

CALIFORNIA COASTAL COMMISSION

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Staff: Fernie Sy-LB
Staff Report: December 21, 2006
Hearing Date: January 10-12, 2007
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-06-225

APPLICANTS: Channel Reef Community Association & City of Newport Beach

AGENT: Mark Sites

PROJECT LOCATION: 2525 Ocean Boulevard, China Cove Beach, Corona Del Mar Beach, and Ruby Avenue Beach; City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Dredge the Channel Reef Community Association Marina to remove 7,000 cubic yards of sand and temporarily pump it to a sand-berm dewatering pit at China Cove Beach. The sand will then be distributed to two different sites for beach nourishment: 1) Ruby Avenue Beach (1,500 cubic yards) and 2) Corona Del Mar State Beach (5,500 cubic yards).

SUMMARY OF STAFF RECOMMENDATION:

This coastal development permit is only for the deposition of suitable dredged material for beach nourishment. The actual dredging activity, although regulated by the U.S. Army Corps of Engineers (USACOE) and the Regional Water Quality Control Board (RWQCB), is exempt from coastal development permit requirements because it is required for the maintenance of existing navigational channels, pursuant to Section 30610(c) of the Coastal Act. Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

The major issues before the Commission relate to fill of coastal waters, impacts to water quality, marine environment, public access and hazards associated with the proposed project. Staff is recommending **APPROVAL** of the proposed project subject to **SEVEN (7) SPECIAL CONDITIONS** requiring: **1)** dredge spoil compatibility; **2)** eelgrass surveys; **3)** *Caulerpa taxifolia* surveys; **4)** submittal of USACOE and other state or federal discretionary permits; **5)** submittal of an operations staging plan; **6)** timing of construction limitation; and **7)** acknowledgment of risk.

LOCAL APPROVALS RECEIVED: Approval in Concept from the City of Newport Beach Harbor Resources Department dated May 11, 2006; and Regional Water Quality Control Board (RWQCB) Clean Water Act Section 401 Water Quality Standards Certification dated July 20, 2006.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Findings of approval for Coastal Development Permit No. 5-06-117 and Federal Consistency Certification CC-031-06; Coastal Development Permit No. A5-5IRC-99-301; Letter from Commission staff to Mark Sites dated July 7, 2006; Letter from Mark Sites to Commission staff dated July 18, 2006; and *Physical Sediment Testing Results* by MBC Applied Environmental Sciences dated May 17, 2006.

STAFF NOTE:

The proposed project was originally scheduled for the December 2006 Coastal Commission Hearing. However, the project was removed from that hearing in order for the applicants to have time to deal with concerns raised by opponents to the proposed project. On December 1, 2006, a letter (Exhibit #4) from Warren James was received regarding the proposed project. He and other residents living near China Cove Beach were opposing the proposed project because they were against the number of truck haulings that would be required for the proposed project and they also felt that nourishment should also be taking place at China Cove Beach and not just at Ruby Avenue Beach and Corona Del Mat State Beach. In addition, they proposed what they thought were adequate ways to deal with their concerns. The concerns of these opponents were previously raised in a meeting between the applicants and the opponents. At that meeting, the City provided some ways to deal with these issues (Exhibit # 5). For instance, the City stated that nourishment would occur at a later time at China Cove Beach in association with RGP-54 and they also proposed ways in order to lessen the disturbance caused by the truck hauling. Unfortunately, the proposals by the City did not rectify any of the opponents concerns and they made this known by sending letters to the agent (Exhibit #6) and to the City (Exhibit #7). In regards to the letter submitted by the opponents on December 1, 2006, Commission staff requested that the applicants respond to their concerns. In response, the applicants submitted a letter on December 5, 2006 (Exhibit #8). Since the December 2006 hearing, letters of support have also been received (Exhibit #9). The issues raised by the opponents have not changed Commission staff's analysis of the proposed project. The truck hauling of sand would cause a short term impact, but would result in the benefit of beach nourishment. While the opponents claim that beach nourishment is needed at China Cove Beach, Ruby Avenue Beach is presently a very narrow beach and needs the beach nourishment. In addition, beach nourishment at Corona Del Mar State Beach would be for the sand replenishment in the Crystal Cove Littoral Subcell, which would benefit a number of areas. As conditioned, the proposed project would be consistent with the Coastal Act.

LIST OF EXHIBITS

1. Vicinity Maps
 2. Site Plan
 3. Profiles
 4. Opponent letter received December 1, 2006
 5. Letter from the City of Newport Beach Harbor Resources Division regarding opponent concerns
 6. Letter to applicants' agent from opponents dated November 25, 2006
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7. Letter to City of Newport Beach Harbor Resources Division from opponents dated December 6, 2006
 8. Letter from agent responding to opponent's December 1, 2006 letter
 9. Letters of support
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I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-06-225 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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.

