

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

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DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NUMBER 46

Permittee: Orange County Public Works (OCPW)
Permit Number: Regional General Permit (RGP) No. 46 (SPL-2010-00868-SME)
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 U.S. Army Corps of Engineers (Corps) 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: The project would occur at and adjacent to six ocean outlets in the cities of Huntington Beach, Dana Point, and San Clemente, Orange County, California (Figures 1-4) at the following approximate locations:

Outlet	Latitude	Longitude
Talbert Outlet	33.631834	-117.961448
SAR Outlet	33.629505	-117.957988
Salt Creek Outlet	33.481586	-117.724475
Doheny Outlet	33.462061	-117.689065
Estrella Outlet	33.450334	-117.659659
SD Outlet	33.431546	-117.632735

Project Description: The project would consist of semi-annual outlet maintenance activities at the Talbert Channel (Talbert) Outlet (Figure 5), Santa Ana River (SAR) Outlet (Figure 6), Salt Creek Outlet (Figure 7), North Doheny Creek (Doheny) Outlet (Figure 8), Estrella Storm Channel (Estrella) Outlet (Figure 9), and Segunda Deshecha Cañada (SD) Outlet (Figure 10). In addition, OCPW may conduct up to two additional outlet maintenance activities annually at Talbert Outlet. All outlets would be subject to inspections by OCPW to determine when maintenance activities would be necessary.

Semi-annual maintenance activities would typically occur once before the summer recreation season (early spring) and once before the storm season (late summer). In general, maintenance activities would consist of removing sand deposits at the end of the outlets, distributing the sand onto the beach above the high tide line, and re-establishing rock revetments, as needed.

In the late summer or fall, the outlets would be inspected by OCPW, sand would be removed from the outlet to return the facility to design grade in accordance with the Ocean Outlet Maintenance Manual (dated August 2012), and/or rock revetments would be re-established, as needed. All removed sand would be deposited onto the adjacent beach above the high tide line. In the spring, maintenance would include re-establishment of the outlet channels to as-built conditions to prepare the beach for summer recreational use. Work would be accomplished using a bulldozer, backhoe, excavator, and/or off-road haul trucks unless otherwise indicated below.

Semi-annual maintenance at the Talbert Outlet would include excavation of approximately 13,195 (+/- 2,500) cubic yards (CYs) of sediment deposited within the outlet from a 3.64-acre area. The discharge of excavated sediment and related earthwork would occur on the beach adjacent to the outlet in an approximately 10.68-acre area above the high tide line. As described above, two additional maintenance events may be conducted each year at Talbert Outlet to address environmental conditions in Talbert Marsh and other areas (Figure 5).

Semi-annual maintenance at the SAR Outlet would include excavation of approximately 4,515 (+/- 905) CYs of sediment deposited within the outlet from a 1.72-acre area. The discharge of excavated sediment and related earthwork would occur on the beach adjacent to the outlet in an approximately 4.53-acre area above the high tide line (Figure 6).

Semi-annual maintenance at the Salt Creek Outlet would not include excavation of sediment but would include the replacement of dislodged rip-rap in front of the concrete apron structure with heavy equipment operating from the access road. Minor maintenance, including retrieval and replacement of displaced rock materials may occur year-round (Figure 7).

Semi-annual maintenance at the Doheny Outlet would be conducted to preclude water contact closures at the beach during the summer months by using excavated sediment to dam the channel above the high tide line. Water within the channel would be pumped into the nearby sanitary sewer line. After the summer season, the dam would be removed in preparation for the storm season and conveyance of storm water flows. All removed sediment would be deposited onto the adjacent beach area above the high tide line. Work would be accomplished using a bulldozer and front loader (Figure 8).

Semi-annual maintenance at the Estrella Outlet would include excavation of approximately 217 (+/- 45) CYs of sediment deposited within the outlet from a 0.055-acre area. The discharge of excavated sediment and related earthwork would occur on the beach adjacent to the outlet in an approximately 0.136-acre area above the high tide line. Rock revetments would be re-established, as needed (Figure 9).

Semi-annual maintenance at the SD Outlet would include excavation of approximately 105 (+/- 21) CYs of sediment deposited within the outlet from a 0.060-acre area. The discharge of excavated sediment and related earthwork would occur on the beach adjacent to the outlet in an approximately 0.083-acre area above the high tide line. The rock revetment would be re-established, as needed (Figure 10).

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on **April 18, 2018**.
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. A conditioned water quality certification has been issued for your project (SB11002IN). You must comply with the conditions specified in the certification as Special Conditions to this permit. For your convenience, a copy of the 401 certification is attached (Attachment A).
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. **Pre-Construction Notification (PCN) Requirements:** Coastal Development Permit Amendment No. 5-02-031-A4 expires on July 1, 2016 (Attachment B). Therefore, the Permittee shall submit a PCN to the Corps Regulatory Division for maintenance activities occurring after June 30, 2016. No work shall occur after June 30, 2016 until written

authorization is issued by the Corps Regulatory Division. This requirement may be waived if the Permittee receives authorization from the California Coastal Commission to conduct work after June 30, 2016.

In addition, section 401 Water Quality Certification No. SB11002IN expires on October 22, 2017 (Attachment A). Therefore, the Permittee shall submit a PCN to the Corps Regulatory Division for maintenance activities occurring after October 22, 2017. No work shall occur after October 22, 2017 until written authorization is issued by the Corps Regulatory Division. This requirement may be waived if the Permittee receives authorization or a waiver from the State Water Resources Control Board or Regional Water Quality Control Board to conduct work after October 22, 2017.

2. **Authorized Work:** Any work authorized by this permit must be the minimum necessary to alleviate the maintenance need and shall not exceed the design specifications of the ocean outlets. In the event that additional maintenance activities are required at an outlet, the Permittee shall submit a PCN to the Corps Regulatory Division to perform the work. If the work requested under the permit were denied, the Permittee shall apply for a separate permit.
3. **Seasonal Restrictions:** Seasonal restrictions shall be imposed to avoid and minimize impacts to sensitive species, including any federally listed endangered or threatened species.
 - a. The Permittee shall conduct all maintenance activities outside of the breeding season for western snowy plover (*Charadrius nivosus nivosus*) (March 1st through August 31st) to the maximum extent practicable. If maintenance activities are required during the breeding season, a qualified biologist shall conduct pre-construction bird surveys. If western snowy plovers are observed exhibiting nesting behaviors (scraping, territorial displays or call, false brooding, etc.) during the breeding season, no project-related activities shall occur within 500 feet of these areas until subsequent monitoring indicates western snowy plovers are no longer present. If western snowy plovers are not observed exhibiting nesting behaviors but are roosting within 500 feet of the project footprint, a qualified biologist shall be present on-site at all times during maintenance activities requiring mechanized equipment. The qualified biologist shall have the ability to halt maintenance activities. If western snowy plovers are observed nesting within 0.2 mile of the project site, the Permittee shall immediately notify the Corps Regulatory Division.
 - b. The Permittee shall conduct all maintenance activities outside of the breeding season for the California least tern (*Sternula antillarum browni*) (April 15th to August 31st) to the maximum extent practicable. If maintenance activities are required during the breeding season, a qualified biologist shall conduct pre-construction bird surveys. If California least terns are observed exhibiting nesting behaviors (scraping, territorial displays or calls, etc.) during the breeding season, no project-related activities shall occur within 500 feet of these areas until subsequent monitoring indicates California least terns are no longer present. If California least terns are not observed exhibiting nesting behaviors but are roosting or staging within 500 feet of the project footprint, a qualified biologist shall be present on-site at all times during maintenance activities requiring mechanized

equipment. The qualified biologist shall have the ability to halt maintenance activities. If California least tern nests are located within 500 feet of the project site, the Permittee shall immediately notify the Corps Regulatory Division.

- c. The Permittee shall conduct all maintenance activities outside of the California grunion (*Leuresthes tenuis*) spawning season (March 1st through September 30th) to the maximum extent practicable. If maintenance activities are required during the spawning season, pre-project surveys for grunion activity shall be conducted by a qualified biologist in accordance with the protocols described in the Grunion Protection Plan for Necessary Outlet Maintenance During the Grunion Spawning Season of March through September Report (Chambers Group, Inc., September 7, 2006). Impacts to grunion spawning areas shall be avoided or minimized in accordance with the protocols described in this report.
4. **Endangered Species:** This Corps permit does not authorize you to take any threatened or endangered species, in particular, the western snowy plover or California least tern, or adversely modify their designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA section 10 permit, or a Biological Opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). Your authorization under this Corps permit is conditional upon your compliance with all of the required avoidance and minimization measures, which are incorporated by reference in this permit (Attachments C and D). Failure to comply with the required avoidance and minimization measures would constitute non-compliance with your Corps permit.
5. **Historic Properties:** Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.
6. **Access:** You must allow representatives from this office and other Federal and state resource agencies to inspect the authorized activity at any time deemed necessary to ensure the project is being or has been accomplished in accordance with the terms and conditions of this RGP.
7. **Best Management Practices:** No debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States. Therefore, the Permittee shall employ all standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive erosion do not enter waters of the United States during project construction.

