

CALIFORNIA COASTAL COMMISSION

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

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Commission Action:



W14a

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-03-151

APPLICANTS: Santa Catalina Island Co. & Santa Catalina Island Conservancy

AGENT: Michael B. Whitby, Director of Real Estate Planning

PROJECT LOCATIONS: Santa Catalina Island, four sites: 1) White's Landing, 2) Emerald Bay, 3) Isthmus Cove, and 4) Catalina Harbor; County of Los Angeles.

PROJECT DESCRIPTION: Install 32 new moorings within four existing mooring areas, increasing the total number of moorings to 752 (720 of which are revenue producing).

SUBSTANTIVE FILE DOCUMENTS:

1. Los Angeles County Santa Catalina Island certified Local Coastal Program (LCP).
2. California Regional Water Quality Control Board Section 401 Certification, File No. 04-114, 9/14/2004.
3. California Dept. of Fish & Game Comment Letter for Mooring Project PRC 3639.1, 8/10/2004 (Exhibit #6).
4. California State Lands Commission Amended Lease No. 3639.1 (Exhibit #5).
5. U.S. Army Corps of Engineers Permit Application, Project Nos. 2003-00850-JLB through 2003-00860-JLB.
6. Biological Survey for Proposed New Moorings at Santa Catalina Island, by Dr. Kathy Ann Miller, 4/19/2004 (Exhibit #7).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending **APPROVAL** of the coastal development permit with special conditions relating to the protection of sensitive marine habitat and water quality. The recommended special conditions require the applicants to provide a pre-construction eelgrass and *Caulerpa taxifolia* survey prior to issuance of the permit. The applicants do not agree with these "prior to issuance" conditions because they would cause a delay in the installation of the proposed moorings. The applicants hope to install the proposed moorings in early 2006. **See Page Two for the motion and resolution necessary to carry out the staff recommendation.**

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 5-03-151 per the staff recommendation."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Permit Compliance

The permitted use of the approved development is for boating-related uses only. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

2. Construction Responsibilities

By acceptance of this permit, the applicants agree that the permitted development shall be conducted in a manner that protects water quality and marine habitat pursuant to the implementation of the following BMPs.

- A. In order to avoid rocky substrate, eelgrass beds and other sensitive marine resources, each concrete block for the new moorings shall be placed carefully by divers and in the presence of a biologist.
- B. The approved development shall be installed only during daylight hours.
- C. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- D. Staging and storage of construction machinery and storage of debris shall not take place on the beach.
- E. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
- F. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
- G. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- H. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- I. At the end of the construction period, the permittees shall inspect the project area and ensure that no debris, trash or construction material has been left on the beach or in the water, and that the project has not created any hazard to navigation.

3. Caulerpa Taxifolia Pre-Construction Survey

- A. No earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicants shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.

- C. Within five business days of completion of the survey, the applicants shall submit the survey for the review and approval of the Executive Director; and, to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicants shall not proceed with the project until 1) the applicants provide evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicants have revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Eelgrass Survey

- A. Pre Construction Eelgrass Survey. Prior to commencement of any development authorized under this coastal development permit, a valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.
- B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in Section A of this condition above, within one month after the conclusion of construction, the applicants shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation

Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

5. Best Management Practices (BMP) Program

By acceptance of this permit, the applicants agree that the long-term water-borne berthing of boat(s) in the approved moorings will be managed in a manner that protects water quality and habitat pursuant to the implementation of the following BMPs.

A. Boat Cleaning and Maintenance Measures:

1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.
3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

B. Solid and Liquid Waste Management Measures:

All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.

C. Petroleum Control Management Measures:

Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicants shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Bilges shall be cleaned and maintained. The use of detergents or soaps that can be discharged by bilge pumps is prohibited.

D. Nighttime lighting in the mooring areas shall be limited to only the illumination necessary for navigational safety

6. Resource Agencies

The permittees shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the installation of 32 new moorings within four existing mooring areas on Santa Catalina Island (Exhibit #3). The four project locations are: 1) White's Cove/Landing (two new moorings), 2) Emerald Bay (two new moorings), 3) Isthmus Cove (eight new moorings), and 4) Catalina Harbor (twenty new moorings). The proposed project would increase the total number of the applicants' moorings around the island from 720 to 752. The State Lands Commission leases all of the Santa Catalina Island submerged lands (except Avalon Bay) jointly to the applicants: the Santa Catalina Island Company and the Santa Catalina Island Conservancy. On October 20, 2005, the State Lands Commission approved an amendment to the applicants' lease allowing the installation of the 32 proposed additional moorings (Exhibit #5).