RESOLUTION TO APPROVE THE PERMIT:

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. 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 CONDTIONS

1. **DREDGE SPOIL COMPATIBILITY**

- A. The beach nourishment material shall meet all applicable federal and state beach nourishment or dredge spoil discharge requirements and comply with the grain size requirements for the locations as cited below.
- B. The beach nourishment material meeting Environmental Protection Agency (EPA) and Regional Water Quality Control Board (RWQCB) criteria and the following criteria for beach replenishment may be deposited as beach nourishment in accordance with project plans: Material utilized for beach nourishment shall have a sand content that is either i) greater than 80% sand; or ii) at least 75% sand and within 10% of the sand content of the receiver beach. Any material that meets the requirements outlined above for beach nourishment and consists of less than 80% sand shall only be placed upon submerged beach areas (i.e. below the water line).
- C. The beach nourishment material that does not meet the physical or chemical standards for beach replenishment shall not be discharged at the site. At such time, the applicants shall identify an alternate location suitable to accept contaminated sediment. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

2. **EELGRASS SURVEYS**

- A. **Pre Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey at the Channel Reef Community Association Marina and Ruby Avenue Beach 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 areas, 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 areas by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicants shall survey the project

sites 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 applicants 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 legally required.

3. PRE-CONSTRUCTION CAULERPA TAXIFOLIA SURVEY

- A.** Not earlier than 90 days nor later than 30 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 areas (the Channel Reef Community Association Marina and Ruby Avenue Beach) and a buffer area at least 10 meters beyond the project areas to determine the presence of the invasive alga *Caulerpa taxifolia*. The surveys 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 (5) business days of completion of the survey, the applicants shall submit the survey:
 - (1) for the review and approval of the Executive Director; and
 - (2) 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), or their successors.
- 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 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. REGULATORY APPROVALS

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide to the Executive Director evidence of U.S. Army Corps of Engineers (USACOE) and all other required state or federal discretionary permits for the development herein approved. The applicants shall submit copies of the permits and inform the Executive Director of any changes to the project required by such permits. Such changes shall not be incorporated into the project until the applicants obtain a Commission-approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

5. OPERATIONS STAGING

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval, two (2) full size sets of staging plans for each of the project sites (China Cove Beach, Ruby Avenue Beach and Corona Del Mar State Beach) that include the following:

- (1) A map of the location of the project construction headquarters(s).
- (2) Site plans for all construction staging areas and access routes, including berm location and stockpile areas.
- (3) Special staging and parking needs for heavy equipment.
- (4) No pipes or any other equipment shall be stored on the beach when not in operation.
- (5) Vertical and lateral beach access will be maintained at all times.

B. The applicants shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

6. TIMING OF CONSTRUCTION

By acceptance of this permit, the applicants agree to minimize adverse impacts to China Cove Beach, Ruby Avenue Beach and Corona Del Mar State Beach resulting from construction activities approved pursuant to Coastal Development Permit No. 5-06-225, as required below:

No construction shall occur during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.

7. RISK DISCLAIMER

By acceptance of this permit, the applicants acknowledge and agree that the sites may be subject to hazards from waves and erosion and that the beach nourishment authorized by this Permit is not permanent but is temporary and does not provide long term shoreline protection.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION, BACKGROUND INFORMATION, PROJECT DESCRIPTION AND PREVIOUS COMMISSION ACTION ON SITE

1. Project Location and Background Information

The location of the Channel Reef Community Association Marina where the dredge will take place is at 2525 Ocean Boulevard (Exhibit #1). This marina is located near the entrance of Newport Harbor on County of Orange Tidelands and is just north of China Cove Beach, a sandy public beach. A 58-foot long rock groin was installed here in the early 1960's between China Cove Beach and the marina to protect the docks and vessels from the southerly swell that enters the harbor due to the orientation of the jetties. The groin was also designed to halt sand flow into the marina caused by the south swell pushing sand northward from China Cove Beach. Over the past two decades, the Channel Reef Community Association has performed maintenance dredging under the City of Newport Beach's U.S. Army Corps of Engineers (USACOE) Regional General Permit No. 54 and has routinely pumped the sand back to China Cove Beach. The applicants have stated that the amount of sand coming to the marina has dramatically increased over the years. The applicants further state that due to financial concerns and other issues, the Association has skipped several years of dredging. The results of this are that the sand has built to a height of up to +4-feet MLLW within the marina, while the design depth is -9-feet MLLW. This has caused damage to the marina and now the migrating sand is affecting the property and dock (2491 Ocean Boulevard) north of the project dredge site. In addition, the migrating sand is in the process of burying eelgrass beds at the 2491 Ocean Boulevard site. A previous maintenance dredging project was completed in August 2005 that successfully opened up a couple of the slips in the marina on a temporary basis.

To the north of the project site are single-family residences and a dock. To the east of the project site is an apartment complex associated with the Channel Reef Community Association Marina. To the south of the project site is an existing groin and China Cove Beach. To the west of the project site is Newport Bay Harbor.

2. Project Description

The proposed project consists of dredging the Channel Reef Community Association Marina to remove 7,000 cubic yards of sand and temporarily pump it to a sand-berm dewatering pit at China Cove Beach (Exhibits #2-3). The sand will be removed from the marina via hydraulic suction dredge and would be pumped approximately 350-feet south to a temporary 6-foot high sand-berm dewatering pit (located above the mean high water line) constructed on the adjacent China Cove Beach, a City owned sandy public beach. Tail water would return to the harbor via a temporary 12-inch pipeline. The pit will contain approximately 1,500 cubic yards at each filling. After the pit is filled (which will take approximately 4-5 days), the sand will be removed by a loader and transported via dump