8. **Erosion and Siltation Controls:** When performing any excavation activity in or near the outlets, all excavated material shall be distributed onto the adjacent beach above high tide line. Every effort must be made to ensure any material excavated from waters of the United States is not likely to be washed back into any waters of the United States.
9. **Equipment:** Vehicles shall not be driven or equipment operated in waters of the United States on-site, except as necessary to complete the proposed project. The Permittee shall ensure all vehicle maintenance, staging, storage, and dispensing of fuel occur in designated upland areas, located in such a manner as to prevent any runoff from entering waters of the United States.
10. **Suitable Material:** The Permittee shall discharge only clean materials suitable for use in the oceanic environment. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
11. **Aquatic Life Movements:** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area.
12. **Spawning Areas:** Discharges into spawning areas during spawning season shall be avoided to the maximum extent practicable. See Special Condition 3 for seasonal restrictions.
13. **Waterfowl Breeding Areas:** Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
14. **Navigation:** The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, cessation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
15. **Reports:** The Permittee shall submit an annual written report to this office, with copies provided to the U.S. Fish and Wildlife Service and National Marine Fisheries Service, by February 1st of each year this RGP is valid. The report shall summarize all maintenance activities conducted at the ocean outlets throughout the year under this RGP. The reports shall include written documentation and photographs of all work performed under this RGP during the prior year. Any data collected, including water quality samples and terrestrial or aquatic sensitive species surveys, shall be included in the annual report. **Providing this report is mandatory.** These reports enable us to track the use of this RGP to verify that the minimal effects determination is being met, as required by section 404(e) of the Clean Water Act. Failure to provide timely annual reports would constitute non-compliance with this Special

Condition and would be considered a violation (33 C.F.R. section 326.4(d)). **Furthermore, failure to provide these annual reports will jeopardize the possibility of reauthorizing this permit when it expires.** At a minimum, the report shall include the following information:

- a. The name, address, and telephone number of:
 - i. The Permittee's Point of Contact
 - ii. The Permittee's agent (if appropriate)

- b. Full description of the activities conducted during the previous year, including:
 - i. Description of each maintenance event for each ocean outlet, including any deviations from the project description. This description shall include the approximate volume of material dredged and the location of placement of this material on an aerial photograph
 - ii. Size and description of the project area (include maps, drawings, and photographs)
 - iii. Information on the receiving waterbody impacted including:
 - a) Name of waterbody
 - b) Type of receiving waterbody
 - c) Temporary/permanent adverse impact(s) in acres/cubic yards/linear feet
 - d) Other mitigation steps (to avoid, minimize)
 - e) Compensatory mitigation in acres/cubic yards/linear feet
 - iv. Information on federally listed or proposed endangered species, designated or proposed critical habitat, EFH, and federally managed fish species including:
 - a) Temporary/permanent adverse impacts
 - b) Mitigation steps (to avoid, minimize)
 - c) Compensatory mitigation

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
 Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 Section 404 of the Clean Water Act (33 U.S.C. 1344).
 Section 103 of the Marine Protection Research and Sanctuaries Act (33 U.S.C. 1413).

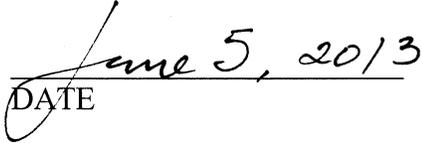
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights 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 C.F.R. §325.7 or enforcement procedures such as those contained in 33 C.F.R. §§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 C.F.R. §209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

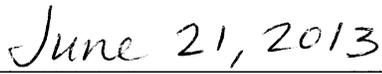
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


PERMITTEE


DATE

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

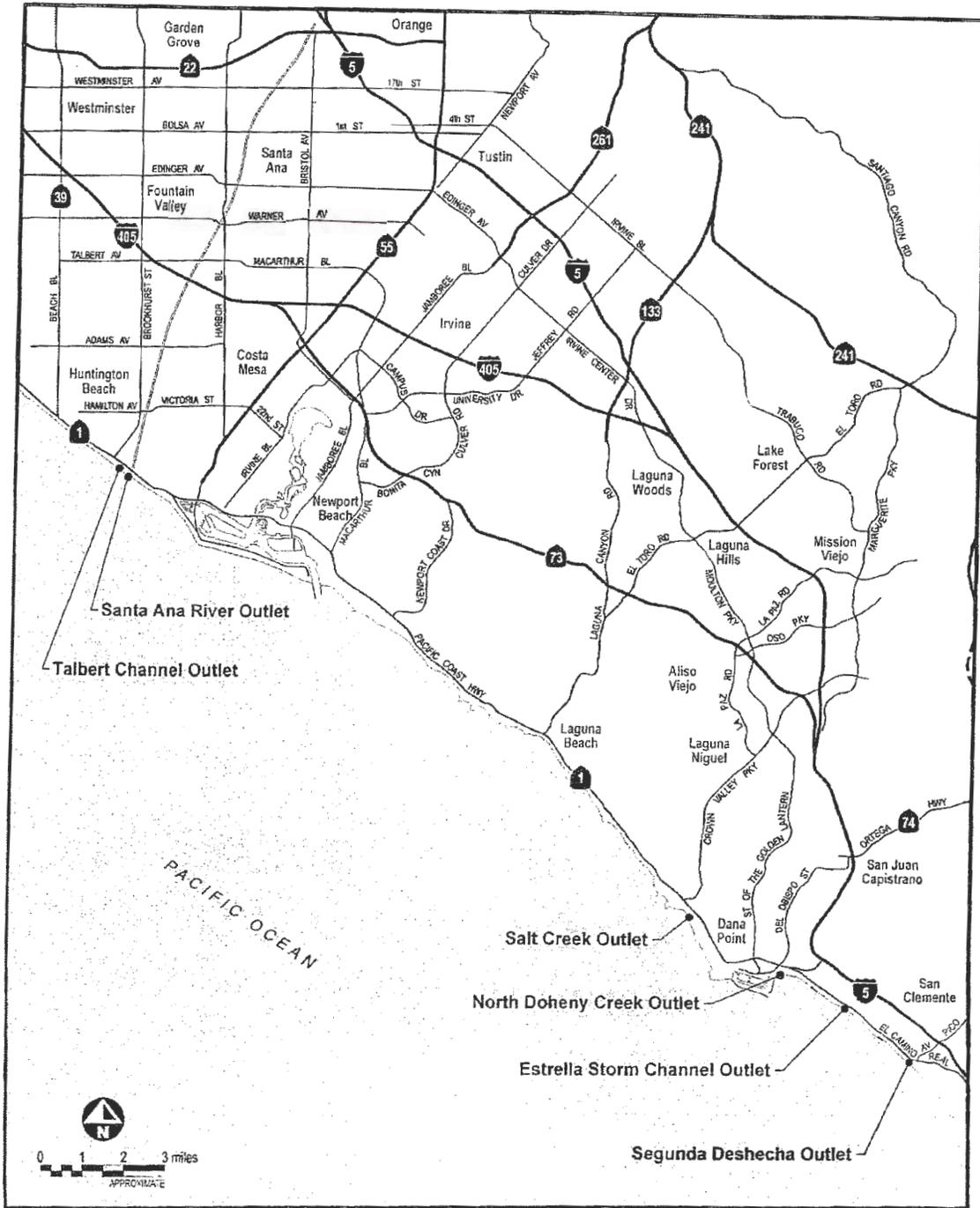

Corice J. Farrar
Chief, Orange and Riverside Counties Section
South Coast Branch


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.

