring excavation of approximately 1 foot throughout the proposed area and reaching a maximum depth of -1 foot MLLW in any the aforementioned locations. This element of the RGP 54 would not exceed annual volume of 9,500 CY over 6 acres. The activity would involve shallow-depth hydraulic dredging during high tide or traditional tractor work during low tide. No impacts to eelgrass would be allowed during bay beach maintenance projects. The Permittee would review, track, and approve these projects as is done with other routine maintenance dredging activities under RGP 54. Documentation of these projects would be included in the RGP 54 annual reports to the permitting agencies.
- f. The Permittee shall ensure that the captain of any hopper dredge, tug or other vessel used in the dredging and disposal operations, is a licensed operator under USCG regulations and follows the Inland and Ocean Rules of Navigation or the USCG Vessel Traffic Control Service. All such vessels, hopper dredges or disposal barges or scows, shall have the proper day shapes, operating marine band radio, and other appropriate navigational aids.
- g. The Permittee's contractor(s) and the captain of any dredge covered by this permit shall monitor VHF-FM channels 13 and 16 while conducting dredging operations.
- h. Upon request, the Permittee and its contractor(s) shall allow inspectors from the Corps Regulatory Division, the USEPA, and/or the USCG to inspect all phases of the dredging and disposal operations. In addition, the Permittee and its contractor(s) shall make available to inspectors from the Corps Regulatory Division, the USEPA, and/or the USCG the following: dredging and disposal operations inspectors' logs, the vessel track plots, and all disposal vessel logs or records, any analyses of the characteristics of dredged material, or any other documents related to dredging and disposal operations.
- i. If a violation of any permit condition occurs, the violation shall be reported by the Permittee to the Corps Regulatory Division within 24 hours. If the Permittee retains any contractors to perform any activity authorized by this permit, the Permittee shall instruct all such contractors that notice of any violations shall be reported to the Permittee immediately.
- j. When using a hopper dredge, water flowing through the weirs shall not exceed 10 minutes during dredging operations. The level that a hopper dredge can be filled shall not exceed the load line to prevent any dredged material or water from spilling over the sides at the dredging site or during transit from the dredging site to the disposal site. No hopper dredge shall be filled above this predetermined level. Before each hopper dredge is transported to the disposal site, the dredging site inspector shall certify that it is filled correctly.
- k. When using a disposal barge or scow, no water shall be allowed to flow over the sides. The level that a disposal barge or scow can be filled shall not exceed the load line to prevent any dredged material or water from spilling over the sides at the dredging site. No disposal barge or scow shall be filled above this predetermined level. Before each disposal barge or scow is transported to the disposal site, the dredging site inspector shall certify that it is filled correctly.
- l. The Permittee shall use an electronic positioning system to navigate at the dredging site. The electronic positioning system shall have a minimum accuracy and precision of +/- 10 feet (3 meters). If the electronic positioning system fails or navigation problems are detected, all dredging operations shall cease until the failure or navigation problems are corrected. Any

navigation problems and corrective measures shall be described in the post-dredging completion report per Special Condition 5.m.

- m. The Permittee shall submit a post-dredging completion report to the Corps Regulatory Division after completion of each dredging project to document compliance with all general and Special Conditions defined in this permit. The report shall include all information collected by the Permittee, the dredging operations inspector and the disposal operations inspector or the disposal vessel captain as required by the Special Conditions of this permit. The report shall indicate whether all general and Special Conditions were met. Any violations of the permit shall be explained in detail. The report shall further include the following information:
  - i. Permit and project number;
  - ii. Start date and completion date of dredging and disposal operations;
  - iii. Total cubic yards disposed at the authorized disposal site(s);
  - iv. Mode of dredging;
  - v. Mode of transportation;
  - vi. Form of dredged material;
  - vii. Frequency of disposal and plots of all trips to the authorized disposal site(s);
  - viii. Tug boat or other disposal vessel logs documenting contact with the USCG before each trip to the authorized ocean disposal site;
  - ix. Percent sand, silt, and clay in dredged material: for RGP 54 only, see sediment testing requirements above;
  - x. A certified report from the dredging site inspector indicating all general and Special Conditions were met. Any violations of the permit shall be explained in detail;
  - xi. Pre-dredging hydrographic survey;
  - xii. A detailed post-dredging hydrographic survey of the dredging area. The survey shall show areas above the dredging design depth shaded green, areas between the dredging design depth and overdredge depth shaded yellow, areas below overdredged depth that were not dredged or areas that were deeper than the overdredge depth before the project began as indicated on the pre-dredging survey shaded blue, and areas dredged below the overdredge depth or outside the project boundaries shaded red. The methods used to prepare the post-dredging survey shall be the same methods used in the pre-dredging condition survey. The survey shall be signed by the Permittee certifying that the data are accurate; and
  - xiii. The post-dredging report shall be signed by a duly authorized representative of the Permittee. The Permittee's representative shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision. 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.
- 6. Offshore (ocean) disposal of dredged material: All disposal at LA-3 is subject to the attached USEPA site use conditions (Attachment 1).
  - a. In no case will offshore (ocean) disposal or beach discharge be authorized for material dredged below the sediment testing characterization depth for any particular site. Any such material shall be disposed in uplands or in an approved confined fill. However, the Corps Regulatory Division and the USEPA may approve offshore disposal and/or beach discharge for a particular site if additional sediment testing is conducted to the depth requested (via Corps Regulatory Division and USEPA-approved SAP) and the material is found to be suitable.

- b. No more than 8,000 CYs of dredged material excavated for an individual dredging project authorized under RGP 54 are authorized for disposal at the LA-3 ODMDS.
- c. For projects disposing more than 1,000 CYs of dredged materials at the LA-3 ODMDS, the Permittee shall submit a dredging and disposal operations plan to the Corps Regulatory Division and the USEPA at least 15 calendar days before initiation of any dredging operations with the following information:
  - i. A list of the names, addresses, and telephone numbers of the Permittee's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector and the captain of each tug boat, hopper dredge or other form of vehicle used to transport dredged material to the designated disposal site;
  - ii. A list of all vessels, major dredging equipment and electronic positioning systems or navigation equipment that will be used for dredging and disposal operations, including the capacity, load level and acceptable operating sea conditions for each hopper dredge or disposal barge or scow to assure compliance with Special Conditions on dredging and disposal operations;
  - iii. A detailed description of the dredging and disposal operations authorized by this permit. Description of the dredging and disposal operations should include, at a minimum, the following:
    - a. Dredging and disposal procedures for the dredged material determined by the Corps Regulatory Division and the USEPA to be unsuitable for ocean disposal;
    - b. Dredging and disposal procedures for the material to be dredged from the proposed site; and
    - c. A schedule showing when the dredging project is planned to begin and end;
  - iv. A pre-dredging bathymetric condition survey, taken within 30 days before the dredging begins. For RGP 54 only, one of two survey methods can be used:
    - a. Survey taken via lead line, sounding disc, or sounding pole techniques according to Chapter 8 (Manual Depth Measurement Techniques) from the Corps' Engineering and Design Hydrographic Surveying Manual (EM 1110-2-1003, published 01 Jan 2002). Each individual project survey using this method will include a minimum of three sounding points (adjusted for tide) per individual dock; and
    - b. Survey (presented as a large format plan view drawing), taken within thirty (30) days before the dredging begins, accurate to 0.5-foot with the exact location of all soundings clearly defined on the survey chart. The pre-dredge survey chart shall be prepared showing the following information:
      1. The entire dredging area, the toe and top of all side-slopes and typical cross sections of the dredging areas. To ensure that the entire area is surveyed, the pre-dredge condition survey should cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area, unless obstructions are encountered;
      2. The dredging design depth, overdredge depth, and the side-slope ratio;
      3. The total quantity of dredged material to be removed from the dredging areas

- and the side-slope areas;
4. Areas shallower than the dredging design depth shall be shaded green, areas between the dredging design depth and overdredge depth shall be shaded yellow, and areas below overdredge depth that will not be dredged shall be shaded blue. If these areas are not clearly shown, the Corps Regulatory Division may request additional information; and,
  5. The pre-dredging survey chart shall be signed by the Permittee to certify that the data are accurate and that the survey was completed within 30 days before the proposed dredging start date.
- c. A debris management plan to prevent disposal of large debris at all disposal locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.
- d. The Permittee shall notify the USCG by radio on VHF-FM channel 16 or by telephone at least four hours before departing for each disposal site. The notification shall include:
- i. Name of Permittee;
  - ii. Corps permit number;
  - iii. Name and identification of vessels (tug boat, hopper dredged or disposal barge or scow) employed in the disposal operation;
  - iv. Loading location of the material to be disposed;
  - v. Material to be disposed;
  - vi. Time of departure from the dredging site;
  - vii. Estimated time of arrival at the ocean disposal site and estimated time of departure from the ocean disposal site; and
  - viii. Estimated time or arrival at dredging site after the disposal operation is completed.
- e. The captain of any tug boat or other vessel covered by this permit shall monitor VHF-FM channel 16 while conducting disposal operations.
7. Beach discharge (beach nourishment):
- a. No use of sediments from areas identified as containing elevated mercury levels are authorized for beach nourishment. However, the Corps Regulatory Division and the USEPA may approve sediment dredging or disposal operations under RGP 54 at these locations if additional sediment testing is conducted (via a Corps- and USEPA-approved SAP) and the material is found to be suitable.
  - b. Material dredged under RGP 54 is only authorized for beach discharge onto sites located within 1,000 feet of the authorized dredge site, unless otherwise approved by the Corps Regulatory Division.
  - c. In no case will offshore (ocean) disposal or beach discharge be authorized for material dredged below the sediment testing characterization depth for any particular site. Any such material shall be disposed in uplands or in an approved confined fill. However, the Corps Regulatory Division and the USEPA may approve offshore disposal and/or beach discharge for a particular site if additional sediment testing is conducted to the depth requested (via Corps- and USEPA-approved SAP) and the material is found to be suitable.

- d. Sediment from approved areas within the proposed RGP 54 area that meet the grain size criteria (at least 75% sand) are suitable for discharge onto beach sites within 1,000 feet of dredging operation sites, unless otherwise approved by the Corps Regulatory Division.
  - e. The Permittee shall send one copy of a beach disposal post-discharge report to the Corps Regulatory Division documenting compliance with all general and Special Conditions defined in this permit. The post-discharge report shall be sent after completion of the discharge operations authorized in this permit. The report shall indicate whether all general and Special Conditions were met. Any violations of the permit shall be explained in detail. The report shall include:
    - i. Corps permit number;
    - ii. Identify source of material;
    - iii. Total cubic yards disposed at each beach disposal site;
    - iv. Modes of transportation and discharge; and
    - v. Actual start date and completion date of transport and discharge operations.
  - f. The Permittee shall implement all appropriate, standard BMPs to ensure that toxic materials, silt, debris, or excessive eroded materials do not enter waters of the United States due to beach nourishment operations.
  - g. The applicant will establish a safety flag perimeter of the beach nourishment area during disposal activities, and monitor the premises to protect the general public from construction hazards and equipment.
  - h. No maintenance, storage, or fueling of heavy tracked equipment or vehicles shall occur within 500 feet of the high tide line of waters of the United States.
8. Inland disposal: If neither beach discharge nor offshore disposal are appropriate options for an individual project proposed under this RGP, an inland disposal site may be utilized, if approved by the Corps Regulatory Division.
9. To ensure navigational safety, the Permittee shall provide appropriate notifications to the U.S. Coast Guard as described below:

Commander, 11th Coast Guard District (dpw)  
TEL: (510) 437-2980  
Email: [d11LNM@uscg.mil](mailto:d11LNM@uscg.mil)  
Website: <http://www.uscg.mil/dp/lnmrequest.asp>

U.S. Coast Guard, Sector LA-LB (COTP)  
Email: [D11-DG-SectorLALB-WWM@uscg.mil](mailto:D11-DG-SectorLALB-WWM@uscg.mil)

A) The Permittee shall notify the U.S. Coast Guard, Commander, 11th Coast Guard District (dpw) and the U.S. Coast Guard, Sector LA-LB (COTP) (contact information shown above), not less than 14 calendar days prior to commencing work and as project information changes. The notification shall be provided by email with at least the following information, transmitted as an attached Word or PDF file:

- i. 'Project description including the type of operation (i.e. dredging, diving, construction,

- etc).
- ii. Location of operation, including Latitude / Longitude (NAD 83).
  - iii. Work start and completion dates and the expected duration of operations. The U.S. Coast Guard needs to be notified if these dates change.
  - iv. Vessels involved in the operation (name, size and type).
  - v. VHF-FM radio frequencies monitored by vessels on scene.
  - vi. Point of contact and 24 -hour phone number.
  - vii. Potential hazards to navigation.
  - viii. Chart number for the area of operation.
  - ix. Recommend the following language be used in the Local Notice to Mariners: "Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made."

B) The Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. Not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation that require relocation or removal, the Permittee shall notify, in writing, the Eleventh U.S. Coast Guard District and the Corps Regulatory Division. The Permittee and its contractor(s) are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.

C) The Permittee is prohibited from establishing private aids to navigation in navigable waters of the United States until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard. Should the Permittee determine the work requires the temporary placement and use of private aids to navigation in navigable waters of the United States, the Permittee shall submit a request in writing to the Corps Regulatory Division and the U.S. Coast Guard.

D) The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The Permittee shall direct questions concerning lighting, equipment placement, and mooring to the appropriate COTP.

10. Mitigation: This RGP does not authorize more than minimal impacts to aquatic resources. Based on relevant information, the Corps Regulatory Division will determine if compensatory mitigation is required. Any required mitigation would be the responsibility of the Permittee and failure to implement Corps-specified mitigation could result in enforcement proceedings.

#### 11. Nearshore Beach Nourishment Operations Plan

- a. At least 15 calendar days before initiation of any dredging operations authorized by this permit, the Permittee shall submit a dredging and disposal Operations Plan to the Corps Regulatory Division and EPA, with the following information:
  - i. A list of the names, addresses and telephone numbers of the Permittee's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector and the captain of each tug boat, hopper dredge or other form of vehicle used to transport dredged material to the designated disposal site.
  - ii. A list of all vessels, dredging equipment and electronic positioning systems or navigation equipment to be used for dredging and disposal operations, including: the capacity, load level and acceptable operating sea conditions for each hopper dredge or disposal barge or

scow.

