



Central Coast Regional Water Quality Control Board

October 11, 2023

Randell Ishii
County of Monterey
Public Works Facilities and Parks
1441 Schilling Place
Salinas, CA 93901
Email: IshiiR@co.monterey.ca.us

VIA ELECTRONIC MAIL

Reg. Measure ID: 414011
Place ID: 836166
USACOE ID: 1996-19089

Dear Randell Ishii:

SIXTH AMENDMENT TO CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER FOR THE CARMEL RIVER LAGOON INTERIM SANDBAR MANAGEMENT PROJECT (CERTIFICATION NO. 32717WQ19)

The Central Coast Regional Water Quality Control Board is amending the November 3, 2017 Water Quality Certification No. 32717WQ19 (Certification) for the Carmel River Lagoon Interim Sandbar Management Project (Project) to extend the expiration date and remove the requirement for the inclusion of the Scenic Road Protective Structure (SRPS) plan in the Long-Term Project. The County may still submit the SRPS plan if desired, but it is no longer a requirement of the Certification. The Certification has been amended five times previously to extend the expiration date by one additional year. This amendment will extend the expiration date an additional year. Due to the annual fee required for this open certification, no additional fees are required for this amendment.

The amended language is shown in underline-strikeout format below. Only amended sections are shown. Conditions were renumbered accordingly.

E. *Site Specific Conditions*

1. *The Permittee shall expeditiously develop a long-term project for maximizing available aquatic habitat, protecting water quality and the beneficial uses of the lagoon, and reducing the potential for flooding near and surrounding the lagoon.*
2. *Mobilization of sandbar management equipment shall not begin until one or more of the following conditions occur:*
 - a. *The lagoon water surface elevation (WSE) reaches 12.77 feet North American Vertical Datum of 1988 (NAVD88);*
 - b. *Forecasts project that the lagoon WSE is likely to reach approximately 12.77 feet NAVD88 in less than 72 hours;*
 - c. *Carmel River flows reach or exceed approximately 200 cubic feet per second; or*
 - d. *NMFS determines that breach channel excavation may be necessary and mobilization may begin.*

JANE GRAY, CHAIR | RYAN E. LODGE, EXECUTIVE OFFICER

3. *Mechanical management of the lagoon sandbar, including channel excavation, is only permitted after the Permittee has contacted surrounding property owners and attempted to secure the right to implement other methods of flood protection for houses and infrastructure surrounding the lagoon, and if one of the following conditions occurs:*
 - a. *The lagoon WSE reaches approximately 13.27 feet NAVD88 or is likely to reach that level within 24 to 48 hours;*
 - b. *Carmel River flows or the rate of increase in WSE in the lagoon indicates less than six hours until the lagoon reaches a WSE of approximately 12.77 feet NAVD88;*
 - c. *Ocean and lagoon monitoring indicates wave overtopping would begin to rapidly increase the lagoon WSE as well as increase the sandbar elevation; or*
 - d. *NMFS determines excavation of a breach channel is authorized and provides the design and timing of the excavation channel construction.*
 4. *Mechanical excavation of the sandbar shall result in a channel that is at an elevation of approximately 12.77 feet NAVD88.*
 5. *If the excavation channel becomes compromised before a breach occurs, a crew on foot may re-establish the channel to 12.77 feet NAVD88 with hand tools.*
 6. *Prior to the breach channel construction, the Permittee shall post signs in the construction area advising the public against water contact recreation in the Ocean. The signs shall be posted at any time during or after breach channel construction when ocean water quality does not meet fecal indicator bacteria (FIB) standards identified in Monitoring Condition 1.c, based on monitoring conducted in accordance with Monitoring Condition 1.a. and b. If the Permittee has reason to conclude that FIB sampling is not necessary during or after breach channel construction the Permittee shall submit the reason to Central Coast Water Board staff for approval.*
 7. *No vehicular or heavy equipment shall work or travel in the lagoon or ocean water.*
 8. *The Permittee shall have biological monitors onsite during and after excavation of the channel, and during and after breaching and sandbar closures, to monitor the WSE and record fish endangerment or death. The biological monitors shall respond to any fish strandings or death pursuant to the conditions of the permits from resource agencies with authority over the Carmel Lagoon.*
 9. *Excavated sand shall be stockpiled near the excavated channel at a distance where it is not in danger of being washed away by the breach. If excessive scour is observed, the Permittee shall push stockpiled sand into the outlet channel to reduce further scour, or to close the sandbar, if deemed necessary in consultation with NMFS.*
 10. *Stockpiled sand shall also be available for dry season closure of the channel.*
 11. *The Permittee must manage the excavated channel in consultation with NMFS, which may include closure to maximize the volume of aquatic habitat in the dry season, up to a maximum lagoon level of 12.77 feet NAVD88. The Permittee shall consult with NMFS to determine:*
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- a. *The timing of sand management, and*
 - b. *Design of sand placement to create a lagoon closure and/or optimize lagoon WSE.*
12. *The minimum lagoon WSE shall be maintained at 8.77 feet NAVD88, or at a WSE determined in consultation with NMFS.*

F. General Compliance Conditions

1. *Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.*
2. *Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plan by the Central Coast Water Board or any applicable State Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.*
3. *In response to a suspected violation of any condition of this Order, the Central Coast Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring and reporting requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.*
4. *The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.*
5. *This Order and all of its conditions contained herein continue to have full force and effect until ~~October 31, 2023~~October 31, 2024. This Order expires ~~October 31, 2023~~October 31, 2024.*