TRANSFEREE

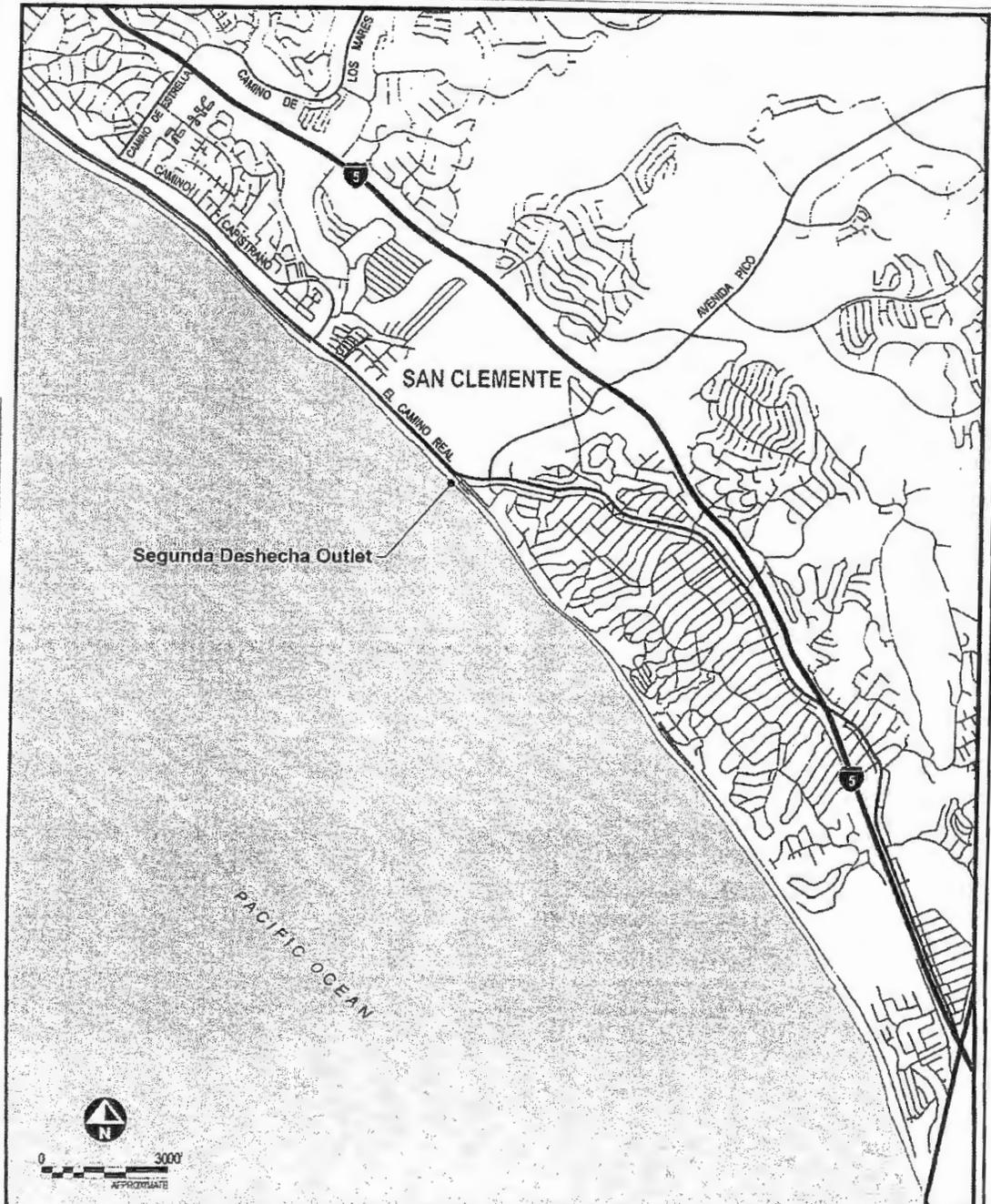
DATE



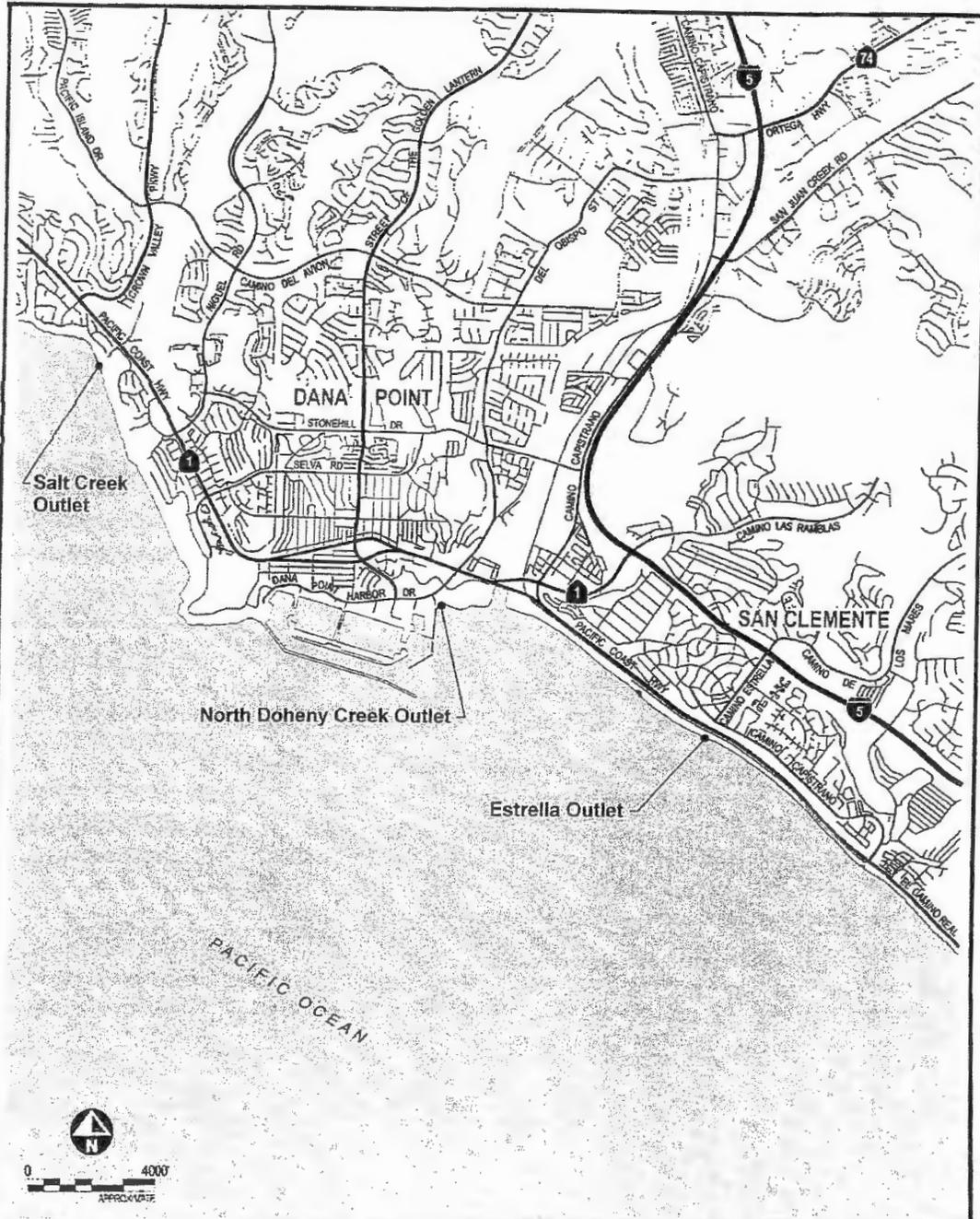
	Orange County Public Works	SCALE: 1" = 3 miles	FIGURE 1
	Ocean Outlet Maintenance Manual		Vicinity Map

Revision Date:
June 24, 2010

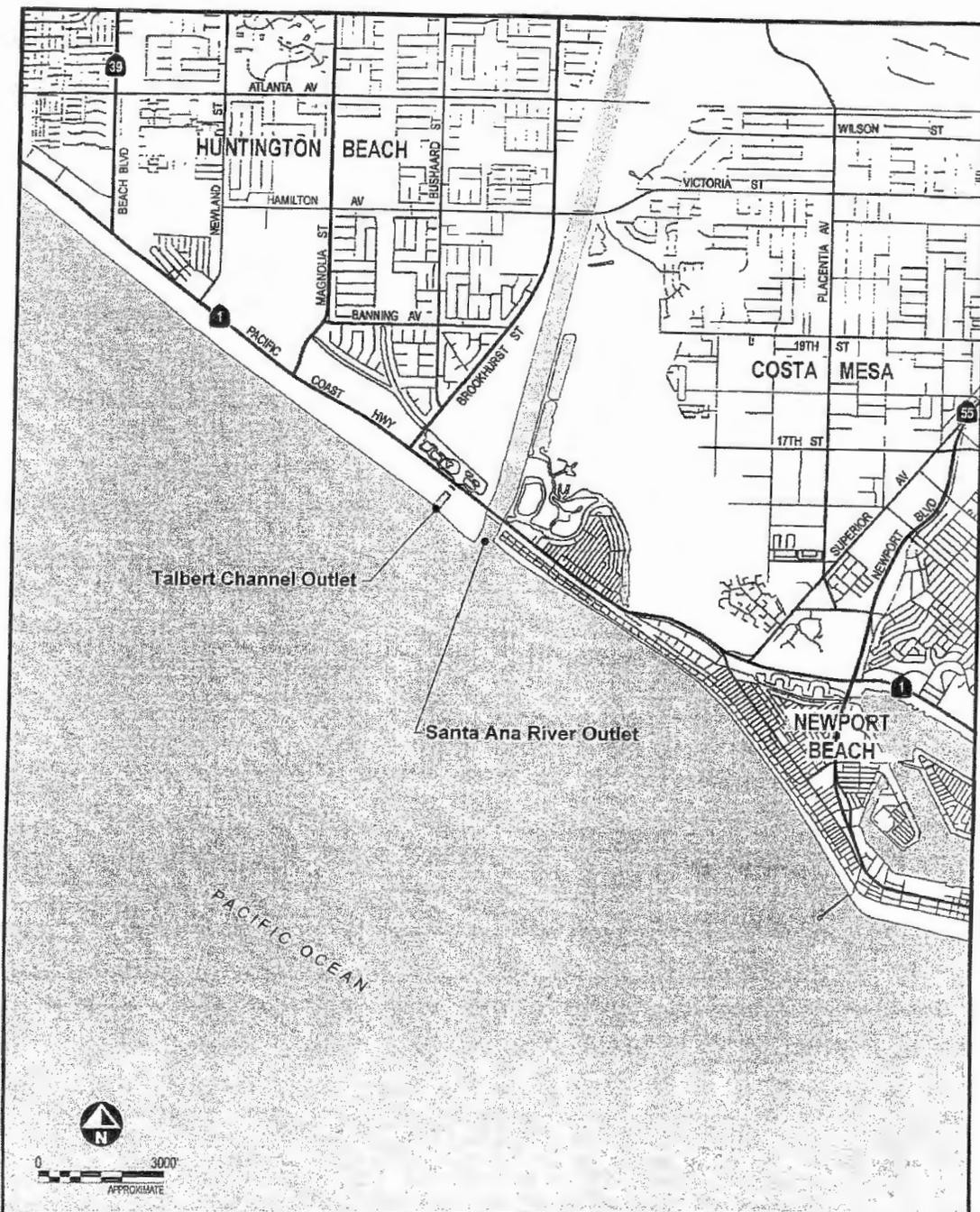
Ocean Outlets
Maintenance Manual



	Orange County Public Works	SCALE: 1" = 3000'	FIGURE 2
	Ocean Outlet Maintenance Manual		Segunda Deshecha Ocean Outlet



	Orange County Public Works	SCALE: 1" = 4000'	FIGURE 3
	Ocean Outlet Maintenance Manual		Estrella, North Doheny Creek & Salt Creek Ocean Outlets



	Orange County Public Works	SCALE: 1" = 3000'	FIGURE 4
	Ocean Outlet Maintenance Manual		Santa Ana River & Talbert Ocean Outlets

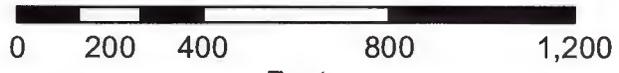


Legend

- Extreme High Tide 2011
- [Dotted Box] Talbert USACE Total
- 2010 Survey**
- +—+— Mean High Tide Line
- ||||| Waters of the U.S.

Work_Areas

- [Hatched Box] Discharge Site
- [Cross-hatched Box] Excavation



1 inch = 400 feet @ 8.5 x 11 1:4,800

Figure 5
Ocean Outlet Maintenance Plan
Talbert Channel

20281 | Fig 6 - Talbert Channel - ExHighTide.mxd
 Version Date: 1-11-12





Legend

----- Extreme High Tide 2011

Location

..... Santa Ana River USACE Total

2010 Survey

—+— Mean High Tide Line

==== Waters of the U.S.

Work_Areas

 Discharge Site

 Excavation



Feet

1 inch = 417 feet @ 8.5 x 11

1:5,000

Figure 3
Ocean Outlet Maintenance Plan
Santa Ana River

20281 | Fig 3 - Santa Ana River - ExHighTide.mxd

Version Date: 1-11-12





Legend

----- Extreme High Tide 2011

[Dotted Box] Salt Creek USACE Total

2010 Survey

—+— Mean High Tide Line

[Hatched Box] Waters of the U.S.