- iii. A schedule describing when the dredging project is planned to begin and end.
  - iv. A pre-construction dredging bathymetric survey (presented as a large format plan view drawing), taken within thirty (30) days before the dredging begins, accurate to 0.5-foot with the exact location of all soundings clearly defined on the survey chart. The pre-dredge survey chart shall be prepared showing the following information:
    - a. The entire dredging area, including the toe and top of all side-slopes, and typical cross sections of the dredging areas. To ensure that the entire area is surveyed, the pre-dredge condition survey should cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area.
    - b. Areas shallower than the dredging design depth shall be shaded green, areas between the dredging design depth and overdredge depth shall be shaded yellow, and areas below overdredge depth that will not be dredged shall be shaded blue.
    - c. The pre-dredging survey chart shall be signed by the Permittee to certify that the data are accurate and that the survey was completed within thirty (30) days before the proposed dredging start date.
  - v. A debris management plan to prevent unauthorized disposal of large debris or other unsuitable materials. The debris management plan shall include: sources and expected types of debris if known, debris separation and retrieval methods and equipment to be used, debris disposal location(s), and debris disposal methods (e.g., recycling, landfill, hazardous/toxic/radioactive materials/munitions disposal sites, etc.).
  - vi. Grunion Monitoring: and beach suitability for, California grunion (*Leuresthes tenuis*). In the event beach nourishment operations could affect California grunion, and/or would occur between March 1 and August 31 (the grunion spawning season), the Permittee shall not begin operations, or suspend operations, and notify the Corp Regulatory Division and NOAA Fisheries within 24 hours. If there are grunion present, or the beach is suitable for grunion, and the Corps requests determines an avoidance plan is needed, the Permittee shall submit a Grunion Avoidance and Monitoring Plan to the Corps for review and approval prior to conducting or resuming any activities that could affect California grunion. After approval of the plan, the Corps may authorize the Permittee to proceed under the approved plan.
12. The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States as defined by 33 C.F.R. Part 329.
13. Transportation and ocean disposal at LA-3 shall be conducted in accordance with the attached EPA Region 9 site use conditions, including no leaking during transportation to LA-3, disposal operations only in the Surface Disposal Zone within LA-3, 24-hour notifications of potential ocean disposal violations, and submission of the ocean disposal report after completion of the project. See attached “EPA Disposal Site Use Conditions and Practices.”

#### **Further Information:**

1. Congressional Authorities. You have been authorized to undertake the activity described

above pursuant to:

- (X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
- (X) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Re-evaluation of Permit Decision. This office may re-evaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a re-evaluation include, but are not limited to, the following:
  - a. You fail to comply with the terms and conditions of this permit.
  - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR §325.7 or enforcement procedures such as those contained in 33 CFR §326.4 and §326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR §209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a re-evaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



---

PERMITTEE [SIGNATURE]

December 22, 2020

---

DATE [month, day, year]

Chris Miller, City of Newport Beach

---

PERMITTEE [PRINT NAME and AFFILIATION]

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

---

U.S. Army Corps of Corice J. Farrar  
Chief, Orange & Riverside Counties Section  
South Coast Branch  
Regulatory Division  
U.S. Army Corps of Engineers, Los Angeles District Engineers

---

22 Dec 2020  
DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.



SOURCE: Image from Bing maps.  
**HORIZONTAL DATUM:** California State Plane, Zone 6, NAD83.  
**VERTICAL DATUM:** Mean Lower Low Water (MLLW).

**Approximate Project Location:**  
 $33^{\circ} 36.540'$ ,  $117^{\circ} 54.230'$

0 1.5



Publish Date August 1, 2018.

**SOURCE:** Aerial from Bing maps. Coastline extents from City of Newport Beach.

**HORIZONTAL DATUM:** California State Plane, Zone 6, NAD83.

**VERTICAL DATUM:** Mean Lower Low Water (MLLW).

**NOTE:**

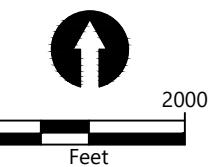
Areas included in RGP 54 are generally between the bulkhead and pierhead lines with the shoreline/boundary demarcated by the various colors/hatched lines. The colored lines, whether solid or dashed, always follow the shoreline rather than following individual fingers or docks. ODMDS (Ocean Dredged Material Disposal Site) and ppm (parts per million).

Publish Date: 2018/08/01 11:54 AM | User: mpratschner  
Filepath: K:\Projects\0243-City of Newport Beach\RGP 54\0243 RPG-RP-012 SUITABLE.dwg FIG 16

**LEGEND:**

- Suitable to -10 feet MLLW plus 2 feet of overdepth for unrestricted disposal at the LA-3 ODMDS. Grain size required prior to beach replenishment or nearshore placement to demonstrate suitability.
- Suitable to -7 feet MLLW plus 1 foot of overdepth for unrestricted disposal at the LA-3 ODMDS. Z-layer testing to confirm post-dredge surface contains mercury less than 1 ppm prior to dredging to demonstrate newly exposed surface is clean. Grain size required prior to beach replenishment or nearshore placement to demonstrate suitability.
- Area not included under RGP 54.
- Material proposed for disposal at LA-3 ODMDS must have chemical testing for mercury with agency concurrence to verify suitability prior to disposal. Z-Layer testing is required to confirm post-dredge surface contains mercury less than 1 ppm prior to dredging to demonstrate newly exposed surface is clean. Material proposed for beach replenishment or nearshore placement must also have grain size verification prior to placement.
- Material proposed for disposal at LA-3 ODMDS must have chemical testing for mercury and PCBs with agency concurrence to verify suitability prior to disposal. Z-layer testing is required to confirm post-dredge surface contains mercury less than 1 ppm and PCBs less than 100 ppb prior to dredging to demonstrate newly exposed surface is clean. Material proposed for beach replenishment or nearshore placement must also have grain size verification prior to placement.
- Suitable to -10 feet MLLW plus 2 feet of overdepth for unrestricted disposal at the LA-3 ODMDS. Material proposed for beach replenishment or nearshore placement must have grain size verification and chemical testing for DDTs with agency concurrence to verify suitability prior to placement. Z-layer testing is required to confirm post-dredge surface contains DDT concentrations less than 18.0 ppb\*.

\* Represents the 95% Upper Confidence Limit for surface sediment concentrations within the RGP permit area.



## Disposal Site Use Conditions and Practices

All three southern California ODMDS have the same standard mandatory site use conditions (see Table 1). The standard conditions listed below apply to all users of LA-2, LA-3, and LA-5, unless EPA and USACE as necessary in sections C and D below authorize additional project-specific conditions or alternative permit/project conditions in advance. It is the permittee's responsibility to ensure that all personnel involved in approved dredging and disposal operations, including contractors and subcontractors, are aware of and comply with all required site use conditions and practices.

**Table 1. Dimensions and Center Coordinates for the Three Southern California Ocean Disposal Sites, and Their Surface Disposal Zones (SDZ)**

<i>Disposal Site</i>	<i>Dimensions</i>		<i>Center Coordinates</i>		
	Radius of SDZ*	Radius of Overall Site	Latitude (NAD 83)	Longitude (NAD 83)	Cubic yards per year
LA-2 (Los Angeles)	1000 ft	3000 ft	33°37.100' N	118°17.400' W	1,000,000
LA-3 (Newport)	1000 ft	3000 ft	33°31'00"N	117°53'30"W	2,500,000
LA-5 (San Diego)	1000 ft	3000 ft	32°36.833'N	117°20.717' W	Designated at 700,000 (historical maximum)

\* Surface Disposal Zone: disposal vessels must be entirely within this smaller zone when discharging dredged material.

The following mandatory conditions for disposal operations at LA-2, LA-3, and LA-5 are provided pursuant to EPA's authority under sections 102 and 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA), and the ocean dumping regulations at 40 CFR Parts 220-228. For enhanced clarity and understanding, they enhance, combine, and re-number many of the special conditions originally published in EPA's 1999 rule [64 FR 141 pages 39927-39934, and 40 CFR 228.15 (l)(3)].

### A. Definitions:

1. “**Permit**” and “**permittee**” as used here mean USACE ocean dumping permits issued to others under Section 103 of the MPRSA, and to USACE itself and its contracts or other authorizations for USACE dredging projects (see MPRSA section 103(e) and 40 CFR Part 220.2).
2. “**Towing vessel**” is any self-propelled tug or other marine vessel used to transport (tow or push) the “disposal vessel” (see #3 following) for any portion of the transit to G-DODS.

3. ***“Disposal vessel”*** is any barge, scow, or self-propelled vessel (such as a hopper dredge) that carries dredged material during transit and from which the dredged material is discharged, typically by opening doors in the bottom of the hull or by splitting the hull.
4. ***“Transit” or “transport”*** to the disposal site begins as soon as dredged material loading into the disposal vessel is completed and a towing vessel begins moving the disposal vessel to the disposal site.
5. ***“Surface Disposal Zone” or “SDZ”*** is the 1,000-foot radius circle at the center of the overall disposal site (see Table 1 above; Section 2), within which the disposal vessel must discharge all of the dredged material.

**B. Standard Conditions for Use of the LA-2, LA-3, and LA-5 Ocean Dredged Material Disposal Site:**

1. ***Prohibition on Leaking or Spilling During Transport:*** Dredged material shall not be leaked or spilled from disposal vessels during transit to the LA-2, LA-3, and LA-5 sites. Transportation of dredged material to any of these sites shall only be allowed when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak or other loss of dredged material during transit. Disposal vessels must not be loaded beyond a level at which dredged material would be expected to be spilled in transit under anticipated sea state conditions. Any load limits (as an example, to be filled to more than 80 percent of the vessel’s maximum bin or hopper volume) would be indicated in section (C) below. No disposal vessel trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete dumping operations, or when wave heights are 16 feet or greater.
2. ***Prohibition on Trash and Debris; use of Grizzly:*** Only dredged material determined in advance by EPA and USACE to be suitable for ocean disposal may be discharged at the LA-2, LA-3, and LA-5 sites. Uncharacterized dredged material, vessels, trash, and other debris are prohibited from being discharged at these sites. In order to exclude large trash and debris (including rocks) from being disposed at the sites, all excavated dredged material loads must be placed into scows through a steel mesh or chain “grizzly” with openings of no more than 12 inches by 12 inches. Material retained on the grizzly must be removed and disposed of separately. EPA and USACE may on a case-by-case basis waive the requirement to use a grizzly if they determine that trash and debris is unlikely to be present in the area to be dredged.
3. ***Independent Inspector, and Scow Certification Checklist:*** Before any disposal vessel departs for the LA-2, LA-3, and LA-5 sites, an independent quality control inspector (“*independent*” means not a direct employee of the permittee or dredging contractor) must certify in writing that the vessel is not over-loaded, and otherwise meets the conditions and requirements of a Scow Certification Checklist that contains all of the substantive elements found in the example contained in the most current SMMP Implementation Manual. EPA and USACE must approve the proposed Scow Certification Checklist prior to the commencement of ocean disposal operations. No ocean disposal trip may be initiated until both the towing vessel captain and the independent inspector have signed all relevant entries on the Scow Certification

Checklist. The inspector shall provide a summary of any discrepancies or inaccuracies on the Checklist in the permittee's report to EPA and USACE for the relevant month (see condition 9, below).

4. ***Surface Disposal Zone (SDZ):*** When dredged material is discharged within the LA-2, LA-3, and LA-5 sites, no portion of the vessel from which the materials are released (e.g. hopper dredge or towed barge) may be further than 1,000 feet from the center of the disposal sites (see Table 1). No more than one disposal vessel may be present within the SDZ at any time.
5. ***Disposal Vessel Instrumentation and Tracking:*** The primary tracking system for recording ocean disposal operations shall be disposal vessel- (e.g., scow- or hopper dredge-) based. Each disposal vessel shall have a primary tracking system functioning for each disposal trip, calibrated for accuracy at a minimum at the beginning of each ocean disposal project, that automatically and continually indicates and records the following information throughout transportation to, disposal at, and return from LA-2, LA-3, and LA-5 sites:
  - a. position of the disposal vessel, to a minimum accuracy of 3 m (10 ft);
  - b. speed and heading of the disposal vessel;
  - c. fore and aft draft of the disposal vessel (sensors as near vessel centerline as possible);
  - d. fore and aft bin height (top of dredged material load in the bin or hopper) (sensors as near vessel centerline as possible);
  - e. time and location of each disposal event (e.g., the discharge phase).This system must record these data at a maximum 1-minute interval while outside the disposal site boundary, and at a maximum 15-second interval while inside the disposal site boundary and the SDZ. The primary system must also include a real-time display, located in the wheelhouse or otherwise visible to the helmsman, showing the position of the disposal vessel relative to the boundaries of the ODMDS and its SDZ, superimposed on the appropriate NOS chart so that the operator can confirm proper position of the disposal vessel within the SDZ before discharging the dredged material.
6. ***Posting Disposal Vessel Tracking Data on the Internet:*** Within 24 hours of the completion of each disposal trip, data recorded from the primary disposal tracking system must be posted by a third party contractor to a World Wide Web (Internet) site accessible by EPA Region 9 and the Los Angeles District USACE. The Web site must be searchable by disposal trip number and date, and at a minimum for each disposal trip it must provide a visual display of: the disposal vessel transit route to the LA-2, LA-3, and LA-5 sites; the beginning and ending locations of the disposal event; and the disposal vessel draft and load level in the bin throughout the transit. The requirement for posting this information on the Web is independent from the hard-copy reporting requirements listed in Conditions 9 and 11, below.
7. ***E-Mail Alerts:*** The third-party system must also generate and distribute "e-mail alerts" regarding any degree of apparent dumping outside the Surface Disposal Zone of the LA-

2, LA-3, and LA-5 sites (“mis-dumping”), and regarding any apparent substantial leakage/spillage or other loss of material en route to these sites. Substantial leakage/spillage or other loss shall be defined as an apparent loss of draft of one foot or more between the time that the disposal vessel begins the trip to the LA-2, LA-3, and LA-5 sites and the time of actual disposal. E-mail alerts for any disposal trip must be sent within 24 hours of the end of that trip to EPA Region 9 and the Los Angeles District USACE and to other addressees as may be indicated by EPA or USACE on a project-specific basis.

8. ***Back-up Navigation System:*** A functioning back-up navigation system, meeting the minimum accuracy requirement listed above, must also be in place on the towing vessel (tug, if any). If the primary (disposal vessel’s) navigation tracking system fails during transit, the disposal trip may continue only so long as the back-up (towing vessel’s) navigation and tracking system remains operational, by placing the towing vessel in such a location that, given the compass heading and tow cable length to the scow (“lay back”), the estimated scow position would be within the Surface Disposal Zone [i.e., within 1,000 feet of the center of the disposal site]. In such cases the towing vessel’s position, and the tow cable length and compass heading to the disposal vessel at the time of discharge, must be recorded and reported. Further disposal operations using a disposal vessel whose navigation tracking system fails must cease until the primary disposal tracking system’s capabilities are restored.
9. ***Record-Keeping, and Monthly Reporting:*** In addition to the requirement in Condition 7, above, for posting data on the Web, the permittee shall maintain daily records (including using the approved Scow Certification Checklist) of: the amount of material dredged and loaded into barges for disposal; the location from which the material in each barge was dredged; the weather report for and sea-state conditions anticipated during the transit period; the time that each disposal vessel departs for, arrives at and returns from the LA-2, LA-3, and LA-5 sites; the exact location and time of each disposal; and the volume of material disposed at these sites during each disposal trip. The permittee shall also maintain, for each ocean disposal trip, both electronic data and printouts from the GPS-based primary disposal tracking system (or the backup navigation tracking system when appropriate) showing transit routes, disposal vessel draft readings, disposal coordinates, and the time and position of the disposal vessel when dumping was commenced and completed. These daily records shall be compiled at a minimum for each month during which ocean disposal operations occur, and provided in reports, certified accurate by the independent quality control inspector, to both EPA and USACE. For each ocean disposal trip, these reports shall include the electronic tracking and disposal vessel draft data on CD-ROM (or other media approved by EPA and USACE), as well as hard copy reproductions of the Scow Certification Checklists and printouts listed above. The monthly reports must be sent to EPA and USACE by the 15<sup>th</sup> of the following month, and shall include a cover letter describing any problems complying with the Ocean Disposal Special Conditions, the cause(s) of the problems, any steps taken to rectify the problems, and whether the problems occurred on subsequent disposal trips.
10. ***24-Hour Notification Requirement for Potential Leaks or Mis-Dumps:*** The permittee shall report any anticipated, potential, or actual variances from compliance with these

ocean disposal site conditions, and any additional project-specific Special Conditions, to the District Engineer and the Regional Administrator, as well as other agencies as well may be included in Special Conditions, within 24 hours of discovering such a situation. A message from an operational “e-mail alert” system, as described in Special Condition 8 above, will be considered as fulfilling this 24-hour notification requirement. In addition, the permittee shall prepare and submit a detailed report of any such compliance problems on a weekly basis by noon Monday, to the District Engineer and the Regional Administrator. These reports shall describe the cause(s) of the problems, any steps taken to rectify the problems, and whether the problems occurred on subsequent disposal trips.

