
Appendix B
Permits



DEPARTMENT OF THE ARMY PERMIT

Co-Permittees: Austal USA LLC; Michele Kruger (Austal USA); Dept. of Navy or U.S. Navy; Captain Robert Heely, USN, Naval Base San Diego Commanding Officer; Austal USA LLC; Michelle Kruger (Austal)

Project Name: Austal USA Floating Dry Dock Project

Permit Number: SPL-2022-00654-RRS

Issuing Office: Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means Austal USA, a co-permittee(s) 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.

While the Navy and Austal are co-permittees, responsibility for compliance with construction, dredging, and upland and ocean disposal of the dredged material under Section 10 of the Rivers and Harbor Act and Section 103 of the Marine Resources Protection Act requirements are the sole responsibility of Austal USA, while compliance with all other environmental regulations is shared by the Navy and Austal USA. If Austal USA uses a contractor, or sub-contractor, to complete any phase of the project, then Austal USA is solely responsible for the contractor, or sub-contractor, compliance with the relevant requirement(s). Under these terms, any sub-contracted work falls under the control of "Austal USA".

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

Project Description:

The authorized project (project), per the attached drawings (plans) as prepared by Anchor, QEA Inc. (Anchor) and Triton Engineers, Inc. (Triton), entitled Austal USA Floating Drydock project (Dredge design drawings as prepared by Anchor and dated May 27, 2022 and General, Demolition, and Structural Drawings as prepared by Triton and dated February 2022), consists of a floating drydock and dredging and ocean/upland disposal project with dredging of up to 137,000 cubic yards (cy) and other related structural work in lower San Diego Bay on Navy leased property south of Naval Base San Diego in the bay adjacent to the Austal USA National City shipyard in association with the Austal USA & Navy Floating Dry Dock Project (project) as shown on

the above plans. Work also includes barge hauling and ocean disposal of 117,000 cy of suitable dredged material to the LA-5 ocean disposal material dredge site (LA-5 ODMDS).

[X] To construct structures and/or conduct work in or affecting "navigable waters of the United States" pursuant to Section 10 of the Rivers and Harbors Act of 1899,

[X] To transport dredged or fill material by vessel or other vehicle for the purpose of dumping the material into ocean waters pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972,

Specifically, you are authorized to:

1. a. Perform dredging, per the plans in two phases (Phase 1 and Phase 2), that includes dredging of up to 137,000 cy of suitable and unsuitable dredged material to a depth of -38 ft. Mean Lower Low Water (MLLW) with 2 ft. over-depth in San Diego Bay adjacent to NBSD and the Austal shipyard. Work impacts to navigable waters of the U.S. consist of clamshell dredging (5.5 acres of deep-water bay waters of the U.S. which includes eelgrass impacts of 1.04 acres) with barge hauling and ocean disposal to the LA-5 ODMDS. Total temporary dredging impacts at the in-bay dredging site sums to 5.5 acres of navigable waters of the U.S. with eelgrass impacts of 1.084 acres. Total ocean disposal scow dump impacts to the LA-5 ODMDS expanded surface disposal zone (SDZ) sum to 283 acres of dredged material ocean disposal for the dredged native formational material with 77 acres of ocean disposal scow dump impacts of unconsolidated maintenance dredge sediments per the LA-5 ODMDS site use conditions as prepared by EPA and dated 2023 (Includes pages 1-6 and Page 7 of 7 for LA-5 ODMDS with Special Conditions for Disposal of Native Formation Sediments and unconsolidated maintenance dredged sediments).
- b. Perform Phase 1 dredging of unsuitable dredged material, based on an updated Corps and EPA suitability determination (SUAD) per the approved Sampling and Analysis Plan dated January 28, 2022 (SAPr) and final SUAD dated January 31, 2023, in the project dredging area (approximately 20,000 cy) shall be dredged from the upper 5 feet (ft.) layer of the project area and rehandled and transported to an upland site at a landfill facility after being dried at either a confined drying facility (CDF) at NBSD (Area north of the Mole Pier), or at the approximately 0.21 acre Austal National City Boatyard site. The upland disposal of the unsuitable sediment (20,000 cy) to an approved landfill would be rehandled onshore with contaminant treatment methods and Baker Tank storage/treatment with discharge safeguards per City of San Diego stormwater regulations.
- c. Perform Phase 2 dredging for suitable dredged material (approximately 117,000 cy) based on the SUAD and transport to the LA-5 ODMDS in the Pacific Ocean per the EPA LA-5 site use conditions (See pages 1-7). Also note that the Corps,

with EPA approval, is requiring submittal, per special condition 17, 18, and 20, of an ocean disposal/upland disposal barge or scow plan by the Austal USA for the ocean disposal of the suitable material (117,000 cubic yards per the SUAD). Austal USA is responsible, during the barge loading operations, for crushing/breaking of consolidated native formation dredged sediment clumps that need to be processed to a small grain size (4 inches or less in diameter) in the barge/scow prior to hauling to ocean disposal at the LA-5 ODMDS. The crushed/broken dredged native formational material shall then be barge hauled to the LA-5 ODMDS and then spread over the expanded SDZ sequentially over 77 disposal target quadrants (400 ft. x 400 ft. quadrants) within the LA-5 ODMDS expanded SDZ for disposal of the native formation dredged sediments and pre the EPA LA-5 ODMDS site use conditions.

Phase 2 of the dredging and ocean disposal also includes the spreading of the unconsolidated sediments from maintenance dredging that shall also be barge hauled to the LA-5 ODMDS Standard SDZ (also use barge/scow grizzly to screen/exclude UXO/other debris during dredging operations). See EPA LA-5 ODMDS site use conditions (Pages 1-7) and barge tracking per special condition 18, with Corps and EPA coordination during a pre-construction meeting and during all dredging and ocean disposal operations.

2. Perform, per the plans, removal of debris and a sunken barge, with minor amounts of fill potentially from re-contouring. The debris/sunken vessel is approximately 130 ft. by 50 ft wide and rises approximately 13 ft above the bay bottom. The debris/sunken vessel area would be removed/re-contoured and removed debris/materials would be placed on a barge then transferred to the Austal USA boatyard facility or the area north of the Navy Mole Pier and recycled or disposed of as municipal waste at an approved upland disposal area. Removal of the debris/sunken vessel shall include temporary impacts to waters of the U.S. within an approximately 6,500 square foot area (approximately 3,130 cubic yards of excavation).
3. Perform additional structural work that includes, per the plans, the construction of two mooring dolphins, installation of dry dock access facilities, removal and installation of concrete and steel H piles (65 total piles) and a fender system, installation of a vehicle ramp, wharf construction, new gangways, vessel work area, and installation of the drydock (532 ft. x 154 ft.; 82,390 sf). Construction of a wharf and ramp area includes various piledriving, gangways, two mooring dolphins, and a vessel work area with a boom/silt curtain for controlling debris and turbidity. The project features the installation of 55 concrete piles (using an impact pile driver) and 10 steel H-piles (using a vibratory hammer). Five concrete piles would also be removed at the bulkhead, and 12 steel template H-piles would be temporarily installed and then removed at the mooring dolphins. Structural work impacts to navigable waters of the U.S. sum to 86,016 sf.

Total project temporary impacts to navigable waters of the U.S. (dredging, ocean disposal, sunken barge removal) of the U.S. sum to 12,573,595 sf (288.65 ac.) and total permanent impacts to navigable waters of the U.S. (Drydock, wharf, ramp, and mooring dolphin) sum to 86,016 sf (1.97 ac.) and total temporary and permanent impacts to navigable waters of the U.S. sum to 12,659,372 sf (290.62 acres) which includes the discharge of 117,000 cy of suitable sandy dredged material at the LA-5 ODMDS.

Project Location: The project site is in San Diego Bay along the eastern shoreline immediately near the southern boundary on Navy-lease lands of the U.S. Navy's Naval Base San Diego and in the Austal USA National City yard facility/leasehold, just north of the San Diego Unified Port District's National City Marine Terminal. Project is within/near the city of National City, in San Diego County, CA (at: Latitude: 32.65827 degrees north, -117.11873 degrees west). The LA-5 ocean disposal area is located offshore of the entrance to San Diego Bay in the Pacific Ocean (Latitude 32.61383 degrees north; Longitude -117.34450 degrees west)

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on June 1, 2026. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. A conditioned water quality certification has been issued for your project; 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.
7. You must notify this office as to the dates of commencement (within 10 days prior to the start of construction) and completion of the activity (within 10 days following the end of construction) using the enclosed forms.

Special Conditions:

Dredging Conditions:

1. DREDGING LOCATION(S):

Dredging operations authorized in this permit shall be limited to the Austal USA National City Drydock Installation temporary impact areas defined in the Phase 1 Dredge Plan (Sheet C-1) and the Phase 2 Dredge Plan (Sheet C-2) in the drawings prepared by Anchor QEA and dated February 2022. Side-slopes would be dredged at a 2:1 slope in deep areas comprised of native materials and a 3:1 slope in Recent Bay Deposit materials (i.e., around the perimeter of the as-built dredge footprint). No more than 137,000 cubic yards of dredged material are authorized for dredging from the Austal USA National City Drydock Installation areas noted above. No dredging or dredging operations are authorized in any other location under this permit.

2. DREDGING DEPTH:

For this permit, the maximum dredging design depth (also known as the project depth or grade) shall be -38 ft. feet below the mean lower low water (MLLW) datum with a maximum allowable over-dredge depth of two feet. No dredging shall occur deeper than – 40 ft. MLLW.

3. OCEAN DISPOSAL: For this permit approximately 117,000 cy of dredged material is authorized to be barge transported to the LA-5 ocean dredge material disposal site (ODMDS) in the Pacific Ocean per the Corps and EPA suitability determination (SUAD) dated January 31, 2023 and the EPA LA-5 ODMDS site use conditions (See pages 1-7). Dredge Material Management Units (DMMU) are shown in Table 2 of the SAPr including the overdredge amount of approximately 13,738 cy for the Phase 2 dredging. Also, all ocean disposal shall be done in compliance with permit description items 1a-1c and the EPA LA-5 ODMDS site use conditions.

4. OTHER DISPOSAL SITES: Phase 1 dredging of unsuitable dredged material, based on the updated Corps and EPA suitability determination SUAD, shall include the project dredging area (approximately 20,000 cy with 4,182 cy overdredge amount) that shall be dredged from the upper 5 feet (ft.) layer of the project area and rehandled and transported to an upland site (approved landfill) after being dried at either a confined drying facility at NBSD (e.g. the area north of the Mole Pier), or at the approximately 0.21 acre Austal National City Boatyard site (CDFs). Also, per the Corps approved Operations Plan, the upland disposal of the unsuitable sediment to an approved landfill shall be rehandled onshore with contaminant treatment methods and Baker Tank storage/treatment with discharge safeguards per City of San Diego stormwater regulations to avoid any bay water discharge recontamination and proper treatment for upland disposal.

5. WORK INVOLVING STRUCTURES:

Additional structural work also includes, per the plans, the removal and recontouring of a debris area or sunken barge in the dredge area (6,500 sf), the installation of two mooring dolphins, installation of dry dock access facilities, removal and installation of concrete and steel H piles (65 total piles) and removal of a fender system, installation of a vehicle ramp, wharf construction, gangways, vessel work area, and installation of the drydock (532 ft. x 154 ft.; 82,390 sf). Construction of a wharf and ramp area includes various piledriving, two gangways, two mooring dolphins, and a vessel work area with a boom/silt curtain for controlling debris and turbidity. The project features the installation of 55 concrete piles (using an impact pile driver) and 10 steel H-piles (using a vibratory hammer), five concrete piles shall also be removed at the bulkhead, and 12 steel template H-piles will be temporarily installed and then removed at the new mooring dolphins. Total work impacts for the structural work sums to 86,016 sf of temporary impacts to non-wetland deep water areas.

6. SEDIMENT TESTING FOR PHASED PROJECTS

Austal USA or its contractors is prohibited from conducting dredging operations and disposing material in navigable waters of the United States that has not been tested and determined by the Corps Regulatory Division, in consultation with the U.S. Environmental Protection Agency (EPA), to be suitable for disposal in ocean waters. Sampling and testing of previously tested sediment or previously dredged areas is required after three years from the date of initial sediment sampling and testing unless the Corps deems that conditions warrant another testing duration be formulated with EPA consultation. This time limit is subject to change at the discretion of the Corps Regulatory Division if any event causes previously determined suitable material to become potentially unsuitable. The applicant must demonstrate the proposed dredged materials are chemically and physically suitable for disposal in ocean waters according to the provisions of the Inland Testing Manual (ITM) or Ocean Disposal Manual (ODM) and the Corps Regional Guidance Letter (RGL) 06-02, as appropriate. If the material does not meet the physical and chemical criteria for unconfined disposal in ocean waters per the ITM/ODM, the dredged material shall be disposed at a Corps approved upland disposal location. Austal USA has

submitted to the Corps Regulatory Division and EPA a final approved SAPr which has been incorporated within the Corps and EPA SUAD dated January 31, 2023 for the 2023 work cycle for both ocean disposal (117,000 cy) and upland disposal (20,000 cy).

