



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

December 21, 2015

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT 54

Permittee: Chris Miller, City of Newport Beach

Project Name: Newport Bay Maintenance Dredging and Dock/Bulkhead Repair and Replacement Program (Regional General Permit 54)

Permit Number: SPL-2013-00020-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 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 Figures 1 and 2 (except for the exclusion areas shown on the enclosed Figures 2-3c), in the city of Newport Beach, Orange County, California.

Project Description: RGP 54 authorizes small-scale maintenance dredging, dock and bulkhead repairs, and in-kind dock and bulkhead replacement projects in Newport Bay. 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; 2) the discharge of dredged material at adjacent beach sites for beach nourishment, the LA-3 Ocean Dredged Material Disposal Site (ODMDS), confined disposal facilities, or at approved upland disposal sites; and 3) the repair and in-kind replacement of docking systems (including docks, piers, gangways, floats, and piles), bulkheads, and piles (Figures 2-3c).

Areas of Newport Bay have been separated into distinct classifications pertaining to dredging depths and other requirements under RGP 54, as shown on Figures 2-3c: (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. 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. Grain size analysis, chemical testing, and suitability concurrence by the Corps Regulatory Division and the

U.S. Environmental Protection Agency (USEPA) shall be required prior to the discharge of sediment at beach sites; (c) 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. 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 (d) 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, 2020**.
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. Sediment characterization data obtained from sediment samples in July 2013 are valid through July 2018. Appropriate sediment testing must be conducted and approved by the Corps Regulatory Division prior to August 1, 2018 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.
2. Section 401 Water Quality Certification No. 302014-03 expires on July 29, 2019 (Appendix B). Therefore, no work shall occur after July 29, 2019 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 shall submit a copy of such authorization to the Corps Regulatory Division upon receipt. 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. If the Permittee is not contacted by the Santa Ana RWQCB within 30 days after mailing the notification, the Permittee may proceed with the project pending other pre-construction requirements.
3. Coastal Development Permit No. 5-14-0200 and Consistency Certification CC-0002-15 do not authorize the in-kind repair or replacement of structures under RGP 54 (Appendix C). Therefore, applicants proposing the in-kind repair or replacement of structures shall apply to the California Coastal Commission for project-specific authorization (see Special Condition 4.b. below). In addition, the Permittee shall submit a Pre-Construction Notification for maintenance dredging projects to the California Coastal Commission and receive written authorization per Special Condition 1.D. of the Coastal Development Permit prior to project commencement.
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:

Class	Dredge Activities Covered	Structural Activities Covered	Review Terms
I	Projects dredging up to 1,000 CYs of material with no potential to impact existing eelgrass	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). 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. In accordance with Special Condition 3.d., the Permittee shall provide quarterly reports to the Corps Regulatory Division describing all projects authorized under RGP 54.
II	Projects dredging between 1,000 and 8,000 CYs of material and/or projects with potential to impact existing eelgrass	In-kind repair or replacement of existing structures	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. For the in-kind repair or replacement of structures, this shall include a coastal consistency certification from the California Coastal Commission.

- 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:

1. Confirmation that the proposed application meets the terms and conditions of RGP 54, with special emphasis on the presence or absence of eelgrass;
 2. 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;
 3. 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);
 4. The results of eelgrass and *Caulerpa* surveys of the project area(s);
 5. 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;
 6. For projects that have the potential to affect structures 50 years of age or more, a determination from a qualified architectural historian on whether the structure meets the criteria for inclusion on the National Register of Historic Places; and
 7. For the in-kind repair or replacement of structures, confirmation that an application has been submitted to the California Coastal Commission.
- d. Quarterly Reporting: The Permittee shall submit quarterly reports to the Corps Regulatory Division, unless otherwise amended, documenting activities authorized under RGP 54 during the preceding quarter. Quarterly reports shall be submitted by January 1 for September-November of the preceding year, April 1 for December of the preceding year-February, July 1 for March-May, and October 1 for June-August each year. These quarterly reports shall include the following information:
1. 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);
 2. An estimate of the total acreage of waters of the United States impacted for each activity type (e.g., dredge area and discharge area or square footage of in-kind dock replacement);
 3. Summary of any direct and indirect eelgrass impacts for each activity type, and the eelgrass monitoring and/or mitigation completed or in progress; and
 4. 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. Eelgrass-related requirements:

1. 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. If the in-kind repair or replacement of existing structures may result in impacts to existing eelgrass, the Permittee and individual applicants shall adhere to the provisions of the 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.

2. 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.2.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.
3. 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.