Of the 752 total moorings, 720 would be revenue producing moorings and 32 would be non-revenue producing moorings. The 32 non-revenue producing moorings would be used by the County of Los Angeles Sheriff Department and the employees of Two Harbors Enterprises, Inc., the entity that maintains, patrols and manages the moorings on behalf of the Santa Catalina Island Company and the Santa Catalina Island Conservancy. Of the 720 revenue-producing moorings, 708 would be subleased to individuals on an annual basis and twelve moorings (at Isthmus Cove) would be rented to the general public on a daily basis. The 708 annually subleased moorings are also rented to the general public on a daily basis when the moorings are not being used by the sublessee.

The fees charged by the applicants for use of the moorings are:

TRANSIENT DAILY USE RATES

<u>MOORING SIZE</u>	<u>2005</u>	<u>2006</u>
Stringlines	\$19.00	\$20.00
0-30 ft.	\$21.00	\$22.00
31-40 ft.	\$24.90	\$25.00
41-50 ft.	\$30.00	\$32.00
51-60 ft.	\$36.00	\$38.00
61-70 ft.	\$44.00	\$47.00

71-80 ft.	\$53.00	\$56.00
81-90 ft.	\$64.00	\$68.00
91-100 ft.	\$74.00	\$79.00
over 100 ft.	\$85.00	\$90.00

MOORING SUBLEASE RATES

Per Deckline Foot Per Year	\$39.15	\$41.58
Stringline Seasonal Rate (Memorial Weekend to Sept. 30)	\$458.23	\$486.64

The installation of each proposed mooring involves the placement of two one-ton concrete blocks (bow weight and stern weight) on the ocean floor, to which each end of a vessel can be secured by a chain (Exhibit #4). The concrete blocks, each about 4' x 4', are lowered into the ocean by hoist from a mooring service vessel, then set on the sea bottom with guidance by underwater divers. Each mooring includes a small buoy that identifies the number and location of the mooring.

Dr. Kathy Ann Miller inspected the project areas in October 2003 and prepared a biological survey that concludes that the proposed project would not adversely affect sensitive marine resources (Exhibit #7). The proposed project has also been reviewed by several state and national government agencies, including the United States Coast Guard. The California Department of Fish and Game has reviewed the proposed project, which includes the implementation of best management practices (e.g., supervision by a biologist and re-siting of moorings away from sensitive resources), and has determined that the proposed project would not have a significant adverse effect on marine resources (Exhibit #6). In addition, the California Regional Water Quality Control Board has issued a Section 401 Certification (File No. 04-114), and the U.S. Army Corps of Engineers has granted the project a preliminary approval (Project Nos. 2003-00850-JLB through 2003-00860-JLB).

The proposed project would not affect any of the free anchorage areas available in various coves around the island. Existing sewage pump-out facilities for vessels are provided at Avalon and Catalina Harbor. A new pump-out facility is being installed this year at the Isthmus Pier (June 2006, See Coastal Development Permit 5-04-019).

B. Marine Resources

The Coastal Act contains policies that address development in or near coastal waters. The proposed development is located in the coastal waters of four coves of Catalina Island (See Exhibits). The standard of review development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following marine resource policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation and marine resources.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a

manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act, which protects sensitive habitat areas, states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The proposed project involves the placement of 64 one-ton concrete blocks on the ocean floor (two for each mooring) to anchor the vessels at the 32 proposed new moorings (Exhibit #4). The applicants have carefully sited the proposed new moorings and have proposed mitigation measures in order to avoid adversely impacting any marine resources. Dr. Kathy Ann Miller inspected the project areas and prepared a biological survey that is attached to this report as Exhibit #7. The California Department of Fish and Game (DFG) has also reviewed the proposed project and issued a comment letter that is attached to this report as Exhibit #6.

