California Regional Water Quality Control Board
San Francisco Bay Region

Linda S. Adams
Secretary for
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Arnold Schwarzenegger
Governor

May 12, 2008
File No: 2198.11 (bkw)
Site No: 02-01-C0986
ACOE File No: 2008-00146S

Cargill, Incorporated
Attn: Mr. Patrick D. Mapelli
720 Central Avenue
Newark, CA 94560

Subject: Water Quality Certification for Maintenance Activities and System Improvements to be Conducted through September of 2008 at the Cargill Solar Salt Systems in Alameda and San Mateo Counties.

Dear Mr. Mapelli:

Regional Water Quality Control Board (Water Board) staff have reviewed materials submitted by Cargill, Incorporated (the Applicant) in application for water quality certification for the Applicant's project to perform routine maintenance activities and system improvement work through September of 2008 at Cargill's Solar Salt Systems in Alameda and San Mateo Counties. On April 17, 2007, the Applicant was informed by the United States Army Corps of Engineers (ACOE) that the Project was authorized under Nationwide Permit No. 3 (*Maintenance*) and No. 18 (*Minor Discharge*), pursuant to Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act of 1899. You have applied to the Water Board for Clean Water Act Section 401 water quality certification that the Project will not violate State water quality standards.

Project Description: The following Project description is from application materials received on April 18 and April 24, 2008. The Project goal is to perform routine maintenance activities and system improvement work through September of 2008 at Cargill's Solar Salt Systems in Alameda and San Mateo Counties. Work will be performed in Cargill's Newark Plants 1 and 2, Redwood City Plant, and Pond 3C of the Baumberg Complex. All work will occur within the salt ponds during this period.

Alviso Pond System (A22 – A23): The Alviso ponds are now operated and managed by the staff of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge). Ponds A22 and A23 are the only two ponds left in the Alviso Salt Pond Complex under Cargill's operational control. Cargill will work on the cross levee between Ponds A22 and A23 in 2008. Ponds A22 and A23 have been part of the refuge since 1979. Full fee ownership was transferred to the Federal Government in March of 2003.

The Refuge staff has requested that Cargill's dredge, the Mallard, be scheduled for a return to their Alviso Pond Complex in September/October 2008 for routine levee maintenance. If that

work is scheduled, it will be reported in conjunction with the Refuge's Maintenance Report and performed under the Refuge's Maintenance Permit.

Baumberg – Pond 3C: Baumberg Pond 3C remains in the ownership of Cargill and is not part of the South Bay Salt Pond Restoration Project. At present, since ponds in the Baumberg Complex cannot be operated independently of Pond 3C, the California Department of Fish and Game (CDFG) is still operating Pond 3C with the rest of the ponds in the complex. On behalf of the CDFG, Cargill will install infrastructure to allow CDFG to operate this pond complex without the need for Cargill's Pond 3C. Routine levee maintenance will also be performed at Pond 3C.

Redwood City Pond System/West Bay Ponds: The West Bay Ponds on the northwestern end of the Dumbarton Bridge were conveyed to the Federal Government in 2003. Cargill has continued to operate and maintain these ponds upon the request of the Federal Government, but Cargill plans to transfer these responsibilities in the near future. Routine levee maintenance will be performed at this system. Pond SF2, located southeast of the Dumbarton Bridge and part of the West Bay Ponds, was transferred to the Federal Government on June 25, 2007. Cargill retained approximately 2 acres of this 254-acre pond for operations and maintenance purposes of the Transbay Pipeline. A donut levee was recently constructed within the pond to segregate this 2-acre section from the remaining pond. This newly constructed levee will require additional build up after the muds have cured. This work will be performed with land-based equipment.

Redwood City Plant Site: Routine levee maintenance at the plant site will occur during this time frame.

Newark Plant 1:
Levee maintenance and other routine activities will occur in Plant 1 during this time frame. Significant tasks in Plant 1 are:

1. The Mallard, Cargill's dredge, is currently in this pond system performing routine levee maintenance. Mud is being dredged from within the pond and placed on top of levees or the inside toe/beach of levees as needed. No work is taking place outside of the salt pond system.
2. Repair/replace thirty-six inch diameter pipe and gate between Ponds 2 and 3.
3. Repair/replace thirty-six inch diameter pipe and gate between Ponds 3A and 4A.

Newark Plant 2:
Levee maintenance and other routine activities will occur in Plant 2 during this time frame. Significant tasks in Plant 2 are:

1. Repair/replace thirty-six inch diameter pipe and gate between Ponds 2 and 3.
2. Plug old siphon between Ponds 5 and 6 with earthen plugs.