Work Areas

[Hatched Box] Rip-Rap Replacement



Feet

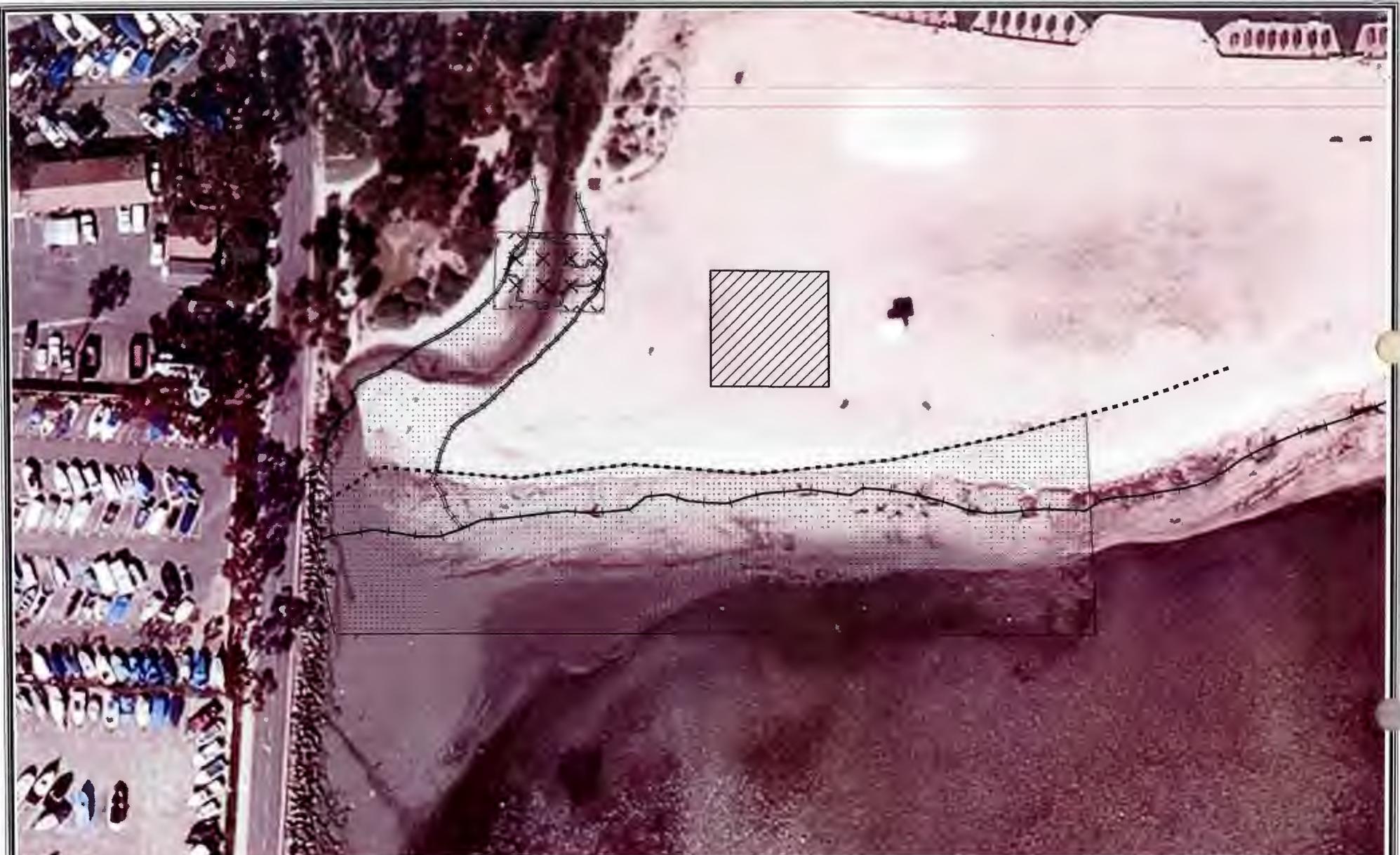
1 inch = 167 feet @ 8.5 x 11

1:2,000

Figure 7
Ocean Outlet Maintenance Plan
Salt Creek

20281 | Fig 4 - Salt Creek - ExHighTide.mxd
 Version Date: 1-9-2013





Legend

- Extreme High Tide 2011
-  Doheny USACE Total 2010 Survey
-  Mean High Tide Line
-  Waters of the U.S.

- Work_Areas**
-  Discharge Site
 -  Excavation



1 inch = 83 feet @ 8.5 x 11 1:1,000

Figure 8
Ocean Outlet Maintenance Plan
North Doheny

20281 | Fig 1 - North Doheny - ExHighTide
 Version Date: 1-11-12





Legend

----- Extreme High Tide 2011

▨ Estrella USACE Total

2010 Survey

—+— Mean High Tide Line

==== Waters of the U.S.

Work_Areas

▨ Discharge Site

⊗⊗ Excavation



Feet

1 inch = 83 feet @ 8.5 x 11

1:1,000

Figure 9
Ocean Outlet Maintenance Plan
Estrella Storm Drain

20281 | Fig 5 - Estrella Storm Drain - ExHighTide
 Version Date: 1-11-12

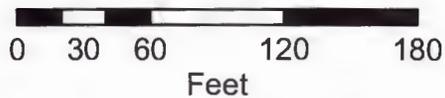




Legend

- Extreme High Tide 2011
- Segunda Deshecha USACE Total
- 2010 Survey
- +— Mean High Tide Line
- ==+== Waters of the U.S.

- Work_Areas**
-  Discharge Site
 -  Excavation



1 inch = 83 feet @ 8.5 x 11 1:1,000

Figure 10
 Ocean Outlet Maintenance Plan
 Segunda Deshecha

20281 | Fig 2 - Segunda Deshecha - ExHighTide
 Version Date: 1-11-12





EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

OCT 22 2012

Mr. Nardy Khan
Orange County Public Works
300 North Flower Street
Santa Ana, CA 92702

Dear Mr. Khan:

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR THE ORANGE COUNTY PUBLIC WORKS ORANGE COUNTY OCEAN OUTLETS MAINTENANCE PROGRAM (FILE NO. SB11002IN)

Orange County Public Works Department submitted an application for a Clean Water Act section 401 water quality certification (Certification) for the Orange County Ocean Outlets Maintenance Program on March 24, 2011. The application was found to be complete on May 14, 2012.

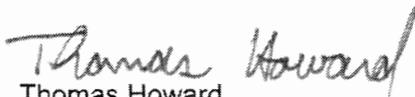
The Orange County Ocean Outlets Maintenance Program provides routine and ongoing maintenance activities for six ocean outlets at various specified locations in Orange County. The U.S. Army Corps of Engineers (Corps) issued Regional General Permit number 46 for these (Corps file no. SPL-2010-00868-SME) activities on November 23, 2003, and reissuance is currently pending.

State Water Resources Control Board staff reviewed all information submitted regarding the maintenance activities, proposed water quality protection measures, and mitigation requirements. Consultations were conducted with the Santa Ana Regional Water Quality Control Board, San Diego Regional Water Quality Control Board, and the Corps.

Pursuant to the California Code of Regulations title 23, section 3838, I hereby make the Certification determination described in the enclosure. Attachments A through C of the enclosure are also part of this Certification.

If you require further assistance, please contact Cliff Harvey, the staff person most knowledgeable on the subject, at (916) 558-1709 (charvey@waterboards.ca.gov). You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (borme@waterboards.ca.gov).

Sincerely,


Thomas Howard
Executive Director

CHARLES B. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1301 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 160, Sacramento, CA 95812-0160 | www.waterboards.ca.gov



Attachment A

Mr. Nardy Khan

- 2 -

Enclosures (4): Water Quality Certification for RGP 46 and attachments
Attachment A: Signatory Requirements
Attachment B: Project Information Sheet
Attachment C: Location Map – Orange County Ocean Outlets

cc: Mr. Dave Castanon
Chief, Regulatory Branch
Los Angeles District, Ventura Field Office
U.S. Army Corps of Engineers
Department of the Army
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Mr. Chris Yates
Assistant Regional Administrator
Protected Resources
NOAA National Marine Fisheries Service
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802-4213

Ms. Therese O. Bradford
Chief, South Coast Branch
Regulatory Division
U.S. Army Corps of Engineers
6010 Hidden Valley Road, Suite 105
Carlsbad, CA 92011

Mr. Rory Paster
Orange County Public Works
300 North Flower Street
Santa Ana, CA 92702

Mr. Jason A. Brush
Chief, Wetlands Regulatory Office (WTR-8)
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

Mr. David W. Gibson
Executive Officer
San Diego Regional Water Quality
Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Mr. Jim Bartel
Field Supervisor
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011

Mr. Kurt Berchtold
Executive Officer
Santa Ana Regional Water Quality
Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Mr. Brian Owens
Marine Environmental Scientist
California Department of Fish and Game
350 Harbor Boulevard
Belmont, CA 94002



State Water Resources Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR THE ORANGE COUNTY OCEAN OUTLETS MAINTENANCE PROGRAM – U.S. ARMY CORPS OF ENGINEERS LOS ANGELES DISTRICT REGIONAL GENERAL PERMIT 46
FILE NO. SB11002IN

PROJECT: Orange County Ocean Outlets Maintenance Program
U.S. Army Corps of Engineers Los Angeles District Regional General Permit 46
(SPL-2010-00868-SME)

APPLICANT: Mr. Nardy Kahn
Orange County Public Works
300 North Flower Street
Santa Ana, CA 92702-4048

This Clean Water Act section 401 water quality certification (Certification) responds to your request on behalf of Orange County Public Works (OCPW) for the project. Your application was received on March 15, 2011. Public notice of the application was posted on the State Water Resources Control Board's (State Water Board) Web site on February 29, 2012. Your application was determined to be complete on May 14, 2012.

ACTION:

- | | |
|---|---|
| <input type="checkbox"/> Order for Standard Certification | <input type="checkbox"/> Order for Denial of Certification |
| <input checked="" type="checkbox"/> Order for Technically Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |

AUTHORIZATION:

On March 15, 2011, the State Water Board received an application from OCPW requesting a Certification for activities related to the Regional General Permit 46 (RGP 46) for the Orange County Ocean Outlets Maintenance Program (Program) The maintenance activities for each location are described in OCPW's Ocean Outlets Maintenance Manual (OOM Manual).

The Program was originally certified on November 19, 2003. That Certification was extended

for an additional two-year period and has now expired. This new Certification addresses updates to the project's CEQA compliance, mitigation measures, and the U.S. Army Corps of Engineers (Corps) renewal of RGP 46.

The Program proposes the recurrent opening or re-opening of six river and estuary outlets to the ocean that have been blocked with sand, and, in some locations, to reshape the outlet by replacing rocks or removing streambed meanders. Proposed activities would consist of removing sand at the end of the outlets, distributing sand on the beach above the high tide line, and re-establishing rock revetments where necessary. The outlets would typically be treated: once before the storm season (late summer) and once before the summer recreation season (early spring). Notification will be provided to the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) before commencement of each permitted activity.

Six sites are proposed for treatment (See Attachment C). The sites are:

1. Segunda Deshecha Canada Ocean Outlet, near Avenida Estacion and Calle Deshecha, in San Clemente.
2. Santa Ana River Outlet, near Pacific Coast Highway, south of Brookhurst Street in Huntington Beach.
3. Talbert Channel Outlet, near Pacific Coast Highway, south of Brookhurst Street in Huntington Beach.
4. Estrella Storm Channel, off Beach Road, in Dana Point.
5. North Doheny Creek at Doheny State Beach, near Dana Point Harbor off Puerto Place, in Dana Point.
6. Salt Creek, at Salt Creek Beach Park off Pacific Coast Highway, in Dana Point.