4. 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.
 5. 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.
- f. Caulerpa-related requirements: All projects proposed for authorization under RGP 54 shall meet the following requirements:
1. A new pre-construction Caulerpa (*Caulerpa taxifolia*) survey shall be conducted in accordance with the Caulerpa Control Protocol (http://www.westcoast.fisheries.noaa.gov/publications/habitat/caulerpa_taxifolia/caulerpa_control_protocol_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.
- g. 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.
- h. The Permittee shall implement standard Best Management Practices (BMPs) during construction.
- i. The permitted activity shall not interfere with the public's right to free navigation on all navigable waters of the United States.
- j. To ensure navigational safety, the Permittee shall provide appropriate notifications to the U.S. Coast Guard (USCG) as described below:

Commander, 11th Coast Guard District (dpw)
Telephone: 510-437-2980
E-mail: d11LNM@uscg.mil
Website: <http://www.uscg.mil/dp/lnmrequest.asp>

USCG, Sector LA-LB (COTP)
Telephone: 310-521-3860
E-mail: john.p.hennigan@uscg.mil

1. The Permittee shall notify the USCG, Commander, 11th Coast Guard District (dpw) and the USCG, Sector LA-LB (COTP) (contact information shown above) not less than 15 calendar days prior to commencing work and as project information changes. The notification shall be provided by e-mail with at least the following information, transmitted as an attached Word or PDF file:
 - a. Project description including the type of operation (i.e. dredging, diving, construction, etc);
 - b. Location of operation, including Latitude/Longitude (NAD 83);
 - c. Work start and completion dates and the expected duration of operations. The USCG needs to be notified if these dates change;
 - d. Vessels involved in the operation (name, size and type);
 - e. VHF-FM radio frequencies monitored by vessels on scene;
 - f. Point of contact and 24-hour phone number;
 - g. Potential hazards to navigation;
 - h. Chart number for the area of operation; and
 - i. The Corps Regulatory Division recommends the following language be used in the LNM: "Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made."
2. 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. The Permittee shall ensure its contractor notifies the USCG in writing, with a copy to the Corps Regulatory Division, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation which requires relocation or removal. Should any federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps Regulatory Division as well as the USCG, Aids to Navigation office. 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 USCG.
3. Should the Permittee determine the work requires the 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 as well as the USCG, Aids to Navigation office. 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 USCG.

4. 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 COTP.
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 Figures 2-3c: (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. 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. Grain size analysis, chemical testing, and suitability concurrence by the Corps Regulatory Division and the U.S. Environmental Protection Agency (USEPA) shall be required prior to the discharge of sediment at beach sites; (c) 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. 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 (d) 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 (Figures 1-3c) 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.
 - c. Sediments from areas within the RGP 54 boundary identified as containing elevated mercury levels, i.e., designated on Figures 2-3c 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.

- d. Sediment from authorized areas (Figures 1-3c) 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. Sediment from authorized areas (Figures 1-3c) within the RGP 54 boundary with 80% or less sand content are suitable for disposal at the LA-3 ODMDS. No use of sediments from areas identified as containing elevated mercury levels are authorized for disposal at the LA-3 ODMDS unless individual stations were to be retested and found by the Corps Regulatory Division to be suitable for offshore placement.
- 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:
 1. Permit and project number;
 2. Start date and completion date of dredging and disposal operations;
 3. Total cubic yards disposed at the authorized disposal site(s);
 4. Mode of dredging;
 5. Mode of transportation;
 6. Form of dredged material;
 7. Frequency of disposal and plots of all trips to the authorized disposal site(s);
 8. Tug boat or other disposal vessel logs documenting contact with the USCG before each trip to the authorized ocean disposal site;
 9. Percent sand, silt, and clay in dredged material: for RGP 54 only, see sediment testing requirements above;
 10. 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;
 11. Pre-dredging hydrographic survey;
 12. 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 overdredge 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

13. 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:

- a. The following mandatory conditions for disposal operations at the LA-3 ODMDS are provided pursuant to the USEPA'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 the USEPA's 1999 rule [64 FR 141 pages 39927-39934, and 40 CFR 228.15 (1)(3)].
- b. All sediment within the authorized areas (Figures 1-3c) of RGP 54 with 80% or less sand content are suitable for disposal at the LA-3 ODMDS with the exception of sediment from areas identified as containing elevated mercury levels. 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.
- c. Definitions:
 1. "Permit" and "Permittee" as used here mean Corps ocean dumping permits issued to others under section 103 of the MPRSA (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 the LA-3 ODMDS.
 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, within which the disposal vessel shall discharge all of the dredged material.
 6. "Ocean disposal operations" is the transportation of dredged material from the dredging site to the LA-3 ODMDS, proper disposal of dredged material at the central disposal area within the LA-3 ODMDS, and transportation of the hopper dredge or disposal barge or scow back to the dredging site.
- d. The ocean disposal site is demarcated as a circle with the center coordinates and radii listed below. Disposal vessels shall be entirely within the SDZ when discharging dredged material:

<i>Disposal Site</i>	<i>Dimensions</i>		<i>Center Coordinates</i>		<i>Disposal Limit</i>
	Radius of SDZ*	Radius of Overall Site	Latitude (NAD 83)	Longitude (NAD 83)	Cubic yards per year
LA-3 (Newport)	1000 feet	3000 feet	33°31'00" N	117°53'30" W	2,500,000

- e. When dredged material is discharged within the LA-3 ODMDS, 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. No more than one disposal vessel may be present within the SDZ at any time.
- f. 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.
- g. 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.
- h. 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:
 1. 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;

2. 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;
3. 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;
4. 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.
- i. 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:
 1. Name of Permittee;
 2. Corps permit number;
 3. Name and identification of vessels (tug boat, hopper dredged or disposal barge or scow) employed in the disposal operation;
 4. Loading location of the material to be disposed;
 5. Material to be disposed;
 6. Time of departure from the dredging site;
 7. Estimated time of arrival at the ocean disposal site and estimated time of departure from the ocean disposal site; and
 8. Estimated time of arrival at dredging site after the disposal operation is completed.
- j. Prohibition on Leaking or Spilling During Transport: Dredged material shall not be leaked or spilled from disposal vessels during transit to the LA-3 ODMDS. Transportation of dredged material 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 shall not be loaded beyond a level at which dredged material would be expected to be spilled in transit under anticipated sea state conditions. 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.
- k. Prohibition on Trash and Debris; use of Grizzly: Only dredged material determined in advance by the Corps Regulatory Division and the USEPA to be suitable for ocean disposal may be discharged at the LA-3 ODMDS. 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 shall 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 shall be removed and disposed of separately. The Corps Regulatory Division and the USEPA 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.

- l. Independent Inspector, and Scow Certification Checklist: Before any disposal vessel departs for the LA-3 ODMDS, an independent quality control inspector (“independent” means not a direct employee of the Permittee or dredging contractor) shall 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 Site Management and Monitoring Plan Implementation Manual. The Corps Regulatory Division and the USEPA shall 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 the Corps Regulatory Division and the USEPA for the relevant month.

- m. 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 navigation/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 the LA-3 ODMDS:
 1. position of the disposal vessel, to a minimum accuracy of three meters (10 feet);
 2. speed and heading of the disposal vessel;
 3. fore and aft draft of the disposal vessel (sensors as near vessel centerline as possible);
 4. fore and aft bin height (top of dredged material load in the bin or hopper) (sensors as near vessel centerline as possible); and
 5. time and location of each disposal event (e.g., the discharge phase).

This system shall 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 shall 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.

- n. 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 shall be posted by a third party contractor to a World Wide Web (Internet) site accessible by the Corps Regulatory Division and the USEPA Region 9. The Web site shall be searchable by disposal trip number and date, and at a minimum for each disposal trip it shall provide a visual display of: the disposal vessel transit route to the LA-3 ODMDS; 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 below.

- o. E-Mail Alerts: The third-party system shall also generate and distribute “e-mail alerts” regarding any degree of apparent dumping outside the SDZ of the LA-3 ODMDS (“mis-dumping”), and regarding any apparent substantial leakage/spillage or other loss of material in transit 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-3 ODMDS and the time of actual disposal. E-mail alerts for any disposal trip shall be sent within 24 hours of the end of that trip to the Corps Regulatory Division and the USEPA Region 9.

- p. Back-up Navigation System: A functioning back-up navigation system, meeting the minimum accuracy requirement listed above, shall 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 SDZ [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, shall be recorded and reported. Further disposal operations using a disposal vessel whose navigation tracking system fails shall cease until the primary disposal tracking system’s capabilities are restored.

- q. Record-Keeping, and Monthly Reporting: In addition to the requirement 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-3 ODMDS; 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 the Corps Regulatory Program and the USEPA. 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 the Corps Regulatory Division and the USEPA), as well as hard copy reproductions of the Scow Certification Checklists and printouts listed above. The monthly reports 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.