Impacts: The Project will have minimal impacts to waters of the State, since all Project activities are restricted to the interiors of the salt ponds and the majority of the fill placed to maintain the levees and associated infrastructure will be placed above the brine line. The impacts for each of the proposed tasks in the Project are summarized in Attachment 1 to this certification.

Mitigation: The present certification extends authorization to perform maintenance activities that were authorized initially by the Water Board in May of 1995, in Regional Board Resolution No. 95-115. Mitigation required in prior certifications is considered sufficient to mitigate the impacts of extending certification for the period from April 2008 through September 2008. Therefore, no additional mitigation is required for the present certification. Future mitigation for ongoing maintenance activities will be addressed when certification is made for the new ACOE permit for maintenance activities at Cargill's Solar Salt Systems. The new ACOE maintenance permit is anticipated to be issued in 2009.

CEQA Compliance: The Cargill Solar Salt System Maintenance Project was previously certified under the California Environmental Quality Act (CEQA) with the preparation of the *Final Environmental Assessment* (SCH # 94023030) by the San Francisco Bay Conservation and Development Commission (BCDC), which was associated with BCDC Major Permit 4-93. On February 21, 2008, BCDC issued an extension of Major Permit 4-93 to the Applicant, authorizing ongoing maintenance activities until February 15, 2009. By issuing an extension of Major Permit 4-93, BCDC also extended the approval of the previously prepared Environmental Assessment for the Project. In addition, the maintenance activities authorized by the present certification are categorically exempt from CEQA under Section 15304, Category G, Minor Modifications to Land.

Certification and General Waste Discharge Requirements: I hereby issue an order certifying that any discharge from the referenced Project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification. The following conditions are associated with this certification:

1. No debris, rubbish, creosote-treated wood, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into waters of the State. Any of these materials placed within or where they may enter waters of the State by the Applicant or any party working under contract, or with the permission of the Applicant shall be removed immediately. When construction is completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State. During construction, the contractor shall not dump any litter or construction debris within the riparian/stream zone. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site;
2. The Applicant shall adhere to the conditions of the CWA Section 404 Nationwide Permit No. 3 (*Maintenance*), and No. 18 (*Minor Discharge*) issued by the ACOE (File No. 2008-00146S);

3. The Applicant shall adhere to the Terms and Conditions and the Reasonable and Prudent Measures in the Biological Opinion, Endangered Species Formal Consultation on Cargill Salt Division Solar Salt Production Activities, South San Francisco Bay, San Mateo, Alameda, and Santa Clara County, California, issued for the Project by the U.S. Fish and Wildlife Service (USFWS) (Reference No. 1-1-95-F-47);
4. The Applicant shall adhere to the Essential Fish Habitat (EFH) Conservation Recommendations in the Programmatic Consultation provided by the National Marine Fisheries Service (NOAA Fisheries) on December 21, 2007, pursuant to the EFH provisions of the Magnuson-Stevens Fishery Conservation Management Act for eight categories of actions regularly permitted by the ACOE (Reference No. 2007/07472:KAS);
5. The Applicant shall perform the maintenance and system improvement work as described in *Cargill Salt's Maintenance Work Plan Report, 2007- 2008* (Cargill Salt, April 2007);
6. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code (CWC) and Section 3867 of Title 23 of the California Code of Regulations (23 CCR);
7. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and,
8. Certification is conditioned upon total payment of the full fee required in State regulations (23 CCR Section 3833). Payment in full was received on May April 28, 2008.

Please be aware that any violation of water quality certification conditions is a violation of State law and subject to administrative civil liability pursuant to California Water Code (CWC) Section 13350. Failure to meet any condition of a certification may subject the Applicant to civil liability imposed by the Water Board to a maximum of $5,000 per day of violation or $10 for each gallon of waste discharged in violation of this action. Any request for a report made as a condition to this action is a formal request pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requested report, is subject to civil liability as described in CWC Section 13268. Should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue individual Waste Discharge Requirements.

Please contact Brian Wines of my staff at (510) 622-5680 or bwines@waterboards.ca.gov if you have any questions. All future correspondence regarding this Project should reference the Site Number indicated at the top of this letter.

Sincerely,

Shin-Roei Lee acting for

Bruce H. Wolfe
Executive Officer

Attachment 1

cc: SWRCB-DWQ, Bill Orme
USACE, San Francisco District, Attn: Attn: Regulatory Branch, Regulatory Branch, 1455 Market Street, San Francisco, CA 94103–1398 (ACOE File No: 2008-00146S)
USFWS, 2800 Cottage Way, Sacramento, CA 95825
U.S. EPA, David Smith, WTR-8.

Attachment 1

Cargill Salt Work Plan April 2008 – September 2008