truck to the designated sites and spread (discussed below). Each emptying cycle is estimated to take 3 days and after, the pit will again be constructed and filled. Upon completion of the project, the City will return the dewatering site to its original grade and remove the tail water pipeline. The proposed project would take place only during the off-season months of October thru April and would take approximately less than 8 weeks to complete. Since the sand is of high quality, the sand will then be distributed to two different sites for beach nourishment: 1) Ruby Avenue Beach (1,500 cubic yards) and 2) Corona Del Mar State Beach (5,500 cubic yards) (Exhibits #1 & 3). Ruby Avenue Beach is a public beach located on Balboa Island at North Bay Front and Ruby Avenue, between Diamond Avenue to the east and Collins Avenue to the west. This site was once a popular public beach, but over the years sand has significantly been lost. A total of 1,500 cubic yards of sand will be brought to the beach and spread to bring the elevation to +7.5-feet MLLW. The remaining 5,500 cubic yards of sand will be transported to Corona Del Mar State Beach, a public beach that is leased and operated by the City of Newport Beach. The sand will be used to supplement low areas of the beach crown where high tides and southerly winter storm swell cause flooding of the adjacent parking lot and associated structures. The sand will also be used to enhance the public sand volleyball courts.

The City is conducting a portion of this project using some of the in-lieu fees transferred to the City of Newport Beach pursuant to a Memorandum of Understanding between the City and the Coastal Commission signed on June 15, 2006 for sand replenishment in the Crystal Cove Littoral Subcell. The collection of in-lieu fees was associated with Coastal Development Permit No A-5-IRC-99-301, which was an appeal brought to the Commission for development consisting of: development of a 980 acre area, including mass grading, the construction of backbone infrastructure and a subdivision for future residential and recreational development. The in-lieu fee was required by Special Condition No. 6 of this permit, which required the Irvine Community Development Company to consent to participate in a fair share program for beach replenishment in the Crystal Cove Littoral Subcell to mitigate for the fact that the proposed project would result in the loss of 160 cubic yards (208 tons) per year of coarse beach material that would otherwise be available to the littoral subcell. Special Condition No. 6 also required that the Irvine Community Development Company pay \$163,380 in-lieu of providing sand to replace the sand and beach area that would be lost due to the impact of the development approved in Coastal Development Permit No. A-5-IRC-99-301. In addition, Special Condition No. 6 required that the funds be used, in part, to implement projects, which provide sand to the beaches within the Crystal Cove littoral sub cell (between the east jetty of Newport Harbor and Abalone Point).

Corona Del Mar State Beach is within the Crystal Cove littoral subcell, thus, sand replenishment at this beach funded with some of the in-lieu fees collected pursuant to the requirements of Coastal Development Permit Coastal Development Permit No. A-5-IRC-99-301 is consistent with the intended use of the in-lieu fees.

3. Prior Commission Action On Site

Coastal Development Permit No. 5-93-205-(Channel Reef Community Association)-
De Minimis Waiver

At the July 1993 California Coastal Commission Hearing, the Commission approved the revision of the existing marina. Post project, the marina will consist of the following: 1) 8 slips, each 36-feet long, sharing a common 153-foot long, 6-foot wide float; and 2) a 147-foot long, 8-foot wide float (35-feet from the 153 foot long float) that will run parallel to the bulkhead. These two floats will run parallel to the bulkhead and the post construction marina will occupy less area and will not extend as far channelward as the existing dock.

B. DREDGING AND FILL OF COASTAL WATERS

Section 30233 of the Coastal Act states

(a) 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:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(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.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

The proposed beach nourishment project includes the dredging of sediment from harbor waters and placement of dredged material on the beach, below the mean high tide line (MHTL). The placement of any material below the MHTL is fill as defined by Section 30108.2 of the Coastal Act. Section 30233 of the Coastal Act allows dredging and filling of coastal waters or wetlands only where feasible mitigation measures have been provided to minimize adverse environmental effects, and for only the eight uses listed in Section 30233 of the Coastal Act, as stated above.

In this case, the proposed beach nourishment project would occur in order to maintain existing and/or restore vessel berthing and mooring areas. Fill would result from the restoration of beaches where erosion has narrowed the prior width of the beach. The proposed development includes the beach nourishment of up to 7,000 cubic yards of sediment. This proposed fill is allowable pursuant to Sections 30233(a)(2), 30233(a)(7) and 30233(b) of the Coastal Act.

Section 30233 of the Coastal Act also requires that the proposed fill of coastal waters be the least environmentally-damaging feasible alternative including the use of feasible mitigation measures to reduce adverse environmental effects. The applicants are proposing measures to ensure that the proposed project is the least environmentally-damaging feasible alternative and has included mitigation measures to avoid adverse effects on the marine environment. Therefore, the Commission finds the proposed project, as conditioned, is consistent with Section 30233(a) of the Coastal Act.