- r. 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 Corps Regulatory Division and the USEPA, within 24 hours of discovering such a situation. A message from an operational “e-mail alert” system 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 Corps Regulatory Division and the USEPA. 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.
- s. The captain of any tug boat or other vessel covered by this permit shall monitor VHF-FM channel 16 while conducting disposal operations.
- t. Project Completion Report: Following the completion of ocean disposal operations, the Permittee shall submit to the Corps Regulatory Division and the USEPA 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 LA-3 ODMDS, 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.

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:
 - 1. Corps permit number;
 - 2. Identify source of material;
 - 3. Total cubic yards disposed at each beach disposal site;
 - 4. Modes of transportation and discharge; and
 - 5. 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. Repair or in-kind replacement of structures:
- a. For repair and replacement activities, “in-kind” is defined as replacement where the overwater footprint and configuration of replacement structures are identical to that of existing design conditions. Modern materials may be substituted, as appropriate (e.g. concrete piles instead of treated timber). Modifications to overwater footprints or structural configurations are not permitted under RGP 54.
 - b. This permit does not authorize the installation of new bulkheads, the relocation of bulkheads seaward of their existing alignment, the widening or lengthening of an existing bulkhead, the placement of fill materials seaward of a bulkhead to buttress it against storm surges, the removal of a bulkhead and installation of a longer or wider bulkhead, or the replacement of

a bulkhead. Bulkhead work authorized by this permit is limited to bulkhead repairs and in-kind replacement.

- c. Only concrete piles or steel piles with a non-toxic coating may be authorized under RGP 54. Use of any other type of pile (e.g., Creosote treated pilings) is not authorized under this RGP.
- d. The Permittee shall discharge only clean construction materials suitable for use in the oceanic environment. The Permittee shall ensure 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 placed where it may be washed by rainfall or runoff into waters of the United States. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.
- e. Within 30 calendar days of completion of the project authorized by this permit, the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters. The Permittee shall forward a copy of the survey to the Corps and to the National Oceanic and Atmospheric Service for chart updating: Gerald E Wheaton, NOAA, Regional Manager, West Coast and Pacific Ocean, DOD Center Monterey Bay, Room 5082, Seaside, CA 93955-6711.
- f. The Permittee understands and agrees that, if future operations by the United States require 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 of Engineers, 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.

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.

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.



Chris Miller
Harbor Resources Manager
City of Newport Beach, Division of Harbor Resources

12/21/15

Date

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

FARRAR.CORICE.J
EAN.1251907028

Digitally signed by
FARRAR.CORICE.JEAN.1251907028
DN: c=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=USA,
cn=FARRAR.CORICE.JEAN.1251907028
Date: 2015.12.21 13:10:38 -08'00'

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

21 Dec 2015

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

L:\AutoCAD Project Files\090243-01 Newport CAD\Lower Newport Bay\RGP 54\0243RPG-PP-001.dwg VMap FIG-1



Jan 21, 2014 8:09am mpratschner

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

Approximate Project Location:
 33° 36.540', 117° 54.230'

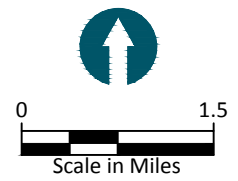


Figure 1
 Vicinity Map
 Proposed RGP 54



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 to demonstrate suitability.
-  Suitable to -10 feet MLLW plus 2 feet of overdepth for unrestricted disposal at the LA-3 ODMDS. Material proposed for beach placement must have grain size verification and chemical testing with agency concurrence to verify suitability prior to placement.
-  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 to demonstrate suitability.
-  Area not included under proposed RGP 54.



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 proposed for inclusion 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.



Figure 2
 RGP 54 Sediment Characterization
 Proposed RGP 54



Source: Esri, DigitalGlobe, GeoEye, Earthstar, USDA, USGS, AEX, Getmapping, Aerotri, IGN, IGP, Swisstopo, and the GIS User Community

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 proposed for inclusion 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.

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 to demonstrate suitability.
-  Suitable to -10 feet MLLW plus 2 feet of overdepth for unrestricted disposal at the LA-3 ODMDS. Material proposed for beach placement must have grain size verification and chemical testing with agency concurrence to verify suitability prior to placement.
-  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 to demonstrate suitability.
-  Area not included under proposed RGP 54.