11. ***Project Completion Report:*** Within 60 days following the completion of ocean disposal operations, the permittee shall submit to the District Engineer and Regional Administrator a completion letter summarizing the total number of disposal trips and the overall volume (bin as well as *in-situ*) of material disposed at the specified site for the project (i.e., LA-2, LA-3, and LA-5, and whether any of this dredged material was excavated from outside the areas authorized for ocean disposal or was dredged deeper than authorized by the permit.

### **C. Additional Project-Specific Conditions**

Additional project-specific conditions or modifications to the Standard permit conditions specified above may be required by EPA and USACE if they determine these conditions are necessary to facilitate safe use or accurate monitoring of the disposal site, or to prevent potential harm to the environment. These can include any conditions that EPA or USACE determine to be necessary or appropriate to facilitate compliance with the requirements of the MPRSA, such as timing of operations or methods of transportation and disposal.

### **D. Alternative Permit/Project Conditions**

Project-specific alternatives or modifications to the Standard and/or Project-Specific permit conditions specified above may be authorized in advance by EPA and USACE at their discretion, at the request of the permittee. In such cases the permittee must demonstrate to the satisfaction of EPA and USACE:

- that the alternative conditions are sufficient to accomplish the specific intended purpose of the original permit condition;
- that they will not increase the risk of harm to the environment or the health or safety of persons; and
- that they will not impede monitoring of compliance with the MPRSA, regulations promulgated under the MPRSA, or the permit or authorization issued under the MPRSA.

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
200 OCEANGATE, 10TH FLOOR  
LONG BEACH, CALIFORNIA 90802-4416  
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Page 1

July 18, 2019

Permit Application No.: 5-14-0200-A1

**AMENDED COASTAL DEVELOPMENT PERMIT**

On June 11, 2015, the California Coastal Commission granted to **City Of Newport Beach** this permit subject to the attached Standard and Special conditions, for development consisting of **beach replenishment of up to 75,000 cubic yards per year of suitable dredged material, including Eelgrass Protection and Mitigation Plan for eelgrass impacts; as detailed in the Eelgrass Protection and Mitigation Plan dated October 15, 2015, reviewed by the Executive Director.**

See also: Consistency Certification CC-0002-15: Maintenance dredging around existing docks and off-shore disposal of up to 75,000 cubic yards per year of suitable dredged material, including proposed Eelgrass Protection and Mitigation Plan for eelgrass impacts; as detailed in the Regional General Permit 54 Supplement dated October 2015, reviewed by the Executive Director. More specifically described in the application filed in the Commission offices.

The development is within the coastal zone at **Upper and Lower Newport Bay, Newport Beach, Orange County.**

Issued on behalf of the California Coastal Commission by

John Ainsworth

Executive Director

Mandy Revell

Coastal Program Analyst

**ACKNOWLEDGMENT:**

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

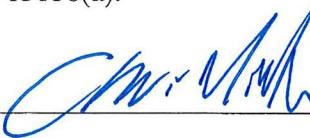
The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

July 18, 2019

Permit Application No.: 5-14-0200-A1

## AMENDED COASTAL DEVELOPMENT PERMIT

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date: 7/22/19Signature 

### STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### SPECIAL CONDITIONS:

1. **Final Revised Regional General Permit 54 Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a document, subject to the review and approval of the Executive Director, detailing the final Regional General Permit 54 program. The format of the document shall substantially conform to the preliminary program titled "Permit Application Supplement: Proposed Regional General Permit 54," submitted January 2014, and included as Exhibit 2 in the staff report dated 5/29/15, but shall be amended to reflect the following changes:
  - A. Term of Authorization for Dredging and Ocean or Beach Disposal: Authorization to dredge and dispose of suitable material at an approved ocean or beach disposal site under this CDP/CC shall expire six (6) years from the date of issuance of the CDP/CC.

## AMENDED COASTAL DEVELOPMENT PERMIT

Requests for development under this authorization shall be submitted for review and, if authorized by the Executive Director, the development shall be completed within the six-year period.

Following the review of the biennial eelgrass survey data proposed in the Eelgrass Protection and Mitigation Plan and as required by Special Condition 2, or should there be a net loss in eelgrass in the impacted areas of Newport Bay relative to the reference sites, the City, Commission staff, and other resource agency staff will work together to resolve implementation issues that were unforeseen when the RGP 54 and Eelgrass Protection and Mitigation Plan were developed. If, at any time, the Executive Director determines that the development authorized by this CDP/CC is causing adverse impacts to habitat which are not being mitigated, the Executive Director shall notify the City and suspend commencement of and/or authorization of any further dredging and/or disposal under this CDP/CC unless and until the applicant obtains approval of an amendment to this CDP and a new consistency certification from the Commission that allows for recommencement of development pursuant to any additional terms and conditions to address the unforeseen impacts to coastal resources.

- B. Annual maintenance dredging shall be limited to 75,000 cubic yards (CY) of material.
- C. Individual dredging events shall be limited to 8,000 CY of material. Individual disposal (offshore or beach replenishment) events shall be limited to 8,000 CY of material.
- D. The demolition, repair and in-kind replacement of docks (including piers, gangways, floats, and piles), bulkheads, and piles with similar structures are excluded from the current Regional General Permit 54 program. These activities shall require a separate coastal development permit from the California Coastal Commission.
- E. The City shall submit a pre-construction notification to the Executive Director and must receive a written authorization from the Executive Director prior to any dredging or disposal event undertaken by the City or by anyone with a legal right to dredge or dispose of dredged material. The Executive Director shall notify the City within 60 days indicating whether a proposed dredging or disposal event qualifies under the confines of the Regional General Permit 54 program or whether a separate coastal development permit/federal consistency certification is required from the Commission.
- F. The City of Newport Beach Tidelands Administrator shall be the primary Point of Contact (POC) for applicants seeking authorization under Coastal Development Permit No. 5-14-0200 and Federal Consistency Certification No. CC-0002-15 (CDP/CC). Once the POC has determined an application meets the conditions of the subject CDP/CC, the POC will forward the application to the Executive Director of the Commission along with a written certification for the Executive Director's review and approval. The POC may submit one batch of applications to the Executive Director for review and approval once per calendar month; additional submittals per calendar month beyond the single

July 18, 2019

Permit Application No.: 5-14-0200-A1

## AMENDED COASTAL DEVELOPMENT PERMIT

batch submitted by the POC may be authorized by the Executive Director for good cause. This certification shall include the following information:

- i. Certification letter from the City of Newport Beach Tidelands Administrator confirming the proposed application meets the terms and conditions of the CDP/CC, with special emphasis on the presence or absence of eelgrass.
- ii. Maps of the project site including location within the harbor, site address, site assessor's parcel number, site latitude and longitude coordinates (decimal degree format), as well as to-scale drawings of the proposed action (plan view and cross-section view of proposed activity), including the boundaries of any proposed sediment dredging and/or disposal work, the location and physical dimensions of any existing docks, floats, piers, pilings and bulkheads (and general outline of same that is present on adjacent sites), the location of the bulkhead, project and pierhead lines, and the specific location of any eelgrass beds within or near the work area (based on the most recent comprehensive eelgrass survey required pursuant to Special Condition No. 2).
- iii. The proposed area of temporary impacts to coastal waters (in acres), proposed dredge and/or disposal quantities (in cubic yards and acres), including a detailed estimate of how much material has been dredged from or discharged onto the site through previous activities.
- iv. The results of harbor-wide invasive algae (*Caulerpa taxifolia*) surveys taken biennially consistent with Special Condition 2. The surveys shall occur once every two years, beginning no later than one year after the issuance of this permit amendment, unless the Executive Director grants additional time for good cause.
- v. Photos (minimum of five) of the beach area and the low tide line (i.e., prior to any work), with special emphasis on any areas of eelgrass.
- vi. Evidence of California State Lands Commission approval for any work upon land that is not within the City of Newport Beach tidelands grant, which shall consist of a copy of a permit issued by the California State Lands Commission, or letter of permission, or evidence that no permit or permission is required for the development to occur at the proposed site. The City shall inform the Executive Director of any changes to the project required by the California State Lands Commission. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit or a new coastal development permit, and, if applicable, a new consistency certification unless the Executive Director determines that no amendment or new permit and consistency certification is legally required. This may be a one-time requirement so long as the approval covers the entire geographic area and time period covered under this CDP/CC.

July 18, 2019

Permit Application No.: 5-14-0200-A1

## AMENDED COASTAL DEVELOPMENT PERMIT

- vii. Evidence of the permittee's legal ability to undertake the development on any land that is not owned in fee title by the City of Newport Beach or County of Orange or upon any land granted to the City or County pursuant to a State Tidelands grant under which said grant does not specifically authorize the grantee to undertake the proposed activity which shall include written documentation demonstrating that the permittee has the legal ability to undertake the proposed development as conditioned herein. The permittee shall inform the Executive Director of any changes to the project required in obtaining such legal ability. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit and, if applicable, a new consistency certification, unless the Executive Director determines that no amendment or consistency certification is legally required.. This may be a one-time requirement so long as the approval covers the entire geographic area and time period covered under this CDP/CC.
- viii. Evidence of Regional Water Quality Control Board approval, which shall consist of a copy of a permit issued by the Regional Water Quality Control Board, or letter of permission, or evidence that no permit or permission is required for the development to occur at the proposed site. The City shall inform the Executive Director of any changes to the project required by the Regional Water Quality Control Board. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit or a new coastal development permit and, if applicable, a new consistency certification, unless the Executive Director determines that no amendment or consistency certification is legally required. This may be a one-time requirement so long as the approval covers the entire geographic area and time period covered under this CDP/CC.
- G. Annual Reporting: The City of Newport Beach shall submit annual reports for the life of the subject CDP/CC to the South Coast District Office (Long Beach) of the California Coastal Commission documenting activities authorized under this coastal development permit and consistency certification. Each annual report shall include a cumulative ledger documenting all activities conducted to date under the subject CDP/CC. The annual report shall be submitted no later than January 1 of each year, beginning in 2016. Annual reports from the City shall include:
- i. A summary of dredging operations including location (coordinates and address) of each dredging operation and areas and volumes of material dredged (in cubic yards and acres).
  - ii. Disposal location(s)(coordinates and address) and volumes for each method used (i.e., beach disposal, LA-3, or inland site).
    - i. An estimate of the total acreage of coastal waters impacted for each activity type.
    - ii. Summary of any direct and indirect eelgrass impacts for each activity type, and the on-site or off-site eelgrass mitigation completed or in progress.

## **AMENDED COASTAL DEVELOPMENT PERMIT**

- iii. An updated, to-scale map showing the locations of all activities conducted using this coastal development permit and consistency certification to date.
- iv. Confirmation of compliance with all special conditions, or a detailed explanation of any special conditions not complied with.

The City and anyone with a legal right to dredge or dispose of dredged material shall undertake development in accordance with the approved final Regional General Permit 54 program. Any proposed changes to the approved final program shall be reported to the Executive Director. No changes to the approved final program shall occur without a Commission amendment to this coastal development permit (and, if applicable, a new consistency certification) unless the Executive Director determines that no amendment is legally required.

2. **Final Revised Eelgrass Protection and Mitigation Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a document, subject to the review and approval of the Executive Director, detailing the final Eelgrass Protection and Mitigation Plan. The format of the document shall substantially conform to the preliminary plan most recently updated March 2015 and included as Exhibit 3 in the staff report dated 5/29/15, but shall be amended to reflect the following changes:

- A. Term of Authorization and Requirement for Eelgrass Monitoring and Biennial Surveys: During the six (6) year period for which the applicant is authorized to dredge and dispose of suitable material at an approved ocean or beach disposal site under this CDP/CC (subject to the requirements of Special Condition 1), the applicant shall conduct a minimum of three (3) comprehensive eelgrass surveys of the Plan Area as specified in the Eelgrass Protection and Mitigation Plan. The first and the third of these surveys shall not be limited to the areas where dredging and beach replenishment are permitted under this permit, but shall cover the entire Newport Harbor. The surveys shall occur once every two years, beginning no later than one year after the issuance of this permit, unless the Executive Director grants additional time for good cause.
- B. If invasive algae (*caulerpa taxifolia*) are found within the Plan Area, the City and anyone with a legal right to dredge or dispose of dredged material shall immediately (within 5 days) report it to the Executive Director, the National Marine Fisheries Service, and the Surveillance Subcommittee of the Southern California Caulerpa Action Team. The City and anyone with a legal right to dredge or dispose of dredged material shall not proceed with any dredging or disposal of dredged material in the Plan Area until the City has provided evidence to the Executive Director that all *Caulerpa taxifolia* discovered within the Plan Area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act.
- C. The demolition, repair and in-kind replacement of docks (including piers, gangways, floats, and piles), bulkheads, and piles with similar structures is excluded from the current

July 18, 2019

Permit Application No.: 5-14-0200-A1

## **AMENDED COASTAL DEVELOPMENT PERMIT**

approved Regional General Permit 54 program. These activities shall require a separate coastal development permit from the California Coastal Commission.