The planned activities are authorized to continue for a five year period commencing with the adoption of this Certification.

STANDARD CONDITIONS:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to the Water Code, section 13330, and the California Code of Regulations, title 23, section 3867 and following.
2. This Certification action 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 California Code of Regulations, title 23, section 3855, subdivision (b), and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. This Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, and owed by OCPW.

ADMINISTRATIVE CONDITIONS:

4. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to OCPW and/or responsible contractor/sub-contractor, if the State Water Board determines that the project or any activities conducted pursuant to this Certification fail to comply with any of the terms or conditions of this Certification or any State Water Board or Regional Board water quality plan or policy.
5. A copy of this Certification, the application, and supporting documentation must be available at project sites during construction for review by site personnel and agencies. All personnel performing work on the projects shall be familiar with the content of this Certification and its posted location on the project sites.
6. OCPW shall grant the State Water Board, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) and San Diego Regional Water Quality Control Board (San Diego Water Board) staff(s), or their authorized representative(s), upon presentation of credentials and other documents as may be required by law, permission to enter the project site(s) at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the project activities may have on waters of the state.
7. In response to any violation of the conditions of this Certification, the State Water Board may amend this Certification as appropriate to ensure compliance.

ADDITIONAL CONDITIONS:

8. This Certification does not apply to any project associated with any diversion of water for domestic, irrigation, industrial or other beneficial use.
 9. All conditions of RGP 46 (SPL-2010-00868-SME) shall be in effect for this Certification and are incorporated by reference into this Certification, except as modified in the conditions below.
 10. All activities conducted under this Certification shall comply with all reporting, monitoring, Best Management Practices (BMPs), and all other conditions and specifications of the August 2012 OOM Manual (or subsequent revisions as approved by the State Water Board), and the associated Initial Study and Mitigated Negative Declaration (IS/MND).
 11. This Certification does not obviate the need to obtain other permits that may be required by federal, state, and local authorities.
 12. Ocean outlet maintenance at the Salt Creek outlet will occur within and adjacent to the boundaries of Dana Point State Marine Conservation Area. The permitted activity shall
-

not be conducted in a manner that violates any regulations as described in the California Code of Regulations title 14, section 632(a) and, in particular, section 632(b)(114), which states that operation and maintenance of artificial structures inside the conservation area is allowed pursuant to any required federal, state and local permits, or as otherwise authorized by the Department of Fish and Game.

13. Projects covered under this Certification shall not result in taking of any endangered, threatened or candidate species or the habitat of such species except as authorized pursuant to the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and the federal Endangered Species Act (16 U.S.C. § 1531 et seq.).

Discharges

14. Projects covered under this Certification shall not discharge substances in concentrations toxic to human, plant, animal or aquatic life or that produce detrimental physiological responses.
15. Projects covered under this Certification shall comply with all applicable National Pollutant Discharge Elimination System permits and Waste Discharge Requirements.
16. Projects covered under this Certification shall not discharge waste classified as "hazardous" as defined in California Code Regulations, title 22, section 66261 and Water Code section 13173.
17. The discharge of petroleum products or other pollutants to surface waters that may result in violation of water quality standards is prohibited. Activities shall not cause visible oil, grease, or foam in the work area or downstream or in the Pacific Ocean.

Best Management Practices

18. BMPs described in Appendix F of the OOM Manual shall be implemented and maintained throughout the life of permitted projects to help minimize and avoid impairment of water quality. In addition, BMPs for all projects shall, at minimum, include the following:
 - a. Boundaries of each work site shall be clearly marked. Boundary markers shall be maintained for the life of the project.
 - b. All BMP materials shall be on site prior to project activity and ready for use. BMPs shall be in full compliance with all specifications governing the proper design, installation, operation, and maintenance of such management practices.
 - c. Disposal of any excavated material shall be at the locations designated in the OOM Manual.
 - d. No equipment or materials shall be stored, staged, or fueled in waters of the state, including wetlands or in any area where waters of the state might be adversely

affected by the equipment or materials. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be conducted in designated upland areas outside of waters of the state and shall not result in a discharge or a threatened discharge to waters of the state.

- e. All work areas shall be effectively isolated from stream flows using suitable control measures before commencement of any in-water work. Diverted stream flows shall not be contaminated by construction activities.
- f. All areas disturbed by project activities shall be protected from washout and erosion.
- g. When a project is completed, any excess material or debris shall be removed from the work area and disposed of properly.

Notification and Reporting

19. Pre-Construction: A pre-construction notification as described in Appendix G-2 of the OOM Manual shall be sent to the State Water Board, and either the Santa Ana Water Board and/or the San Diego Water Board, as appropriate, at the addresses shown.

Notification shall be provided no later than 30 days prior to commencing ocean outlet maintenance activities that may affect waters of the state. The notification fee as published by the State Water Board shall be provided by OCPW pursuant to California Code of Regulations, title 23, section 2200. Notifications must indicate which project site(s) will be affected, the expected schedule of activity, and any new information or proposed modifications to the work plans presented in the OOM Manual.

The State Water Board and Regional Water Board(s) Executive Officer or designee reserve the authority to request additional information or exclude an individual project from coverage under this Certification.

20. Annual Reports: Copies of the annual report, which is to be provided to the Corps by February 1 of each year for the life of the project, shall also be provided to the State Water Board and the Regional Water Boards.

21. Violations: OCPW or the OCPW's contractor and subcontractors shall report in writing to the staff of the State Water Board and the appropriate Regional Water Board(s) all violations of any terms or conditions of this Certification within two consecutive days (48 hours) from the time the Orange County becomes aware of the violation. The written report shall contain:

- a. A description of the violation and its cause.
- b. The period of the violation event, including dates and times, photos of the site, and if the violation has not been corrected, the anticipated time the violation is expected to continue.
- c. Steps taken or planned to reduce, eliminate, and prevent recurrence of the violation.

22. Submittal Addresses: The pre-construction notifications, non-compliance reports and annual reports shall be directed to: **Program Manager, 401 Certification and Wetlands Program**, at the following State Water Board and appropriate Regional Water Board office(s):

State Water Resources Control
Board
Division of Water Quality
1001 I Street, 15th Floor
Sacramento, CA 95814

Santa Ana Regional
Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

San Diego Regional
Water Quality Control Board
9174 Sky Park Court
San Diego, CA 92123-4340

STATE WATER BOARD CONTACT PERSON:

If you have any questions, please contact State Water Board Environmental Scientist Cliff Harvey at (916) 558-1709, via e-mail at charvey@waterboards.ca.gov, or at:

State Water Resources Control Board
Division of Water Quality - 401 Certification and Wetland Program
1001 I Street, 15th Floor
P.O. Box 100
Sacramento, CA 95812-2000

You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 or via e-mail at borme@waterboards.ca.gov.

California Environmental Quality Act (CEQA)

OCPW is the lead agency responsible for compliance with CEQA (Pub. Resources Code, § 21000 et seq.). OCPW issued a Notice of Intent to Adopt a MND for the proposed project, State Clearinghouse No. 2012011009 (SCH) on January 10, 2012. State Water Board staff has reviewed and considered this document and find it to generally be adequate in its description of the proposed activities and the potential impacts, although clarification of some details is needed.

CEQA Findings

On January 6, 2012, OCPW, as lead agency, adopted a mitigated negative declaration SCH for the project in accordance with CEQA. In making its determinations and findings, the State Water Board must presume that OCPW's certified environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3, subd. (b).) State Water Board staff has reviewed and considered the environmental document and all

proposed mitigation measures as presented in the OCPW OOM Manual of August, 2012 (which serves as a Mitigation Monitoring and Reporting Plan or MMRP).

Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant water quality effects as identified in the MND. However, State Water Board staff finds that minor clarifications and corrections are needed.

IS/MND Errors and Omissions

Section 1, Introduction (p. 28) of the IS/MND contains two minor inaccuracies regarding regulatory jurisdiction, which are corrected as follows:

1. The State Water Board, not any one Regional Water Board is responsible for the Certification of this programmatic project because the proposed activities would take place in two water quality control regions separately administered by the Santa Ana Water Board and San Diego Water Board.
2. The document should state, but does not, that the San Diego Water Board sets water quality standards for their region.

Disagreement with IS/MND Findings

The IS/MND indicates "no impact" for two environmental issues:

1. Part 3.4(b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (p. 63)
2. Part 3.4(c) Have a substantial adverse effect on federally protected wetlands as defined by section 404 of the Clean Water Act (*including, but not limited to, marsh, vernal pool, coastal, etc.*) through direct removal, filling, hydrological interruption, or other means? (p. 73)

The IS/MND does not consider the waters of the state associated with the resources issues highlighted in Part 3.4(b) and (c) which could potentially be affected by the project. The lead agency's determination of "No Impact" for Impacts 3.4(b) and 3.4(c) may therefore not be appropriate. Due to this omission, the State Water Board staff made the determination for Part 3.4(b) and (c) of "Less Than Significant With Mitigation" for impacts to waters of the state. The mitigation measures described for Impact 3.4(a) will also address these potential impacts to non-wetland waters for 3.4(b) and (c). In addition, Section 3.9(c) adequately addresses mitigation to offset potential impacts due to the physical effects of alteration of the channels.

In addition, the IS/MND indicates "No Impact" for Part 3.4(c) – Impacts to changes in pool elevations. The discussion in this section correctly notes that wetlands as defined by the federal Clean Water Act are not present at the site of the excavations, but that such wetlands exist upstream from the ocean outlets to be maintained and could be affected by changes in the pool elevation caused by the proposed maintenance. Based on the discussion of project purposes and project impacts provided in the IS/MND, there is little potential to cause any significant impacts to these wetlands. However, the IS/MND's determination of "No Impact" is probably not

appropriate since the potential exists. Therefore, State Water Board staff make the determination of "no significant impact" for Part 3.4(c), based on the facts that no concerns about this effect have been raised by agencies or by the public, and that no mitigation measures have been proposed to offset this project effect.

Adequacy of IS/MND:

State Water Board staff finds that the IS/MND provided is adequate, and is sufficient for review of those impacts that affect resources that are subject to the State Water Boards' authority. The minor errors and deficiencies described above do not necessitate any additional study or public review. The mitigation measures proposed are adequate to address the identified impacts, including Impacts 3.4(b) and (c) as discussed above.