7. DREDGING QUALITY MANAGEMENT PROGRAM COMPLIANCE

Dredging and dredged material disposal and monitoring of dredging projects using the National Dredging Quality Management (DQM) system shall be implemented for this permit. Austal USA's DQM system must have been certified by the DQM Support Center within one calendar year prior to the initiation of the dredging/disposal. Questions regarding certification should be addressed to the DQM Support Center at 1-877-840-8024. Additional information about the DQM System can be found at <https://dqm.usace.army.mil>. Austal USA is responsible for ensuring that the DQM system is operational throughout the dredging and disposal project and that project data are submitted to the DQM Support Center in accordance with the specifications provided at the aforementioned website.

The data collected by the DQM system shall, upon request, be made available to the U.S. Army Corps of Engineers Los Angeles District Regulatory Division project manager (Robert R Smith Jr.; email: robert.r.smith@usace.army.mil).

8. OPERATIONS PLAN

At least 15 calendar days before initiation of any dredging or ocean/upland disposal of dredged material operations authorized by this permit, Austal USA shall submit a dredging and ocean/upland disposal Operations Plan to the Corps Regulatory Division and EPA for approval, with the following information:

A) A list of the names, addresses and telephone numbers of the Austal USA's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector and the captain of each tugboat, hopper dredge or other form of vehicle used to transport dredged material to the designated disposal site.

B) A list of all vessels, dredging equipment and electronic positioning systems or navigation equipment to be used for dredging and disposal operations, including: the capacity, load level and acceptable operating sea conditions for each hopper dredge or disposal barge or scow.

C) A schedule describing when the dredging project is planned to begin and end.

D) A pre-construction dredging bathymetric survey (presented as a large format plan view drawing), taken within thirty (30) days before the dredging begins, accurate to 0.5-foot with the exact location of all soundings clearly defined on the survey chart. The pre-dredge survey chart shall be prepared showing the following information:

- i) The entire dredging area, including the toe and top of all side-slopes, and typical cross sections of the dredging areas. To ensure that the entire area is surveyed, the pre-dredge condition survey should cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area.
- ii) 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.
- iii) The pre-dredging survey chart shall be signed by Austal USA to certify that the data are accurate and that the survey was completed within thirty (30) days before the proposed dredging start date.
- iv) Prior to initiation of dredging and disposal work, Austal USA, shall convene a pre-construction meeting with the Corps and EPA, to review compliance with Corps permit conditions and EPA LA-5 site use conditions. No work can begin until the Corps and EPA pre-construction meeting has been completed with both Corps and EPA in attendance at the pre-construction meeting with Austal USA and their contractors. Also note that during all dredging and ocean disposal the Corps and EPA shall be jointly monitoring the dredging, the crushing/breaking of the native material in the barge/scow prior to hauling to the LA-5 ODMDS with photos, and the actual ocean disposal site dumping locations per the EPA LA-5 ODMDS, and both agencies may be providing additional measures and instruction as needed to ensure that the long term viability of the LA-5 ODMDS is maintained.

E) A debris management plan to prevent unauthorized disposal of large debris or other unsuitable materials. The debris management plan shall include: sources and expected types of debris if known, debris separation and retrieval methods and equipment to be used, debris disposal location(s), and debris disposal methods (e.g., recycling, landfill, hazardous/toxic/radioactive materials/munitions disposal sites, etc.).

F) Also note that the Corps, with EPA approval, is requiring submittal, per special condition 17, 18, and 20, of an ocean disposal/upland disposal barge or scow plan by Austal USA for the ocean disposal of the suitable material (117,000 cubic yards per the SUAD) to the Corps and EPA, prior to Corps notice to proceed with the project work, for the filling of the barge and then the crushing of the native formation sediments that need to be processed to a small grain size (4 inches or less in diameter) and then barge/scow hauled to the LA-5 ODMDS. The crushed/broken dredged native formational material shall then be barge hauled to the LA-5 ODMDS and then spread over the expanded SDZ sequentially over 77 disposal target quadrants (400 ft. x 400 ft. quadrants) within the LA-5 ODMDS expanded SDZ for disposal of the native formation dredged sediments. Phase 2 of the dredging and ocean disposal also includes the spreading of the unconsolidated sediments from maintenance dredging that shall also be barge hauled to the LA-5 ODMDS Standard SDZ (also use grizzly to screen/exclude UXO during dredging operations). See EPA LA-5 ODMDS site use conditions (Pages 1-7) and barge tracking per special condition 18, with Corps and EPA coordination during a pre-construction meeting and during dredging and disposal operations.

Also, within the above ocean disposal/upland disposal barge or scow plan Austal USA shall submit a plan for removal of any potential unexploded ordnance (UXO) in the overlying 5 ft. deep maintenance layer (20,000 cy not suitable for ocean disposal per the SUAD) which would be dredged first, processed to screen out the UXO at the CDF, and the unsuitable sediments per the SUAD transported to an upland site. Also, Austal USA shall ensure proper disposal of the UXO per the NAVFAC Final Site-Specific Explosives Safety Submission for Austal USA Floating Drydock Dredge Area at Former Pier 14, Munitions Response Program Site 100, Naval base San Diego, San Diego, CA and dated September 2022 (Naval UXO Plan) or amendment approved by the Navy Ordnance and Safety Activity (NOSSA) and the Department of Defense Explosive Safety Board (DDESD).

9. NOTICE TO PROCEED

Austal USA shall not commence dredging or disposal operations unless and until the Permittee receives a Notice to Proceed, in writing (letter or email), from the Corps Regulatory Division.

10. MAINTAIN PRINTED COPY OF PERMIT ON-BOARD

Austal USA and its contractors and subcontractors shall maintain a copy of this permit at the work site, and on all vessels used to dredge, transport and dispose of dredged material authorized under this permit.

11. CAPTAIN LICENSING

Austal USA 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 U.S. Coast Guard regulations and follows the Inland and Ocean Rules of Navigation or the U.S. Coast Guard Vessel Traffic Control Service. All such vessels, hopper dredges or disposal barges or scows, shall have the proper day shapes (mast head signals which indicate vessel operational status), operating marine band radio, and other appropriate navigational aids.

12. RADIO CHANNEL MONITORING

Austal USA's contractor(s) and the captain of any vessel covered by this permit shall monitor VHF-FM channels 13 and 16 while conducting dredging operations.

13. INSPECTIONS

Upon request, Austal USA and its contractor(s) shall allow inspectors from the Corps Regulatory Division (may include other Corps Divisions), EPA, and(or) the U.S. Coast Guard to inspect all phases of the dredging and disposal operations. Upon request, Austal USA and its contractor(s) retained to perform work authorized by the permit or to monitor compliance with this permit shall make available to inspectors from the Corps EPA, and(or) the U.S. Coast Guard the following: dredging and disposal operations inspectors' logs, the disposal 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.

14. INTERFERENCE WITH NAVIGATION

During disposal and dredging operations, the permitted activity shall not interfere with the public's right to free navigation on all navigable waters of the United States.

15. NON-COMPLIANCE NOTIFICATION

If non-compliance of the permit occurs, Austal USA shall report the details of the permit non-compliance to the Corps Regulatory Division within twenty-four (24) hours. If Austal USA retains any contractors to perform any activity authorized by this permit, Austal USA shall instruct all such contractors that any permit non-compliance of any permit condition must be reported to Austal USA immediately who must then report to the Corps Regulatory Division.

16. HOPPER DREDGE OPERATION

When using a hopper dredge, water/slurry flowing through the weirs shall not exceed 10 minutes during dredging operations (to prevent overflow/overload). When using a hopper dredge, the fill level of the hopper dredge 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. If a dredging or disposal operation does not require a hopper dredge than disregard this special condition.

17. BARGE OR SCOW OPERATIONS

When using a disposal barge or scow, no water shall be allowed to flow over the sides throughout the dredging and disposal operations. The fill level of the disposal barge or scow shall not exceed the load line to prevent any dredged material or water from spilling over the sides during all operations. Adverse weather and sea state forecasted by NOAA may require lower fill level to avoid spillage during transit. No disposal barge or scow shall be filled above this predetermined level or load line (vessel frame/plating). Before each disposal barge or scow is transported to the disposal site, Austal USA's dredging site inspector shall certify that it is filled correctly.

Also note that the Corps, with EPA coordination, is requiring submittal of an ocean disposal or scow plan by Austal USA for the ocean disposal of the suitable material (117,000 cubic yards per the SUAD) to the Corps and EPA, prior to permit issuance, for the filling of the barge and then the crushing of the native formation sediments that need to be processed to a small grain size and then barge/scow hauled to the LA-5 ODMDS and then spread (i.e., begin opening of barge/scow while underway at slower speed) over a larger SDZ within in the LA-5 ODMDS and with barge tracking per special condition 18 to avoid creating a rubble pile. Note that the above ocean disposal or scow plan shall conform to the EPA LA-5 Ocean disposal site use conditions shown in special condition 20.

Also, Austal USA shall submit for Corps and EPA approval an upland disposal barge or scow plan and Austal USA shall submit a plan for removal of any potential unexploded ordnance (UXO) in the overlying 5 ft. deep maintenance layer (20,000 cy not suitable for aquatic disposal per the SUAD) which would be dredged first, processed to screen out the UXO at the CDF, and the unsuitable sediments/UXO transported to an upland site with proper disposal of the UXO per the NAVFAC Draft Site Specific Explosives Safety Submission for Austal USA Floating Drydock Dredge Area at Former Pier 14, Munitions Response Program Site 100, Naval base San Diego, San Diego, CA and dated February 2023 as prepared by CH2MHILL or amendment approved by the Navy Ordnance and Safety Activity (NOSSA) and the Department of Defense Explosive Safety Board (DDESD).

18. ELECTRONIC POSITIONING SYSTEM NAVIGATION

Austal USA shall use an electronic positioning system to navigate throughout all dredging, hauling, disposal, and discharge operations. The electronic positioning system shall have a minimum accuracy and precision of +/- 10 feet (or 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. The Corps shall also require that the electronic positioning system and information be integrated with the requirements of special condition nos. 17 and special condition 20 with Corps and EPA approval (via the Operations Plan in special condition nos. 8 and the ocean disposal or scow plan and the upland disposal barge or scow plan) for the tracking of each ocean barge or scow disposal trip to the LA-5 ODMDS to avoid creating a rubble pile per the EPA LA-5 ODMDS site use conditions within the EPA LA-5 ODMDS and proper upland disposal of the unsuitable dredged material per the SUAD and the NAVFAC UXO plan per special condition 29.

19. POST-CONSTRUCTION REPORTING

Austal USA shall submit a post-construction/project completion report to the Corps Regulatory Division within 30 calendar days after completion of each dredging event to document compliance with all general and special conditions in this permit. The report shall include all information collected by Austal USA, the dredging operations inspector and the disposal operations inspector or the disposal vessel captain. One post-construction report (instead of separate reports) should be submitted for all activities conducted under the permit. The report must describe whether or not all general and special conditions were met. The report shall include:

- A) Project Name and Corps file number (e.g. SPL-1980-12345-wtf).
- B) Start date (month/day/year) and completion date of dredging and disposal operations.
- C) The disposition and total cubic yards of all material disposed or discharged at each site or location.
- D) Dredging method (e.g., hopper dredge, suction dredge, clamshell, dragline, etc.).
- E) Mode of transportation.
- F) Frequency of disposal and plots of all trips to the disposal or discharge site(s).
- G) Tug boat or other disposal vessel logs documenting contact with the U.S. Coast Guard before each trip to the disposal or discharge site(s).

H) A detailed post-dredging bathymetry survey drawing of the dredging area. The survey drawing shall show areas above the dredging design depth shaded green, areas between the dredging design depth and overdredge depth shaded yellow, areas below overdredged depth that were not dredged or areas that were deeper than the overdredge depth before the project began as indicated on the pre-dredging survey shaded blue, and areas dredged below the overdredge depth or outside the project boundaries shaded red. The methods used to record the post-construction dredging survey drawing shall be the same methods used in the pre-construction dredging survey drawing. The survey drawing shall be signed by Austal USA certifying that the data are accurate.

I) A description of any navigation problems and corrective measures implemented.

J) Copies of all completed Scow Certification Checklists for ocean disposal.

Section 103 (Ocean Disposal at EPA approved site) Conditions:

20. Austal USA shall ensure compliance with the EPA LA-5 Site Use conditions (2023) as noted in pages 1-7 with a revised page 7 map that outlines special conditions for LA-5 ODMDS ocean disposal of native formation sediments and unconsolidated sediments within the Standard SDZ and the Expanded SDZ.

Endangered Species Act (ESA):

21. This Corps permit does not authorize you to take any threatened or endangered species, in particular the green sea turtle (*Chelonia mydas*; GST). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). Pursuant to the NMFS correspondence dated 25 March 2020, NMFS provided a Letter of Concurrence (LOC) with the determination to the Navy as the lead Federal agency that the proposed project is not likely to adversely affected GST, or endangered or critical habitats designated under the ESA, including the required avoidance and minimization measures. The Corps Regulatory Division has determined and the NMFS, has concurred that your activity is not likely to adversely affect the above species. Your authorization under this Corps permit is conditional upon your compliance with all of the required avoidance and minimization and LOC measures, which are incorporated by reference in this permit. Failure to comply with the required avoidance and minimization and LOC measures would constitute non-compliance with your Corps permit. NMFS is the appropriate authority to determine compliance with the terms and conditions of its Letter of Concurrence (LOC) and with the ESA with the Navy as the lead Federal agency.