Figure 3a
 Proposed RGP 54 Coverage Areas
 Proposed RGP 54





LEGEND:

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-  Suitable to -10 feet MLLW plus 2 feet of overdepth for unrestricted disposal at the LA-3 ODMDS. Material proposed for beach placement must have grain size verification and chemical testing with agency concurrence to verify suitability prior to placement.
-  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 1.0 ppm prior to dredging to demonstrate newly exposed surface is clean. Grain size required prior to beach replenishment to demonstrate suitability.
-  Area not included under proposed RGP 54.





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 proposed for inclusion 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.





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NOTE:
 Areas proposed for inclusion 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.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Chris Miller, City of Newport Beach	File Number: SPL-2013-00020-SME	Date: 12/21/2015
Attached is:		See Section below
X	INITIAL PROFFERED PERMIT (Regional General Permit)	A
	PROFFERED PERMIT (Regional General Permit)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Regional General Permit (RGP) or Standard Individual Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the RGP/Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (RGP/Standard Individual Permit or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a RGP/Standard Individual Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the RGP/Standard Individual Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (RGP/Standard Individual Permit or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed) by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to re-evaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Stephen M. Estes
Senior Project Manager
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017
Phone: 213-452-3660
Email: stephen.m.estes@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Pacific Division
1455 Market Street, 2052B
San Francisco, California 94103-1399
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: thomas.j.cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

Santa Ana Regional Water Quality Control Board

July 29, 2014

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

**GENERAL CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR PROJECTS SUBJECT TO U.S. ARMY CORPS OF
ENGINEERS' REGIONAL GENERAL PERMIT NO. 54 (SARWQCB NO. 302014-03)**

Dear Mr. Miller:

On January 22, 2014 we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Anchor QEA, LLC on behalf of the City of Newport Beach ("City") for projects subject to the U.S. Army Corps of Engineers' ("Corps") Regional General Permit No. 54 ("RGP-54"). The application was deemed complete on February 3, 2014.

This letter responds to your request for certification that the activities described in your application will comply with applicable State water quality standards established in the Water Quality Control Plan for the Santa Ana River Basin ("Basin Plan").

Project Description:

RGP-54 is a general permit administered by the U.S. Army Corps of Engineers (Corps) for minor maintenance dredging underneath and adjacent to private, public, and commercial docks, floats, and piers in portions of Lower Newport Bay and Upper Newport Bay. RGP-54 was last certified by the Regional Board on October 5, 2012 (Project No. 302012-21) for a period of five years. The Corps reissued RGP-54 on January 9, 2013.

RGP-54 applies to projects within Section 27 of Township 6 South, Range 10 West, of the U.S. Geological Survey Newport Beach, Calif. Quadrangle map (33 36 36.72 N/ 117 54 20.16 W). The specific areas proposed for coverage under RGP-54 are depicted in Figures 1, 2, 3a, 3b, and 3c.

RGP-54 is limited to areas where the sediment has been characterized according to guidelines established by the Southern California Dredged Material Management Team (SC-DMMT). The guidelines specify that sediment data are valid for a period of five years. The 2012 certification for RGP-54 applied to areas where sediment was sampled in 2009 and 2011 (data valid through May 2014 and May 2016 respectively).

The City conducted a new sediment sampling program in July 2013. The SC-DMMT evaluated these data in November 2013, approving discharge of dredged material at adjacent beach sites (for beach nourishment) or disposal at the U.S. EPA'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 will be disposed of at an upland landfill. These results are valid until July 2018.

Although the 2012 certification for RGP-54 has not expired, the City requests renewal of the certification to incorporate the areas of Newport Bay that were characterized by the 2013 sampling program. The City also requests a number of changes to the General Certification issued in 2012 for RGP-54 that are summarized in Table 1.

Table 1: Changes to Previous Certification for RGP-54

Specification	Previous Certification (302012-21)	This Certification (302014-03)
Areal definition	Between pierhead and bulkhead	Into federal channels
Maximum dredge depth	-7 feet MLLW ¹ plus 1 foot overdepth	-10 feet MLLW ¹ plus 2 feet overdepth
Eelgrass	Project ineligible if within 15 feet	Mitigate per SCEMP ²
Individual volume limit	1,000 cubic yards	8,000 cubic yards
Annual volume limit	20,000 cubic yards	75,000 cubic yards
Structures	No maintenance allowed	Repair and in-kind replacement ³

¹ MLLW – Mean Lower Low Water

² SCEMP = Southern California Eelgrass Mitigation Policy

³ For "In-kind replacement," substitution with modern materials is allowed, but an increase in the overwater footprint when compared with the existing structure, and expansion of the structure's size or function is not allowed.