According to the biological survey prepared by Dr. Kathy Ann Miller, five originally proposed mooring sites have been re-sited in order to avoid impacts to an existing eelgrass bed in Catalina Harbor. Eelgrass (*Zostera marina*) is a sensitive marine resource protected by the Coastal Act (see below). The applicant asserts that no eelgrass beds will be affected by the proposed project. The biological survey found no abalone or natural hard bottom substrates within the mooring fields, although three of the proposed moorings in Isthmus Cove will need to be placed carefully by divers in order to avoid the rocky substrate that abuts the eastern edge of the existing mooring area. Dr. Kathy Ann Miller has concluded that the 32 currently proposed mooring sites do not harbor sensitive marine resources and that the proposed installation of the new moorings would be significantly less harmful than the current practice of anchoring in those locations (Exhibit #7, p.2).

The DFG's comments regarding the proposed project are contained in a letter dated August 10, 2004 (Exhibit #6). The DFG has concluded that the proposed project will not impact eelgrass or rocky substrate, but recommends that a biologist be present during the placement of the eight proposed new moorings in Isthmus Cove. The DFG also recommends that noise

and nighttime lighting be limited at Catalina Harbor in order to minimize disturbance of nearby habitat of Xantus's murrelets (*Synthliboramphus hypoleucus*), a species in the process of being listed as a threatened species under the California Endangered Species Act.

1. Construction Impacts to Water Quality and Habitat

The Commission recognizes that chemical pollution and siltation adversely affect water quality, biological productivity and coastal recreation. The proposed work is located within coastal waters that supports both sensitive species and recreational activities. Therefore, it is important that the work be performed in a manner that avoids or minimizes adverse impacts to water quality and marine resources. In order to minimize adverse construction impacts, the Commission imposes **Special Condition Two** to require the implementation of best management practices and the presence of divers and a biologist during the placement of the proposed mooring weights on the ocean floor. Construction is only permitted during daylight hours in order to minimize disturbance of the adjacent sensitive habitat areas. The condition also requires the proper storage of construction materials and the recovery of any non-buoyant debris by divers as soon as possible after loss. Only as conditioned to protect the marine habitat from adverse construction impacts does the proposed project comply with the marine resource and sensitive habitat provisions of the Coastal Act.

2. Post Construction Water Quality and Habitat Protection Plan

The Coastal Act requirements to protect the biological productivity and quality of coastal waters do not end after the proposed project is constructed. The proposed development must also be maintained in a manner that sustains water quality and marine habitat. In order to reduce water pollution in the project sites that may result from day-to-day boating activities, and to protect adjacent sensitive habitat areas from adverse impacts caused by nighttime lighting, the Commission imposes **Special Condition Five** requiring the applicant to implement a water quality management plan for daily boating operations and to restrict nighttime lighting to only that necessary for navigational safety. The water quality management provisions addresses the cleaning, fueling, lubricating and maintenance of vessels in the water and complies with the Commission's water quality requirements marina development. Only as conditioned to protect the marine habitat from adverse water quality and lighting impacts does the proposed project comply with the marine resource and sensitive habitat provisions of the Coastal Act.

3. Sensitive Species Impacts – Toxic Algae

A non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), has been discovered in parts of Southern California. *C. taxifolia* is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean Sea. From an initial infestation of about one square yard it grew to cover about two acres by 1989, and by 1997, blanketed about ten thousand acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean Sea, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 feet depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean Sea has had serious negative economic and social

consequences because of impacts to tourism, recreational diving and the commercial fishing industry.

Because of the grave risk to native habitats *C. taxifolia* was designated a prohibited species in the United States in 1999 under the Federal Noxious Weed Act. In 2001, AB 1334 made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations may occur. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer Southern California habitats are most vulnerable, until better information is available, it must be assumed that all shallow water marine habitats in California are at risk of infestation.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several State, federal, local and private entities. The goal of SCCAT is to locate and completely eradicate all *C. taxifolia* infestations.

So far, *C. taxifolia* has not been found anywhere in the Catalina Island area. However, to ensure that *C. taxifolia* is not present in the project areas before the permitted project commences, **Special Condition Three** requires the applicants to survey the project area for *C. taxifolia* no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit. Only as conditioned does the Commission find that the proposed project conforms with the marine resource and sensitive habitat provisions of the Coastal Act.