The proposed activity would cause impacts and potential impacts to water quality, wildlife, fish, recreation, and other resources. These impacts are mitigated by the various mitigation measures laid out in the OOM Manual, which are presented as BMPs. These include: project scheduling to avoid impacts to wildlife, fish and recreation; spill prevention and response procedures; noise and traffic management measures; solid waste management measures; vehicle and equipment cleaning measures; structural management of outflows to prevent beach contamination, and employee and contractor training.

Adequacy of Mitigation Measures:

The OOM Manual provides an adequate program for monitoring and reporting the changes required in the project or made conditions of approval in order to mitigate or avoid significant environmental effects. (Cal. Code Regs., tit. 14, § 15091)

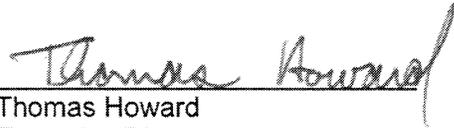
The State Water Board therefore finds that the proposed mitigation measures for significant and potentially significant water quality impacts as identified in the IS/MND and in the measures proposed in the application for Certification and supplemental application materials, including the OOM Manual, when implemented with the conditions of RGP 46 and the conditions of this Certification, are adequate to reduce water quality impacts to less than significant levels.

State Water Board staff has reviewed and considered the environmental document and found that OCPW has avoided or substantially reduced all potentially significant environmental effects through the adoption of various mitigation measures as set forth in the MND and supporting documents. The rationale for each environmental impact and the selected mitigation measures that reduce the impact to levels below significant are found in the MND, which is incorporated by reference into this Certification. In accordance with California Code of Regulations, title 14, section 15075, the State Water Board will file a Notice of Determination with the State Clearinghouse within five days from the issuance of this Certification.

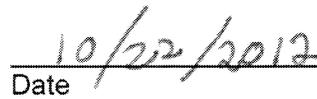
WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that as long as all of the conditions listed in this Certification action are met, 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). This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Act (Wat. Code § 13000 et seq.). Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of the Certification and the attachments to this Certification, and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the pertinent Regional Water Boards' Water Quality Control Plans and the project IS/MND.



Thomas Howard
Executive Director



Date

- Attachments (3):
- Attachment A: Signatory Requirements
 - Attachment B: Project Information Sheet
 - Attachment C: Location Map – Orange County Ocean Outlet

**Water Quality
Certification**

for

**Orange County Ocean
Outlets Maintenance
Program**

Attachment A

Signatory Requirements

Orange County Ocean Outlets Maintenance Program
Attachment A

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 State Water Resources Control Board (State Water Board) must 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 State Water Board Executive Director.

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."

**Water Quality
Certification**

for

**Orange County Ocean
Outlets Maintenance
Program**

Attachment B

Project Information Sheet



Project Identifiers	
WDID No:	110002IN
Reg. Meas. ID:	
Place ID:	
Party ID:	
USACOE No:	SPL-2010-00868-SME
Other File No:	State Clearinghouse 2012011000

PROJECT INFORMATION	
Details	
Application Received Date:	March 9, 2009
Application Completed Date:	May 14, 2012
Additional Info Completed Date:	May 14, 2012
Applicant:	Orange County Public Works Department (OCPW)
Applicant Representative(s):	Ms. Nardy Kahn and Mr. Rory Paster
Project Title:	Ocean Outlets Maintenance Program – RGP 46
Regulating Water Board:	State Water Board, San Diego and Santa Ana RWQCBs
Type of Project:	General Permit for Maintenance of Ocean Outlets.
Project Description:	
<p>OCPW (applicant) proposes the continuation of a routine maintenance program which keeps open six drainage outlets which deliver stream and stormwater runoff to the Pacific Ocean in Orange County. These outlets routinely are blocked by sand during winter storms, creating seasonal lagoons that are subject to oxygen depletion in the summer. This in turn causes biological impacts, including fish kills. It also leads to odors and other aesthetic impacts to the waterways. The maintenance program maintains the drainage openings to prevent these conditions. Maintenance primarily involves sand removal and – at one site - re-setting of displaced rock rip-rap. This program has continued for many years under two previous certifications (2003, 2009). Improved mitigation measures are incorporated into this new application, which is supported by a new Mitigated Negative Declaration. Under this general certification, the applicant will provide notice to the State Water Board and affected Regional Water Boards before commencement of each individual permitted maintenance activity.</p>	
Location	
City:	Huntington Beach, Dana Point, San Clemente
County:	Orange
Cross Streets:	see directions below.
Section, Township, Range:	na
Zip code:	see directions below
Directions:	<p>Six Sites in Orange County: <u>Santa Ana Region:</u> 1. Santa Ana River Outlet, near Pacific Coast Hwy, south of Brookhurst St. in Huntington Beach; zip 92646. 2. Talbert Channel Outlet, near Pacific Coast Hwy., south of Brookhurst St. in Huntington Beach; zip 92646.</p> <p><u>San Diego Region:</u> 3. Segunda Deshecha Canada Ocean Outlet, near Avenida Estacion and Calle Deshecha, in San Clemente; zip 92672. 4. Estrella Storm Channel, off Beach Rd., in Dana Point. Zip 92624. 5. North Doheny Creek at Doheny State Beach, near Dana Point Harbor off Puerto Place, in Dana Point; zip 92629. 6. Salt Creek, at Salt Creek Beach Park off Pacific Coast Hwy., in Dana Point; zip 92629.</p>



Latitude(s) and Longitude(s):	1. Santa Ana River Outlet: 33.630915 / -117.957802 2. Talbert Channel Outlet: 33.63263 / -117.961578 3. Segunda Deshecha: 33.432802 / -117.63466 4. Estrella Storm Channel: 33.45146 / -117.662287 5. North Doheny Creek: 33.461556 / -117.689195 6. Salt Creek: 33.480959 / -117.724771
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Public Notice

Water Board Public Notice: Information regarding this project was noticed on the State Water Board's website from February 27, 2012 until May 31, 2012.

No Comments were received. Comments were responded to in writing.

Fees

Application Fee Provided: A certification fee of \$640.00 (deposit) was submitted on March 15, 2011 as required by 23 CCR §3833b(2)(A) and by 23 CCR § 2200(e). An additional fee of \$23,308.00 to offset additional design impacts was received on May 14, 2012 as required by 23 CCR §3833b(2)(A) and by 23 CCR § 2200(e).

Hydrologic Information

Receiving Water(s):	Pacific Ocean
Hydrologic Unit(s):	Santa Ana Region: Pacific Ocean and Nearshore: San Gabriel River to Poppy Street/Corona Del Mar: 801.1 Santa Ana River Salt Marsh: 801.11 (indirect) San Diego Region (All in San Juan Hydrologic Unit, 1.00) 1.14 Dana Point Sub-unit (Salt Creek and North Doheny Creek) 1.27 Lower San Juan Sub-unit (Estrella) 1.32 Segunda Descheda Sub-unit
Water Body Type(s):	Ocean/beach/estuary

Designated Beneficial Use(s)

x	AGR	x	COMM		FRSH	x	MIGR	x	RARE	x	SPWN		
x	AQUA		CUL		GWR		MUN	x	REC-1	x	WARM		
	ASBS	x*	EST	x	IND	x	NAV	x	REC-2		WET		
x	BIOL		FISH		LWRM		POW		SAL	x	WILD		
x	COLD		FLD	x	MAR		PRO	x	SHELL		WQE		

Note: Not all designated beneficial uses occur in all affected Hydrologic Units.
 *Although not designated, some sites may also provide Estuarine beneficial uses.

Candidate, Sensitive, or Special Status Species

Snowy plover (*Charadrius alexandrinus nivosus*) Federal Threatened
 California least tern (*Sternula antillarum browni*) Federal and State Endangered
 California grunion (*Leuresthes tenuis*) California Department of Fish and Game restricted species



Other Permits/Licenses/Agreements/Plans	
Federal (Type and Permit/License Number):	
U.S. Army Corps of Engineers Regional General Permit 46 (Corps file no. SPL-2010-00868-SME) (Rivers and Harbors act Section 10 permit may also be required).	
State (Type and Permit/License/Agreement Number):	
California Coastal Commission, South Coast District – Coastal Development Permit no. CDP02-02 Department of Fish and Game – Section 1602 Stream Alteration Agreement (November 7, 2010)	
Other County, City, etc. (Type and Permit/License Number):	
None listed with application.	
Any Required Documents or Plan Submittals (SWPPP, Mitigation & Monitoring, etc.)	
Enrollment under the Stormwater Construction General Permit may be required.	

NEPA and/or CEQA Compliance	
Document Type:	Mitigated Negative Declaration – Notice of Intent
Lead Agency:	OCPW
Date Completed:	January 6, 2012
State Clearinghouse Number:	2012011000

IMPACTS	
Describe Potential Water Quality Impacts:	
<p>RGP 46 primarily removes accumulated sediment and beach sand from channel outlets (usually in Spring or early summer) and either spreads the sand out on adjacent beaches or disposes of the material off site. Potential water quality impacts arise from operation of heavy equipment in proximity to channels and ocean water.</p> <p>Dredge area for each of the six sites are estimated as:</p> <ol style="list-style-type: none"> 1. Santa Ana River Outlet: 1.7222 acre (ac.) 2. Talbert Channel Outlet, 3.640 ac. 3. Segunda Deshecha: 0.060 ac. 4. Estrella Storm Channel, 0.055 ac. 5. North Doheny Creek 0.080 ac. 6. Salt Creek 0.294 ac. <p>Volume of fill material (cubic yards) varies by site and maintenance event. Area of sand disposal is not counted as additional impact area for the purposes of this certification.</p>	



Final Project Impacts (Fill)*						
Water Body Type	Permanent			Temporary		
	Acres**	Linear Feet	Cubic Yards	Acres**	Linear Feet	Cubic Yards
Lake						
Ocean						
Riparian						
Streambed						
Vernal Pool						
Wetland						

* Include all three measurements (acres, linear feet and cubic yards) for all federal and non-federal water body types.
 ** Provide acres to three decimal places (e.g., 0.006).

Final Project Impacts (Dredge/Excavation)**						
Water Body Type	Permanent			Temporary		
	Acres***	Linear Feet	Cubic Yards	Acres***	Linear Feet	Cubic Yards
Lake						
Ocean				5.859	1160	****
Riparian						
Streambed						
Vernal Pool						
Wetland						

* For projects that will occur annually please provide the total volume to be dredged for the entire certification period (typically 5 years).
 ** Include all three measurements (acres, linear feet and cubic yards) for all federal and non-federal water body types.
 *** Provide acres to three decimal places (e.g., 0.006).
 ****Cubic yards for each of the six sites will vary depending on annual deposition. Required notifications will include Cubic Yard data.