22. Prior to initiating construction in waters of the U.S., and to mitigate for impacts to 1.084 acre(s) of eelgrass within waters of the U.S., the co-permittees shall provide documentation verifying purchase of 1.084 credits for the establishment of eelgrass from the Navy Region Southwest San Diego Bay Eelgrass Mitigation Bank which is a Corps-approved mitigation bank. Austal USA shall not initiate work in waters of the U.S. prior to receiving written confirmation (by letter or email) from the Corps Regulatory Division as to

compliance with this special condition. The permittee retains responsibility for providing the compensatory mitigation until the number and resource type of credits described above have been secured from a sponsor and the district engineer has received documentation that confirms that the sponsor has accepted the responsibility for providing the required compensatory mitigation. This documentation may consist of a letter or form signed by the sponsor, with the permit number and a statement indicating the number and resource type of credits that have been secured from the sponsor.

Section 10 (Work and Structures in Navigable Waters of the United States):

23. INTERFERENCE WITH NAVIGATION: The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States as defined by 33 C.F.R. Part 329.

24. PILES: Creosote treated pilings shall not be placed in navigable waters unless all of the following conditions are met:

- A) The project involves the repair of existing structures that were originally constructed using wood products;
- B) The creosote treated pilings are wrapped in plastic;
- C) Measures are taken to prevent damage to plastic wrapping from boat use. Such measures may include installation of rub strips or bumpers;
- D) The plastic wrapping is sealed at all joints to prevent leakage; and
- E) The plastic material is expected to maintain its integrity for at least ten years, and plastic wrappings that develop holes or leaks must be repaired or replaced in a timely manner by the Permittee.

25. LIMITATIONS: No other modifications or work shall occur to the structure permitted herein.

26. CLEAN CONSTRUCTION PRACTICES: Austal USA and its contractors shall discharge only clean construction materials suitable for use in the oceanic environment. Austal USA and its contractors shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, hazardous/toxic/radioactive/munitions from construction or dredging or disposal 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.

27. OBSTRUCTIONS: Austal USA understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free

navigation of the navigable waters, Austal USA will be required, upon due notice from the Corps of Engineers Regulatory Division, 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.

28. U.S. COAST GUARD NOTIFICATION: To ensure navigational safety, Austal USA shall provide appropriate notifications to the U.S. Coast Guard as described below:

Local Notice to Mariners, 11th Coast Guard District

TEL: (510) 437-2980

Email: d11LNM@uscg.mil

Website: <https://www.pacificarea.uscg.mil/Our-Organization/District-11/Prevention-Division/LnmRequest/>

U.S. Coast Guard, District 11, LA-LB Sector

Captain of the Port (COTP)

Email: d11-SMB-SectorLALB-WWM@uscg.mil

For projects in San Diego County:

U.S. Coast Guard

Sector San Diego, Attn: LTJG Shera Kim

2710 N. Harbor Dr.

San Diego, California 92101

Attn: Ports and Waterways Division

Tel : (619) 278-7261

Fax: (619) 278-7279

Email: marineevents@uscg.mil

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

- 1) Project description including the type of operation (i.e. dredging, diving, construction, etc).
- 2) Location of operation, including Latitude / Longitude (NAD 83).
- 3) Work start and completion dates and the expected duration of operations. The U.S. Coast Guard needs to be notified if these dates change.
- 4) Vessels involved in the operation (name, size and type).
- 5) VHF-FM radio frequencies monitored by vessels on scene.
- 6) Point of contact and 24 -hour phone number.
- 7) Potential hazards to navigation.
- 8) Chart number for the area of operation.

9) Recommend the following language be used in the Local Notice to Mariners:
"Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made."

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

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

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

29. COMMENCEMENT AND COMPLETION NOTIFICATION: Austal USA shall notify the Corps Regulatory Division of the date of commencement of work in navigable waters of the United States (within 10 calendar days prior to the start of construction) and completion of the activity (within 10 calendar days following the end of construction) using the enclosed forms.

30. POST-CONSTRUCTION AS-BUILT SURVEY(S):

Within 30 calendar days of completion of the project authorized by this permit, Austal USA shall conduct a post-project as-built survey indicating the location of all new structures and their features, or the modification of structures and their features, or post-dredge hydrographic surveys, within navigable waters. Within 45 calendar days of completion of the project, Austal USA shall forward a copy of the survey, as well as a copy of this permit, to the Corps Regulatory Division (via email at: robert.r.smith@usace.army.mil), and to the National Oceanic and Atmospheric Administration, Marine Charting Division for updating nautical charts (via email at: ocs.ndb@noaa.gov) Post-project surveys/as-built plans should be provided electronically in two formats: .pts (xyz) and one of, .pdf or GIS. Include the following header metadata: project name, surveyor's name and company, area surveyed (acres), type of survey method, date of survey, geographic control points (for example: latitude/longitude, plane coordinates), geographic coordinate system (use NAD83), geographic projection, units (use US Survey Feet), and tide gage location. For all

subsurface structures and dredge projects include elevation (z coordinate) datum indicated as a negative below MLLW, and also indicate the survey system and bin sizes as appropriate.

31. CAULERPA PRE-CONSTRUCTION SURVEY: A pre-construction survey of the project area for Caulerpa sp. (Caulerpa) shall be conducted by a certified Caulerpa surveyor in accordance with the Caulerpa Control Protocol (see <https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf>) not earlier than 90 calendar days prior to planned work and not later than 30 calendar days prior to construction unless otherwise approved by the Corps. The results of this survey shall be furnished to the Corps Regulatory Division, NOAA Fisheries, and the California Department of Fish and Wildlife (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, Austal USA 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 NOAA Fisheries and CDFW.

32. Austal USA shall comply with the terms and conditions of the Clean Water Act Section 401 Water Quality Certification (WQC) (R9-2023-0030) dated March 23, 2023. This WQC is hereby incorporated by reference and compliance includes but is not limited to Section II conditions and Section III Water Quality Certification.

Cultural Resources:

33. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction within waters within the Corps Permit Area (Figure 1; Navy Programmatic Agreement) of either human remains, archaeological deposits, or any other type of historic property, Austal USA and the U.S. Navy shall notify the Corps Regulatory Project Manager (Robert R. Smith Jr.) and the Corps' Regulatory Archaeology Staff (John Hale, (213) 238-1822, or Frederick Michael O'Hara, (213) 215-2498) within 24 hours. Austal USA shall immediately suspend all work in any area(s) where potential cultural resources are discovered. Austal USA or its contractors shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. Section 800.13.

NOAA Fisheries Mandatory Condition

34. In the unlikely event that any individuals of fish, whale, abalone, sea turtle, coral, or marine plant species listed by NOAA Fisheries under the Endangered Species Act appear to be entangled, injured, or killed as a result of the structures or work in navigable waters of the United States authorized by this permit, Austal USA or designated representative shall immediately report the event to the Regulatory Office of the Los Angeles District of the U.S. Army Corps of Engineers at 760 602-4831 or NOAA's Entanglement hotline 1-877-767-9425 or NOAA's West Coast Region Stranding hotline 1-866-767-6114. If you have any trouble contacting these hotlines, please immediately contact NOAA's Regional

Stranding Coordinator, Justin Viezbicke, at 562-506-4315 or NOAA's Assistant Stranding Network Coordinator, Justin Greenman, at 707-496-7230. The finder should leave the plant or animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

35. This permit is contingent upon compliance with the Coastal Zone Management Act (CZMA) consistency certification by the California Coastal Commission. The co-permittees shall abide by the terms and conditions of the CZMA consistency certification issued to the Navy in the CZMA determination that the project remained consistent with the original California Coastal Commission Negative Determination issued for the project under ND-0031-19 as supported by the 30 September 2022 memo where the California Coastal Commission concurred, finding the revised project is consistent with ND-0031-19.

36. Prior to initiating construction in waters of the U.S., Austal USA shall submit to the Corps Regulatory Division a complete set of final detailed grading/construction plans showing all work and structures in waters of the U.S. All plans shall be in compliance with the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated February 10, 2016 (<http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx>). All plan sheets shall be signed, dated, and submitted on paper no larger than 11x 17 inches. No work in waters of the U.S. is authorized until Austal USA receive, in writing (by letter or email), Corps Regulatory Division approval of the final detailed grading/construction plans. Austal USA shall ensure that the project is built in accordance with the Corps-approved plans.

37. Within 45 calendar days of completion of authorized work in waters of the U.S., Austal USA shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:

- A) Date(s) work within waters of the U.S. was initiated and completed;
- B) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
- C) Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
- D) One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
- E) Signed Certification of Compliance (attached as part of this permit package).

38. For in-water construction heavy machinery activities other than pile driving, if a marine mammal comes within 10 meter (m), contractor must cease operations and reduce vessel speed to the minimum level required to maintain steerage and safe working conditions.

39. Austal USA is required to conduct briefings for construction supervisors and crews, the monitoring team, and staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures.

40. Co-permittees are required to employ Protected Species (PSOs) measures per the Marine Mammal Monitoring Plan, dated March 2020, and Monitoring Measures described in section 5 of the Navy's Incidental Harassment Authorization (IHA). Co-permittees shall implement the IHA issued by NMFS and dated 27 May 2020 as revised on 21 July 2021.

41. Co-permittees are required to establish and implement monitoring and shutdown zones (as shown in Table 2 of the Incidental Harassment Authorization (IHA)).

42. Marine mammal monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-activity monitoring must be conducted for 30 minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.*, must leave of their own volition) and their behavior shall be monitored and documented.

43. If a marine mammal enters or is observed within an established shutdown zone (Table 2 of the Navy's IHA), pile driving must be halted or delayed. Pile driving may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without subsequent detections of the animal.

44. Co-permittees shall use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

45. If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed entering or within the monitoring zone (Table 2), pile driving activities must shut down immediately using delay and shutdown procedures. Activities must not resume until the

animal has been confirmed to have left the area, or the 15-minute observation time period has elapsed.

46. Marine mammal monitoring must be conducted in accordance with the Marine Mammal Monitoring Plan, dated March 2020. At least 1 land based PSO is required during impact and vibratory pile driving. Marine mammal monitoring during pile driving must be conducted by NMFS-approved PSOs. Independent PSOs (*i.e.*, not construction personnel) who have no other assigned tasks during monitoring periods must be used. At least one observer must have prior experience working as an observer. Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction.

47. Co-permittees must submit PSO and qualifications for approval by NMFS prior to the onset of pile driving.

48. All other mitigation and monitoring measures identified in the NMFS 2020 LOC, the IHA, the Navy's Environmental Assessment (EA) (U.S. Navy 2020c) signed on May 26, 2020 and Finding of No Significant Impact (FONSI) and supplemental MFR dated October 31, 2022, and the Section 401 WQC, will be implemented for both pile driving and dredging activities to further avoid and minimize impacts to sea turtles, marine mammals, other aquatic species (fish and invertebrates), water quality, and eelgrass.

49. Austal USA shall implement and abide by the Final Site-Specific Explosives Safety Submission, for the Naval Facilities Engineering Systems Command Southwest San Diego, California, and Austal USA Floating Dry Dock Dredge Area at Former Pier 14 - Munitions Response Program Site 100, Naval Base San Diego, San Diego, California, and dated February 2023 as prepared by CH2M HILL, Inc, San Diego, California, or amendment approved by NOSSA and DDESB.

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 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. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation 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 reevaluation 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. Austal USA will be required to pay for any corrective measure ordered by this office, and if Austal USA fails 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 reevaluation 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.

HEELY,ROBERT.ALAN.
JR.1046145549

Digitally signed by
HEELY,ROBERT.ALAN.JR.1046145549
Date: 2023.06.12 21:38:23 -07'00'

CO-PERMITTEE (U.S. Navy)

6/12/2023

DATE

Michelle Kruger

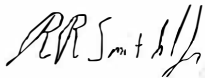
Digitally signed by Michelle
Kruger
Date: 2023.06.14 13:06:31 -07'00'

CO-PERMITTEE (Austal USA LLC)

6/14/2023

DATE

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



Date: 2023.06.15
06:39:34 -07'00'

Robert R. Smith Jr.
Senior Project Manager
South Coast Branch
Regulatory Division

6/15/2023

DATE

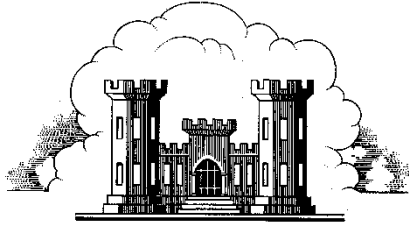
ON BEHALF OF:

JULIE A. BALTEN
District Engineer
Colonel, U.S. Army

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.