- D. If eelgrass was present within a dredging footprint during the previous biennial survey, its presence at the time of dredging must be assumed and the size of the presumed eelgrass loss documented. That area shall be examined specifically during all following biennial surveys and the distribution and cover of eelgrass documented to determine recovery time.
- E. Restoration undertaken by the City and Orange County Coastkeeper (with funding from the City) under Tier 1 and Tier 2, and restoration undertaken by dock owners under Tier 2, shall be documented and reported annually, including time and duration of restoration activities and types of activities undertaken. If Orange County Coastkeeper restoration activities are funded through sources in addition to the City, annual reporting shall document these additional funds and sources and include an estimate of the proportion of total restoration that can be attributed entirely to funding provided by the City. The annual reports shall also evaluate the success of the restoration in terms of eelgrass bed size, cover, and turion density.
- F. The City shall submit an annual evaluation of the RGP 54 and Eelgrass Protection and Mitigation Plan which shall include: (a) estimates of the time required for eelgrass recovery with and without on-site restoration activities, (b) estimates of the total temporal loss of eelgrass due to dredging (acres and acre-years), (c) estimates of the total area of off-site eelgrass restoration accomplished, and (d) the net mitigation accomplished.
- G. This CDP/CC does not permit eelgrass impacts as a result of beach replenishment or disposal of dredged material in front of an existing bulkhead. If an unexpected impact to eelgrass occurs during disposal of dredged material, such impact shall be documented and reported to the Executive Director in the same manner that dredging impacts on eelgrass are documented and reported. If an impact was detected (as defined above), the report will include a summary of how the California Eelgrass Mitigation Policy will be complied with. Implementation of mitigation shall require a new coastal development permit unless the Executive Director determines that no amendment or new permit is required. The following implementation measures shall be applied:
  - i. If eelgrass was present within 15 feet (in any direction) of a potential dredged material disposal site (in any direction) at the time of the most recent comprehensive eelgrass survey, that site shall be assumed to support eelgrass and cannot be used as a disposal site;
  - ii. If eelgrass was present between 15-30 feet from a potential dredged material disposal site (in any direction) at the time of the more recent comprehensive eelgrass survey, then monitoring of the site for potential eelgrass impacts from disposal operations shall be required. Monitoring shall consist of pre- and post-project transects placed perpendicular to the shoreline and spaced five feet apart

## **AMENDED COASTAL DEVELOPMENT PERMIT**

which map the eelgrass bed. Enough transects shall be used to extend the length of the project footprint. Along each transect, the extent of eelgrass shall be measured. Any decrease in eelgrass extent along any transect (pre-project vs. post-project) will constitute an impact. The pre-project transects shall be conducted no sooner than 60 days prior to the start of dredging and the post-project transects shall be conducted no later than 30 days following the completion of dredging.

Should the monitoring identify an impact to a mapped eelgrass bed as a result of beach replenishment disposal of dredged material in front of an existing bulkhead, then mitigation consistent with the provisions of the California Eelgrass Mitigation Policy shall apply. An eelgrass monitoring report shall be submitted to the Army Corps of Engineers, National Marine Fisheries Service, and California Coastal Commission no later than 90 days following completion of disposal of dredged material on a beach or in front of an existing bulkhead(s).

The City and anyone with a legal right to dredge or dispose of dredged material shall undertake development in accordance with the approved final Eelgrass Protection and Mitigation Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit and new consistency certification unless the Executive Director determines that no amendment and consistency certification is legally required.

3. **Construction and Operational Best Management Practices.** In order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into the sea, the applicant and anyone with a legal right to dredge or dispose of dredged material subject to the program and plan approved by this CDP/CC shall implement the following construction-related and operational best management practices (BMPs), in addition to those construction best management proposed by the applicant's preliminary program titled "Permit Application Supplement: Proposed Regional General Permit 54," submitted January 2014, and included as Exhibit 2 in the staff report dated 5/29/15 and the applicant's Eelgrass Protection and Mitigation Plan most recently updated March 2015 and included as Exhibit 3 in the staff report dated 5/29/15:
  - A. No construction materials, debris, waste, oil or liquid chemicals shall be placed or stored where it may be subject to wave erosion and dispersion, stormwater, or where it may contribute to or come into contact with nuisance flow.
  - B. Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction.
  - C. No machinery or construction materials not essential for project implementation shall be allowed at any time in the intertidal zone or in the harbor.
  - D. Sediment for beach replenishment shall be placed, not dumped, using means to minimize disturbance to bay sediments and to minimize turbidity.

July 18, 2019

Permit Application No.: 5-14-0200-A1

## AMENDED COASTAL DEVELOPMENT PERMIT

- E. If turbid conditions are generated during construction a silt curtain shall be utilized to minimize and control turbidity to the maximum extent practicable.
- F. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- G. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day
- H. The discharge of any hazardous materials into the harbor or any receiving waters shall be prohibited.
- I. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- J. Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.
- K. Prior to commencement of any activity authorized under this CDP/CC, the boundaries of any eelgrass meadow within 30 feet of the activity shall be marked with buoys so that equipment and vessel operators avoid damage to eelgrass meadows.
- L. Barges and other vessels shall be anchored a minimum of 15 feet from any eelgrass bed. Anchors and anchor chains shall not encroach into any eelgrass bed.
- M. Barges and other vessels shall avoid transit over any eelgrass meadow to the maximum extent practicable. Where transit over eelgrass beds is unavoidable such transit shall only occur during high tides when grounding and potential damage to eelgrass can be avoided.

The applicant and anyone with a legal right to dredge or dispose of dredged material subject to the program and plan approved by this CDP/CC shall include the requirements of this condition (including those BMPs proposed in the Regional General Permit 54 and the Eelgrass Protection and Mitigation Plan) on all plans and contracts issued for development subject to program and plan approved by this CDP/CC.

- 4. **Dredging and Dredged Material Disposal Requirements.** For this CDP/CC, the term dredging operations shall mean navigation of the dredging vessel at the dredging site, excavation of dredged material within the project boundaries, and placement of dredged material into a hopper dredge or disposal barge or scow. The following requirements shall apply, in addition to those proposed by the applicant's preliminary program titled "Permit Application Supplement: Proposed Regional General Permit 54," submitted January 2014, and included as Exhibit 2 in the staff report dated 5/29/15 and the applicant's Eelgrass Protection and Mitigation Plan most recently updated March 2015 and included as Exhibit 3 in the staff report dated 5/29/15:

July 18, 2019

Permit Application No.: 5-14-0200-A1

## **AMENDED COASTAL DEVELOPMENT PERMIT**

### I. Dredging Activities.

- A. Under this CDP/CC, dredging operations are limited to -10 feet MLLW with a 2-foot allowable over draft (1 foot paid, 1 foot unpaid).
- B. Sediment Testing Requirements. The permittee is prohibited from dredging and disposing material in coastal waters that has not been tested and determined by the Commission, in consultation with the Army Corps of Engineers and with the Environmental Protection Agency Region IX (EPA), to be both clean and suitable for ocean disposal or beach replenishment. Prior to each dredging episode at each individual dredging location and prior to beach replenishment at each replenishment location, the permittee shall sample the material to be dredged and any beach-receiver location for the purpose of determining the physical characteristics of the material. Testing shall be performed consistent with procedures defined in: "Procedures for Handling and Chemical Analysis of Sediment and Water Samples," by Russell H. Plumb (1981), Corps Technical Report EPA/CE-81-1, pages 3-28 to 3-47. The grain size test shall be conducted on a composite of at least one core per one-quarter (1/4) acre area to be dredged and/or at least one core per site for each project, as well as at least one core per receiver beach location. The core depth shall be equivalent to the proposed dredging depth plus any over-dredging. Grain size data shall be reported to the nearest 1% for sand, silt, and clay consistent with procedures defined in: "Procedures for Handling and Chemical Analysis of Sediment and Water Samples," by Russell H. Plumb (1981), Corps Technical Report EPA/CE-81-1, pages 3-28 to 3-47.
- C. At least 15 calendar days before initiation of any dredging operations authorized by this permit, the permittee shall send a dredging and disposal operations plan to the Corps, EPA, and CCC with the following information:
  - i. A list of the names, addresses and telephone numbers of the permittee's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector and the captain of each tug boat, hopper dredge or other form of vehicle used to transport dredged material to the designated disposal site.
  - ii. A list of all vessels, major dredging equipment and electronic positioning systems or navigation equipment that will be used for dredging and disposal operations, including the capacity, load level and acceptable operating sea conditions for each hopper dredge or disposal barge or scow to assure compliance with special conditions on dredging and disposal operations.
  - iii. A detailed description of the dredging and disposal operations authorized by this permit. Description of the dredging and disposal operations should include, at a minimum:

## AMENDED COASTAL DEVELOPMENT PERMIT

- a. Dredging and disposal procedures for the dredged material determined by the Corps and EPA Region IX to be unsuitable for ocean disposal.
- b. Dredging and disposal procedures for the material to be dredged from the proposed site.
- c. A schedule showing when the dredging project is planned to begin and end.
- D. A pre-dredging bathymetric condition survey, taken within 30 days of the dredge start date. The survey may be taken via lead line, sounding disc, or sounding pole techniques according to Chapter 8 (Manual Depth Measurement Techniques) from the Corps Engineering and Design - Hydrographic Surveying manual (EM 1110-2-1003, published 01 Jan 2002). Each individual project survey using this method will include a minimum of three sounding points (adjusted for tide) per individual dock.

The pre-dredge survey shall be accurate to 0.5-foot with the exact location of all soundings clearly defined on the survey chart. The pre-dredge survey chart shall be prepared showing the following information:

- i. The entire dredging area, the toe and top of all side-slopes and typical cross sections of the dredging areas. To ensure that the entire area is surveyed, the pre-dredge condition survey should cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area, unless obstructions are encountered.
  - ii. The dredging design depth, overdredge depth and the side-slope ratio.
  - iii. The total quantity of dredged material to be removed from the dredging areas and the side-slope areas.
  - iv. Areas shallower than the dredging design depth shall be shaded green, areas between the dredging design depth and overdredge depth shall be shaded yellow, and areas below overdredge depth that will not be dredged shall be shaded blue. If these areas are not clearly shown, the Corps may request additional information.
  - v. The pre-dredging survey chart shall be signed by the permittee to certify that the data are accurate and that the survey was completed within 30 days of the proposed dredging start date.
  - vi. A debris management plan to prevent disposal of large debris at all disposal locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.
- E. The permittee shall not commence individual dredging operations unless and until the permittee receives a written authorization to proceed from the Executive Director of the Commission to commence work, subject to the terms of Special Condition 1(F).
- F. The City shall require applicants to submit a post-dredging completion report, which shall be compiled by the City and submitted to the Executive Director in an annual report. The

## AMENDED COASTAL DEVELOPMENT PERMIT

report shall include all information collected by the permittee, the dredging operations inspector and the disposal operations inspector or the disposal vessel captain as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail. The report shall further include the following information:

- i. Permit and project number.
- ii. Start date and completion date of dredging and disposal operations.
- iii. Total cubic yards disposed at the authorized disposal site(s).
- iv. Mode of dredging.
- v. Mode of transportation.
- vi. Form of dredged material.
- vii. Frequency of disposal and plots of all trips to the authorized disposal site(s).
- viii. Tug boat or other disposal vessel logs documenting contact with the USCG before each trip to the authorized ocean disposal site.
- ix. Percent sand, silt and clay in dredged material: for this CDP/CC only, see sediment testing requirements above.
- x. A certified report from the dredging site inspector indicating all general and special permit conditions were met. Any violations of the permit shall be explained in detail.
- xi. Pre-dredging hydrographic survey.
- xii. A detailed post-dredging hydrographic survey of the dredging area. The survey shall show areas above the dredging design depth shaded green, areas between the dredging design depth and overdredge depth shaded yellow, areas below overdredged depth that were not dredged or areas that were deeper than the overdredge depth before the project began as indicated on the predredging survey shaded blue, and areas dredged below the overdredge depth or outside the project boundaries shaded red. The methods used to prepare the post-dredging survey shall be the same methods used in the predredging condition survey. The survey shall be signed by the Permittee certifying that the data are accurate.

### II. Beach disposal (beach replenishment)

- A. Beach disposal (replenishment) shall be the preferred disposal method under the program. All sediment removed from the harbor which is suitable for beach replenishment (subject to the following testing and disposal requirements) shall be disposed of on beaches in front of bulkheads and at street end beaches throughout the bay, subject to the approval of the landowner, Tidelands administrator, and the Executive Director.
- B. Grain Size Criteria: Material utilized for beach replenishment shall have a sand content that is either i) greater than 80% sand; or ii) at least 75% sand and within 10% of the sand content of the receiver beach. Any material that meets the requirements

## **AMENDED COASTAL DEVELOPMENT PERMIT**

outlined above for beach replenishment and consists of less than 80% sand shall only be placed upon submerged beach areas (i.e. below the water line).

- C. Prior to commencement of beach replenishment at a site, the results of each sampling episode and beach replenishment compatibility test described in Section I above shall be submitted for the review and approval of the Executive Director. Dredged material deemed suitable for beach replenishment may be deposited at the approved deposition sites only after the Executive Director has concurred with a City determination that the materials to be dredged have been deemed "suitable" using the standards in these special conditions. All dredged material deemed "unsuitable" for beach replenishment shall be disposed of at an approved location according to all federal, state and local regulations. If the disposal site is not within an approved ocean disposal site as identified in section II but is located in the coastal zone, a separate coastal development permit application shall be filed for the disposal of the "unsuitable" material. All contracts involving the subject project shall include the above stated condition of approval.
- D. In no case will beach disposal be authorized with material dredged below the sediment testing characterization depth for any particular site.
- E. A detailed description of the transport and discharge operations authorized by this permit will be submitted to the Executive Director of the Commission for review and approval at least 60 calendar days prior to work in coastal waters. Description of the transport and discharge operations shall include:
  - i. Transport and discharge procedures for all sediment, including all material unsuitable for beach replenishment discharge.
  - ii. A schedule showing when the beach replenishment project is planned to begin and end.
  - iii. A debris management plan to prevent disposal of large debris at all beach discharge locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.
  - iv. The volume of material to be excavated and discharged.
  - v. A list of previous discharges by site, date, and volume, as well as the total volume of material which has been excavated and discharged to date using this CDP/CC.
- F. The City must submit a pre-construction notification and must receive a written authorization to proceed from the Executive Director of the Commission before the permittee may commence any work.
- G. The permittee shall send one copy of a beach disposal post-discharge report to the Executive Director documenting compliance with all general and special conditions defined in this permit. The post-discharge report shall be sent within 30 calendar days

## **AMENDED COASTAL DEVELOPMENT PERMIT**

after completion of the discharge operations authorized in this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail. The report shall include:

- i. CDP/CC number.
- ii. Identify source of material.
- iii. Total cubic yards disposed at each beach disposal site.
- iv. Modes of transportation and discharge.
- v. Actual start date and completion date of transport and discharge operations.

- H. The permittee shall implement all appropriate, standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive eroded materials do not enter coastal waters due to beach replenishment operations. Sediment for beach replenishment shall be placed, not dumped, using means to minimize disturbance to bay sediments and to minimize turbidity. If turbid conditions are generated during construction a silt curtain shall be utilized to minimize and control turbidity to the maximum extent practicable.
- I. The permittee will establish a safety flag perimeter of the beach replenishment area during disposal activities, and monitor the premises to protect the general public from construction hazards and equipment.
- J. No maintenance, storage, or fueling of heavy tracked equipment or vehicles will occur within 500 feet of the high tide line of waters of the United States.