C. SAND SUPPLY

Section 30233(b) of the Coastal Act states, in relevant part:

...Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

The applicants are proposing to use all beach suitable dredge material for beach nourishment purposes. In order to ensure that the materials proposed for beach nourishment are suitable for such purposes, the applicants have performed sediment testing to evaluate the physical characteristics of the materials. At the Channel Reef site, three cores were collected from the material to be dredged, which indicated sand contents of 98%, 98% and 88%. The sand content at the proposed receiver beaches were as follows: Ruby Avenue Beach was 90%; and 87% at Corona Del Mar State Beach. Furthermore, the ACOE have preliminarily reviewed the project and agreed that the dredged material would be suitable for beach nourishment: *"Based on the above grain size analysis, as well as previous physical and chemical sediment testing and bioassays completed in the vicinity of the proposed project (associated with the reauthorization of Regional General Permit 54, Corps File No. 200501233, report entitled: November 2005 report, "Dredged material Evaluation for the Review of Regional General Permit-54, Newport Beach, California" prepared by Weston Solutions, Inc.), the Corps has determined sediments from the proposed dredging site would be suitable for disposal on the two proposed beach sites, Ruby Ave. and Corona Del Mar."* The Commission has also previously reviewed and concurred with the above-referenced physical and chemical testing during its approval of Coastal Development Permit No. 5-

06-117 and Consistency Certification No. CC-031-06. Those findings, dated September 28, 2006, are herein incorporated by reference. In order to ensure that only beach quality materials are used to nourish the beaches, **SPECIAL CONDITION NO. 1** requires that material utilized for beach nourishment shall have a sand content that meets all applicable federal and state beach nourishment requirements. The material utilized for beach nourishment shall have a sand content that is either equal to or greater than 80% sand or be between 75% and 80% and within 10% of the sand content of the receiver beach. Based on the testing cited above, the proposed beach nourishment material would comply with these requirements.

The proposed use of dredged material for beach nourishment will partially mitigate the ongoing erosion of the City's beaches, helping to protect recreational use of the beach and existing structures along the beach. Section 30233(b) of the Coastal Act encourages the use of dredged material for beach replenishment. As proposed and conditioned, the project will not have any adverse impacts on local sand supply. Therefore, the project, as conditioned, is consistent with Section 30233(b) of the Coastal Act.

D. WATER QUALITY AND THE MARINE ENVIRONMENT

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 30233(b) of the Coastal Act states:

Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats...

1. 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 (CDFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and water fowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

On April 26, 2006, The City of Newport Beach Harbor Resources Department conducted eelgrass inspections at the Channel Reef Community Association Marina and Ruby Avenue Beach, which found that no eelgrass was in the vicinity of either of these two (2) project sites. In addition, as stated previously, migrating sand is in the process of burying eelgrass beds at a dock located at 2491 Ocean Boulevard that is north of the marina to be dredged. The applicants have stated that the proposed project will avoid encroachments into that eelgrass bed by not allowing dredging to occur within 15-feet of the eelgrass bed. Eelgrass surveys completed during the active growth phase of eelgrass (typically March through October) are valid for 60-days with the exception of surveys completed in August-October. A survey completed in August - October shall be valid until the resumption of active growth (i.e., March 1). The project is agendaized for the December 2006 Coastal Commission Hearing and by this time the eelgrass surveys would not continue to be valid since 60-days have passed since the survey was completed. Thus, up-to-date eelgrass surveys must be conducted. Therefore, the Commission imposes **SPECIAL CONDITION NO. 2**, which identifies the procedures regarding eelgrass surveys that are necessary to be completed prior to beginning any construction.

2. *Caulerpa taxifolia*

Also, as noted above, eelgrass is a sensitive aquatic plant species, which provides important habitat for marine life. Eelgrass grows in shallow sandy aquatic environments, which provide plenty of sunlight. Several years ago, a non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), was discovered in parts of Huntington Harbor (Emergency Coastal Development Permits 5-00-403-G and 5-00-463-G), which occupies similar habitat. *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. From an initial infestation of about 1 square yard it grew to cover about 2 acres by 1989, and by 1997 blanketed about 10,000 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, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 ft 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 has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing¹.

¹ References

Meinesz, A. (Translated by D. Simberloff) 1999. Killer Algae. University of Chicago Press

Chisholm, J.R.M., M. Marchioretta, and J.M. Jaubert. Effect of low water temperature on metabolism and growth of a subtropical strain of *Caulerpa taxifolia* (Chlorophyta). *Marine Ecology Progress Series* 201:189-198

Ceccherelli, G. and F. Cinelli. 1999. The role of vegetative fragmentation in dispersal of the invasive alga *Caulerpa taxifolia* in the Mediterranean. *Marine Ecology Progress Series* 182:299-303

Because of the grave risk to native habitats, in 1999 *C. taxifolia* was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001 the Governor signed into law AB 1334 which 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 are likely. 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 the whole California coast is at risk. All shallow marine habitats could be impacted.

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 completely eradicate all *C. taxifolia* infestations.

If *C. taxifolia* is present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments. On April 26, 2006, The City of Newport Beach Harbor Resources Department conducted *Caulerpa taxifolia* inspections at the Channel Reef Marina and Ruby Avenue Beach, which found that no *Caulerpa taxifolia* was in the vicinity of either of these two (2) project sites. *Caulerpa taxifolia* surveys are valid for 90 days. The project is agendaized for the December 2006 Coastal Commission Hearing and by this time the *Caulerpa taxifolia* surveys would not continue to be valid since 90-days have passed since the survey was completed. Thus, up-to-date *Caulerpa taxifolia* surveys must be conducted. Therefore, in order to assure that the proposed project does not cause the dispersal of *C. taxifolia*, the Commission imposes **SPECIAL CONDITION NO. 3**, which requires the applicants, prior to commencement of development, to survey the project areas for the presence of *C. taxifolia*. If *C. taxifolia* is present in the project area, no work may commence and the applicants shall seek an amendment or a new permit to address

Smith C.M. and L.J. Walters. 1999. Fragmentation as a strategy for *Caulerpa* species: Fates of fragments and implications for management of an invasive weed. *Marine Ecology* 20:307-319.