TRANSFEEEE

DATE



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**NOTIFICATION OF COMMENCEMENT OF WORK
DEPARTMENT OF THE ARMY PERMIT**

Permit Number: *SPL-2022-00654-RRS*
Name of Co-Permittees: *Austal and U.S. Navy*
Date of Issuance: *June 1, 2023*

Date work in waters of the U.S. will commence: _____

Estimated construction period (in weeks): _____

Name & phone of contractor (if any): _____

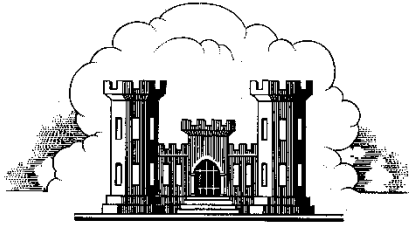
Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that I, and the contractor (if applicable), have read and agree to comply with the terms and conditions of the above referenced permit.

Signature of Permittee

Date

At least ten (10) days prior to the commencement of the activity authorized by this permit, sign this certification and email it to Robert.R.Smith@usace.army.mil or splregcbad@usace.army.mil



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**NOTIFICATION OF COMPLETION OF WORK AND
CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY PERMIT**

Permit Number: *SPL-2022-00654-RRS*
Name of Co-Permittees: *Austal and U.S. Navy*
Date of Issuance: *June 1, 2023*

Date work in waters of the U.S. completed: _____

Construction period (in weeks): _____

Name & phone of contractor (if any): _____

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

Signature of Permittee

Date

At least ten (10) days prior to the commencement of the activity authorized by this permit, sign this certification and email it to Robert.R.Smith@usace.army.mil or splregcbad@usace.army.mil

San Diego Regional Water Quality Control Board

Order No. R9-2023-0030
for
Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements Order No. 2003-0017-DWQ

Effective Date March 23, 2023

Project Austal USA Floating Dry Dock Project

Program Fill/Excavation

Project Type 401 Certification

Discharger Austal USA LLC
1313 Bay Marina Drive
San Diego, CA, 91950

Regulatory Measure ID 449635

Place ID 883841

Party ID 630272

Person ID 635791

WDID 9 000003840

San Diego Water Board Contact Alan Monji, Environmental Scientist
(619) 521-3968
Alan.Monji@waterboards.ca.gov

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I. Findings

A. Order

This order for Clean Water Act section 401 water quality certification and Waste Discharge Requirements (Order) is issued at the request of Austal USA, hereinafter Discharger, for the Floating Dry Dock Project (Project). The Order provides water quality certification for the Project as described in the application and supplemental material submitted by the Discharger. The application was received on December 28, 2022, and, following receipt of additional information necessary to supplement the initial application, was deemed complete on January 25, 2023.

The Discharger has also applied for authorization under Clean Water Act section 404 Individual Permit from the United States Army Corps of Engineers (USACE) for the Project (USACE File No. SPL-2022-00654). The Individual Permit conditions require the authorized activity to comply with any case-specific conditions required by the San Diego Water Board in the Order.

B. Public Notice

On January 27, 2023, the San Diego Water Board provided public notice of the Project application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Project on the San Diego Water Board's web site and providing a period of twenty-one days for public review and comment. No comments were received.

C. Project Location

The Project is located within the City of National City, San Diego County, California at 1313 Bay Marina Drive at the southern end of Naval Base San Diego leasehold. The Project's center readings are latitude 32.65827, longitude -117.11873. A map showing the Project location is found in Attachment 6 of the Order.

D. Project Description

The purpose of the Project is to construct a floating dry dock on a commercial out lease on Naval Base San Diego (NBSD) property.

The Discharger proposes to prepare the site as a floating dry dock mooring through dredging of 137,000 cubic yards (cy) of material, construction of two mooring dolphins and construction of an access wharf extending seaward from the current bulkhead.

Prior to dredging, marine debris, possibly a sunken barge, present in the center inshore portion of the dredge footprint will be removed. The debris is approximately 130 feet (ft) by 50 ft wide and rises approximately 13 ft above the bay bottom. Debris from an approximately 6,500 square foot area (approximately 3,130 cubic yards) will be removed and materials will be placed on a barge then transferred to the Austal USA boatyard facility and recycled or disposed of as municipal waste.

Phase 1 of the dredging will include dredging of the bay bottom materials, which comprise approximately 20,000 cy that are not suitable for ocean disposal or reuse. These materials will be disposed of at an upland site, following dewatering. Dredge materials will be placed in a barge, and transported to the sediment handling facility, which will either be at the U.S. Navy's Mole Pier or at Austal USA's boatyard facility.

Phase 2 of the dredging will include dredging of deep native bay formation materials which comprises of approximately 117,000 cy. These materials are suitable for ocean disposal at the LA-5 Ocean Dredged Material Disposal Site (ODMDS) and will be transported via scow.

The Project's impacts will primarily include temporary and localized increases in suspended sediment (i.e., turbidity with a potential for reducing dissolved oxygen levels). Deployment of silt curtains to contain turbidity and implementation of receiving water quality and visual monitoring during in-water construction will ensure containment of discharge and compliance of receiving waters with water quality standards, reducing the Project's impact to a less than significant level. In addition, the pile driving activities will have temporary effects on marine life of varying degrees. The benthic community composition is expected to recolonize the dredge area once enough sediment has covered the dredged area. Mobile aquatic organisms will most likely vacate the area of disturbance during the short duration of the various activities. Impacts are not considered to be significant as benthic communities generally exhibit high spatial and temporal variability across the larger landscape and from a bay-wide perspective. In addition, the Project's disturbance is a relatively small area within the bay as a whole.

The total size of the entire area for all Project activities is 5.6 acres. Construction is anticipated to start as soon as all permits are approved and continue for 9 months.

Project activities will result in 4.25 acres of permanent impacts to aquatic resources under the jurisdiction of the San Diego Water Board. Impacts will be mitigated using eel grass mitigation bank credits as described in section I.I of the Order.

E. California Environmental Quality Act Compliance

1. The United States Navy (Navy), as Lead Agency under the National Environmental Policy Act (NEPA), prepared a draft Environmental Assessment (EA) for the Project and circulated the document for a 15-day public comment period on October 10, 2019. Based on the draft EA and comments received, the Navy issued a Final EA and Finding of No Significant Impact (FONSI) for the Project (collectively, the NEPA Documents). Pursuant to the NEPA Documents, the proposed Project will not have a significant impact upon the existing environment or the quality of the human environment.
2. The San Diego Water Board is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code sections 21000 et seq.) section 21067, and CEQA Guidelines (California Code of Regulations, title 14, sections 15000 et seq.) section 15367. CEQA encourages state and local agencies to use a NEPA document when one is already prepared rather than preparing an environmental impact report or

negative declaration.¹ The San Diego Water Board independently reviewed and analyzed the NEPA Documents. The San Diego Water Board prepared a supplement to the NEPA Documents which contains an analysis of growth inducing impacts pursuant to 14 California Code of Regulations section 15221(b) because this analysis was not included in the NEPA Documents. The San Diego Water Board posted a notice of intent to rely on the NEPA Documents along with the supplemental analysis for public review on the San Diego Water Board website and posted at the County of San Diego Recorder office at the County Administration Center, in the San Diego Union-Tribune, and at the Austal USA job site. The San Diego Water Board has concluded that the NEPA Documents and supplemental documents adequately disclosed, evaluated, and mitigated the impacts of the Project.

3. The San Diego Water Board contacted local tribal governments to provide an opportunity to request consultation regarding any potential impacts from the project on December 1, 2022. The San Diego Water Board provided 30-days for tribal governments to request consultation. No tribal government requested consultation.

F. Receiving Waters Impacted by Project

Receiving waters and groundwater potentially impacted by the Project are protected in accordance with the Water Quality Control Plan for the San Diego Basin (9) (Basin Plan). The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives. The San Diego Water Board adopted the Basin Plan on September 8, 1994. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Resources Control Board (State Water Board). The Basin Plan is available at: https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/

The Order authorizes unavoidable temporary and permanent impacts to San Diego Bay has the designated beneficial uses listed below in Table 1. Additionally, San Diego Bay is identified as impaired, under the Clean Water Act Section 303(d) List of Water Quality Limited Segments, where water quality standards are not attained for pollutants listed below in Table 1.

¹ See 14 CCR sections 15221, 15225.

Table 1: Beneficial Uses and Impairments of Receiving Waters

Receiving Waters	Beneficial Uses	303(d) Impairing Pollutants
San Diego Bay	<p><u>Existing beneficial uses:</u> Industrial Service Supply (IND), Navigation (NAV), Contact Water Recreation (REC-1), Non-Contact Water Recreation (REC-2), Commercial and Sport Fishing (Comm), Preservation of Biological Habitats of Special Significance (BIOL), Estuarine Habitat (EST), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Marine Habitat (MAR), Migration of Aquatic Organism (MIGR), and Shellfish Harvesting (SHELL).</p>	<p><u>North of 24th Street Marine Terminal</u> Benthic Community Effects, Sediment Toxicity</p> <p><u>San Diego Bay:</u> Polychlorinated Biphenyls, Mercury, Polyaromatic Hydrocarbons</p>

G. Description of Impacts to Receiving Waters of the United States and/or State

Project activities will not contribute to additional loading of pollutants identified in Table 1 above because the Discharger is implementing best management practices for avoiding and minimizing impacts to water quality such silt curtains, dredging from shallow to deep areas to minimize sloughing, and limiting capacity of the dredge scows to 85 percent. Transfer of materials destined for upland disposal to dewatering area will use engineering controls which will include a spill apron, site controls, and diversion of dewatering fluids to the municipal sewer. Lastly, the Project location is between NBSD Pier 13 and the National City Marine Terminal. Sediment resuspended by the dredge activities will likely settle out within the same area since it is located adjacent to the eastern shore of San Diego Bay and next to the Marine Terminal.

Total direct impacts to San Diego Bay attributable to the Project are summarized in Table 2 below. Maps of the impact location(s) are found in Attachment 6 of the Order.

Table 2: Project Fill/Excavation Quantity to Ocean/Bay/Estuary

	Acres	Cubic Yards	Linear Feet
Temporary Impact²	0.003	N/A	N/A
Permanent Impact³	4.25	137,000	N/A

Project activities will result in a physical loss of area because the Project proposes dredging of a 4.25 acres area of bay bottom to increase the depth for a permanent floating dry dock.

H. Avoidance and Minimization

The Discharger has demonstrated that the Project was designed to first avoid, then minimize, to the maximum extent practicable, impacts to waters of the United States and/or State. The Discharger reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to aquatic resources considering all potential practicable alternatives.

The Project qualifies as a Tier 3⁴ project under the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. The Discharger completed an Alternatives Analysis, and the Project is the least environmentally damaging practicable alternative.

Project avoidance and minimization measures implemented or planned by the Discharger is that it will not require demolition of any existing structures or relocation of any berthed vessels. The Project is located at the southern end of the NBSD leasehold which is adjacent to Austal USA Maintenance Piers and will not impact areas not already in use for ship

² An impact is considered temporary if it is restored to pre-project conditions through natural ecological processes or active restoration. Temporary impacts are therefore not considered a physical loss of area or degradation of ecological condition requiring compensatory mitigation.

³ Permanent impacts permanently change an aquatic resource to a non-aquatic resource or change the bottom elevation of an aquatic resource. Permanent impacts can cause physical loss of area and/or ecological degradation.

⁴ Tier 1 projects include any discharge of dredged or fill material that directly impacts less than or equal to 0.1 acre or less than or equal to 100 linear feet of waters of the State, unless it meets the criteria for a Tier 3 project. Tier 1 projects shall provide a description of any steps that have been or will be taken to avoid and minimize loss of, or significant adverse impacts to, beneficial uses of waters of the State.

Tier 2 projects include any project that inherently cannot be located at an alternate location. Tier 2 projects shall provide an analysis of only on-site alternatives. For routine operation and maintenance of existing facilities, analysis of on-site alternatives is limited to operation and maintenance alternatives for the facility.

Tier 3 projects include any discharge of dredged or fill material that directly impacts more than 0.2 of an acre or 300 linear feet of waters of the State, rare, threatened or endangered species habitat in waters of the State, wetlands or eel grass beds, or Outstanding National Resource Waters or Areas of Special Biological Significance, and is not a project that inherently cannot be located at an alternate location. Tier 3 projects shall provide an analysis of off-site and on-site alternatives.

berthing and maintenance activities. Furthermore, the discharger is required to avoid creating hard bottom and mounded habitat at the LA-5 ODMDS by using mechanical methods to break up the clumped sediment before releasing the material at the disposal area. The sediment will also be spread over a larger area within the disposal site. Tracking the location of each barge load release will also ensure that subsequent loads are placed at new locations within LA-5 ODMDS.

I. Compensatory Mitigation

To offset adverse impacts to water quality, the Order requires, at a minimum, compensatory mitigation as described below.