### **III. Offshore (ocean) disposal**

- K. All of the sediments dredged from within the Plan Area that are deemed unsuitable for beach replenishment are suitable for ocean disposal, with the exceptions as identified in the RGP 54 program.
- L. Prior to commencement of ocean disposal, the results of each sampling episode described in Section I(B) above shall be submitted for the review and approval of the Executive Director. Dredged material deemed unsuitable for beach disposal/replenishment may be deposited at the approved ocean disposal sites only after the Executive Director has concurred with a City determination that the materials to be dredged have been deemed unsuitable for beach replenishment and are suitable for ocean disposal using the standards in these special conditions. All dredged material deemed unsuitable for beach replenishment shall be disposed of at an approved location according to all federal, state and local regulations. If the disposal site is not located at an approved ocean disposal site and is located in the coastal zone, a separate coastal development permit application shall be filed for the disposal of the material. All contracts involving the subject project shall include the above stated condition of approval.

July 18, 2019

Permit Application No.: 5-14-0200-A1

## **AMENDED COASTAL DEVELOPMENT PERMIT**

- M. For this permit, the phrase "ocean disposal operations" shall mean: the transportation of dredged material from the dredging site to the ocean disposal site, proper disposal of dredged material at the central disposal area within the ocean disposal site, and transportation of the hopper dredge or disposal barge or scow back to the dredging site.
- N. The approved ocean disposal site is LA-3, effective October 2005: 33 degrees 31.00 minutes North Latitude, 117 degrees 53.30 minutes West Longitude (NAD 1983), circular site with radius of 3,000 feet.
- O. In no case will offshore (ocean) or beach disposal be authorized for material dredged below the sediment testing characterization depth for any particular site.
- P. No more than 8,000 cubic yards of dredged material excavated for an individual dredging project authorized under this CDP/CC are authorized for disposal at the LA-3 ocean disposal site.
- Q. The permittee shall ensure dredged material is not leaked or spilled from the disposal vessel(s) during transit to the ocean disposal site. The permittee shall transport dredged material to the ocean disposal site only when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak or other loss of dredged material during transit. No disposal vessel trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete disposal operations.

### **IV. Inland disposal**

- A. If neither offshore disposal nor beach disposal are available for an individual project proposed under this CDP/CC, material may be disposed of at an inland facility, subject to the review and approval of the Executive Director. If the disposal site is located in the coastal zone, a separate coastal development permit application shall be filed for the disposal of the material

### **5. Final Report and Eelgrass Mitigation Requirement at End of Six-Year Trial Period.**

The final report for the six-year trial period of the Regional General Permit 54 program and Eelgrass Protection and Mitigation Plan shall assess the net effect of dredging and restoration activities on the presence of eelgrass within the Plan Area in the context of natural trends. The City, using the biennial survey data and reference sites within the Plan Area that have not been affected by maintenance dredging or replenishment, shall report on the trends in eelgrass abundance over the permit period. Should reference sites indicate a decline in overall eelgrass abundance at the end of six years, the City, the California Coastal Commission, the California Department of Fish and Wildlife, and the National Marine Fisheries Service will evaluate the causes of such decline and use that information in assessing the success of restoration efforts undertaken by the City during the period of the Plan.

## **AMENDED COASTAL DEVELOPMENT PERMIT**

During Tier 3, applicants would be required to provide mitigation pursuant to the California Eelgrass Mitigation Policy including meeting the success criteria after five years based on applicant sponsored annual monitoring. The City would not be responsible for providing additional mitigation during Tier 3 years for any shortcomings presented in the six-year summary report. Any changes to the eelgrass in the Plan Area will be compared to reference sites using procedures adopted in the California Eelgrass Mitigation Policy or the San Onofre Nuclear Generating Station mitigation to be described in the Final Plan.

If, relative to the reference sites, there is a net loss in eelgrass in the impacted areas of Newport Bay at the end of the six years, the City, the California Coastal Commission, and the National Marine Fisheries Service will evaluate the success of the mitigation efforts by the City and by dock owners throughout the bay. If, through these discussions, the Executive Director determines that there is a shortfall in the necessary mitigation to offset temporal or permanent losses of eelgrass, a revised Eelgrass Mitigation and Monitoring Plan shall be prepared by the City to provide the necessary additional eelgrass mitigation. The revised Eelgrass Mitigation and Monitoring Plan shall require separate review and approval by the Commission through the regular coastal development permit/consistency certification process.

6. **Conformance with the Requirements of the Resource Agencies.** The applicant shall comply with all permit requirements and mitigation measures of the National Marine Fisheries Service, the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, the Environmental Protection Agency, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the marine environment. Any changes to the approved project which are required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
7. **Assumption of Risk, Waiver of Liability, and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from slope instability, erosion, landslides and wave uprush, storm conditions, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.



CALIFORNIA  
Water Boards



GAVIN NEWSOM  
GOVERNOR



JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

December 18, 2020

Mr. Chris Miller  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Email: [Cmiller@newportbeachca.gov](mailto:Cmiller@newportbeachca.gov)

### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER FOR REGIONAL GENERAL PERMIT 54 PROJECT (SARWQCB WDID # 302019-21)

Dear Mr. Miller:

Enclosed please find a Clean Water Act Section 401 Water Quality Certification and Order, authorized by Santa Ana Regional Water Quality Control Board Executive Officer, Hope A. Smythe. This Order is issued to you for the Army Corps of Engineers Regional General Permit 54, for the Lower Newport Bay (Project). Attachments A through C of the Enclosure are also part of the Order.

This Order is issued in response to an application submitted by The City of Newport Beach for the proposed Project discharge to waters of the State to ensure that the water quality standards for all waters of the State impacted by the Project are met. You may proceed with your Project according to the terms and conditions of the enclosed Order.

If you require further assistance, please contact me by phone at (951) 453-9367 or by email at [Marc.Brown@waterboards.ca.gov](mailto:Marc.Brown@waterboards.ca.gov). You may also contact David Woelfel, Chief of Regional Planning Programs Section, by phone at (951) 782-7960 or by email at [David.Woelfel@waterboards.ca.gov](mailto:David.Woelfel@waterboards.ca.gov).

Sincerely,

Marc Brown  
Environmental Scientist  
Regional Planning Programs Section  
Santa Ana Regional Water Quality Control Board

Enclosures (1): Order for Regional General Permit 54 Project #302019-21

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

Chris Miller  
RGP-54 Lower Newport Bay  
SARWQCB WDID #302019-21

- 2 -

December 18, 2020

cc: [Via email only] (w/ enclosure):

U.S Army Corps of Engineers, Los Angeles/Regulatory Division – Corice Farrar -  
[corice.j.farrar@usace.army.mil](mailto:corice.j.farrar@usace.army.mil)

U.S. Environmental Protection Agency, Region 9 – Wetlands Section –  
Melissa Scianni -- [Scianni.Melissa@epa.gov](mailto:Scianni.Melissa@epa.gov)

California Department of Fish and Wildlife – Kevin Hupf – [Kevin.Hupf@wildlife.ca.gov](mailto:Kevin.Hupf@wildlife.ca.gov)

State Water Resource Control Board, Office of Chief Counsel -- Teresita Sablan –  
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State Water Resources Control Board, Division of Water Quality -- Water Quality  
Certification Unit – [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov)

Santa Ana Regional Water Quality Control Board – David Woelfel –  
[David.Woelfel@waterboards.ca.gov](mailto:David.Woelfel@waterboards.ca.gov)

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GOVERNOR



JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

**Effective Date:** December 18, 2020

Reg. Meas. ID: 398855

Place ID: 803311

SARWQCB WDID: 302019-21

USACE #: Not Available

**Program Type:** Fill/Excavation

**Project Type:** Boating and Navigation

**Project:** City of Newport Beach Regional General Permit 54 (Project)

**Federal Permit:** United States Army Corps of Engineers (USACE) Letter of Permission, under Section 10 Rivers and Harbors Act

**Applicant:** City of Newport Beach

**Applicant Contact:** Chris Miller, City of Newport Beach Public Works Department  
100 Civic Center Drive  
Newport Beach, CA 92660  
Phone: (949) 644-3043  
Email: [Cmiller@newportbeachca.gov](mailto:Cmiller@newportbeachca.gov)

**Applicant's Agent:** Adam Gale, Anchor QEA, LLC  
9700 Research Drive  
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Phone: (949) 334-9635  
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**Water Board Staff:** Marc Brown, Environmental Scientist  
3737 North Main Street, Suite 500  
Riverside, CA 92501  
Phone: (951) 453-9367  
Email: [Marc.Brown@waterboards.ca.gov](mailto:Marc.Brown@waterboards.ca.gov)

#### Water Board Contact Person:

If you have any questions, please call Santa Ana Regional Water Quality Control Board (SARWQCB or Santa Ana Water Board) staff listed above or (951) 782-4130 and ask to speak with the Regional Planning Programs Section Chief.

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

## Table of Contents

I.	Order .....	3
II.	Public Notice .....	3
III.	Project Purpose.....	3
IV.	Project Description .....	4
V.	Project Location .....	5
VI.	Project Impact and Receiving Waters Information .....	6
VII.	Description of Direct Impacts to Waters of the State .....	6
VIII.	Compensatory Mitigation .....	7
IX.	California Environmental Quality Act (CEQA) .....	7
X.	Petitions for Reconsideration .....	7
XI.	Fees Received .....	7
XII.	Conditions .....	7
XIII.	Certification Deviation .....	19
XIV.	Water Quality Certification .....	20

**Attachment A**    Project Maps(s)

**Attachment B**    Report and Notification Requirements

**Attachment C**    Signatory Requirements

## I. Order

A Regional General Permit 54 (RGP 54) was previously issued by USACE on January 9, 2013 with an associated October 5, 2012 certification (SARWQCB Project No. 302012-21). A subsequent certification was issued July 29, 2014 (SARWQCB Project No. 302014-03) to address changes to the original project scope and include a new sediment sampling program. The Santa Ana Water Board amended this certification on December 20, 2018 to incorporate more recent sediment characterization data and additional administrative adjustments. The current RGP 54 is up for renewal and requires re-certification. Also, the City of Newport Beach (herein after Permittee) is proposing additional alterations to the original permit coverage.

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of the Permittee for the Project described below. This Order is for the purpose described in the application and supplemental information submitted by the Permittee. The application was received on December 4, 2019.

Prior to receiving a complete application, Santa Ana Water Board staff issued a Denial Without Prejudice, and the Permittee responded to the request for application information as summarized on Table 1.

**Table 1: Record of Denial Without Prejudice**

Date of Denial Without Prejudice	Date Requested Information Received
3/2/2020	5/14/2020

Santa Ana Water Board staff requested additional information necessary to supplement the contents of the complete application, and the Permittee responded to the request for supplemental information on the following date provided in Table 2.

**Table 2: Record of Supplemental Application Information**

Date of Request for Supplemental Information	Date Requested Information Received
3/2/2020	9/21/2020

## II. Public Notice

The Santa Ana Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from December 9, 2019 to the effective date of the Order.

## III. Project Purpose

The purpose of the proposed Project is to provide a streamlined process with local oversight by the Permittee for permitting small dredging projects occurring between bulkheads and pierhead lines within specific areas identified within Newport Harbor. This permitting process would continue to be regulated under a USACE RGP 54 specific for this Project, which would allow individual project proponents to enroll under a general permit if certain conditions could be met.

The RGP 54 is for minor maintenance dredging underneath and adjacent to private, public, and commercial docks, floats, and piers in portions of Lower Newport Bay. Maintenance dredging is needed to remove accumulated sediment from docks, floats, and piers in Newport Bay. This sediment originates largely from the San Diego Creek Watershed. The RGP 54 would cover minor maintenance dredging and discharge of material previously deemed suitable for unconfined placement at adjacent beach sites, offshore disposal sites, or upland disposal sites approved for dredged material. Additionally, to minimize beach loss, routine beach maintenance projects in the Bay are proposed to be included as part of RGP 54 and would be performed to move sloughed sand, preemptively relocating material from the low tide line to the high tide line.

#### **IV. Project Description**

The RGP 54 Plan Area within the harbor is defined as bulkhead to pierhead line plus 20 feet bayward. Exceptions include those structures that extend beyond this boundary in conformance with harbor development regulations defined by Chapter 17.35 of the Newport Beach Municipal Code. The RGP 54 applies to individual projects within Section 27 of Township 6 South, Range 10 West, of the U.S. Geological Survey Newport Beach, California, Quadrangle map. The specific areas proposed for coverage under RGP 54 are depicted in Figure 1 and Figure 2 of Appendix A.

The RGP 54 is also limited to areas where the sediment has been characterized according to guidelines established by the Southern California Dredged Material Management Team (SC-DMMT). See Attachment A, Figure 2, RGP 54 boundaries. The guidelines specify that sediment data be valid for a period of five years.

The Permittee conducted a sediment sampling and characterization program in September and October 2017 and April 2018. The SC-DMMT evaluated these data in August 2018 and approved the discharge of qualifying dredged material at adjacent beach sites (for beach nourishment) or disposal at the U.S. Environmental Protection Agency's LA-3 Ocean Dredged Material Disposal Site (LA-3) for sediments from all areas, except for the Balboa Yacht Basin and Promontory Bay. Sediments not approved for disposal at LA-3 would be disposed at an approved upland landfill. These sediment characterization results are valid until September 2022.

The Project consists of maintenance dredging under and adjacent to private, public, and commercial docks, floats, and piers. As specified by the SC-DMMT guidelines, maintenance dredging would occur for most areas to a maximum depth of -10 feet mean lower low water (MLLW), plus 2 feet of overdepth allowance (1 foot paid and 1 foot unpaid), with an annual maximum dredge volume of 75,000 cubic yards (CY) within the coverage areas and not to exceed 8,000 CY per individual project. For some areas, the maximum depth allowed would be a maximum of -7 feet MLLW with one-foot overdepth allowance.

Dredged materials would be disposed at adjacent bay beach sites and nearshore ocean beaches for beach nourishment, LA-3, or an approved upland disposal site that is outside the coastal zone.

Routine bay beach maintenance projects would be conducted on an as-needed basis at designated beaches for the relocation of sloughed sand from the low tide line (-1 foot MLLW) to the high tide line. Designated bay beach maintenance under the RGP 54 would be limited to beaches on Balboa Island, Beacon Bay, publicly owned street-end beaches, and other

locations listed and shown in the Permit Application Supplement. Bay beach maintenance would occur along 25,000 linear feet of shoreline in Newport Harbor. The beach width would be approximately 10 feet wide, requiring excavation of approximately 1 foot throughout the proposed area and reaching a maximum depth of -1 foot MLLW in any the aforementioned locations. This element of the RGP 54 would not exceed annual volume of 9,500 CY over 6 acres. The activity would involve shallow-depth hydraulic dredging during high tide or traditional tractor work during low tide. No impacts to eelgrass would be allowed during bay beach maintenance projects. The Permittee would review, track, and approve these projects as is done with other routine maintenance dredging activities under RGP 54. Documentation of these projects would be included in the RGP 54 annual reports to the permitting agencies.