Impact Comparison*								
	Fill				Dredge			
	Permanent		Temporary		Permanent		Temporary	
	Initial	Final	Initial	Final	Initial	Final	Initial	Final
Impacts (Acres)**							5.9	5.9

* Include impacts to both federal and non-federal waters.
 ** Provide acres to three decimal places (e.g., 0.006).



Mitigation	
Describe Avoidance and Minimization for Impacts to Waters:	
Avoidance and minimization measures, which are fully described in the OCPW Ocean Outlets Maintenance Program Manual, include: Spill prevention measures; seasonal operation windows for avoidance of wildlife and fish impacts; training of workers in the mitigation measures, and; on-site water quality monitoring	
Describe Compensatory Mitigation for Impacts to Waters (temporary and permanent):	
No compensatory mitigation is required	

Compensatory Mitigation (Proponent Provided)								
Water Body Type	Acres Established		Acres Restored		Acres Enhanced		Acres Preserved	
	Temp.*	Perm.	Temp.*	Perm.	Temp.*	Perm.	Temp.*	Perm.
Lake								
Ocean								
Riparian								
Streambed								
Vernal Pool								
Wetland								

* Report as mitigation for temporary impacts at a 1:1 ratio any required conditions to restore the site (e.g., re-vegetating or re-contouring).

Compensatory Mitigation (Mitigation Bank)				
Water Body Type	Acres Established	Acres Restored	Acres Enhanced	Acres Preserved
Lake				
Ocean				
Riparian				
Streambed				
Vernal Pool				
Wetland				

Compensatory Mitigation (In-Lieu)				
Water Body Type	Acres Established	Acres Restored	Acres Enhanced	Acres Preserved
Lake				
Ocean				
Riparian				
Streambed				
Vernal Pool				
Wetland				



Proponent Provided Mitigation Information (If Applicable)*		
	Site 1	Site 2
Mitigation Site Location(s)		
Mitigation Site Lat/Long(s)		
Name of Watershed & Hydrologic Unit		
Mitigation Site City and County		

*If more than two sites, please provide additional information in the additional information table located at the end of this form.

Mitigation Bank Information (If Applicable)*		
	Bank 1	Bank 2
Mitigation Bank Name		
Name of Mitigation Bank Operator		
Address of Mitigation Bank Office		
Mitigation Bank Location(s)		
Mitigation Bank Lat/Long(s)		
Name of Watershed and Hydrologic Unit		
Mitigation Bank City and County		
Mitigation Purchase Amount (\$)		

*If more than two sites, please provide additional information in the additional information table located at the end of this form.

In-Lieu Mitigation Information (If Applicable)*		
	Program 1	Program 2
Name of Approved In-Lieu Fee Mitigation Sponsor		
Address of In-Lieu Mitigation Sponsor		
Description of In-Lieu Mitigation Arrangements		
In-Lieu Mitigation Location		
In-Lieu Mitigation Lat/Long(s)		
In-Lieu Mitigation City and County		
Name of Watershed and Hydrologic Unit		

*If more than two sites, please provide additional information in the additional information table located at the end of this form.

Additional Mitigation Information (Proponent, Bank, or In-Lieu)		
	Site 1	Site 2
Mitigation Site Name		
Name of Mitigation Site Operator		
Address of Mitigation Site Office		
Mitigation Site Location(s)		
Mitigation Site Lat/Long(s)		
Name of Watershed and Hydrologic Unit		
Mitigation Site City and County		
Mitigation Purchase Amount (\$)		

**Water Quality
Certification**

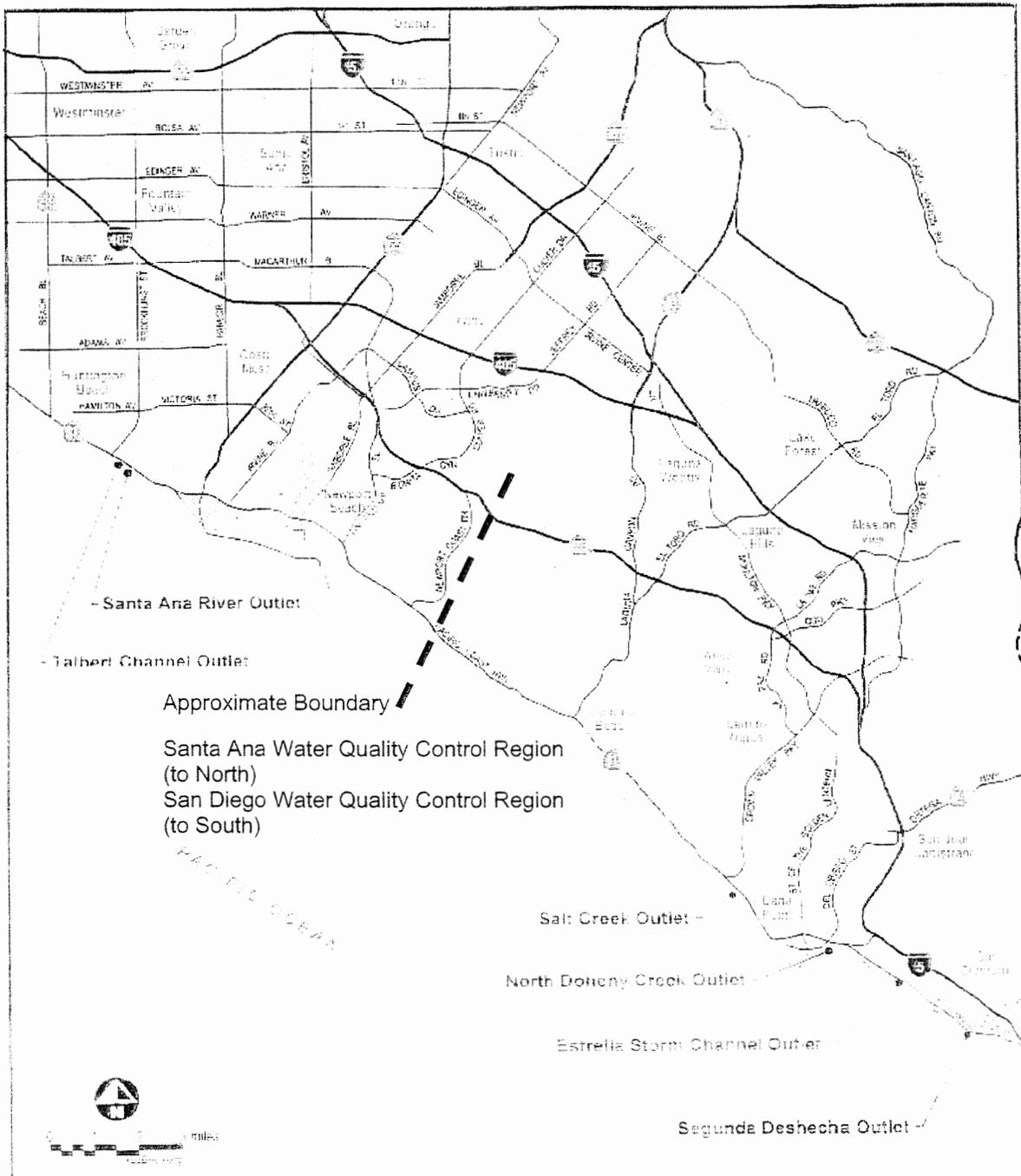
for

**Orange County Ocean
Outlets Maintenance
Program**

Attachment C

**Location Map
Orange County Ocean
Outlets**

**Attachment C: Project Area Map for RGP 74 –
 Orange County Ocean Outlet Maintenance Program
 (Source: Orange County Public Works Ocean Outlet Maintenance Manual, June, 2010)**



Orange County Public Works
 Ocean Outlet Maintenance Manual

SCALE 1" = 5 Miles

FIGURE 1

Vicinity Map

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**AMENDMENT TO COASTAL DEVELOPMENT PERMIT**

March 17, 2011

Coastal Development Permit Amendment No. **5-02-031-A4**

Permit Number **5-02-031** issued to **Orange County Department of Public Works** for:
Implementation of an ocean outlet maintenance program at ocean outlet locations throughout Orange County

at: **Ocean Outlet Locations through Orange County** has been amended to include the following change:

A five (5) year time extension to allow maintenance at six (6) ocean outlets as described in the "Ocean Outlet Maintenance Manual" until July 2016. Previously, there were seven (7) ocean outlets to be maintained, but it has now been reduced to six (6). No changes are proposed to the actual maintenance activities.

This amendment will become effective upon return of a signed copy of this form to the Commission office. Please note that the original permit condition unaffected by this amendment are still effect.

PETER M. DOUGLAS
Executive Director

By: *Fernie Sy*
Title: Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above permit and agree to be bound by the conditions as amended of **Coastal Development Permit 5-02-031**.

Date:

March 21, 2011

Signature

Vincent [Signature]



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011

In Reply Refer To:
FWS-OR-12B0178-12I0599

OCT 16 2012

Colonel R. Mark Toy
District Engineer, Los Angeles
U.S. Army Corps of Engineers
P.O. Box 532711
Los Angeles, California 90053

Attention: Stephen Estes

Subject: Informal Section 7 Consultation for the Orange County Public Works Ocean Outlets Maintenance Program, Cities of Huntington Beach, Dana Point, and San Clemente, Orange County, California

Dear Colonel Toy:

This is in response to your correspondence, dated March 13, 2012, requesting our concurrence that the Orange County Public Works Ocean Outlets Maintenance Program (Maintenance Program) located within the cities of Huntington Beach, Dana Point, and San Clemente, California, is not likely to adversely affect the federally endangered California least tern (*Sternula antillarum browni*; least tern) and the federally threatened western snowy plover (*Charadrius nivosus nivosus*; snowy plover) and its critical habitat in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). We understand that the U.S. Army Corps of Engineers (Corps) will be issuing a Regional General Permit (RGP) 46 to authorize impacts to waters of the United States resulting from the proposed project.