Jousson, O., J. Pawlowski, L. Zaninetti, A. Meinesz, and C.F. Boudouresque. 1998. Molecular evidence for the aquarium origin of the green alga *Caulerpa taxifolia* introduced to the Mediterranean Sea. *Marine Ecology Progress Series* 172:275-280.

Komatsu, T. A. Meinesz, and D. Buckles. 1997. Temperature and light responses of the alga *Caulerpa taxifolia* introduced into the Mediterranean Sea. *Marine Ecology Progress Series* 146:145-153.

Gacia, E. C. Rodriguez-Prieto, O. Delgado, and E. Ballesteros. 1996. Seasonal light and temperature responses of *Caulerpa taxifolia* from the northwestern Mediterranean. *Aquatic Botany* 53:215-225.

Belsher, T. and A. Meinesz. 1995. Deep-water dispersal of the tropical alga *Caulerpa taxifolia* introduced into the Mediterranean. *Aquatic Botany* 51:163-169.

impacts related to the presence of the *C. taxifolia*, unless the Executive Director determines that no amendment or new permit is legally required.

3. Regional Water Quality Control Board (RWQCB)

The Regional Water Quality Control Board (RWQCB) oversees impacts upon water quality in the region. Since the proposed project has the potential to affect water quality, the development requires review by the RWQCB. The RWQCB has reviewed the project and has issued a Clean Water Act Section 401 Water Quality Standards Certification dated July 20, 2006 for the proposed project.

4. U.S. Army Corps of Engineers (USACOE)

The U.S. Army Corps of Engineers (USACOE) oversees the planning, designing, building and operation of water resources and other civil works projects. The project will require approval from the USACOE and the applicants have stated that they have applied for a permit from them. However, no evidence of review and approval of the proposed project from the USACOE has been submitted. Therefore, the Commission imposes **SPECIAL CONDITION NO. 4**, which requires the applicants to submit evidence of the USACOE and any other required state or federal agency discretionary permits.

CONCLUSION

To minimize the adverse impacts upon the marine environment, **THREE (3) SPECIAL CONDITIONS** have been imposed. **SPECIAL CONDITION NO. 2** identifies the procedures regarding eelgrass surveys that are necessary to be completed prior to beginning any construction; if potential impacts are identified, mitigation would be required. **SPECIAL CONDITION NO. 3** requires that a pre-construction survey for *Caulerpa taxifolia* be done and if its presence is discovered, the applicants shall not proceed with the project until 1) the applicants provide evidence to the Executive Director that all *Caulerpa taxifolia* within the project and/or buffer area has been eliminated or 2) the applicants have revised the project to avoid any contact with *Caulerpa taxifolia*. **SPECIAL CONDITION NO. 4** requires that the applicants provide evidence of USACOE and all other required state or federal discretionary permits for the proposed project. Only as conditioned does the Commission find that the proposed project is consistent with Section 30230, 30231 and 30233(b) of the Coastal Act.

F. PUBLIC ACCESS

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.

The proposed project will mitigate beach erosion and provide for the continuing and increased recreational use of the Corona Del Mar State Beach and the Ruby Avenue Beach (a Newport Harbor Bay Beach) by the public. While the temporary 6-foot high sand-berm dewatering pit (located above the mean high water line) will be constructed on China Cove Beach, which is a City owned sandy public beach adjacent to the Channel Reef Association Marina, the dewatering pit and associated development on China Cove Beach only take about less than 8 weeks to complete and is scheduled to occur sometime from October thru April, which is during the non-peak beach use season. The applicants have stated that lateral and vertical access at China Cove Beach will be maintained during construction. The proposed beach replenishment development at Corona Del Mar State Beach and the Ruby Avenue Beach will increase the size of the beach and will provide a larger area for recreational use. The nourishment activities will also only take about less than 8 weeks to complete and is scheduled to occur sometime from October thru April, which is during the non-peak beach use season. In order to ensure that access is continually provided at each of the project sites during construction and that peak beach use is not affected by the development, the Commission is imposing **TWO (2) SPECIAL CONDITIONS**. **SPECIAL CONDITION NO. 5** requires the applicants to submit staging plans for each of the project sites showing the location of all equipment and prohibiting storage on the beach. **SPECIAL CONDITION NO. 6** prohibits construction during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Sections 30210 of the Coastal Act.

G. HAZARDS

Section 30253 of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed development is located in an area subject to tidal action. The tidal environment is dynamic and there are risks associated with development in such areas. For instance, erosion has occurred in front of the bulkheads where beach nourishment is proposed. The fact that the applicants are proposing beach nourishment to restore pre-existing beaches indicates that erosion does occur. However, the applicants are not proposing to increase erosion hazards by increasing the size of beaches beyond pre-existing conditions. Therefore, the proposed project minimizes this hazard.

However, the proposed development only offers a temporary solution to erosion that occurs along the beach. The applicants need to be advised of the temporary nature of the proposed development. Therefore, the Commission imposes **SPECIAL CONDITION NO. 7**, which requires the applicants to acknowledge the temporary nature of the development and the benefits provided by the development. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

H. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with the Chapter 3 policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. Since the City only has an LUP, the policies of the LUP are used only as guidance. The Newport Beach LUP includes the following policies, among others, that relate to development at the subject site:

Water Quality, Policy 4.1.2-1 states,

Maintain, enhance, and, where feasible, restore marine resources.