I. Reporting, Notification, and Application Requirements

*The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment B, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment B, which must be signed by the Permittee or an authorized representative. All reports and notifications shall be submitted electronically to **RB3_401Reporting@waterboards.ca.gov**.*

1. *Project Reporting*
 - a. *Annual Reporting: The Permittee shall submit an Annual Report each year on May 31. Annual reporting shall continue until a Notice of Project Complete is issued to the Permittee.*

2. *Responses to EIR Comments and Application Submittal*
 - a. *By August 31, 2023~~2024~~, the Permittee shall submit either a complete application for a Long-Term Project (that includes at least the Interim Sandbar Management Plan (ISMP) and Scenic Road Protective Structure (SRPS)) or demonstration of a good faith effort toward studying, funding, and implementing the Long-Term Project and completing the Long-Term Project EIR.*
 - b. *Demonstration of a good faith effort must explain and document the Permittee's progress toward studying, funding, and implementing the Long-Term Project, identify the reason for the Long-Term Project delay, and shall include:*
 - i. *Submittal of Long-Term Project-related staff reports for the County Board of Supervisors (CBOS), the CBOS meeting minutes, and formal communications memorializing action toward a Long-Term Project;*
 - ii. *Demonstration that the Permittee has procured funding, or is actively seeking funding by (1) submitting timely grant proposals to potential funding sources that award grants for such projects, and (2) requesting annual budget funding from the CBOS;*
 - iii. *Description of progress made on approval of CEQA documentation; and*
 - iv. *If applicable, identification of any legal challenges against the proposed Long-Term Project that result in delays, and a schedule that identifies when the Permittee will address project issues identified by the legal challenge, including hearing dates.*
3. *Project Status Notifications*
 - a. *Commencement of Construction: The Permittee shall submit a Commencement of Construction Report at least seven days prior to start of initial ground disturbance activities.*
 - b. *Request for Notice of Project Complete: The Permittee shall submit a Request for Notice of Project Complete when all required construction, post-discharge, water quality, visual inspections, and photo monitoring are complete,¹ and no further Project activity is planned. This request shall be submitted to Central Coast Water Board staff within 30 days following completion of all Project activities. Upon approval of the request, the Central Coast Water Board staff will issue a Notice of Project Complete to the Permittee which will end the post discharge monitoring period and associated annual fees.*
4. *Conditional Notifications and Reports: The following notifications and reports are required as appropriate.*
 - a. *Accidental Discharges of Hazardous Materials²*

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):

 - i. *As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:*

¹ Completion of post-discharge monitoring shall be determined by Central Coast Water Board staff and shall be contingent on monitoring reporting that does not identify water quality problems or impacts to beneficial uses.

² "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

- *first call – 911 (to notify local response agency)*
 - *then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911*
 - *Lastly follow the required OES procedures as set forth in:*
http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf
- ii. *Following notification to OES, the Permittee shall notify Central Coast Water Board, as soon as practicable (ideally within 24 hours). Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.*
- iii. *Within five working days of notification to the Central Coast Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.*
- b. *Violation of Compliance with Water Quality Standards:*
The Permittee shall notify the Central Coast Water Board within 24 hours of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- i. *Examples of noncompliance events include: spills to a water of the state, monitoring results indicating an exceedance of water quality standards, discharges causing a visible plume in a water of the state, and excessive erosion in a water of the state.*
- ii. *This notification must be followed within three working days by submission of a Violation of Compliance with Water Quality Standards Report.*
- c. *Modifications to Project*
Project modifications may require an amendment of this Order. The Permittee shall give 14-day advance notice to Central Coast Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall give 14-day advance notice to Central Coast Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Proposed project modifications shall be described in a submitted Modifications to Project Report. The Permittee shall not implement modifications to the Project as it was described in the application materials without Central Coast Water Board staff approval and/or amendment of this Order.
- d. *Transfer of Property Ownership or Project Responsibility*
This Order is not transferable in its entirety or in part to any person or organization except after notice to the Central Coast Water Board in accordance with the following terms:
- i. *The Permittee must notify the Central Coast Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership or Project Responsibility Report. The Report must include a written agreement between the existing and new responsible party containing a specific date for the transfer of this Order's responsibility and coverage between the current responsible party and the new responsible party. This agreement shall include an acknowledgement that the existing responsible party is liable for compliance and violations up to the transfer date and that the new responsible party is liable from the transfer date on. The Permittee and purchaser must sign*

- and date the Report and provide the Report to the Central Coast Water Board at least 30 days prior to the transfer of ownership.*
- ii. *Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.*

All other aspects of the Project are to remain as originally proposed. These changes should not result in additional impacts to water quality, provided that the Permittee implements the required best management practices and complies with all conditions as described in Certification No. 32717WQ19, all amendments, and all related application and supplemental documents provided in support of the original application and amendment requests.

If you require further assistance, please contact Alia Ajina at (805) 542-4646 or via email at Alia.Ajina@waterboards.ca.gov, or Phil Hammer at (805) 549-3882. Please include the above certification file number in all future correspondence pertaining to this project.

Sincerely,

for
Ryan E. Lodge
Executive Officer
Central Coast Regional Water Quality Control Board

cc:

Shandy Carroll, County of Monterey: CarrollS@co.monterey.ca.us

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