Table 3: Required Mitigation for Permanent Impacts

Aquatic Resource Type	Impacts	Mitigation Ratio ⁵	Mitigation	Mitigation Method	Mitigation Type
Bay - Dredging	4.25 acres dredge area	NA ^a	NA	NA	NA
Bay - Eel Grass	0.83 acres estimated eelgrass habitat	1:1 ^b	0.83 acres	Establishment	Eel Grass Mitigation Bank
Bay - Other impacts	0.48 acres	0.54:1 ^c	0.25 acres	Establishment	Eel Grass Mitigation Bank

- a. No mitigation is required for impact to benthic communities due to dredging. The benthic community composition is expected to recolonize the dredge area once enough sediment has covered the dredged area. Mobile aquatic organisms will most likely vacate the area of disturbance during the short duration of the various activities. Impacts are not considered to be significant as benthic communities generally exhibit high spatial and temporal variability across the larger landscape and from a bay-wide perspective. In addition, the Project’s disturbance is a relatively small area within the bay as a whole.
- b. Eelgrass impacts estimated to be 0.83 acres and is offset by 0.83 credits within the 5.6 acres footprint. Altered depth impacts is offset by 0.25 credits.
- c. Other Impacts include changes in depth, shading impacts from new structures, and water column impacts. Mitigation to offset the impacts from the other impacts were outlined in the “Bay Habitat Mitigation Planning for Commercial Out Lease of a Floating Dry Dock at MGBW Maintenance

⁵ Mitigation ratio is the ratio of area mitigated : area impacted.

Piers in San Diego Bay (Mitigation Plan), California, February 6, 2020". The Mitigation Plan has been reviewed and approved by National Marine Fisheries Service (NMFS).

Permittee Responsible Compensatory Mitigation. Compensatory mitigation to offset the permanent loss of jurisdictional waters will be achieved through the release of 1.08 acres of bank credits from the U.S. Navy's eelgrass habitat mitigation bank in San Diego Bay. Any deviations from, or revisions to the mitigation must be pre-approved by the San Diego Water Board.

J. No Net Loss of Aquatic Resources

The San Diego Water Board is committed to ensuring no overall net loss and long-term net gain in the quantity, quality, and permanence of wetlands as described in California's Wetlands Conservation Policy.⁶ The Discharger has demonstrated that mitigation will offset the unavoidable and permitted Project impacts to San Diego Bay from the Project and is sufficient to replace the lost aquatic resource functions, thereby achieving the goal of no net loss, and possibly net gain, of aquatic resources. The compensatory mitigation is sufficient to provide the San Diego Water Board with a reasonable assurance that replacement of the full range of lost aquatic resource(s) will be provided in perpetuity.

The Discharger has demonstrated that the Project will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources in the San Diego Bay. Based on these considerations, the Discharger's compliance with the terms and conditions of the Order will ensure that the Project meets applicable water quality standards for all waters of the United States and/or State in San Diego Bay.

K. Fees Received

The Discharger has paid all required application fees for the Order in the amount of \$103,556.00. The fee amount was determined by California Code of Regulations, title 23, sections 2200(a)(3) and 3833(b)(3) and was calculated as Category A, Fill and Excavation Discharges, using the dredge and fill fee calculator.

II. Conditions

The San Diego Water Board has independently reviewed the record of the Project to analyze the extent and nature of proposed Project impacts to the water quality and beneficial uses of waters of the United States and/or State and any required compensatory mitigation to offset impacts attributed to the Project. A statement explaining why each condition is necessary to

⁶ In 1993, by executive order, the State of California adopted a goal of no net loss under the California Wetlands Conservation Policy, along with a goal to "achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property." This goal is incorporated in the State Water Resources Control Board adopted *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*.

assure that the discharge will comply with water quality requirements is included in Attachment 5. **The Discharger is authorized to proceed with the Project in accordance with the following conditions:**

A. Authorization of Project Impacts to Receiving Waters

Impacts to San Diego Bay must not exceed quantities shown in Table 2 of the Order.

B. Project Conformance with Water Quality Control Plans or Policies

1. The Discharger must take all necessary measures to protect the beneficial uses of the receiving waters identified in Finding I.F of the Order potentially impacted by the Project in accordance with water quality standards in the Basin Plan.
2. Notwithstanding any specific conditions in the Order, the Project shall be constructed in a manner consistent with the Basin Plan and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter-Cologne Water Quality Act (commencing with California Water Code Section 13000) or section 303 of the Clean Water Act (33 U.S.C section 1313). The Basin Plan is accessible at:

https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml

The receiving water limitations set forth below for San Diego Bay and the Pacific Ocean are based on applicable water quality standards contained in the Basin Plan, policies and federal regulations and are a required part of this Certification. Project activities shall not cause or contribute, after consideration of site dilution and dispersion, to exceedances of these receiving water limitations in San Diego Bay or the Pacific Ocean. Compliance with these limitations shall be determined from samples collected at the points of compliance described in the Monitoring Requirements in section II of this Certification.

- a. **Visual.** Floating particulates and grease and oil shall not be visible.
- b. **Color.** Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.
- c. **Hydrogen Ion Concentration.** The pH shall not be changed at any time more than 0.2 units from that which occurs naturally.
- d. **Hydrogen Ion Concentration.** The pH shall not be depressed below 7.0 nor raised above 9.0.
- e. **Turbidity.** If natural turbidity is between 0 to 50 nephelometric turbidity units (NTUs), the maximum increase from dredge activities must not exceed 20 percent of the measured natural turbidity. If natural turbidity is between 51 to 100 NTUs,

- the maximum increase from dredge activities must not exceed 10 NTUs. If natural turbidity is greater than 100 NTUs, the maximum increase from dredge activities must not exceed 10% above natural background levels.
- f. **Dissolved Oxygen.** The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally.
 - g. **Benthic Communities.** Pollutants in sediments shall not be present in quantities that, alone or in combination, are toxic to benthic communities.
 - h. **Human Health.** Pollutants shall not be present in sediments at levels that will bioaccumulate in aquatic life to levels that are harmful to human health.
 - i. **Water Quality Objectives.** Water quality objectives applicable to San Diego Bay or the Pacific Ocean shall not be exceeded after consideration of site dilution and dispersion.
3. If at any time an unauthorized discharge to waters of the State occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately, and the San Diego Water Board shall be notified in accordance with reporting requirements in Condition II.I of the Order. Associated Project activities may not resume without approval from the San Diego Water Board.

C. **Compensatory Mitigation**

1. The Discharger must fully and completely implement the compensatory mitigation described above in Finding I. I.
2. **Restoration of Temporary Impacts.** All areas of temporary impacts must be restored to pre-project contours.
3. **Proof of Mitigation Credits.** Prior to the start of the Project, the Discharger must provide the San Diego Water Board with documentation of the purchase of credits for at least 1.08 acres of establishment of eelgrass habitat secured from the U.S. Navy Eelgrass Mitigation Bank. These credits must be used to offset authorized Project impacts described in Finding I.G of the Order.
4. **Timing of Mitigation Credit Purchase.** Delays in purchasing credits must be compensated for by an increase in mitigation area of 10% of the cumulative compensatory mitigation area for each month of delay.

5. **Mitigation Site Long-Term Management.** The compensatory mitigation site(s) must be managed, protected, and maintained, in perpetuity, in conformance with the long-term management plan and the final ecological success performance standards. The aquatic habitats, riparian areas, buffers and uplands that comprise the mitigation site(s) must be protected in perpetuity from land-use and maintenance activities that may threaten water quality or beneficial uses within the mitigation area(s) in a manner consistent with the following requirements:
- a. Any maintenance activities on the mitigation site(s) that do not contribute to the success of the mitigation site(s) and enhancement of beneficial uses and ecological functions and services are prohibited;
 - b. If at any time a catastrophic natural event (e.g., fire, flood) damages the mitigation site(s), the Discharger must take prompt and appropriate action to assess, respond to, and ensure repair of the damage(s) including replanting, allowing natural recovery, and addressing any other deficiencies in the affected area(s). The San Diego Water Board may require additional monitoring by the Discharger to assess how the compensatory mitigation site(s) is responding to a catastrophic natural event.
 - c. If changes in statute, regulation, or agency needs or mission results in an incompatible use on public lands originally set aside for the Mitigation Site(s), the Discharger shall be responsible for providing alternative compensatory mitigation that is acceptable to the San Diego Water Board for any loss in functions resulting from the incompatible use.

D. Monitoring and Reporting Requirements

1. **Monitoring for Eelgrass Beds in Project Vicinity.** A pre-construction eelgrass survey must be completed in accordance with the requirements of the CEMP **no more than 90 days before the start of in-water Project activities**. If, during the pre-construction survey, eelgrass is identified within 30 feet of Project activities, the Discharger must:
 - a. Implement best management practices for the protection of eelgrass beds, as described in Attachment 3 of the Order; and
 - b. Complete a post-construction eelgrass survey, performed by a qualified biologist, **within 30 days following the completion of in-water Project activities**. The post-construction survey shall be used to quantify and determine mitigation for any losses to eelgrass in conformance with the CEMP.
2. **Monitoring for *Caulerpa* in Project Vicinity.** The Discharger must conduct a surveillance-level survey for *Caulerpa taxifolia* and *Caulerpa prolifera*, in accordance with the requirements in the National Marine Fisheries Service's *Caulerpa* Control

Protocol,⁷ **not earlier than 90 days and not later than 30 days before the start of in-water Project activities** to determine presence/absence of this species within the immediate vicinity of the project. If any *Caulerpa* spp. are identified during a survey, or at any other time before, during, or within 120 days following completion of authorized activities, both National Marine Fisheries Service and California Department of Fish and Wildlife must be contacted within 24 hours of first noting the occurrence. If any *Caulerpa* spp. are detected, all disturbing activity must cease until such time as the infestation has been isolated and treated, or the risk of spread from the disturbing activity is eliminated in accordance with the Caulerpa Control Protocol.

3. **Receiving Water Visual Monitoring.** The Discharger must conduct visual monitoring of Project activities in San Diego Bay prior to, during, and after each period of project construction (e.g., pile extraction and driving) as described below. The receiving water visual monitoring documentation must be included in the Annual Progress Reports as described in Attachment 2 of the Order.
 - a. **Parameters.** The following parameters shall be visually monitored immediately outside of the construction area:
 - i. Floating particulates, suspended materials, surface visible turbidity plume;
 - ii. Grease, oil, sheen, odor, color, or any other significant discoloration of the water column and/or water surface; and
 - iii. Condition of silt curtain/cofferdam.
 - b. **Field Documentation.** All visual observations shall be recorded throughout Project construction activities. In addition to the records of monitoring listed in Attachment 4, Standard Provision 4e of the Order, field documentation of receiving waters visual monitoring shall include, at a minimum, observations of the parameters listed above, observations of sensitive biological resources, and weather conditions, such as wind speed/direction and cloud cover. If photo documentation is used in support of visual observations of water quality conditions, it should be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation should include Global Positioning System (GPS) coordinates for each of the photo points referenced; and
 - c. **Response Actions.** If the condition of the silt curtain is observed to be damaged, has become dislocated, or has gaps where a visible turbidity plume is forming outside of the silt curtain at the Project Site, a response action shall be taken immediately to correct the situation. Response actions may include, but are not

⁷ NOAA Fisheries, Caulerpa Control Protocol, version 5, October 20, 2021, is available at <https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf>

limited to, work stoppage until silt curtain repair is completed, implementation of operational modifications, work stoppage due to the presence of sensitive species until area is vacated, and/or implementation of additional BMPs (e.g., a second silt curtain). Response actions, if needed, shall be documented in the monitoring field log.

4. **Receiving Water Quality Monitoring.** The Applicant shall conduct receiving water monitoring during construction activities in San Diego Bay to verify that applicable Receiving Water Limitations described in Certification section II.C for pH, dissolved oxygen and turbidity are not violated outside of the construction areas. The monitoring plan shall contain the following elements:
 - a. **Monitoring Stations.** During each monitoring event, water quality parameters including turbidity, dissolved oxygen, and pH shall be measured at five stations at the Project Site. Monitored water quality measurements shall be compared to “ambient” water quality reference measurements outside of the construction and nearshore placement sites. Four stations shall be compliance stations and one station shall be a reference station for each monitored location. Monitoring station positions shall be located using a Global Position System (GPS) accurate to within ± 3 meters. Station descriptions are as follows:
 - i. **Compliance Stations.** Four monitoring stations shall be located evenly along an arc located 300 ft from the edge of the Project areas to capture all tidal and current conditions at the time of dredging. The locations shall be adjusted in the field to better target a visible turbidity plume, if a visible plume is observed; and
 - ii. **Reference Station.** One reference station shall be located at least 1,000 ft from the construction activity and beyond the influence of construction activities.

Natural turbidity, dissolved oxygen, and pH shall be determined through measurements at the reference stations. A reference station shall be monitored during every event, because the turbidity water quality objective is based on an acceptably small increase in the vicinity of the construction activity relative to ambient reference levels. The location of the reference station shall remain the same for all monitoring events.
 - b. **Water Quality Measurements.** Monitored water quality measurements for turbidity, dissolved oxygen, and pH at the Compliance Stations shall be compared to Reference Station measurements outside the construction area. Water quality measurements shall be collected from a depth of 10 ft below the water surface at each of the stations. Monitoring depths shall be determined using a depth finder with an accuracy of ± 0.5 ft. Water quality shall be monitored using instrumentation capable of measuring dissolved oxygen (DO), pH, and turbidity (in nephelometric turbidity units (NTU's)).