Water Quality, Policy 4.1.2-5 states,

Continue to require Caulerpa protocol surveys as a condition of City approval of projects in the Newport Bay and immediately notify the SCCAT when found.

Eelgrass Meadows, Policy 4.1.4-1 states,

Continue to protect eelgrass meadows for their important ecological function as a nursery and foraging habitat within the Newport Bay ecosystem.

Eelgrass Meadows, Policy 4.1.4-1 states,

Where applicable require eelgrass and Caulerpa taxifolia surveys to be conducted as a condition of City approval for projects in Newport Bay in accordance with operative protocols of the Southern California Eelgrass Mitigation Policy and Caulerpa taxifolia Survey protocols.

Dredge Spoils Disposal, Policy 4.2.4-3 states,

Dredged materials suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimize adverse effects on the environment.

The proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

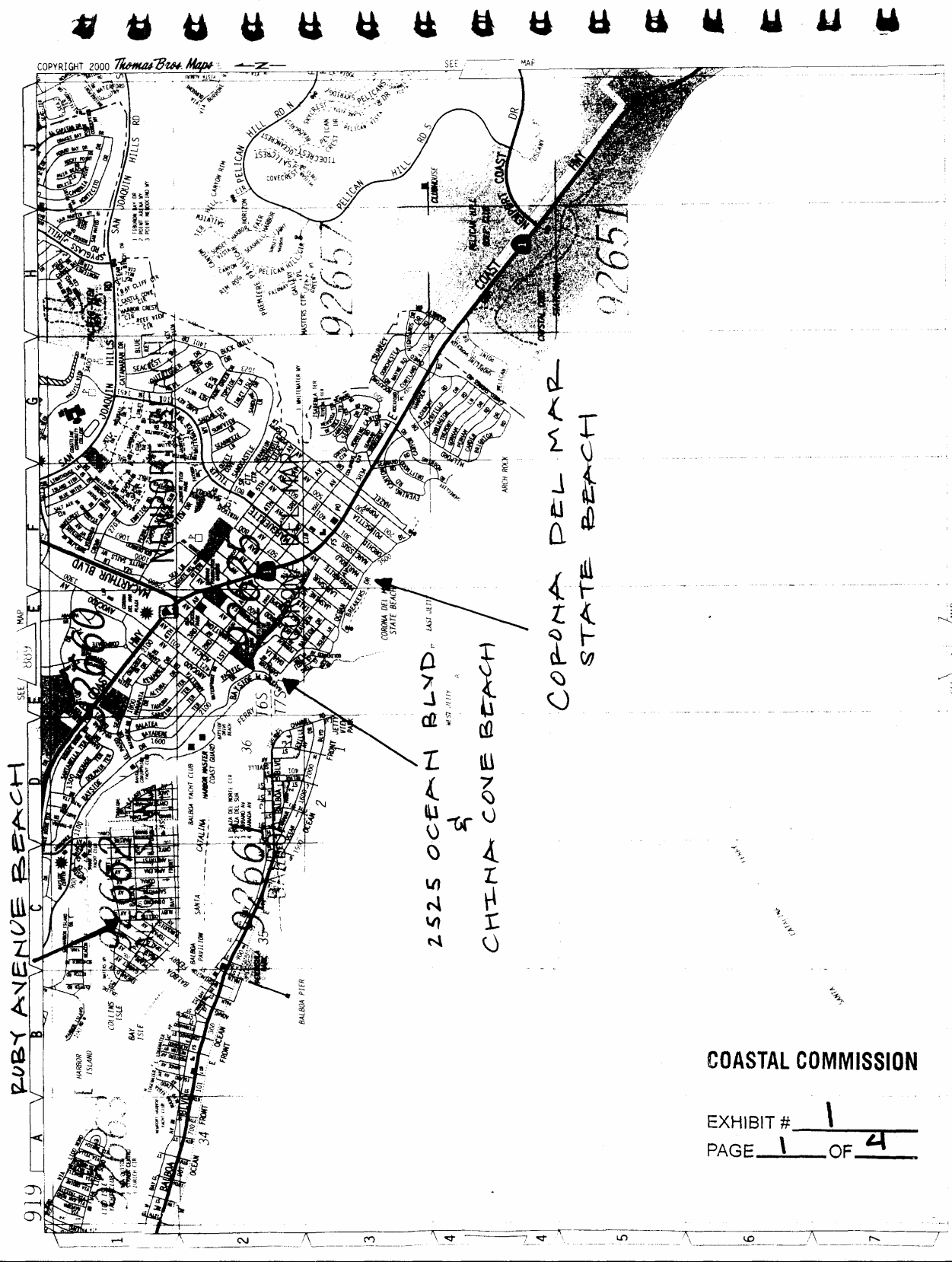
I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications 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 further feasible

mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project is located in an urban area. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the water quality, marine environment, public access and hazard policies of Chapter 3 of the Coastal Act. Mitigation measures include special conditions requiring eelgrass surveys and submittal of a staging plan.