Proposed dredge activities would conform with the City's Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay: An Ecosystem Based Management Program (City of Newport Beach; October 14, 2015) (Newport Bay Eelgrass Protection and Mitigation Plan) or the latest California Eelgrass Mitigation Policy (CEMP) procedures established by the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NOAA Fisheries).

## V. Project Location

The RGP 54 activities would be performed within predetermined areas of designation within Upper and Lower Newport Bay, in Newport Beach, Orange County (approximate latitude 33° 36' 31.98" N, longitude -117° 54' 20.40" W). Based on sampling completed in 2017 and through negotiations with the SC-DMMT, certain areas of the harbor require additional confirmatory sampling for both the dredge cut and predicted resulting Z-layer before material can be determined suitable for open-ocean disposal, nearshore placement, or beach nourishment. The Z-layer is the remaining surface after the desired dredged depth is achieved. Under the RGP-54, the classification of different areas of Newport Bay, pertaining to dredging depths and other requirements based on sediment characterization efforts, are presented in Figure 2 in Attachment A of this Order.

As illustrated in Figure 2 of Attachment A, areas identified in yellow on the map are not authorized under RGP 54. For all other areas, grain size analysis is required prior to discharge of sediment to verify compatibility with beach, nearshore, or open-ocean disposal. The areas delineated in dark blue do not require additional confirmatory sampling and are suitable to -10 feet MLLW plus 2 feet overdepth allowance for unrestricted disposal at LA-3, for beach nourishment, or for nearshore placement. The areas delineated in green, light blue, red, and orange require additional confirmatory testing to verify contaminants do not exceed certain thresholds; these requirements are as follows:

- Green area: Suitable to -7 feet MLLW plus 1 foot of overdepth allowance for open-ocean disposal, nearshore placement, or beach nourishment. Z-layer testing is required to confirm that the post-dredge surface contains mercury levels less than 1 part per million (ppm) prior to dredging to demonstrate that the newly exposed surface would not contain any targeted contaminants that exceed the established thresholds for the RGP 54.
- Light blue area: Suitable to -10 feet MLLW plus 2 feet of overdepth allowance for open-ocean disposal, nearshore placement, or beach nourishment. Confirmatory chemical testing is required for mercury to verify suitability prior to disposal. Z-layer testing is also required to confirm that the post-dredge surface contains mercury levels less than 1 ppm prior to dredging to demonstrate that the newly exposed surface would not contain any targeted contaminants that exceed the established thresholds for the RGP 54.

- Red area: Suitable to -10 feet MLLW plus 2 feet of overdepth allowance for open-ocean disposal, nearshore placement, or beach nourishment. Confirmatory chemical testing is required for mercury and polychlorinated biphenyls (PCBs) with Santa Ana Water Board and USACE concurrence to verify suitability prior to disposal. Z-layer testing is also required to confirm that the post-dredge surface contains mercury levels less than 1 ppm and PCB levels less than 100 parts per billion (ppb) prior to dredging to demonstrate that the newly exposed surface would not contain any targeted contaminants that exceed the established thresholds for the RGP 54.
- Orange area: Suitable to -10 feet MLLW plus 2 feet of overdepth allowance with unrestricted open-ocean disposal except as described below. Material proposed for beach nourishment or nearshore placement requires confirmatory chemical testing for DDTs to verify suitability prior to placement. Z-layer testing is also required to confirm that the post-dredge surface contains DDT concentrations of less than 18.0 ppb prior to dredging to demonstrate that the newly exposed surface would not contain any targeted contaminants that exceed the established thresholds for the RGP-54.

Under the RGP 54, dredging would be allowed beyond the -10 feet MLLW plus 2 feet of overdepth, if performed under the approval of the Permittee and if determined that DDT concentrations in sediment would be removed to a level where the post-dredge surface sediment has less than 18.0 ppb of DDT concentration. If the post-dredge surface were to contain a DDT concentration of less than 18.0 ppb, then dredge sediments removed from these operations may be disposed at the open ocean LA-3 site.

## **VI. Project Impact and Receiving Waters Information**

The Project is located within the jurisdiction of the Santa Ana Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Santa Ana Basin (1995) and subsequent amendments (Basin Plan) and other plans and policies. The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the State, water quality objectives to protect those uses, and the State and federal antidegradation policies.

Receiving Water:	Upper and Lower Newport Bay
Existing or Potential Beneficial Uses:	Navigation (NAV), Water Contact Recreation (REC1), Non-contact Water Recreation (REC2), Commercial and Sportfishing (COMM), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Spawning, Reproduction, and Development (SPWN), Marine Habitat (MAR), and Shellfish Harvesting (SHEL)

## **VII. Description of Direct Impacts to Waters of the State**

Total Project fill/excavation quantities for all impacts are summarized in Table 3.

<b>Table 3: Total Project Dredge Quantity</b>							
<b>Aquatic Resource Type</b>	<b>Temporary Impact<sup>1</sup></b>		<b>Permanent Impact</b>				
	Individual Project Total CY <sup>2</sup>	Annual Total CY <sup>3</sup>	Acres	CY	LF	Acres	CY
Ocean/bay/estuary	≤8,000	≤75,000	--	--	--	--	--

### VIII. Compensatory Mitigation

No compensatory mitigation is required for permanent impacts because these impacts are minimal and will return the dredged areas to designed depths. In addition, best management practices, water quality monitoring, and mitigation for impacts to eelgrass would be implemented reducing impacts to beneficial uses.

### IX. California Environmental Quality Act (CEQA)

On November 1, 2019, the City of Newport Beach, Public Works Department, acting as Lead Agency, made a ministerial declaration that the Project was categorically exempt from CEQA requirements under Public Resources Code section 21080(b)(1) and California Code of Regulations Title 14, Chapter 3, section 15304 Class 4(g). Pursuant to the California Environmental Quality Act (CEQA), the Santa Ana Water Board has independently determined that the Project is categorically exempt from provisions of CEQA under Guidelines Sections 15301 "Existing Facilities," 15302 "Replacement or Reconstruction," and 15304(g) "Minor Alterations to Land" – "Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies."

### X. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Resources Control Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within thirty (30) calendar days of the issuance of this Order.

### XI. Fees Received

An application fee of \$1,638.00 was received on December 4, 2019. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

### XII. Conditions

The Santa Ana Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watershed of the Project. In

<sup>1</sup> Includes only temporary direct impacts to waters of the State and does not include upland areas of temporary disturbance, which could result in a discharge to waters of the State.

<sup>2</sup> Cubic Yards (CY); Total CY of dredge material removed within a single project area

<sup>3</sup> Cubic Yards (CY); Total annual CY of dredge material removed within a single calendar year under this Order

<sup>4</sup> Linear Feet (LF)

accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

**A. Authorization**

This Order is issued contingent upon the execution of the following conditions:

- 1. Notification:** Prospective enrollees intending to obtain coverage under RGP 54 shall notify the Santa Ana Water Board at least thirty (30) days prior to commencing work. Prospective enrollees may use the same notification as that used to notify the USACE, provided the notification contains the information listed below. The Santa Ana Water Board may disqualify an individual project from coverage under this Order. In the event of disqualification, the prospective enrollee will be notified in writing within thirty (30) days of receipt of notification. If the prospective enrollee is not contacted by the Santa Ana Water Board within thirty (30) days after the notification is received by the Santa Ana Water Board, the prospective enrollee may proceed with the project. The minimum content of a notification includes:
  - a.** A statement that the notification is submitted pursuant to "SARWQCB WDID No. 302019-21" for activities subject to RGP 54, and that the prospective enrollee agrees to abide by all conditions contained herein.
  - b.** The name, address, and telephone number of:
    - i. The prospective enrollee
    - ii. The prospective enrollee's agent (if an agent is submitting the notification)
  - c.** Complete identification of all federal licenses/permits being sought for or applying to the proposed activity, including:
    - i. Federal agency(ies)
    - ii. Type
    - iii. File number(s) assigned by the federal agency(ies), if available
  - d.** Complete identification of any State-issued licenses/permits being sought for or applying to the proposed activity, including those issued by the California Department of Fish and Wildlife and the California Coastal Commission.
  - e.** A complete project description, including:
    - i. The purpose and final goal of the entire activity
    - ii. The address (including city and county), cross-streets, or other appropriate location description, and the longitude and latitude of the project site
    - iii. Name(s) of any receiving water body(ies) that may receive a discharge.
    - iv. The total estimated quantity of dredge and fill. Fill discharges shall be reported in CY and acres. Fill discharges for channels, shorelines (including bulkheads and seawalls), and other linear habitat shall also be reported in linear feet. Dredge discharges shall be reported in CY. *Note: No individual project shall exceed 8,000 CY of removed dredge material.*
    - v. Disposition of dredge materials, including longitude and latitude of the disposal site(s)

- vi. Results of any sediment characterization completed, showing results are in accordance with section XII B.3(a) of this Order, including testing conducted by others (e.g., the Permittee), and as required by the RGP 54.
  - vii. Results of any applicable Z-layer chemical characterization that has been completed, which shows that the results are in accordance with section XII B.3(a) of this Order, including testing conducted by others (e.g., the Permittee), and as required by the RGP 54.
- f. Payment by check in the amount specified for "General Orders" in the iteration of section 2200 (a)(3)(H), Title 23 of the California Code of Regulations in effect when the Notification is submitted, made payable to the State Water Resources Control Board.
- g. The notification shall be signed by the prospective enrollee or the prospective enrollee's agent. The notification shall include a statement that the submitted information is complete and accurate.
2. **Point of contact:** The Permittee shall serve as the primary point-of-contact for projects enrolling under RGP 54 and shall review all notifications for completeness and accuracy. Once the Permittee has determined that a project meets the conditions of this permit, the Permittee shall forward the notification to the Santa Ana Water Board.
3. **Z-Layer Contaminant Exceedance Notification:** The Permittee shall notify any perspective RGP 54 enrollee when a proposed project is disqualified from the RGP 54, if pre-dredge Z-layer core testing indicates analytical results for targeted contaminant level(s) exceed threshold limits established by the SC-DMMT for the RGP 54.
- a. At a minimum, a Z-layer sample shall be collected within individual project areas in an area that adequately characterizes sediment concentrations of contaminants. Should the project area exceed that of 0.25 acre, an additional representative Z-layer sample shall be collected every 0.25 acre thereafter. However, in the Orange areas only, two discrete samples that adequately characterize the sediment would be required for each individual project area.
  - b. Should laboratory analyses of the project Z-layer indicate that contaminant level(s) exceed the threshold limits designated by SC-DMMT, the Permittee shall ensure the enrollee is informed that an individual certification and/or waste discharge requirements for the proposed project will be required. The notification shall include the regulatory determination for the prospective project's ineligibility under the RGP 54 and provide guidance for obtaining an individual Clean Water Act Section 401 Water Quality Certification for the prospective project. The only exception to ineligibility is for the areas designated in Orange, which may contain DDT contamination, if further excavation could achieve a Z-layer that meets the regulatory limit of DDT and the dredge were to be approved by the Permittee.
4. **Dredge Volumes:** Cumulative dredging volumes shall not exceed 75,000 CY per year. Individual project dredging volumes shall not exceed 8,000 CY.
5. **Invasive Alga, *Caulerpa taxifolia*:** Enrollees shall conduct at least one survey for the invasive alga *Caulerpa taxifolia* thirty (30) to ninety (90) days prior to initiating a project.

The enrollee may rely on the *Caulerpa* presence/absence determination from the Permittee's biennial survey data to satisfy the *Caulerpa* survey requirement. If *Caulerpa taxifolia* were to be discovered, the enrollee shall notify Santa Ana Water Board staff, the California Department of Fish and Wildlife (CDFW), and NOAA Fisheries within twenty-four (24) hours of discovery. The enrollee may begin dredging only after implementing management measures specified by the CDFW and/or NOAA Fisheries. The enrollee shall notify the Santa Ana Water Board staff the measures being implemented and when dredging began.

- 6. Eelgrass:** Each enrollee shall adhere to the City's Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay: An Ecosystem Based Management Program (City of Newport Beach; October 14, 2015) (Newport Bay Eelgrass Protection and Mitigation Plan) or the latest CEMP procedures established by NOAA Fisheries. An eelgrass survey shall be conducted within thirty (30) to ninety (90) days prior to the commencement of each project. The enrollee may rely on the Permittee's eelgrass data collected every two years to satisfy the pre-construction eelgrass survey requirement. If eelgrass were to be present, mitigation shall be performed in accordance with the CEMP policy, the 2015 Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay, and/or future NOAA Fisheries-approved eelgrass plans that supersede or update this policy or plan. The Permittee shall ensure that projects requiring eelgrass mitigation have received approval from NOAA Fisheries prior to forwarding the notification to the Santa Ana Water Board.
- 7. Best Management Practices (BMPs):** At a minimum, the following BMPs shall be utilized:
  - a. For projects dredging over 1,000 CY, a continuous, floating silt curtain shall be deployed around active dredging areas.
  - b. Operational BMPs, such as reduction in dredging rate, modification of clamshell operation, use of favorable tidal conditions to minimize spread of turbidity plumes, and temporary suspension of dredging, shall be employed, as necessary.
  - c. All materials generated from construction activities associated with a project shall be managed appropriately. Activities shall include identifying all potential pollution sources associated with the project and incorporating all necessary pollution prevention BMPs for each potential pollution source identified.
  - d. If dredging operations were to exceed two (2) consecutive days, a Minimum Monitoring Program shall be implemented as described below.
- 8. Receiving Water Limitations:** Enrollees shall comply with the following applicable narrative and/or numeric objectives:
  - a. **Narrative Objectives for Physical Characteristics.** Wastes associated with the dredging operation shall not violate Basin Plan narrative objectives for color, floatables, and oil and grease, including the following:
    - i. Waste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affects beneficial uses.

- ii. Waste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses.
  - iii. Waste discharges shall not result in deposition of oil, grease, wax, or other materials in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses.
- b. **Numeric Limits for Physical/Chemical Characteristics.** Should single project dredge operations exceed two (2) consecutive days, enrollees shall comply with the numeric receiving water limitations specified in Table 4. Samples shall be collected at a distance of no more than 300 feet from the dredge footprint. Enrollees may use the Permittee's latest eelgrass survey to determine whether eelgrass is present within 300 feet of a project site. The transmissivity limits in Table 4 apply only if the enrollee chooses to monitor transmissivity, in addition to turbidity. When the enrollee monitors both transmissivity and turbidity, compliance shall be achieved if either transmissivity or turbidity is below the respective limit shown in Table 4.

**Table 4: Numeric Receiving Water Limitations<sup>5</sup>**

Parameter	Receiving Water Limitation	
	Eelgrass Present Within 300 feet	No Eelgrass Present Within 300 feet
Transmissivity	38%	16%
Turbidity	16 NTU	47 NTU
pH	$7 > \text{pH} < 8.6$ $< 0.2 \text{ change from ambient}$	
Dissolved Oxygen		$> 5 \text{ mg/L}$

9. **Minimum Monitoring Program:** If the monitoring results are within the receiving water limitations specified in Condition 7, subsequent monitoring during individual projects will not be required if the total dredging duration will be less than two (2) consecutive days. If dredging were to extend beyond two (2) consecutive days, monitoring shall be required every other day, beginning with the third day (i.e., monitoring shall be required on days 3, 5, 7, etc.). Enrollees shall implement a monitoring program to ensure compliance with the receiving water limitations specified in Condition 7, above. Minimum requirements of the monitoring plan are listed in Table 5.