- c. **Monitoring Frequency.** During dredging, manual water quality samples shall be collected once daily after dredging operations have been underway for a minimum of one hour. The reference station outside the influence of dredging shall also be sampled at similar depths and frequency for comparison to the samples collected from the dredge area and nearshore placement site. Sampling may be reduced to weekly sampling if no water quality exceedances of the Receiving Water Limitations of this Certification are observed or measured after 3 consecutive days of monitoring.

If after 3 consecutive days without an exceedance the monitoring frequency is reduced to weekly, all water quality parameters may be measured during one monitoring event per week. The monitoring frequency must return to daily if an exceedance of the Receiving Water Limitations of this Certification is observed or measured. The monitoring frequency can again be reduced to weekly sampling if 3 consecutive days of monitoring show there are no exceedances of Receiving Water Limitations.

- d. **Sample Integrity.** The integrity of each water sample collected shall be maintained from the time of collection to the point of data reporting. Proper record keeping and chain of custody (COC) procedures shall be implemented to allow samples to be traced from collection to final disposition. After collection of water samples, documentation on various logs and forms shall be required to adequately identify and catalog sample information.
- e. **Compliance Criteria.** The point of compliance with water quality objectives shall be located at the compliance monitoring stations described above. The Project construction area is defined as the area(s) within the silt curtain(s) or other BMP used to contain and control discharges from in-water work activities. A response action must be taken to address any exceedance of water quality objectives in accordance with Condition II.D.5 of the Order.

- 5. **Response Actions to Monitoring Results.** In the event that visual observations or water quality monitoring described in Section II.E.3 and II.E.4 of this Certification indicate an exceedance of an applicable Receiving Water Limitation described in section II.C of this Certification, the Applicant shall implement the additional or enhanced operational or engineering BMPs described below:
 - a. Evaluate the concurrent measurements at background and compliance monitoring stations and supporting visual evidence to determine whether the exceedance is caused by construction activities or by other ambient conditions in San Diego Bay or the Pacific Ocean (e.g., wind waves, boat wakes, barge/ship traffic, and storm inflow).
 - b. Immediately re-take measurements at reference and compliance stations.

- c. If the exceedance is confirmed, immediately notify the dredge contractor to immediately modify operations or implement additional BMPs to mitigate the exceedance. Operational modifications may include, but are not limited to the following modifications implemented individually or in combination:
 - i. Adjust the sequence and/or speed of dredging and disposal operations;
 - ii. Reposition dredge and disposal operations in such a way as to ensure future exceedances do not occur;
 - iii. If silt curtains are deployed, fix, maintain, and/or upgrade floating silt curtains; and
 - iv. Modify, either on a temporary or permanent basis, dredge equipment (such as the dredging bucket size or type) or disposal equipment.
 - d. Re-evaluate field measurements at all relevant stations 30 minutes later, after additional BMPs or operational modifications are implemented.
 - e. If the receiving water limitation exceedance continues to persist, even with additional BMPs, determine and implement more aggressive BMPs or operational modifications that resolve the exceedance or stop work to further assess the source of the exceedance, identify effective mitigation measures, and allow the water column to recover.
6. **Annual Progress Reports.** The Discharger must submit Annual Progress Reports to the San Diego Water Board prior to **March 1** of each year following the issuance of the Order and continue to provide the reports until the San Diego Water Board accepts the Project Completion Notification submitted by the Discharger. The reporting period for each Annual Progress Report shall be January 1st through December 31st of each year. Annual Progress Reports must be submitted even if Project activities are not conducted during the reporting period.

Annual reports must contain the status and anticipated schedule for the Project. Additional requirements for the contents of Annual Progress Reports are detailed in Attachment 2 of the Order.

Annual Progress Reports must include, at a minimum, the following:

- a. A summary description of Project construction activities completed during the reporting period;
- b. The status and anticipated schedule for completion of Project construction activities, including the installation and operational status of construction best management practices for water quality protection;

- c. A description of any Project construction delays encountered or anticipated that may affect the schedule; and
 - d. Photo documentation of all areas of impacts before and after construction. Photo documentation must be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include GPS coordinates for each photo location.
7. **Geographic Information System Data. Within 30 days of the start of project construction**, the Discharger must submit Geographic Information System (GIS) shape files and metadata that show the Project site(s) and impact areas associated with the Project. **As part of the final Annual Progress Report**, the Discharger must submit GIS shape files and metadata that show mitigation site(s), including extent and distribution of aquatic resources. For instructions on submitting GIS files, please contact the San Diego Water Board.

E. Project Status Notifications

1. **Discharge Commencement Notification.** The Discharger must notify the San Diego Water Board in writing **at least 5 days prior to** the start of Project construction.
2. **Discharge Completion Notification.** The Discharger must notify the San Diego Water Board in writing **within 30 days of completion of active Project construction activities**, including construction of any required restoration or compensatory mitigation. Submittal of the Notification does not obviate the Discharger's duty to comply with the requirements of the Order, pay any outstanding invoices of permit fees, or submit any outstanding required reports. The Notification shall include:
 - a. Dates of construction initiation and completion;
 - b. BMP status, including photo documentation of implemented post-construction BMPs and all areas of permanent and temporary impacts, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include Global Positioning System (GPS) coordinates for each of the photo locations referenced;
 - c. A statement that the authorized activity and implementation of any required compensatory mitigation were conducted and completed in accordance with the Order, including any activity-specific or compensatory mitigation conditions; and

d. The signature of the Discharger certifying the completion of the activity and mitigation in accordance with condition II.I of the Order.

3. **Project Completion Notification.** The Discharger shall submit a Project Completion Letter when construction activities, post-construction monitoring, and mitigation monitoring (if required) are complete⁸ and no further Project activities will occur. This written notification shall be submitted to the San Diego Water Board **within 30 days following completion of all Project activities**. Upon approval of the request, the San Diego Water Board will issue an Acceptance of Project Completion to the Discharger which will formally end the monitoring period and associated annual fees.

F. **Construction and Post-Construction Best Management Practices**

The Discharger shall implement best management practices (BMPs), as described in Attachment 3 of the Order, before and after construction to prevent discharges from the Project causing or contributing to on-site or off-site erosion or damage to properties or waters of the United States and/or State.

G. **Standard Provisions**

The Discharger shall comply with all standard provisions included in Attachment 4 of the Order.

H. **Document Submittal**

1. **Document Certification Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be certified as follows:

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

2. **Document Signatory Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be signed by the Discharger (or duly authorized representative, as described below) as follows:
- a. For a corporation, by a responsible corporate officer of at least the level of vice president.

⁸ Completion of post-construction and mitigation monitoring shall be contingent upon achievement of performance standards as determined by the San Diego Water Board.

- b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
 - d. A duly authorized representative may sign applications, reports, or information if the requirements for authorization listed below are met. If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.
 - i. The authorization is made in writing by a person described above.
 - ii. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - iii. The written authorization is submitted to the San Diego Water Board Executive Officer.
3. **Electronic Document Submittal.** The Discharger must submit all reports and information required under the Order via e-mail to SanDiego@waterboards.ca.gov with the following information in the subject line: **“401 Certification No. 2023-0030 PIN 883841:amonji.”** Electronic documents must be submitted as text searchable PDF files. Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc or flash drive and delivered to:

San Diego Regional Water Quality Control Board
Attn: 401 Certification No. R9-2023-0030, PIN 883841:amonji
2375 Northside Drive, Suite 100
San Diego, California 92108

III. Water Quality Certification

I hereby certify that the proposed discharge from the **Floating Dry Dock Project** (Order No. R9-2023-0030) 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.

This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, *“Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs),”* which requires compliance with all conditions of the Order. Please note that enrollment under Order

No. 2003-0017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the Discharger's Project description and/or the description in the Order, and (b) compliance with all applicable requirements of the Basin Plan.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Order No. R9-2023-0030 issued on March 23, 2023.

DAVID W. GIBSON
Executive Officer
San Diego Water Board

ATTACHMENT 1 – Definitions

Activity - when used in reference to a permit means any action, undertaking, or project including, but not limited to, construction, operation, maintenance, repair, modification, and restoration which may result in any discharge to waters of the State.

Application - means a written request, including a report of waste discharge or request for water quality certification, for authorization of any activity that may result in the discharge of dredged or fill material and is subject to the Order.

Buffer - means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

California Rapid Assessment Method (CRAM) - is a wetland assessment method intended to provide a rapid, scientifically-defensible and repeatable assessment methodology to monitor status and trends in the conditions of wetlands for applications throughout the state. It can also be used to assess the performance of compensatory mitigation projects and restoration projects. CRAM provides an assessment of overall ecological condition in terms of four attributes: landscape context and buffer, hydrology, physical structure and biotic structure. CRAM also includes an assessment of key stressors that may be affecting wetland condition and a "field to PC" data management tool (eCRAM) to ensure consistency and quality of data produced with the method.

Compensatory mitigation – means the restoration (re-establishment or rehabilitation), establishment, enhancement, and/or preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Compensatory mitigation project - means compensatory mitigation implemented by the Discharger as a requirement of the Order (i.e., permittee-responsible mitigation), or by a mitigation bank or an in-lieu fee program.

Condition - means the relative ability of an aquatic resource to support and maintain a community of organisms having a species composition, diversity, and functional organization comparable to reference aquatic resources in the region.

Discharge of dredged or fill material – has the same meanings as they are used in the federal Clean Water Act and Code of Federal Regulations (CFR), title 40, section 232.2, but (1) shall include discharges to waters of the State that are not waters of the U.S. and (2) any demonstrations described in CFR, title 40, section 232.2(3)(i) shall be made to the permitting authority instead of the Corps or U.S. EPA. Placement of dredged or fill material in a manner that could not affect the quality of waters of the State is not considered a discharge of dredged or fill material.

Dredged material – means material that is excavated or dredged from waters of the United States and/or State.

Ecological success performance standards – means observable or measurable physical (including hydrological), chemical, and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

Enhancement – means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s) but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment – means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist. Creation results in a gain in aquatic resource area.

Fill material – means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body.

Functions - means the physical, chemical, and biological processes that occur in ecosystems.

Isolated wetland – means a wetland with no surface water connection to other aquatic resources.

LEDPA – means the least environmentally damaging practicable alternative. The determination of practicable alternatives shall be consistent with the State Supplemental Dredge or Fill Guidelines, section 230.10(a).

Mitigation bank – means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing mitigation for impacts authorized by the Order.

Order – means water quality certification, waste discharge requirements, or waivers of waste discharge requirements.

Project – means the whole of an action that includes a discharge of dredged or fill material to waters of the U.S. and/or State.

Preservation - means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/ historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/ historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area.

Restoration - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Services – means the benefits that human populations receive from functions that occur in ecosystems.

Start of project construction - For the purpose of the Order, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfilling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the United States and/or State.

Temporal loss - means the time lag between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site. Higher compensation ratios may be required to compensate for temporal loss.

Uplands - means non-wetland areas that lack any field-based indicators of wetlands or other aquatic conditions. Uplands are generally well-drained and occur above (i.e., up-slope) from aquatic areas. In a watershed, uplands comprise the landscape in which aquatic areas form. They are the primary sources of sediment, surface runoff, and associated chemicals that are deposited in aquatic areas or transported through them.

Water quality objectives and other appropriate requirements of state law – means the water quality objectives and beneficial uses as specified in the appropriate water quality control plan(s); the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act; and any other appropriate requirement of state law.

Waters of the State – means any surface water or groundwater, including saline waters, within the boundaries of the state.

Watershed – means a land area that drains to a common waterway, such as a stream, lake, estuary, wetland, or ultimately the ocean.

ATTACHMENT 2 – Annual Progress Report Requirements

The reporting period for each Annual Progress Report shall be January 1st through December 31st of each year. Annual Progress Reports must be submitted even if Project construction has not begun or if Project construction is complete and compensatory mitigation site construction or monitoring is ongoing. Annual Progress Reports must include, at a minimum, the following:

1. Project Status and Compliance.

- a. The status and anticipated schedule for completion of Project construction activities, including the installation and operational status of construction best management practices for water quality protection;
- b. A description of any Project construction delays encountered or anticipated that may affect the schedule;
- c. Receiving water visual monitoring documentation;
- d. All records, field logs, and/or field notes created by the on-site qualified biologist or other environmental professional;
- e. A description of: each incident of noncompliance during the annual monitoring period and its cause; the period of the noncompliance including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;
- f. Photo documentation of all areas of impact before, during, and after construction. Photo documentation must be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include GPS coordinates for each photo location; and
- g. In addition, the final annual report must include as-built drawings of the Project Site(s), no bigger than 11”X17”.