The proposed program will consist of ongoing yearly maintenance to six ocean outlets. These outlets include the Talbert channel outlet (Talbert outlet) and Santa Ana River outlet (SAR outlet) in Huntington Beach, the Salt Creek outlet and North Doheny Creek outlet (Doheny outlet) in Dana Point, and the Estrella storm channel outlet (Estrella storm channel) and Sequenda Deschecha outlet (SD outlet) in San Clemente. Twice annual maintenance at the Talbert outlet will occur over an approximately 2 week period during which sediment will be removed within the outlet in order to create a channel depth of approximately 10 feet and then the sediment discharged over about an 11-acre area of the adjacent beach. At the SAR outlet twice annual maintenance will occur over an approximately 1 week period during which sediment will be removed within the outlet in order to create a channel depth of approximately 23 feet and then the sediment will be discharged over about a 4.5-acre area of the adjacent beach. The Salt Creek outlet maintenance will occur once in the spring during which rock protection at the outlet will be restored if a scour hole is observed. Minor maintenance, including retrieval and re-

Attachment C

establishment of displaced rock materials may occur year-round. Doheny outlet maintenance will occur twice annually. Maintenance activities will include construction of a sediment berm across the upstream portion of the outlet during the spring and the removal of the sediment during the fall. Estrella storm channel will receive twice annual maintenance over about a 2 week period. Tidal flow will be re-established by excavating accumulated sediment from the outlet to the 4-foot design depth. Sediment will be discharged over an approximate 0.14-acre area of the adjacent beach. At the SD outlet, twice-annual maintenance events will each occur over about 4 days during which accumulated sediment from the outlet will be excavated to the 4-foot design depth. Sediment will be discharged over an approximate 0.08-acre area of the adjacent beach.

The least tern and snowy plover are known to occur within the project sites and may be using coastal beach habitat within and immediately adjacent to the project sites. The following conservation measures have been incorporated into the project design to minimize and avoid potential impacts to the least tern and the snowy plover:

1. The project boundaries will be clearly marked with temporary fencing prior to the use of mechanized equipment each day to minimize the likelihood of unanticipated impacts to least terns, snowy plovers and their habitats. A qualified biologist¹ will ensure that no least terns or snowy plovers are present along the ingress and egress beach route or within the fenced construction area prior to the start of construction activities each day. All project-related activities will occur within the project boundary.
2. Maintenance activities will take place outside of the snowy plover breeding season (March 1 to August 31) to the maximum extent practicable. If breeding season avoidance is not practicable, a qualified biologist will conduct surveys prior to maintenance activities. If snowy plovers are observed exhibiting nesting behaviors (scraping, territorial displays or calls, false brooding, etc.) during the breeding season, no project-related activities will occur within 500 feet of these areas until subsequent monitoring indicates that snowy plovers are no longer present. If snowy plovers are not observed exhibiting nesting behaviors but are roosting within 500 feet of the project footprint, a qualified biologist will be onsite at all times during any maintenance activities that require mechanized equipment. The qualified biologist will have the ability to halt maintenance activities, if necessary, to avoid unanticipated impacts to the snowy plover. If snowy plovers nest within 0.2 mile of the project site, then the Corps will contact the Carlsbad Fish and Wildlife Office (CFWO) to determine if additional consultation is necessary.
3. If maintenance activities will take place outside of the snowy plover breeding season, a qualified biologist will conduct wintering snowy plover surveys prior to maintenance activities. If wintering snowy plovers are present within 500 feet of the project footprint, then a qualified biologist should be onsite at all times that mechanized equipment is

¹ The qualified biologist for this measure will be a trained ornithologist with at least 40 hours of supervised experience locating snowy plovers and least terns and mapping their locations in the field.

required. The qualified biologist will have the ability to halt maintenance activities, if necessary, to avoid unanticipated impacts to the snowy plover.

4. Maintenance activities will take place outside of the least tern breeding season (April 15 to August 31) to the maximum extent practicable. If breeding season avoidance is not practicable, a qualified biologist will conduct surveys prior to maintenance activities. If least terns are observed exhibiting nesting behaviors (scraping, territorial displays or calls, etc.) during the breeding season, no project-related activities will occur within 500 feet of these areas until subsequent monitoring indicates that least terns are no longer present. If least terns are not observed exhibiting nesting behaviors but are roosting or staging within 500 feet of the project footprint, a qualified biologist will be onsite at all times during any maintenance activities that require mechanized equipment. The qualified biologist will have the ability to halt maintenance activities, if necessary, to avoid unanticipated impacts to the least tern. If least tern nests are located within 500 feet of the project site, then the Corps will contact the CFWO to determine if additional consultation is necessary.
5. Within 30 days of completing maintenance activities, a monitoring report will be submitted to the Service notifying that maintenance has been completed. This report will document the length of time that maintenance activities were conducted, a general description of the nature of the maintenance activities, number and location of least terns or snowy plovers in the area, and observed effect of construction activities on least terns or snowy plovers.
6. Dredging sediment associated with the Talbert and SAR outlets will be placed as far from the Huntington Beach least tern preserve as practical and will not be placed within the swash zone of the beach.
7. All mechanized equipment will enter and exit the project sites at a single point.
8. All equipment will be staged and serviced in the identified staging areas. No long-term storage of equipment will occur onsite, and no maintenance materials, debris, or waste will be placed or stored where they may be subject to water, wind, rain, or erosion. Any and all debris resulting from maintenance activities will be removed from the project site each day that work occurs to prevent debris from inadvertently entering coastal waters.

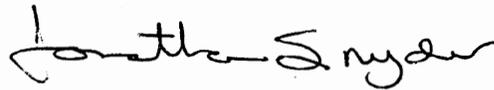
With the implementation of the above measures, maintenance activities may result in temporary minor disturbances to snowy plovers and least terns. However, this disturbance will occur over a short period of time (up to 14 days) and is not anticipated to substantially disrupt essential behaviors such as foraging and dispersal. Additionally, although up to about 15 acres of snowy plover habitat and up to about 3.64 acres of least tern foraging habitat will be temporarily unavailable for use during maintenance activities, this will occur no more than two times a year, sufficient adjacent habitat will remain available for use during maintenance activities, and temporarily impacted habitat will be available upon completion of project activities. Therefore,

we concur that the proposed project is not likely to adversely affect the snowy plover or the least tern.

Based on our concurrence that the proposed project is not likely to adversely affect the least tern or the snowy plover, the interagency consultation requirements of section 7 of the Act have been satisfied. Although this ends informal consultation, obligations under section 7 of the Act shall be reconsidered if (1) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (2) this action is subsequently modified in a manner that was not considered in this assessment, or (3) a new species is listed or critical habitat designated that may be affected by the action.

We appreciate your coordination on this project. If you have any questions regarding this letter, please contact Katy Kughen at 760-431-9440, extension 201.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Snyder".

for Karen A. Goebel
Assistant Field Supervisor

cc:
Rory Paster (OC Public Works)



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011



In Reply Refer To:
FWS-OR-12B0178-13TA0156

MAR 06 2013

Colonel R. Mark Toy
District Engineer, Los Angeles
U.S. Army Corps of Engineers
P.O. Box 532711
Los Angeles, California 90053

RECEIVED

now
MAR 11 2013
REGULATORY DIVISION
LOS ANGELES OFFICE

Attention: Stephen Estes

Subject: Modification of Informal Section 7 Consultation on the Orange County Public Works Ocean Outlets Maintenance Program, Cities of Huntington Beach, Dana Point, and San Clemente, Orange County, California

Dear Colonel Toy:

We received your letter dated, March 13, 2012, requesting our concurrence that the Orange County Public Works Ocean Outlets Maintenance Program (Maintenance Program) located within the cities of Huntington Beach, Dana Point, and San Clemente, California is not likely to adversely affect the federally endangered California least tern (*Sternula antillarum browni*, least tern) and the federally threatened western snowy plover (*Charadrius nivosus nivosus*, snowy plover) and its critical habitat in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*).

In our analysis of the proposed Orange County Public Works Ocean Outlets Maintenance Program (FWS-OR-12B0178-12I0599), we did not analyze a second maintenance activity at the Talbert channel outlet (Talbert outlet) in Huntington Beach. In addition to the twice annual maintenance, the Maintenance Program also proposes to conduct maintenance activities to re-establish tidal flow if the Talbert outlet becomes blocked or sediment levels are large enough that tidal flow is imminently in risk of becoming blocked. Because the Talbert outlet is the only source for tidal flow into the wetlands above it, unrestricted tidal flow is necessary to maintain the health of the wetlands. Tidal flow will be re-established by excavating accumulated sediment from the outlet. Sediment will be discharged over an approximately 5 acre area of the adjacent beach. Blocked outlet work is estimated to take 1 to 2 days with a conservative maximum of no more than 1 week to complete. Outlet blockage removal could occur year-round, but it will only occur on an as-needed basis.

Attachment D

The least tern and snowy plover are known to occur within the project sites and may be using coastal beach habitat within and immediately adjacent to the project sites. The following additional conservation measure has been incorporated into the project design to minimize and avoid potential impacts to the least tern and the snowy plover:

1. If more than two outlet blockage removal events a year are necessary at the Talbert outlet (in addition to the two maintenance events), then the Corps will contact the Service to analyze if additional conservation measures are needed.

With the implementation of the proposed conservation measures, maintenance activities may result in temporary minor disturbances to snowy plovers and least terns. However, this disturbance will occur over a short period of time (up to 14 days) and is not anticipated to substantially disrupt essential behaviors such as foraging and dispersal. Additionally, although up to about 15 acres of snowy plover habitat and up to about 3.64 acres of least tern foraging habitat will be temporarily unavailable for use during maintenance activities, this will occur no more than two times a year (SAR, Salt, Doheny, SD, and Estrella outlets) and no more than four times a year at Talbert outlet, and sufficient adjacent habitat will remain available for use during maintenance activities, and temporarily impacted habitat will be available upon completion of project activities. Therefore, we concur that the proposed project is not likely to adversely affect the snowy plover or the least tern.

Based on our concurrence that the proposed project is not likely to adversely affect the least tern or the snowy plover, the interagency consultation requirements of section 7 of the Act have been satisfied. Although this ends informal consultation, obligations under section 7 of the Act shall be reconsidered if (1) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (2) this action is subsequently modified in a manner that was not considered in this assessment, or (3) a new species is listed or critical habitat designated that may be affected by the action.

We appreciate your coordination on this project. If you have any questions regarding this letter, please contact Katy Kughen at 760-431-9440, extension 201.

Sincerely,



For Karen A. Goebel
Assistant Field Supervisor

cc:
Rory Paster (OC Public Works)