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<sup>5</sup> The turbidity and transmittance limits are based on data collected in Lower Newport Bay (Anchor QEA. Lower Newport Bay Water Quality Monitoring, Suspended Sediment Special Study. May 18, 2012.).

**Table 5: Minimum Monitoring Program**

Locations	Monitored Constituents	Frequency
Less than or equal to 300 feet from dredge footprint	Turbidity, Dissolved Oxygen, pH	Every other day beginning with the third consecutive day of dredging

- 10.** A copy of this Order shall remain at the project site for the duration of the work and be available for inspection upon request.

**B. Reporting and Notification Requirements**

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment B, including specifications for photo and map documentation during the Project construction. Written reports and notifications shall be delivered with Project applications or submitted using the *Reporting and Notification Cover Sheet* located in Attachment B and signed by the Permittee or an authorized representative.

**1. Project Reporting:**

- a. **Annual Reporting.** The Permittee shall submit an Annual Report each year on January 1st. Annual reporting shall continue until a *Notice of Project Complete Letter* is issued to the Permittee.

**2. Project Status Notifications:**

- a. **Commencement of Construction.** The enrollee shall submit a *Commencement of Construction Report* at least seven (7) days prior to start of initial ground disturbance activities.

- b. **Request for Notice of Completion of Discharges Letter.** The enrollee shall submit a *Request for Notice of Completion of Discharges Letter* following completion of active Project construction activities, including any required restoration and Permittee-responsible mitigation. This request shall be submitted to Santa Ana Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, Santa Ana Water Board staff will issue to the Permittee a *Notice of Completion of Discharges Letter*, which will end the active discharge period and, if appropriate, associated annual fees.

- c. **Request for Notice of Project Complete Letter.** The enrollee shall submit a *Request for Notice of Project Complete Letter* when construction and any required post-construction monitoring is complete<sup>6</sup> and no further Project activities will occur. This request shall be submitted to Santa Ana Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Santa Ana Water Board staff will issue to the Permittee a *Notice of Project Complete*

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<sup>6</sup> Completion of post-construction monitoring will be determined by Santa Ana Water Board staff and will be contingent on successful attainment of restoration and mitigation performance criteria.

*Letter*, which will end the post discharge monitoring period and associated annual fees.

**3. Conditional Notifications and Reports:** The following notifications and reports are required, as appropriate. The Permittee shall forward pertinent information to the Santa Ana Water Board for each dredging project undertaken under this Order. This will include, at a minimum, sediment characterization, monitoring data (if any), dredging volume, area, depth, and disposal location(s).

- a. Sediment and Z-Layer Characterization Screening.** The Permittee shall provide a notification of sediment characterization to the Santa Ana Water Board for each project performed under this Order. Within individual project notifications, the Permittee shall provide third-party confirmatory information showing:
  - i. pre-dredge core sample(s) were collected at the proposed post-dredge z-layer depth within the Project footprint. All analytical results of core samples collected shall indicate contaminant values for targeted analytes are below SC-DMMT contaminant thresholds established for the RGP 54;
  - ii. proposed dredge materials were physically characterized and confirmed to be in conformance with sediment disposal requirements within a named depository site established by the SC-DMMT for the RGP 54;
  - iii. proposed dredge materials were chemically characterized by a certified laboratory, with results showing the Project's post dredge Z-layer materials tested were below tolerance thresholds for targeted contaminants for the RGP 54; and
  - iv. each dredge site having adequate characterization with at least one pre-dredge sample at the proposed post-dredge Z-layer and not less than one sample per 0.25 acre for larger dredging projects.
- b. Biological Assessment Survey of Ocean Nearshore Area Designated for Sediment Disposal.** Prior to depositing any dredge materials onto a pre-determined nearshore ocean depository location(s), a Biological Assessment shall be performed at the proposed location(s) and submitted to for acceptance by appropriate oversight agencies (e.g., California Coastal Commission). No sediment deposition shall occur prior to the approval of the survey by the appropriate oversight agency.
- c. Materials Disposal at Upland Location.** Should it be determined that characterized dredge materials are not suitable for beach replenishment, nearshore disposal, or disposal at LA-3, materials shall be disposed at a named depository accepted by the Santa Ana Water Board. Written notification to the Santa Ana Water Board shall be submitted at least seven (7) days prior to initiating dredge operations of any such identified materials.
- d. Redistribution of Dredge Materials within Individual Project Area.** Should proposed dredge activities include the redistribution of dredge materials to the shoreline side of a project area, an illustration of post-project materials redistribution

into the Project's Tidal Zone shall be included within the individual Project's Scope of Activities.

- e. **Accidental Discharges of Hazardous Materials.**<sup>7</sup> Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, section 13271):
- i. As soon as (A) the Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures, then the Permittee shall:
    - first call – 911 (to notify local response agency)
    - then call – Office of Emergency Services (OES) State Warning Center at (800) 852-7550 or (916) 845-8911
    - lastly follow the required OES procedures as set forth in the *California Hazardous Materials Spill / Release Notification Guidance*
  - ii. Following notification to OES, the Permittee shall notify Santa Ana Water Board, as soon as practicable (ideally within twenty-four [24] hours). Notification may be via telephone, email, delivered written notice, or other verifiable means.
  - iii. Within five (5) working days of notification to the Santa Ana Water Board, the Permittee shall submit an *Accidental Discharge of Hazardous Material Report*.
- f. **Violation of Compliance with Water Quality Standards.** The Permittee shall notify the Santa Ana Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, email, delivered written notice, or other verifiable means.
- i. Examples of noncompliance events include lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the State, and water contact with uncured concrete.
  - ii. This notification shall be followed within three (3) working days by submission of a *Violation of Compliance with Water Quality Standards Report* to the Santa Ana Water Board.
- g. **In-Water Work.**
- i. Cumulative dredging volumes shall not exceed 75,000 CY per year. Individual project dredging volumes shall not exceed 8,000 CY.

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<sup>7</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health and Safety Code, section 25501.)

- ii. The Permittee shall notify the Santa Ana Water Board at least seven days (7) prior to initiating work in water. Notification may be via telephone, email, delivered written notice, or other verifiable means.
  - iii. Within three (3) working days following completion of work in water or stream diversions, an *In-Water Work/Diversions Water Quality Monitoring Report* shall be submitted to Santa Ana Water Board staff.
- h. **Modifications to Project.** Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Santa Ana Water Board staff by submitting a *Modifications to Project Report*, if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority. The Permittee shall inform Santa Ana Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the Certification Deviation section of this Order.
- i. **Transfer of Property Ownership.** This Order is not transferable in its entirety or in part to any person or organization except after notice to the Santa Ana Water Board in accordance with the following terms:
- i. The Permittee shall notify the Santa Ana Water Board by submitting a *Transfer of Property Ownership Report* of any change in ownership or interest in ownership of the Project area. The Permittee and purchaser shall sign and date the notification and provide such notification to the Santa Ana Water Board at least ten (10) days prior to the transfer of ownership. The purchaser shall also submit a written request to the Santa Ana Water Board to be named as the permittee in a revised order.
  - ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.
- j. **Transfer of Long-Term BMP Maintenance.** If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee shall submit to the Santa Ana Water Board a copy of such documentation and shall provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee shall provide such notification to the Santa Ana Water Board with a *Transfer of Long-Term BMP Maintenance Report* at least ten (10) days prior to the transfer of BMP maintenance responsibility.

## C. Water Quality Monitoring

1. **General:** If surface water is present, continuous visual surface water monitoring shall be conducted to detect accidental discharge of construction related pollutants (e.g., oil, grease, turbidity plume, or uncured concrete).
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Santa Ana Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

- 3. In-Water Work or Diversions:** Water quality monitoring, for any work planned in water, shall be conducted in accordance with the approved plan as described in Section XII.A.9. and Tables 4 and 5. During planned work in water, any discharge(s) to waters of the State shall conform to the following water quality standards:
- a. Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations that result in a visible film or in coating objects in the water, or that cause a nuisance or adversely affect beneficial uses.
  - b. **Oxygen.** The dissolved oxygen (DO) content of enclosed bays and estuaries shall not be depressed to levels that adversely affect beneficial uses as a result of controllable water quality factors, which is determined to be for this Project the DO saturation of greater than 5 mg/L.
  - c. **pH.** The pH of bay and estuary waters shall not be raised above 8.6 or depressed below 7.0 as a result of controllable water quality factors; ambient pH levels shall not be changed by more than 0.2 unit, as listed in Table 4.
  - d. **Turbidity.** Increases in turbidity that result from controllable water quality factors shall comply limits listed in Table 4.

Sampling shall be conducted in accordance with Table 6 sampling parameters.<sup>8</sup>

<b>Table 6: Sample Type and Frequency Requirements</b>			
Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Oil and Grease	N/A	Visual	Continuous
Dissolved Oxygen	mg/L & % saturation	Grab	As described in section XII.A.9.
pH	Standard Units	Grab	
Turbidity	NTU	Grab	

#### **D. Standards**

1. This Certification will remain valid for five (5) years from the effective date of this Order.
2. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, Chapter 28, Article 6 commencing with sections 3867-3869, inclusive. Additionally, the Santa Ana Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the Santa Ana Water Board determines that the Project fails to comply with any of the

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<sup>8</sup> Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, a description of the method to be used shall be submitted to the Santa Ana Water Board staff for approval. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. Environmental Protection Agency-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

conditions of this Order or when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Water Code, sections 13000 et seq.) or federal Clean Water Act section 303 (Title 33 U.S. Code section 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of State law.

3. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
4. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.
5. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under State and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any State law authorizing remedies, penalties, processes, 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 Order.

#### **E. General Compliance**

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. If the conditions of this Order are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Santa Ana Water Board may require that the Permittee submit a *Report of Waste Discharge* and obtain *Waste Discharge Requirements*.
3. Permitted actions shall not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters, as adopted in the Basin Plan and subsequent Basin Plan Amendments or in any applicable State Water Resources Control Board water quality control plan or policy. The source of any such discharge shall be eliminated as soon as practicable.
4. In response to a suspected violation of any condition of this Order, the Santa Ana Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Santa Ana Water Board deems appropriate, provided that the burden, including costs, of the reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of State law.

5. The Permittee shall, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.
6. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of State law.

#### **F. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment C of this Order.
2. This Order does not authorize any act that results in the taking of a threatened, endangered, or candidate species, or any act that is now prohibited or becomes prohibited in the future under either the California Endangered Species Act (Fish and Game Code, sections 2050-2097) or the federal Endangered Species Act (Title 16 U.S. Code sections 1531-1544). If a "take" will result from any act authorized under this Order held by the Permittee, the Permittee shall obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Permittee shall grant Santa Ana Water Board staff or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept;
  - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order;
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order;
  - d. Sample or monitor for the purposes of assuring Order compliance.
4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
5. A copy of this Order shall be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

#### **G. Construction**

1. **Dewatering:** Construction dewatering discharges, including temporary diversions

necessary to carry out individual projects, are subject to regulation by Santa Ana Water Board Order No. R8 2020-0006, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality.

- 2. Construction General Permit Requirement:** The Permittee and enrollees shall maintain compliance with conditions described in and required by NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002) and any subsequent approvals.
- 3. Good Site Management “Housekeeping”:**
  - a.** BMPs for effective perimeter control shall be in place at all times to control the discharge of pollutants from the Project site during construction. Construction waste shall be contained and protected against wind and exposure to storm water at all times, unless being actively handled. Chemical, fuel, and lubricant containers shall be kept closed and protected from damage or upset at all times, unless being actively used. Dirt and landscaping material stockpiles shall have effective erosion control BMPs in place to prevent their transport in storm water or directly into the channel and shall not be located in any waters of the United States. Discharges of wastewater from the Project site are prohibited.
  - b.** Substances resulting from Project-related activities and that could be harmful to aquatic life shall not be discharged to soils or waters of the State. These substances include but are not limited to petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, Portland cement concrete or asphalt concrete, and washings and cuttings thereof. All waste concrete shall be removed from the Project site.
  - c.** Motorized equipment shall not be maintained or parked in or near any stream crossing, channel, or lake margin in such manner that petroleum products or other pollutants from the equipment might enter these areas under any flow conditions. Vehicles shall not be driven, or equipment shall not be operated on-site in waters of the State onsite, except as necessary to complete the proposed Project.
- 4. Hazardous Materials:** During construction activities, the Permittee shall comply with local, State, and federal laws and regulations regarding the handling and storage of hazardous substances.
- 5. Storm Water:** The Permittee and enrollees shall comply with the local regulations associated with the Santa Ana Water Board's Municipal Stormwater Permit issued to Orange County and co-permittees under NPDES No. CAS618030 and Waste Discharge Requirements Order No. R8-2010-0030, and subsequent iterations thereof.

### XIII. Certification Deviation

- A.** Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water resources. For purposes of this Certification, a *Certification Deviation* is a Project locational or impact modification that does not require an immediate amendment of the Order because the Santa Ana Water Board has determined that any

potential water resource impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.

- B.** A Project modification shall not be granted a *Certification Deviation*, if it warrants or necessitates changes that are not addressed by the Order conditions such that the Project no longer qualifies for categorical exemptions. In this case, a supplemental environmental review and different Order will be required.

#### XIV. Water Quality Certification

I hereby issue the Order (SARWQCB WDID # 302019-21) for the *City of Newport Beach Regional General Permit 54* Project. This Order certifies that any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act 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), as long as all of the conditions listed in the Order are met.