4. Sensitive Species Impacts – Eelgrass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (DFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

The four project sites were surveyed for eelgrass in October 2003 and eelgrass beds were found within Catalina Harbor (Exhibit #7, p.5). Five originally proposed mooring sites have been re-sited in order to avoid impacts to the existing eelgrass bed in Catalina Harbor. Therefore, the proposed project is not expected to adversely impact any eelgrass beds. However, eelgrass may have grown within the project area between the time the survey was conducted in 2003 and commencement of construction. In order to ensure that the development does not impact any eelgrass beds, the Commission requires the applicant to

conduct another eelgrass survey before the work commences and during the active growth phase for the vegetation that occurs March through October. Therefore, **Special Condition Four** require the applicants to survey the project sites again during the active growth phase no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit. If any eelgrass is found that would be impacted by the proposed project, the applicants are required to apply for an amendment to this coastal development permit. If eelgrass is present in the project area, adverse impacts from the proposed project could result and measures to avoid or minimize such potential impacts must be in place in order for the project to conform with the Southern California Eelgrass Mitigation Policy and Section 30230 of the Coastal Act. Only as conditioned does the Commission find that the proposed project conforms with the marine resource and sensitive habitat provisions of the Coastal Act.

5. Fill of Coastal Waters

The proposed project includes the placement of 64 one-ton concrete blocks on the ocean floor (two for each mooring) to anchor vessels in the mooring areas (Exhibit #4). The proposed concrete blocks constitute fill in coastal waters. Section 30233(a) of the Coastal Act addresses fill of open coastal waters as follows:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

Section 30233(a) of the Coastal Act limits the fill of open coastal water to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative. The fill for the proposed moorings is consistent with the requirements of Section 30233 (a), as follows:

Allowable Use - Section 30233(a)(4) of the Coastal Act allows fill of open coastal waters for new or expanded boating facilities that provide public access and recreational opportunities. The proposed project (new moorings for recreational boating) provides public access and recreational opportunities, and constitutes an allowable use under Section 30233(a)(4).

Least Environmentally Damaging Alternative - The project sites are currently used for anchoring vessels. Repeated dropping, lifting and dragging of anchors on the seafloor disturbs and damages the bottom habitat. The proposed project is the least environmentally damaging alternative because the new moorings will eliminate disturbance of the bottom habitat caused by the repeated anchoring. The proposed concrete blocks are stable, non-destructive to marine life (post-placement), and provide a hard surface for colonization by marine organisms. The proposed concrete blocks are the minimum size and amount necessary to safely secure the vessels against the tides and currents. Thus, the amount of fill needed to support the

proposed allowable use is minimized. Also, as conditioned, the concrete blocks will be carefully installed by divers in the presence of a biologist to minimize disturbance of the sea bottom, and the installation of the moorings shall occur only during daylight hours to avoid adverse impacts to adjacent marine habitat caused by nighttime lighting. Therefore, as conditioned, the proposed project is the least environmentally damaging alternative.

Adequate Mitigation - Section 30233 also requires that any project which results in fill of open coastal waters shall also provide adequate mitigation. Placement of the proposed concrete blocks in conjunction with the proposed project will replace some mud and sandy bottom habitat with hard substrate on which many types of marine organisms can thrive. The concrete blocks will provide new habitat area for marine organisms such as mussels, barnacles, limpets, littorine snails, red and brown seaweed, surfgrass, anemones, and polychaetes. Eelgrass beds, which grow on sandy bottom, will be avoided and will not be affected by the proposed project. Thus, adequate mitigation is provided by the proposed project in that the loss of mud and sandy bottom habitat is offset by the fact that the concrete blocks will provide new hard bottom habitat for marine organisms.

For the reasons discussed above, the Commission finds that the project, as conditioned, is consistent with Section 30233 of the Coastal Act.

In addition, **Special Condition Six** requires the permittees to comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Only as conditioned will the proposed project ensure that marine resources and water quality be protected as required by Sections 30230 and 30231 of the Coastal Act. The Commission also finds that the project, as conditioned, is consistent with Section 30240 of the Coastal Act because the proposed development has been sited and designed to prevent impacts which would significantly degrade sensitive habitat areas, and will be compatible with the continuance of such habitat areas.

C. Recreation and Public Access

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project, as conditioned, will conform with the following Coastal Act policies that protect and encourage public access and recreational use of coastal areas.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

As stated in the above public access policies, the Coastal Act requires that maximum access and recreational opportunities be provided for all people. The Coastal Act also protects the public's right to access the sea and encourages the development of recreational facilities.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30224 of the Coastal Act states that recreational boating activities should be encouraged. Section 30234 of the Coastal Act states that recreational boating facilities shall be protected and upgraded. The proposed project, located within coastal waters and also between the nearest public road and the sea, involves the expansion of recreational boating facilities. As proposed, 32 new moorings will be installed in four coves around Catalina Island (Exhibit #3).