Findings:

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. A large backlog of dredging projects exists as only limited use was made of the previous RGP-54 certifications due to volume and eelgrass restrictions. For example, only sixteen small dock and beach maintenance projects, totaling about 5,700 cubic yards of dredging, received coverage under RGP-54 over the past year.

Depths: The proposed maximum dredging depths represent an increase of four feet compared to the previous certification. The City reasons that this is consistent with the authorized federal channel design depth and is applicable to the entire lower bay. Sediment testing was performed to characterize these depths in most locations. Increasing the maximum depth to the authorized channel design depth is reasonable.

Individual Project Volume: As indicated in Table 1, the previous individual project limit of 1,000 cubic yards will be increased to 8,000 cubic yards. The previous individual volume limit was adequate for typical individual home dock dredging projects, but this certification will also accommodate dredging and structural repair activities by commercial facilities. An 8,000 cubic yard limit will be sufficient to accommodate the dredging volumes from the small marinas that would make use of this general permit.

Annual Dredging Volume: As indicated in Table 1, the previous annual program limit of 20,000 cubic yard limit will be increased to 75,000 cubic yards. The increase in the annual limit will accommodate the backlog of dredging and the use of the permit by projects that were not covered by the previous RGP-54. The City estimates a maximum annual dredging volume of about 75,000 cubic yards per year, based on an expected mix of five small marina projects (totaling up to 40,000 cubic yards), four large/medium residential projects (3,500 cubic yards each, totaling up to 24,500 cubic yards), and ten small residential projects dredging (1,000 cubic yards each, totaling up to 10,000 cubic yards).

Application Reviews: The City has served as the primary point of contact for projects seeking authorization under RGP-54, reviewing applications for completeness and accuracy before forwarding notifications to the Regional Board. The City proposes to continue serving in this role for the duration of this permit. However, the City proposes that where eelgrass is present, projects will be subject to additional Regional Board review.

Sediment Characterization: Sediments proposed for dredging under the previous RGP-54 re-authorization were characterized by a sampling program conducted in May 2009 and May 2011. The results were evaluated by the SC-DMMT, and most sediment was found to be suitable for discharge of dredged material at adjacent beach sites (for beach nourishment) or disposal at LA-3. These determinations are valid for a period of five years. The sampling results from May 2009 expired in May 2014, while the sampling results from May 2011 will expire in May 2016.

The City conducted a new sediment sampling program in July 2013. The SC-DMMT evaluated these data in November 2013, approving discharge of dredged material at adjacent beach sites (for beach nourishment) or disposal at the U.S. EPA'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 will be disposed of at an upland landfill. These results are valid until July 2018.

Turbidity: Natural background turbidity in Lower Newport Bay is below 50 Nephelometric Turbidity Units (NTU) except during storm events. For waters with natural turbidity less than 50 NTU, the Basin Plan specifies a water quality objective for turbidity as a maximum increase not to exceed 20% as a result of controllable water quality factors. To implement this objective, this certification specifies numeric limits at a distance of no more than 300 feet from the active dredging area for total suspended solids (TSS), transmissivity, and turbidity.

CEQA: Pursuant to the California Environmental Quality Act (CEQA), the Regional 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."

Certification Conditions:

This 401 Certification is issued contingent upon the execution of the following conditions:

1. Notification: Prospective enrollees intending to obtain coverage under RGP-54 must notify the Regional Board at least 30 days prior to commencing work. Prospective enrollees may use the same notification as that used to notify the Corps provided it contains the information listed below. The Regional Board may disqualify a project from coverage under this Certification. In the event of disqualification, the prospective enrollee will be notified in writing within 30 days of receipt of notification. If the prospective enrollee is not contacted by the Regional Board within 30 days after mailing the notification, 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 General Certification No. 302014-03 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, and,
 - II. The prospective enrollee's agent (if an agent is submitting the application)
 - 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 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 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 cubic yards.
 - V. Disposition of dredge materials, including longitude and latitude of the disposal site(s).
 - VI. The results of any applicable sediment characterization completed, including testing conducted by others (e.g., the City of Newport Beach), and as required by 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. Currently, this amount is \$132.
 - g. The notification must be signed by the prospective enrollee or the prospective enrollee's agent. The notification must include a statement that the submitted information is complete and accurate.
2. Point of contact: The City of Newport Beach 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 City has determined that the project meets the conditions of this permit, it shall forward the notification to the Regional Board.
 3. Fees: The City of Newport Beach shall pay the appropriate dredging fee associated with this certification pursuant to Section 2200 (a)(3)(B), Title 23 of the California Code of Regulations ("Dredging Discharges") prior to forwarding enrollee notifications of construction activities authorized by this certification. The City shall make payment of this fee on an annual basis. The first annual payment shall be made one month after all applicable permits for this re-certification of RGP-54 have been obtained. The first annual payment shall be calculated on the basis of the maximum annual dredging volume authorized by this Certification, minus the base fee, which has already been paid. Subsequent annual payments will be based on the maximum annual dredging volume authorized minus the actual dredging volume for the previous year. Subsequent annual payments shall be made on the anniversary of the first payment. Payment shall be made at the Santa Ana Regional Water Quality Control Board payable to the State Water Resources Control Board.