This discharge is also regulated pursuant to State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code, sections 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies and the Santa Ana Water Board's Basin Plan and Policies.

for December 18, 2020

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Hope A. Smythe  
Executive Officer  
Santa Ana Water Quality Control Board

Date

- Attachment A** Project Map(s)  
**Attachment B** Report and Notification Requirements  
**Attachment C** Signatory Requirements

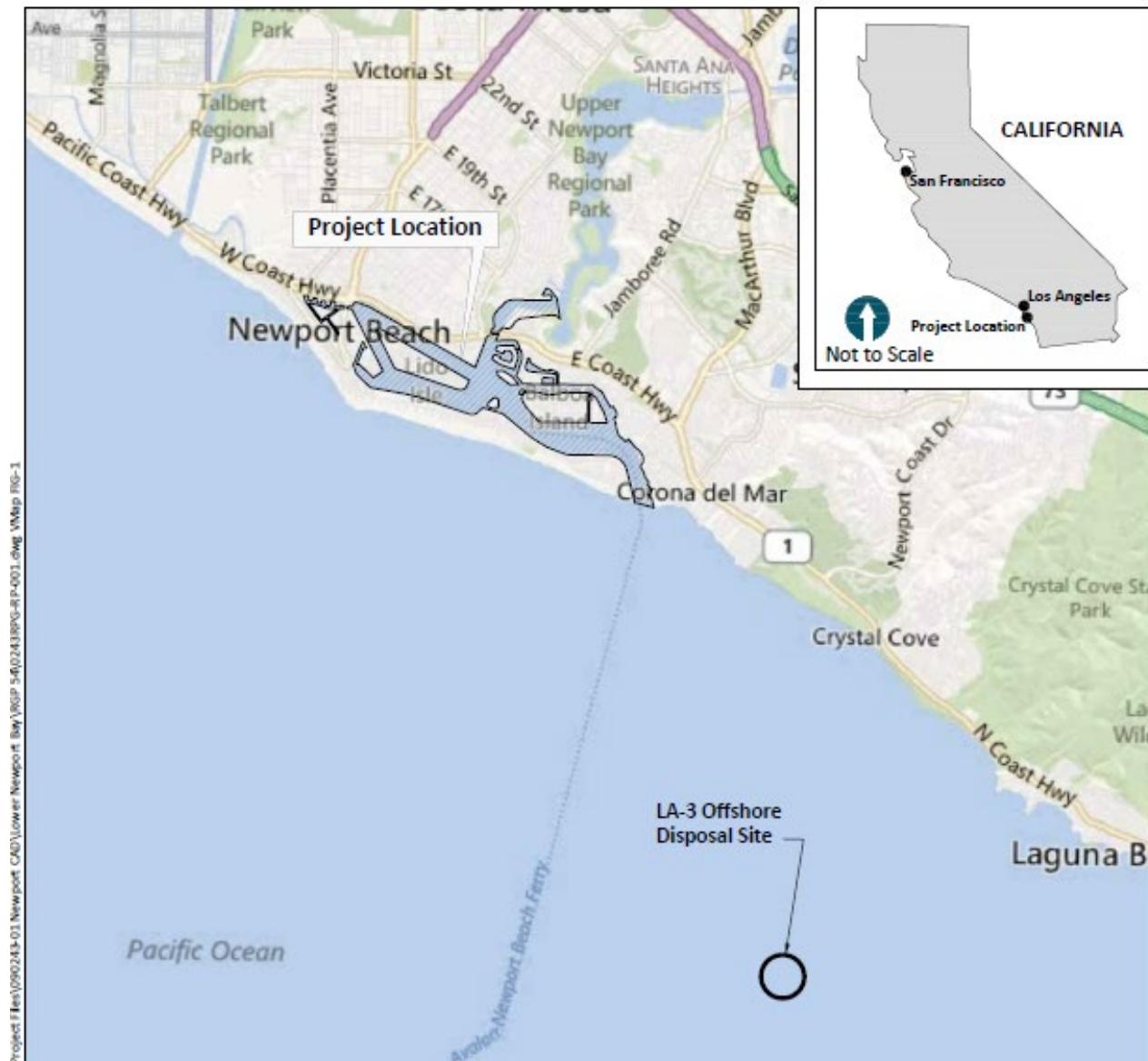


Figure 1: VICINITY MAP



Figure 2: PROJECT MAP

## Copies of this Form

In order to identify your Project, it is necessary to include a copy of the Project-specific Cover Sheet below with your report (see page 3). Please retain for your records.

## Report Submittal Instructions

1. Check the box on the *Report and Notification Cover Sheet* next to the report or notification you are submitting.
  - **Part A (Annual Report):** Submitted annually from the anniversary of the Project effective date until a *Notice of Project Complete Letter* is issued.
  - **Part B (Project Status Notifications):** Used to notify the Santa Ana Water Board of the status of the Project schedule that may affect Project billing.
  - **Part C (Conditional Notifications and Reports):** Required on a case-by-case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.
2. Sign the *Report and Notification Cover Sheet* and attach all information requested for the Report Type.
3. **Electronic Report Submittal Instructions:**
  - Submit signed *Report and Notification Cover Sheet* and required information via email to:  
[RB8-401Reporting@waterboards.ca.gov](mailto:RB8-401Reporting@waterboards.ca.gov)
  - Include in the subject line of the email:  
Subject: ATTN: Marc Brown; Reg. Measure ID: 398855 Report.

## Definition of Reporting Terms

1. **Active Discharge Period:** The active discharge period begins with the effective date of this Order and ends on the date that the Permittee receives a *Notice of Completion of Discharges Letter* or, if no post-construction monitoring is required, a *Notice of Project Complete Letter*. The Active Discharge Period includes all elements of the Project, including site construction and restoration, and any Permittee responsible compensatory mitigation construction.
2. **Request for Notice of Completion of Discharges Letter:** This request by the Permittee to the Santa Ana Water Board staff pertains to projects that have post construction monitoring requirements (e.g., if site restoration were required to be monitored for five (5) years following construction). Santa Ana Water Board staff will review the request and send a *Completion of Discharges Letter* to the Permittee upon approval. This letter will initiate the post-discharge monitoring period and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee.
3. **Request for Notice of Project Complete Letter:** This request by the Permittee to the Santa Ana Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards, or have no post-construction monitoring requirements and no further Project activities are planned. Santa Ana Water Board staff will review the request and send a *Project Complete Letter* to the Permittee upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.

4. **Post-Discharge Monitoring Period:** The post-discharge monitoring period begins on the date of the *Notice of Completion of Discharges Letter* and ends on the date of the *Notice of Project Complete Letter* issued by the Santa Ana Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.
5. **Effective Date:** December 18, 2020.

## Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

1. **Map Format Information:**

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles shall depict the boundaries of all Project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and, if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps or Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

2. **Photo-Documentation:** Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

## REPORT AND NOTIFICATION COVER SHEET

**Project:** City of Newport Beach Regional General Permit 54  
**Permittee:** The City of Newport Beach  
**SARWQCB WDID:** 302019-21  
**Reg. Meas. ID:** 398855      **Place ID:** 803311  
**Order Effective Date:** December 18, 2020

### Report Type Submitted

#### Part A – Project Reporting

**Report Type 1**  **Annual Report**

#### Part B - Project Status Notifications

**Report Type 2**  **Commencement of Construction**

**Report Type 3**  **Request for Notice of Completion of Discharges Letter**

**Report Type 4**  **Request for Notice of Project Complete Letter**

#### Part C - Conditional Notifications and Reports

**Report Type 5**  **Accidental Discharge of Hazardous Material Report**

**Report Type 6**  **Violation of Compliance with Water Quality Standards Report**

**Report Type 7**  **In-Water Work and Diversions Water Quality Monitoring Report**

**Report Type 8**  **Modifications to Project Report**

**Report Type 9**  **Transfer of Property Ownership Report**

**Report Type 10**  **Transfer of Long-Term Best Management Practices (BMPs) Maintenance Report**

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

**Print Name** <sup>1</sup>

**Affiliation and Job Title**

**Signature**

**Date**

**<sup>1</sup>STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)**

I hereby authorize \_\_\_\_\_ to act in my behalf as my representative in the submittal of this report, and to furnish upon request supplemental information in support of this submittal.

\_\_\_\_\_  
**Permittee's Signature**

\_\_\_\_\_  
**Date**

**\*This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals.**

## Part A – Project Reporting

<b>Report Type 1</b>	<b>Annual Report</b>
<b>Report Purpose</b>	Notify the Santa Ana Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
<b>When to Submit</b>	Annual reports shall be submitted each year by the effective date. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.
<b>Report Contents</b>	<p>The contents of the annual report shall include the topics indicated below for each Project period. Report contents are outlined in Annual Report Topics below.</p> <p><b><u>During the Active Discharge Period</u></b></p> <ul style="list-style-type: none"><li>• <b>Topic 1: Construction Summary</b></li><li>• <b>Topic 2: Mitigation for Temporary Impacts Status</b></li><li>• <b>Topic 3: Compensatory Mitigation for Permanent Impacts Status</b></li></ul> <p><b><u>During the Post-Discharge Monitoring Period</u></b></p> <ul style="list-style-type: none"><li>• <b>Topic 2: Mitigation for Temporary Impacts Status</b></li><li>• <b>Topic 3: Compensatory Mitigation for Permanent Impacts Status</b></li></ul>

### Annual Report Topics (1-3)

<b>Annual Report Topic 1</b>	<b>Construction Summary</b>
<b>When to Submit</b>	With the annual report during the Active Discharge Period.
<b>Report Contents</b>	<ol style="list-style-type: none"><li>1. Project progress and schedule, including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water BMPs. If construction has not started, provide estimated start date and reasons for delay.</li><li>2. Map showing general Project progress.</li><li>3. If applicable:<ol style="list-style-type: none"><li>a. Summary of Conditional Notification and Report Types 6 and 7 (Part C below).</li><li>b. Summary of Certification Deviations.</li></ol></li></ol>
<b>Annual Report Topic 2</b>	<b>Mitigation for Temporary Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.
<b>Report Contents</b>	<ol style="list-style-type: none"><li>1. Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the State and all upland areas of temporary disturbance which could result in a discharge to waters of the State.</li></ol>

	<p><b>2.</b> If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.</p>
<b>Annual Report Topic 3</b>	<b>Compensatory Mitigation for Permanent Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.
<b>Report Contents</b>	<p><b>*If not applicable report N/A.</b></p> <p><b>Part A. Permittee Responsible</b></p> <ol style="list-style-type: none"><li>1. Planned date of initiation of compensatory mitigation site installation.</li><li>2. If installation is in progress, a map of what has been completed to date.</li><li>3. If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.</li></ol> <p><b>Part B. Mitigation Bank or In-Lieu Fee (ILF)</b></p> <ol style="list-style-type: none"><li>1. Status or proof of purchase of credit types and quantities.</li><li>2. Include the name of bank/ILF Program and contact information.</li><li>3. If ILF, location of project and type if known.</li></ol>

## Part B – Project Status Notifications

<b>Report Type 2</b>	<b>Commencement of Construction</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff prior to the start of construction.
<b>When to Submit</b>	Must be received at least seven (7) days prior to start of initial ground disturbance activities.
<b>Report Contents</b>	<ol style="list-style-type: none"><li>1. Date of commencement of construction.</li><li>2. Anticipated date when discharges to waters of the State will occur.</li><li>3. Project schedule milestones, including a schedule for onsite compensatory mitigation, if applicable.</li></ol>

<b>Report Type 3</b>	<b>Request for Notice of Completion of Discharges Letter</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
<b>When to Submit</b>	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project construction activities.
<b>Report Contents</b>	<ol style="list-style-type: none"><li>1. Status of storm water Notice of Termination(s), if applicable.</li><li>2. Status of post-construction storm water BMP installation.</li><li>3. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.</li><li>4. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the State, if applicable.</li><li>5. An updated monitoring schedule for mitigation for temporary impacts to waters of the State and Permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.</li></ol>

<b>Report Type 4</b>	<b>Request for Notice of Project Complete Letter</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
<b>When to Submit</b>	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
<b>Report Contents</b>	<p><b>Part A: Mitigation for Temporary Impacts</b></p> <ol style="list-style-type: none"><li>1. A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance that could result in a discharge to waters of the State.</li><li>2. A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the State. Pre- and post-photo documentation of all restoration sites.</li></ol> <p><b>Part B: Permittee Responsible Compensatory Mitigation</b></p>

	<ol style="list-style-type: none"><li>1. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.</li><li>2. Status on the implementation of the long-term maintenance and management plan and funding of endowment.</li><li>3. Pre- and post-photo documentation of all compensatory mitigation sites.</li><li>4. Final maps of all compensatory mitigation areas (including buffers).</li></ol> <p><b>Part C: Post-Construction Storm Water BMPs</b></p> <ol style="list-style-type: none"><li>1. Date of storm water Notice of Termination(s), if applicable.</li><li>2. Report status and functionality of all post-construction BMPs.</li></ol>
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## Part C – Conditional Notifications and Reports

<b>Report Type 5</b>	<b>Accidental Discharge of Hazardous Material Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff that an accidental discharge of hazardous material has occurred.
<b>When to Submit</b>	Within five (5) working days following the date of an accidental discharge. Continue reporting as required by Santa Ana Water Board staff.
<b>Report Contents</b>	<ol style="list-style-type: none"><li>1. The report shall include the <i>OES Incident/Assessment Form</i>, a full description and map of the accidental discharge incident (i.e., location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the OES Written <i>Follow-Up Report</i> may be substituted.</li><li>2. If applicable, any required sampling data, a full description of the sampling methods, including frequency/dates and times of sampling, equipment, locations of sampling sites.</li><li>3. Locations and construction specifications of any barriers, including silt curtains or diverting structures and any associated trenching or anchoring.</li></ol>

<b>Report Type 6</b>	<b>Violation of Compliance with Water Quality Standards Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff that a violation of compliance with water quality standards has occurred.
<b>When to Submit</b>	The Permittee shall report any event that causes a violation of water quality standards within three (3) working days of the noncompliance event notification to Santa Ana Water Board staff.
<b>Report Contents</b>	The report shall include: the cause; the location shown on a map; and the period of the noncompliance, including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results, if required by Santa Ana Water Board staff.

<b>Report Type 7</b>	<b>In-Water Work and Diversions Water Quality Monitoring Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of the completion of in-water work.
<b>When to Submit</b>	Within three (3) working days following the completion of in-water work. Continue reporting in accordance with the approved water quality monitoring plan.
<b>Report Contents</b>	As required by the approved water quality monitoring plan.

<b>Report Type 8</b>	<b>Modifications to Project Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff if the Project, as described in the application materials, is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority.
<b>When to Submit</b>	If Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority.
<b>Report Contents</b>	A description and location of any alterations to Project implementation. Identification of any Project modifications that will interfere with the Permittee's compliance with the Order.

<b>Report Type 9</b>	<b>Transfer of Property Ownership Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
<b>When to Submit</b>	At least ten (10) working days prior to the transfer of ownership.
<b>Report Contents</b>	<ol style="list-style-type: none"><li>1. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts:<ol style="list-style-type: none"><li>a. the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and</li><li>b. responsibility for compliance with any long-term BMP<sup>1</sup> maintenance plan requirements in this Order.</li></ol></li><li>2. A statement that the Permittee has informed the purchaser to submit a written request to the Santa Ana Water Board to be named as the permittee in a revised order.</li></ol>

<b>Report Type 10</b>	<b>Transfer of Long-Term BMP Maintenance Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of transfer of long-term BMP maintenance responsibility.
<b>When to Submit</b>	At least 10 working days prior to the transfer of BMPs maintenance responsibility.
<b>Report Contents</b>	A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

<sup>1</sup> Best Management Practices (BMPs) is a term used to describe a type of environmental or water pollution control.

## SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order  
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) shall be signed and certified as follows:
  - a) For a corporation, by a responsible corporate officer of at least the level of vice-president.
  - b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
  - c) For a municipality, or a State, federal, or other public agency, by either a principal executive officer or ranking elected official.
2. A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
  - a) The authorization is made in writing by a person described in items 1.a through 1.c above.
  - b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
  - c) The written authorization is submitted to the Santa Ana Water Board staff contact prior to submitting any documents listed in item 1 above.
3. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."