2. Records of Monitoring.

- a. The date, exact place, and time of monitoring;
- b. The names, qualifications, and affiliations of individuals who performed the monitoring, sampling, analyses, and otherwise contributed to the report;
- c. The analytical techniques or methods used;

3. Results of Construction Monitoring.

- a. Pre-construction survey reports for *Caulerpa taxifolia* and *C. prolifera*;

- b. Eelgrass survey reports. Pre-construction eelgrass survey report must be included in the first annual progress report, and, if eelgrass is identified within 30 feet of Project activities, post-construction eelgrass survey report must be included in the final progress report; and
- c. Receiving water visual monitoring. The Discharger shall submit monitoring reports that contain the results of visual monitoring activities for each week of monitoring. The receiving water visual monitoring reports must include, at a minimum:
 - i. The names, qualifications, and affiliations of the persons contributing to the report;
 - ii. Copies of records, field notes/logs, and/or photo documentation of the visual observations required under Condition II.E.4 of the Order;
 - iii. A summary, evaluation, and interpretation of the visual observations recorded, and any response actions taken as required under Condition II.E.4 of the Order, including interpretations and conclusions as to whether applicable receiving water limitations were attained at the site.
- d. The final Annual Progress Report must include the following additional information:
 - i. A description of the following Mitigation Site(s) characteristics:
 - 1. As-built drawings of the Mitigation Site(s), no bigger than 11"X17"; and
 - 2. A survey report documenting boundaries of the Mitigation Site(s); and
 - ii. GIS shape files and metadata that show mitigation site(s), including extent and distribution of aquatic resources. For instructions on submitting GIS files, please contact the San Diego Water Board.

ATTACHMENT 3 – Construction and Post-Construction Best Management Practices

Construction Best Management Practices

- A. **Approvals to Commence Construction.** The Discharger shall not commence Project construction until all necessary federal, State, and local approvals are obtained.
- B. **Personnel Education.** Prior to the start of the Project, and annually thereafter, the Discharger must educate all personnel on the requirements in the Order, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures.
- C. **Spill Containment Materials.** The Discharger must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- D. **General Construction Storm Water Permit.** Prior to start of Project construction, the Discharger must, as applicable, obtain coverage under and comply with the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity*, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Discharger must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.
- E. **Groundwater Dewatering.** If groundwater dewatering is required for the Project, the Discharger shall enroll in and comply with the requirements of San Diego Water Board Order No. R9-2015-0013 NPDES No. CAG919003, *General Waste Discharge Requirements for Groundwater Extraction Discharges to Surface Waters within the San Diego Region* or its successor permit.
- F. **Waste Management.** Except for discharges permitted under the Order, the Discharger must properly manage, store, treat, and dispose of waste, trash, organic or earthen material, and other construction debris from Project activities in accordance with applicable federal, state, and local laws and regulations. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination, or nuisance as defined in Water Code section 13050. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff. Direct discharge of waste into waters of the United States and/or State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited. Upon Project completion, all Project-generated waste and debris shall be removed from the Project site(s) for disposal at an authorized disposal site in compliance with federal, state, and local laws and regulations.

- G. **Upstream and Downstream Erosion.** Discharges of concentrated flow during construction or after Project completion must not cause or contribute to upstream or downstream erosion or damage to properties or stream habitat.
- H. **Construction Equipment.** All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment components used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.
- I. **Process Water.** Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm water runoff flows. Pollutants discharged to areas within a stream diversion must be removed at the end of each workday or sooner if rain is predicted.
- J. **Surface Water Diversion.** All surface waters, including ponded waters, must be diverted away from areas of active grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of the receiving water quality objectives. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- K. **Cofferdams or Water Barriers.** Cofferdams and water barrier construction shall be adequate to prevent seepage into or from the work area. Cofferdams or water barriers shall not be made of earth or other substances subject to erosion or that contain pollutants. When dewatering is necessary to create a temporary dry construction area, the water shall be pumped through a sediment-settling device before it is returned to the water body. The enclosure and the supportive material shall be removed when the work is completed, and removal shall proceed from downstream to upstream.
- L. **Silt Curtains.** The Discharger shall deploy and maintain a continuous length of silt curtain, fully surrounding active discharge activities, including pile extraction and driving, in conformance with the following requirements:
1. The silt curtains must restrict the surface visible turbidity plume or surface debris to the area of construction and dredging and must control and contain the migration of re-suspended sediments or debris at the water surface and at depth;
 2. The bottom of the silt curtains must be weighted with ballast weights or rods affixed to the base of the fabric to resist the natural buoyancy of the silt curtain fabric and lessen its tendency to move in response to currents. Where feasible and applicable,

the floating silt curtains must be anchored and deployed from the surface of the water to just above the substrate;

3. The silt curtain must be monitored for damage, dislocation or gaps and must be immediately repaired where it is no longer continuous or where it has loosened; and
4. The silt curtain must not be removed until the visible turbidity plume has dissipated and/or surface debris is skimmed and removed.

M. Silt Curtains for Dredging Activities. The Discharger must deploy and maintain a continuous length of double silt curtains, installed and maintained fully surrounding activities including active dredging (including any dredge equipment and scow), material loading, decanting discharges, and/or overnight storage of scow(s) containing dredge material from areas designated for upland disposal and in conformance with the following requirements:

1. Double silt curtains shall be used in dredging areas where bay bottom sediment is found not to be suitable for ocean disposal;
2. The silt curtains must be comprised of Type III geotextile material;
3. The silt curtains must restrict the surface visible turbidity plume or surface debris to the area of construction and must control and contain the migration of re-suspended sediments or debris at the water surface and at depth;
4. The silt curtains must be maintained as a full turbidity enclosure. The silt curtains must be supported by floating debris booms in open water areas such as along the bayward side of the dredging areas. Along pier edges the silt curtains may be connected to the pier structure;
5. The bottom of the silt curtains must be weighted with ballast weights or rods affixed to the base of the fabric to resist the natural buoyancy of the silt curtain fabric and lessen its tendency to move in response to currents. Where feasible and applicable, the floating silt curtains must be anchored and deployed from the surface of the water to just above the substrate;
6. If necessary, silt curtains with tidal flaps must be installed to facilitate curtain deployment in areas of higher flow. Air curtains may be used in conjunction with silt curtains to contain re-suspended sediment, enhance worker safety, and allow barges to transit into and out of the work area without the need to open and close silt curtain gates;
7. Silt curtains must be continuously monitored for damage, dislocation or gaps and must be immediately repaired where it is no longer continuous or where it has loosened; and

8. Silt curtains must not be removed until the visible turbidity plume has dissipated and surface debris is skimmed and removed.

N. Sediment Dredging and Placement of Material. The Discharger shall conduct dredging and placement of dredged material in accordance with, but not limited to, the following best management practices:

1. Dredging must be conducted to remove dredge material and not stockpile material on the floor of San Diego Bay or level the bottom surface with the clamshell bucket;
2. The swing radius of unloading equipment must be controlled to prevent spillage of dredged sediments back into San Diego Bay waters;
3. The drop height from a clamshell bucket onto the scow must be controlled to prevent splashing or sloshing of dredged material back into San Diego Bay waters;
4. Excess or decanted water from dredged sediments must not be discharged back into San Diego Bay;
5. Dredged sediments must be loaded into material barges with watertight compartments and water collection systems to prevent return water from re-entering San Diego Bay;
6. Dredged material barges and scows must not be filled to a point that overflow or spillage could occur. Each material scow must be marked in such a way to allow the operator to visually identify the maximum load point;
7. Load-controlled boat movement, line attachment, and/or horsepower requirements of tugs and support boats at the Project site must be specified to avoid resuspension of sediment. Such measures may include speed restrictions, establishment of off-limit areas, and use of shallow draft vessels;
8. Final dredge side slopes shall be designed to be stable in order to minimize sloughing; and
9. Silt screens or other appropriate methods shall be used to confine suspended particulate/turbidity to a small area where settling or removal can occur. Make use of ocean currents and circulation to mix, disperse and dilute the discharge of dredged material.

O. Protection of Eelgrass Beds. If eelgrass is found during the pre-construction survey, the Discharger shall comply with the following requirements:

1. Prior to construction, the boundaries of adjacent eelgrass beds must be staked with ridged PVC markers or self-centering buoys visible at all tide heights. The markers or buoys must be protected, replaced, and maintained as needed to ensure they remain in place for the duration of Project construction activities;

2. During Project construction activities and regardless of the timing, the eelgrass beds must be protected with silt curtains deployed in a manner that will protect the beds from excessive turbidity or sediment deposition from Project activities; and
 3. Any silt curtains must be kept at least 30 feet away from staked eelgrass beds in order to prevent damage to eelgrass beds from curtain drag or movement.
- P. **Sound Impacts.** For the purpose of protecting sensitive fish species, bird species, eastern Pacific green sea turtles, and marine mammals, the Discharger shall implement a soft start methodology during impact pile driving activity. The Discharger shall initiate impact pile driving by commencing with one soft strike at 40 percent or less energy followed by a 30-second period of no pile driving prior to commencing with full pile driving activities. This process shall be repeated if pile driving activities cease for a period of 1 hour or more.
- Q. **Re-vegetation and Stabilization.** All areas that have 14 or more days of inactivity must be stabilized within 14 days of the last activity. The Discharger shall implement and maintain BMPs to prevent erosion of the rough graded areas. After completion of grading, all areas must be re-vegetated with native species appropriate for the area. The re-vegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be accessed at <https://www.cal-ipc.org/plants/inventory/>.
- R. **Hazardous Materials.** Except as authorized by the Order, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.
- S. **Vegetation Removal.** Removal of vegetation must occur by hand, mechanically, or through application of United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to minimize adverse effects to beneficial uses of waters of the United States and/or State. Discharges related to the application of aquatic pesticides within waters of the United States must be done in compliance with State Water Resources Control Board Water Quality Order No. 2013-0002--DWQ, the *Statewide General National Pollution Discharge Elimination System (NPDES Permit for Residual Aquatic Discharges to Waters of the United States from Algae and Aquatic Weed Control Applicators as amended*, and any subsequent reissuance as applicable.
- T. **Limits of Disturbance.** The Discharger shall clearly define the limits of Project disturbance to waters of the United States and/or State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.

- U. **On-site Qualified Biologist or Environmental Professional.** The Discharger shall designate an on-site qualified biologist or other qualified environmental professional to monitor Project construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the Order requirements, including Receiving Water Visual Monitoring as detailed in Condition II.E and Attachment 2. The biologist or other qualified environmental professional shall be given the authority to stop all work on-site if a violation of the Order occurs or has the potential to occur. All records, field logs, and/or field notes created by the on-site biologist/environmental professional for the purpose of documenting observations during Project activities shall be submitted with the Annual Progress Report(s).

Post-Construction Best Management Practices

- A. **Post-Construction Discharges.** The Discharger shall not allow post-construction discharges from the Project site to cause or contribute to on-site or off-site erosion or damage to properties or stream habitats.
- B. **Post-Construction BMP Design.** The Project must be designed to comply with the requirements for priority development projects in section E.3. of the Regional MS4 Permit Order No. R9-2013-0001, *National Pollutant Discharge Elimination Systems Permit and Waste Discharge Requirements for Discharges of Urban Runoff from the MS4s Draining the Watersheds within the San Diego Region* (Regional MS4 Permit), as amended by Order Nos. R9-2015-0001 and R9-2015-0100, as well as the most current BMP Design Manual for the City of San Diego. Where conflict exists between the referenced documents the most stringent requirements shall apply.

ATTACHMENT 4 – Standard Provisions

1. Compliance

- a. **Duty to Comply.** The Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, sections 3867 et seq.
- b. **Duty to Comply.** The Discharger must comply with all conditions and requirements of the Order. Any Order noncompliance constitutes a violation of the Water Code and is grounds for enforcement action or Order termination, revocation and reissuance, or modification.
- c. **Property Rights.** The Order does not convey any property rights of any sort, or any exclusive privilege.
- d. **Property or Private Rights.** The issuance of the Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.
- e. **Project Modification.** The Discharger must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of the Order, to the San Diego Water Board for prior review and written approval. If the San Diego Water Board is not notified of a significant change to the Project, it will be considered a violation of the Order.
- f. **Project Conformance with Application.** All water quality protection measures and BMPs described in the application and supplemental information for water quality certification are incorporated by reference into the Order as if fully stated herein. Notwithstanding any more specific conditions in the Order, the Discharger shall construct, implement and comply with all water quality protection measures and BMPs described in the application and supplemental information. The conditions within the Order shall supersede conflicting provisions within the application and supplemental information submitted as part of this action.
- g. **Inspection and Entry.** The Discharger must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required under law, to:
 - i. Enter upon the Project or Compensatory Mitigation premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the Order;
 - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the Order;

- iii. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the Order; and
- iv. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance, or as otherwise authorized by the Clean Water Act or Water Code, any substances or parameters at any location.

2. Permit Administration

- a. **Term of Order.** The Order shall expire five (5) years from the date of issuance of the Order if Project construction has not started.
- b. **Payment of Fees.** The Order is conditioned upon total payment of any fee required under California Code of Regulations, title 23, sections 3830 et seq. and owed by the Discharger.