4. Expiration: This certification expires five years after the date of its issuance. Any project begun, or in process on that date shall complete all discharges of dredge or fill within thirty days of the expiration date.
5. Structure Maintenance: Maintenance and repair of structures is allowed, but limited to "in-kind replacement." Replacement with modern materials is allowed; increase in the overwater footprint compared to the existing structure, and expansion of existing structure's size or function is not allowed.
6. Sediment Characterization: This certification is limited to areas characterized by sediment sampling and authorized for disposal at LA-3, discharge of dredged material at adjacent beach sites (for beach nourishment) or upland (U.S. EPA's suitability determinations in 2013). Certain areas will require further characterization. These areas are depicted in Figures 1, 2, 3a, 3b, and 3c.
7. Reporting: The City of Newport Beach shall forward pertinent information to the Regional Board for each dredging project undertaken under this general certification. This will include, at a minimum, sediment characterization (if any), monitoring data (if any), dredging volume, area, depth, and disposal location(s).
8. Dredge Volumes: Cumulative dredging volumes cannot exceed 75,000 cubic yards per year. Individual project dredging volumes cannot exceed 8,000 cubic yards.
9. *Caulerpa taxifolia*: Enrollees must conduct at least one survey for the invasive algae *Caulerpa taxifolia* 30 to 90 days prior to initiating a project. If *Caulerpa taxifolia* is discovered the enrollee must notify Regional Board staff, the California Department of Fish and Wildlife (CDFW), and/or the National Marine Fisheries Service (NMFS) within 24 hours of discovery. The enrollee may begin dredging only after implementing management measures specified by the CDFW and/or NMFS.
8. Eelgrass: Each enrollee must follow the latest Southern California Eelgrass Mitigation Policy (SCEMP) procedures established by NMFS regarding eelgrass. An eelgrass survey must be conducted within 30 to 90 days prior to the commencement of each project. The enrollee can also rely on the City's eelgrass data collected every two years to satisfy the pre-construction eelgrass survey requirement. If eelgrass is present, mitigation must be performed in accordance with SCEMP policy, and/or future NMFS-approved eelgrass plans that supersede or update this policy. New policies could include the California Eelgrass Mitigation Policy currently under development by NMFS, the Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay currently under development by the City, or others as developed and approved by regulatory and resource agencies. The City must ensure that projects

requiring eelgrass mitigation have received approval from NMFS prior to forwarding the notification to the Regional Board.

9. **Best Management Practices:** At a minimum, the following BMPs shall be utilized:
 - a. For projects dredging over 1,000 cubic yards, 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 this project shall be managed appropriately. This shall include identifying all potential pollution sources associated with the project, and incorporating all necessary pollution prevention BMPs for each potential pollution source identified.

10. **Receiving Water Limitations:** Enrollees must 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:** Enrollees must comply with the numeric receiving water limitations specified in Table 2. Data shall be collected at a distance of no more than 300 feet from the dredge footprint. The turbidity and transmittance limits in Table 2 are based on recent data collected in Lower Newport Bay¹. Enrollees may use the City of Newport Beach's latest eelgrass survey to determine whether eelgrass is present within 300 feet of the project site. The transmissivity limits in Table 2 apply only if the enrollee chooses to monitor transmissivity in addition to turbidity. When the enrollee monitors both transmissivity and turbidity, compliance will

¹ Anchor QEA. Lower Newport Bay Water Quality Monitoring, Suspended Sediment Special Study. May18, 2012.

be achieved if either transmissivity or turbidity is below the respective limit shown in Table 2.