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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

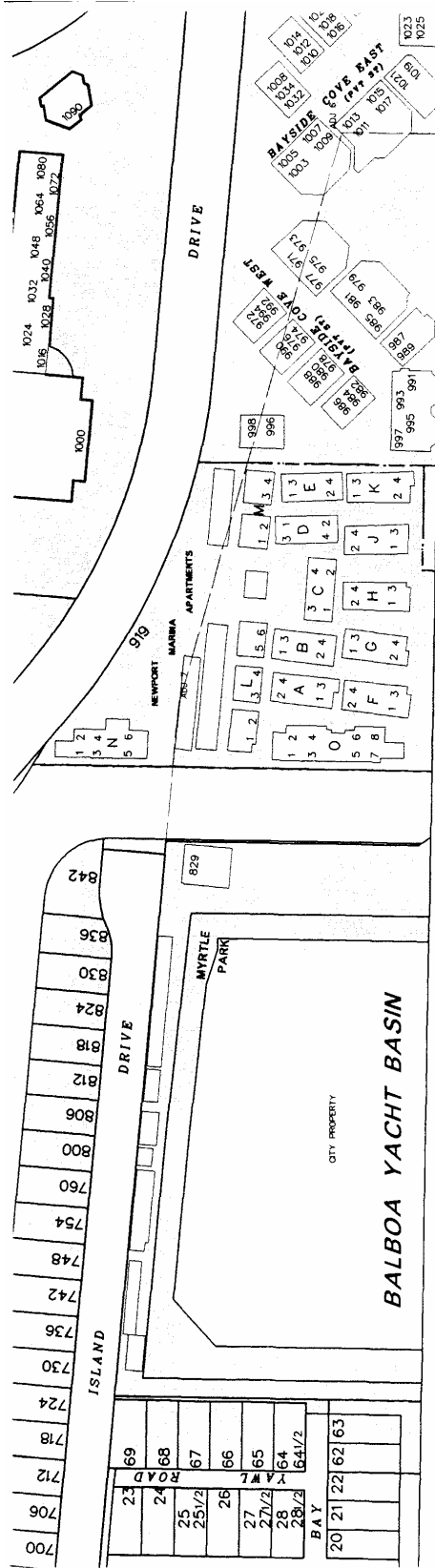


COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 4

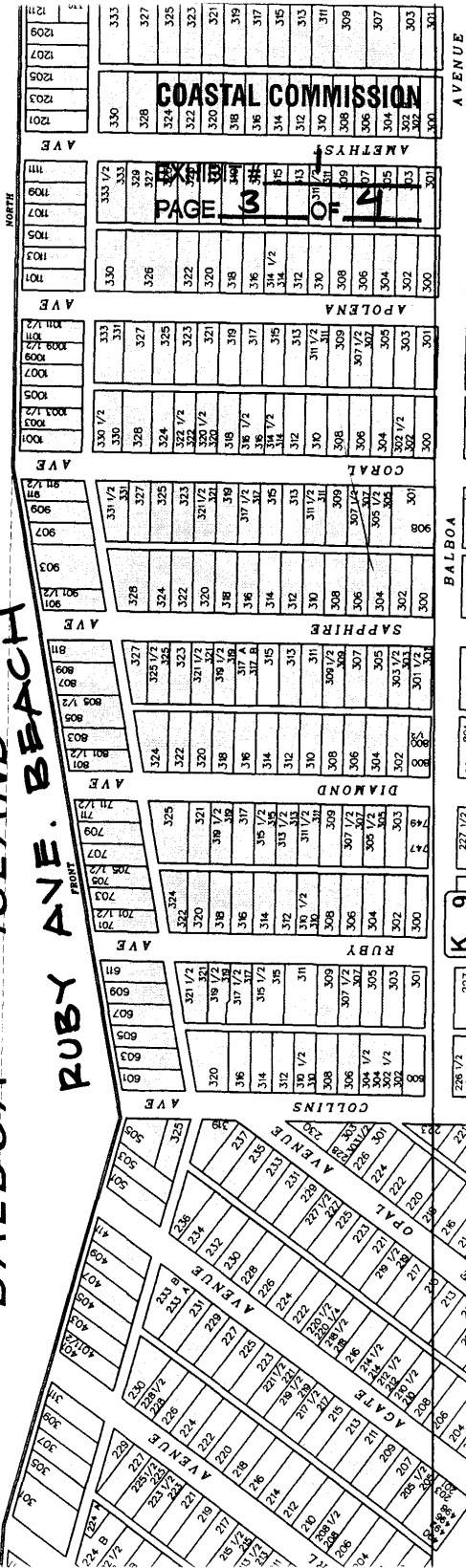


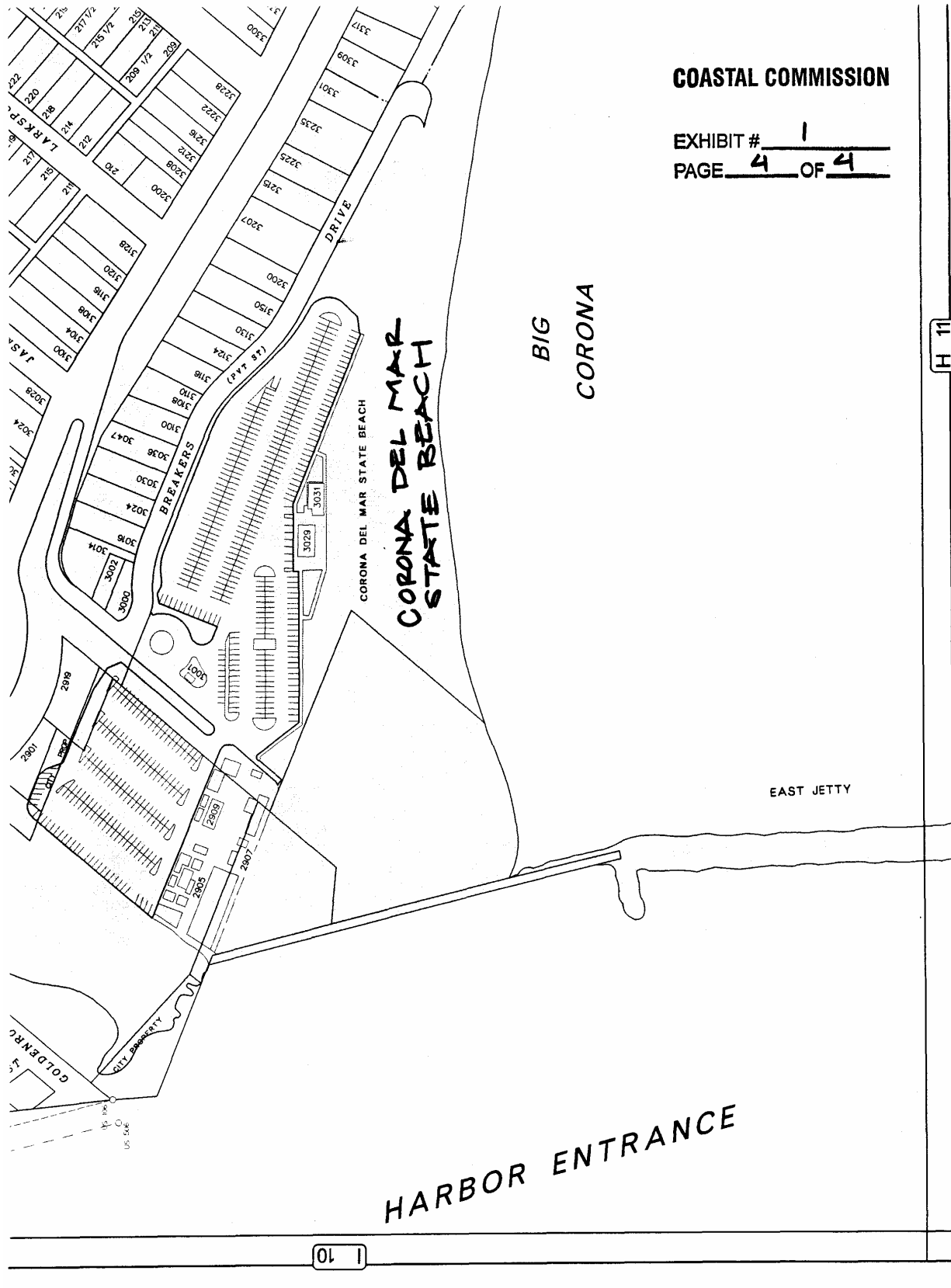
CHANNEL REEF COMMUNITY ASSOCIATION MARINA