3. Permit Actions

- a. **Transfers.** The Order is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board is provided in accordance with the following terms:
 - i. **Transfer of Property Ownership.** The Discharger must notify the San Diego Water Board of any change in Project area ownership. Notification of change in ownership must include, but not be limited to, a statement that the Discharger has provided the purchaser with a copy of the Order and that the purchaser understands and accepts the Order requirements and the obligation to implement them or be subject to liability for failure to do so. The seller and purchaser must sign and date the notification and provide such notification to the San Diego Water Board **within 10 days of the transfer of ownership.**
 - ii. **Transfer of Mitigation Responsibility.** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in the Order must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions, and an agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under California Water Code (Water Code) section 13385(a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.**

- iii. **Transfer of Post-Construction BMP Maintenance Responsibility.** The Discharger assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred, the Discharger must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Discharger must provide such notification to the San Diego Water Board **within 10 days of the transfer of BMP maintenance responsibility.**

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with the Order and references in the Order to the Discharger will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Discharger of the Order in the event that a transferee fails to comply.

- b. **Order Reopener Actions.** The Order may be modified, revoked and reissued, or terminated for cause including but not limited to situations that follow, below. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition.

- i. Violation of any term or condition of the Order;
- ii. Monitoring results indicating that continued Project activities could violate water quality objectives or impair the beneficial uses of San Diego Bay;
- iii. Obtaining the Order by misrepresentation or failure to disclose fully all relevant facts;
- iv. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
- v. Incorporation of any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

4. Monitoring

- a. **Representative Monitoring.** Samples and measurements taken for the purpose of monitoring under the Order shall be representative of the monitored activity.
- b. **Monitoring Instruments.** All monitoring instruments and devices, which are used by the Discharger to fulfill the prescribed monitoring program, must be properly maintained and calibrated as necessary to ensure their continued precision and accuracy.

- c. **Certified Laboratory.** All laboratory analyses must be performed in a laboratory certified to perform such analyses under the State Water Resources Control Board's Environmental Laboratory Accreditation Program or a laboratory approved by the San Diego Water Board.
- d. **USEPA Test Procedures.** Monitoring must be conducted according to USEPA test procedures approved under Title 40, Code of Federal Regulations (CFR), Part 136, Guidelines Establishing Test Procedures for Analysis of Pollutants Under the Clean Water Act as amended, unless other test procedures have been specified in the Order.
- e. **Records of Monitoring Information.** Records of monitoring information shall include:
 - i. The date, exact place, and time of sampling or measurements;
 - ii. The individual(s) who performed the sampling, measurements, and analyses;
 - iii. The analytical techniques or methods used; and
 - iv. The results of such analyses.
- f. **Records Retention.** The Discharger must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the Order, and records of all data used to complete the application for the Order. Records must be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this Project or when requested by the San Diego Water Board.
- g. **Modifications to Monitoring and Reporting.** The San Diego Water Board may modify the monitoring program at any time during the term of the Order and may reduce or increase the number of parameters to be monitored, the locations monitored, the frequency of monitoring, or the number and size of samples collected.

5. Reporting

- a. **Duty to Report.** The submittal of information required under the Order, or in response to a suspected violation of any condition of the Order, is required pursuant to Water Code section 13383. Monitoring and reporting costs are reasonable and necessary to evaluate compliance with the Order and water quality and other impacts. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to Water Code section 13385.
- b. **Duty to Provide Information.** The Discharger shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the Order or to determine compliance.

- c. **Anticipated Noncompliance.** The Discharger shall give advance notice to the San Diego Water Board of any planned changes in the Project or the Compensatory Mitigation project which may result in noncompliance with the Order.
- d. **Twenty-Four Hour Non-Compliance Reporting.** The Discharger shall report any noncompliance which may endanger human health or the environment. Any such information shall be provided orally to the San Diego Water Board **within 24 hours** of the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The San Diego Water Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

6. Notifications to Discharger

- a. **General Waste Discharge Requirements.** The requirements of the Order are enforceable through Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification* (Water Quality Order No. 2003-0017-DWQ). This provision shall apply irrespective of whether: (a) the federal permit for which the Order was obtained is subsequently retracted or is expired; or (b) the Order is expired. Water Quality Order No. 2003-0017-DWQ is available at:

https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/gowdr401regulated_projects.pdf.
- b. **Hydroelectric Facility Exclusion.** The Order is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Order application was filed pursuant to California Code of Regulations, title 23, section 3855(b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- c. **Enforcement Notification.** In the event of any violation or threatened violation of the conditions of the Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into the Order.

- d. Petitions.** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 et seq. The State Water Board must receive the petition no later than 5:00 p.m. 30 days after the date of the Order. Copies of the law and regulations applicable to filing petitions may be found at: https://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

ATTACHMENT 5 – Compliance with Code of Federal Regulations, Title 40, Section 121.7(d)(1)

The federal Clean Water Act section 401 Certification Rule (401 Certification Rule) found at Code of Federal Regulations (CFR), title 40, section 121.7(d)(1) requires an explanation of why a condition in a water quality certification is necessary to assure that the authorized discharge will comply with water quality requirements, and a citation to federal, state, or tribal law (citations) that authorizes the condition. This attachment (Attachment 5) includes the legal requirements and technical rationale that serve as the basis for the requirements of Order No. R9-2023-0030 (Order) as required by the 401 Certification Rule.

This attachment uses the same organizational structure as the Order. Conditions and statements below correspond with the conditions set forth in Sections II of the Order.

This attachment includes citations to some sources of authority that are applicable to all conditions. These sources are specifically identified where they are most relevant but are also generally applicable to the conditions below. These conditions are generally required to comply with the state's Anti-Degradation Policy (State Water Board Resolution No. 68-16), which requires that any "activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the state will be maintained." All Regional Water Board Water Quality Control Plans incorporate the state's Anti-Degradation Policy by reference. The state Anti-Degradation Policy incorporates the federal Anti-Degradation Policy (40 CFR section 131.12 (a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." According to U.S. EPA, dischargers of dredged or fill material comply with the federal Anti-Degradation Policy by complying with U.S. EPA's section 404(b)(1) Guidelines. The State Water Boards adopted a modified version of U.S. EPA's section 404(b)(1) Guidelines in the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge or Fill Procedures).

The Water Quality Control Plan for the San Diego Basin (9) (Basin Plan), adopted on September 8, 1994 as subsequently amended, establishes the following Waste Discharge Prohibitions pursuant to California Water Code section 13243 applicable to the authorized discharge. The following Waste Discharge Prohibitions provide the basis for conditions in the Order necessary to protect water quality and ensure compliance with water quality standards.

- Prohibition No. 1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code section 13050, is prohibited.

- Prohibition No. 2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code section 13264 is prohibited.
- Prohibition No. 3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code section 13376) is prohibited.
- Prohibition No. 7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the San Diego Water Board.
- Prohibition No. 14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

The above citations and justification for compliance with water quality requirements apply to all the conditions included in the Order. The following statements provides additional water quality justification and citations for conditions in section II of the Order.

II. B. Project Conformance with Water Quality Control Plans

Justification: This condition is necessary for protection beneficial uses and compliance with water quality standards.

Citation: California Code of Regulations, title 23, section 3860(a).

II. D. Compensatory Mitigation

Justification: These conditions are necessary to ensure that impacts to water quality functions and services of waters of the United States and/or State are mitigated. Compensatory mitigation replaces function and services lost during temporary and/or permanent impacts.

Citation: These conditions are necessary to ensure compliance with state and federal anti-degradation policies. Compensatory mitigation requirements are consistent with Dredge or Fill Procedures, section IV.B.1.a (California Code of Regulations title 23, section 3013), which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized. (See also California Code of Regulations, title. 23, section 3856(h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].) Compensatory mitigation conditions are consistent with Executive Order W-59-93 commonly referred to as California's "no net loss" policy for wetlands. Compensatory mitigation requirements are also authorized by California Water Code section 13263, which requires the imposition of requirements that implement water quality control plans, takes into consideration the beneficial uses to be protected, and the need to prevent nuisance. These conditions related to mitigation requirements are consistent with the Dredged or Fill Procedures, section IV.B.1.a, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for

adverse impacts that cannot be practicably avoided or minimized. Accordingly, compensatory mitigation is required for projects that would result in permanent impacts.

II. E. Monitoring and Reporting Requirements

Justification: These conditions are necessary to verify that the Project impacts to waters of the United States and/or State do not exceed those authorized under the Order and that any compensatory mitigation and/or restoration is sufficient to protect beneficial uses and water quality objectives. The reports document the progress of the project in replacing the function and services lost during temporary and/or permanent impacts.

Citation: These monitoring and reporting conditions are authorized because the Water Boards have the authority to investigate the quality of any waters of the state within its region under California Water Code sections 13267 and 13383.

II. F. Project Status Notifications

Justification: These conditions are necessary to ensure that the San Diego Water Board knows when impacts to waters of the United States and/or State are occurring. In addition, notifications related to non-compliance are needed to ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible.

Citation: These notification and reporting conditions are authorized because the San Diego Water Board has the authority to investigate the quality of any waters of the State within its region under California Water Code sections 13267 and 13383.

II. G. Construction and Post-Construction Best Management Practices (BMPs)

Construction BMPs. Justification: These conditions are necessary to prevent the discharge of construction related pollutants into waters of the United States and/or State that impact beneficial uses and exceed compliance with water quality standards.

Citation: Clean Water Act sections 301 and 402, California Water Code sections 13370 and 13260, Basin Plan Prohibition No. 14.

Post-Construction BMPs. Justification: These conditions are necessary to prevent the discharge of pollutants into waters of the United States and/or State that impact beneficial uses and exceed water quality standards.

Citation: Clean Water Act sections 301 and 402, California Water Code sections 13370 and 13260, Basin Plan Prohibition No. 14.

II. H. and Attachment 4 Standard Provisions

Justification: These are standard conditions that are included as conditions of all water quality certification actions. These standard conditions are necessary for the protection of beneficial uses and compliance with water quality standards.

Citation: California Code of Regulations, title 23, sections 3830, 3855(b), 3860, and 3867; California Water Code section 13330.

Attachment 4, No. 1. Standard Provisions – Compliance

Duty to Comply. Justification: Noncompliance with the Order can be enforced under Water Code sections 13331, 13350, 13385, and 13386.

Project Modification. Justification: California Water Code section 13264 prohibits any discharge that is not specifically authorized in the Order. The Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, section 3867.

Project Conformance with Application. Justification: California Water Code section 13264 prohibits any discharge that is not specifically authorized in the Order.

Inspection and Entry. Justification: Conditions related to site access requirements are authorized because they support the Water Boards' authority to investigate the quality of any waters of the state within its region under California Water Code section 13267. California Water Code section 13267(c) provides that "the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with."

Citation: California Water Code section 13267(c).

Attachment 4, No. 3. Standard Provisions – Permit Actions

Justification: Conditions regarding transfers are necessary to confirm that a new owner agrees to assume legal responsibility for compliance with the Order. The Order authorizes activities based on the information submitted in the application, including the legally responsible party. If a new owner does not agree to assume legal responsibility, then the original discharger remains responsible for compliance with this Order. Confirmation is also necessary to confirm whether liability for long-term best management practices maintenance is accepted by another entity. If not, the original discharger remains responsible for compliance with this Order.

Citation: California Water Code section 13264 prohibits any discharge that is not specifically authorized in the Order.

Attachment 4, No. 5. Standard Provisions – Reporting

Anticipated Non-compliance and 24-Hour Non-compliance Reporting.

Justification: These conditions are necessary to ensure that the San Diego Water Board knows when impacts to waters of the United States and/or State are occurring. In addition, notifications related to non-compliance are needed to ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible.

Citation: These notification and reporting conditions are authorized because the San Diego Water Board has the authority to investigate the quality of any waters of the State within its region under California Water Code sections 13267 and 13383.

II. I. Document Submittal.

Justification: These conditions are necessary to verify that the Project impacts to waters of the United States and/or State do not exceed those authorized under the Order and that any compensatory mitigation and/or restoration is sufficient to protect beneficial uses and water quality objectives. The reports document the progress of the project in replacing the function and services lost during temporary and/or permanent impacts.

Citation: These monitoring and reporting conditions are authorized because the Water Boards have the authority to investigate the quality of any waters of the state within its region under California Water Code sections 13267 and 13383.

ATTACHMENT 6 – Project Maps

1. Anchor QEA Dry Dock, Figure 1, Vicinity Map. Austal USA National City Facility.
2. Anchor QEA Dry Dock, Figure 2, Confined Disposal Facility, and Haul Route. Austal USA National City Facility.
3. Anchor QEA Dry Dock, Mole Pier CDF. Austal USA National City Facility.
4. Anchor QEA Dry Dock, Austal CDF. Austal USA National City Facility.
5. Anchor QEA Dry Dock, Figure 1, Dry Dock Design. Austal USA National City Facility.
6. Anchor QEA Dry Dock, Figure 3, Dredge Management Units and Sampling Locations. Austal USA National City Facility.
7. Triton Engineering, Inc. Floating Dry Dock Project, Bid Set Drawings, Austal USA, National City, Sheets 1-14.