The proposed project would increase the total number of the applicants' moorings around the island from 720 to 752. Of the 752 total moorings, 720 would be revenue producing moorings and 32 would be non-revenue producing moorings. The 32 non-revenue producing moorings would be used by the County of Los Angeles Sheriff Department and the employees of Two Harbors Enterprises, Inc. Two Harbors Enterprises, Inc. is the entity that maintains, patrols and manages the moorings on behalf of the applicants. Of the 720 revenue-producing moorings, 708 would be subleased to individuals on an annual basis and twelve moorings (at Isthmus Cove) would be rented to the general public on a daily basis. The 708 annually

subleased moorings are also rented to the general public on a daily basis when the moorings are not being used by the sublessee. The proposed project does not include any proposed change to the method of leasing.

The State Lands Commission leases all of the Santa Catalina Island submerged lands (except Avalon Bay) jointly to the applicants: the Santa Catalina Island Company and the Santa Catalina Island Conservancy. The applicants' amended State Lands Commission lease, attached to this report as Exhibit #5, shows where the applicants' existing mooring fields are located and where the free/open anchorages are located within each cove (Exhibit #5, ps.4-11). The 32 currently proposed moorings will not displace any free anchorage areas as they are all proposed within four existing mooring fields.

Two letters of opposition have been received that raise public access concerns (Exhibits #8&11). The letter from Mark Nelson dated November 22, 2004 asserts that the proposed moorings (and others) displace sheltered anchorages and that the fees charged for using the moorings are unfair. The State Lands Commission and the Catalina Island Harbor Department (on behalf of the applicants) have rebutted Mr. Nelson's claims (Exhibits #9&10). The State Lands Commission letter dated February 25, 2005 states that the 32 proposed new moorings will not impact existing free anchorage areas, and describes the operation of the moorings and open anchorage areas that the applicants must provide around the island under the terms of its amended State Lands lease (Exhibit #9). The letter from the Catalina Island Harbor Department (December 7, 2004) also states that there is adequate free anchorage available around the island and that the 32 currently proposed moorings will not displace any free anchorage areas as they are all proposed within four existing mooring fields. The fees charged for use of the moorings have been reviewed and approved by the State Lands commission and are not subject to Coastal Commission approval.

The letter from Craig Reynolds of the Balboa Yacht Club dated December 22, 2005 asserts that access to White's Cove is being restricted by the imposition of new rules regarding nighttime anchoring (Exhibit #11). The applicants have explained that overnight anchoring in part of White's Cove has been abolished by State Lands Commission action as part of the October 20, 2005 lease amendment, but that the 32 proposed new moorings are a completely separate matter. The restriction on overnight anchoring in part of White's Cove is a navigational issue and is not the result of the two new proposed moorings in White's Cove (Exhibit #3, p.2). The applicants will continue to allow daytime anchoring in the White's Cove area that the Balboa Yacht Club is concerned about.

In conclusion, the Commission finds that the 32 currently proposed moorings will not displace any free anchorage areas and will not adversely affect public access and recreation. The public currently will continue to be able to access to the four project sites, although the use of the existing and proposed moorings is limited to those who have permission to use the applicants' moorings. The proposed project will not interfere with public access along the shoreline, as no work is proposed on land. The proposed development will improve recreational boating opportunities and public access. Therefore, the proposed project is consistent with the public access and recreation policies of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Section 30251 of the Coastal Act requires that the scenic and visual resources of coastal areas be considered and protected as a resource of public importance. In addition, public views to and along the ocean and scenic coastal areas shall be protected. The proposed development involves the placement of weights (concrete blocks) underwater and buoys that floats on the surface within four existing mooring fields (Exhibit #4). The proposed project will not have any adverse impacts on public views from sea or from the shoreline. Therefore, the proposed project is consistent with Section 30251 of the Coastal Act.

E. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require a) avoidance of sensitive habitat; b) implementation of construction responsibilities; and, c) conformance with post-construction best management practices. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act. A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The County of Los Angeles certified LCP for Santa Catalina Island is advisory in nature and may provide guidance. The Commission certified the Los Angeles County LCP for

Santa Catalina Island on January 9, 1990. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.