Table 2: Numeric Receiving Water Limitations

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 < pH < 8.6; < 0.2 change from ambient	
Dissolved Oxygen	> 5 mg/L	

11. Minimum Monitoring Program: Enrollees must implement a monitoring program to ensure compliance with the receiving water limitations specified in Condition 10, above. Minimum requirements of the monitoring plan are listed in Table 3. The enrollee will be required to perform water quality monitoring on a daily basis during the first individual dredging project using a given type of dredging (e.g., hydraulic suction dredging or mechanical dredging) approved under RGP-54. The results of the monitoring shall be forwarded to the Regional Board as specified in Condition 7 (Reporting). If the monitoring results are within the receiving water limitations specified in Condition 10, then subsequent monitoring during individual projects will not be required if the total dredging duration will be less than two days. If dredging will extend beyond two (2) consecutive days, then monitoring will be required every other day beginning with the third day (monitoring will be required on days 3, 5, 7, etc.).

Table 3: 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

12. A copy of this Certification must remain at the project site for the duration of the work and be available for inspection upon request.

Standard Conditions:

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

(a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.

(b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

(c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the enrollee.

If the above stated conditions 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 Regional Board may require the enrollee to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the enrollee to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby certify that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

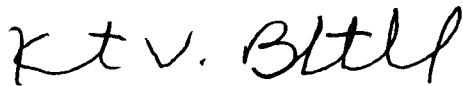
This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge

Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification” which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at:
www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

The previous certification issued for RGP-54 (SARWQCB Project No. 302012-21) will be closed to new projects on the date that this certification (SARWQCB Project No. 302014-03) becomes effective.

Should there be any questions, please contact Doug Shibberu at (951) 782-7959, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold
Executive Officer

Enclosures: Figures 1, 2, 3a, 3b, and 3c

cc (via electronic mail):

Anchor QEA, LLC, Adam Gale
SWRCB, Office of Chief Counsel – David Rice
SWRCB, DWQ Water Quality Certification Unit – Bill Orme
U.S. Army Corps of Engineers, Los Angeles Office – Stephen Estes
U.S. Fish and Wildlife Service – Jon Avery
California Department of Fish and Wildlife – Kevin Hupf

NOV 10 2015

REGULATORY DIVISION
LOS ANGELES OFFICE

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

EDMUND G. BROWN, JR., GOVERNOR

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CALIFORNIA 90802-4416
PH (562) 590-5071 FAX (562) 590-5084
WWW.COASTAL.CA.GOV



Page 1

November 5, 2015

Permit Application No.: 5-14-0200

COASTAL DEVELOPMENT PERMIT

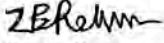
On June 11, 2015, the California Coastal Commission granted to **City Of Newport Beach** this permit subject to the attached Standard and Special conditions, for development consisting of **beach replenishment of up to 75,000 cubic yards per year of suitable dredged material, including Eelgrass Protection 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

Charles Lester
Executive Director


Zach Rehm
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.

Appendix C

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: _____

Signature _____

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.

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

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 an invasive algae (*Caulerpa taxifolia*) survey of the proposed dredge area taken within 30 days of the date the application is submitted.
- 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.
- 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

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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 July 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.
- iii. An updated, to-scale map showing the locations of all activities conducted using this coastal development permit and consistency certification to date.

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

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- 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 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.

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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.
 - E. If turbid conditions are generated during construction a silt curtain shall be utilized to minimize and control turbidity to the maximum extent practicable.

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- 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:

- I. Dredging Activities.

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- A. Under this CDP/CC, dredging operations are limited to -10 feet MLLW with a 2-foot allowable overdraft (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 60 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:

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- 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.
- iv. 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:

- a. 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.
 - b. The dredging design depth, overdredge depth and the side-slope ratio.
 - c. The total quantity of dredged material to be removed from the dredging areas and the side-slope areas.
 - d. 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.
 - e. 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.
 - f. 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 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).

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- E. 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 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:
- v. Permit and project number.
 - vi. Start date and completion date of dredging and disposal operations.
 - vii. Total cubic yards disposed at the authorized disposal site(s).
 - viii. Mode of dredging.
 - ix. Mode of transportation.
 - x. Form of dredged material.
 - xi. Frequency of disposal and plots of all trips to the authorized disposal site(s).
 - xii. Tug boat or other disposal vessel logs documenting contact with the USCG before each trip to the authorized ocean disposal site.
 - xiii. Percent sand, silt and clay in dredged material: for this CDP/CC only, see sediment testing requirements above.
 - xiv. 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.
 - xv. Pre-dredging hydrographic survey.
 - xvi. 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.
- I. 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

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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

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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.
- II. Offshore (ocean) disposal
- A. 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.
 - B. 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.

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- C. 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.
- D. 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.
- E. In no case will offshore (ocean) or beach disposal be authorized for material dredged below the sediment testing characterization depth for any particular site.
- F. 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.
- G. 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.

III. 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.

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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.