BALBOA ISLAND CHAI

BALBOA ISLAND BEACH





COASTAL COMMISSION

EXHIBIT # 1
PAGE 4 OF 4

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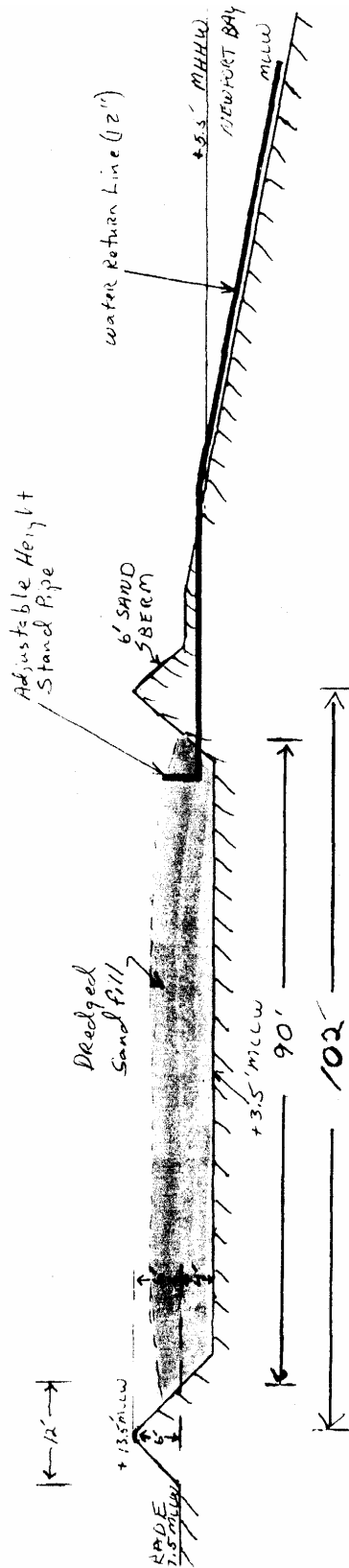
10 |

• CHINA CONE BEACH •

DEWATERING PIT - PROFILE C
 4/17/06 M.S.

COASTAL COMMISSION

EXHIBIT # 3
 PAGE 1 OF 3



#2

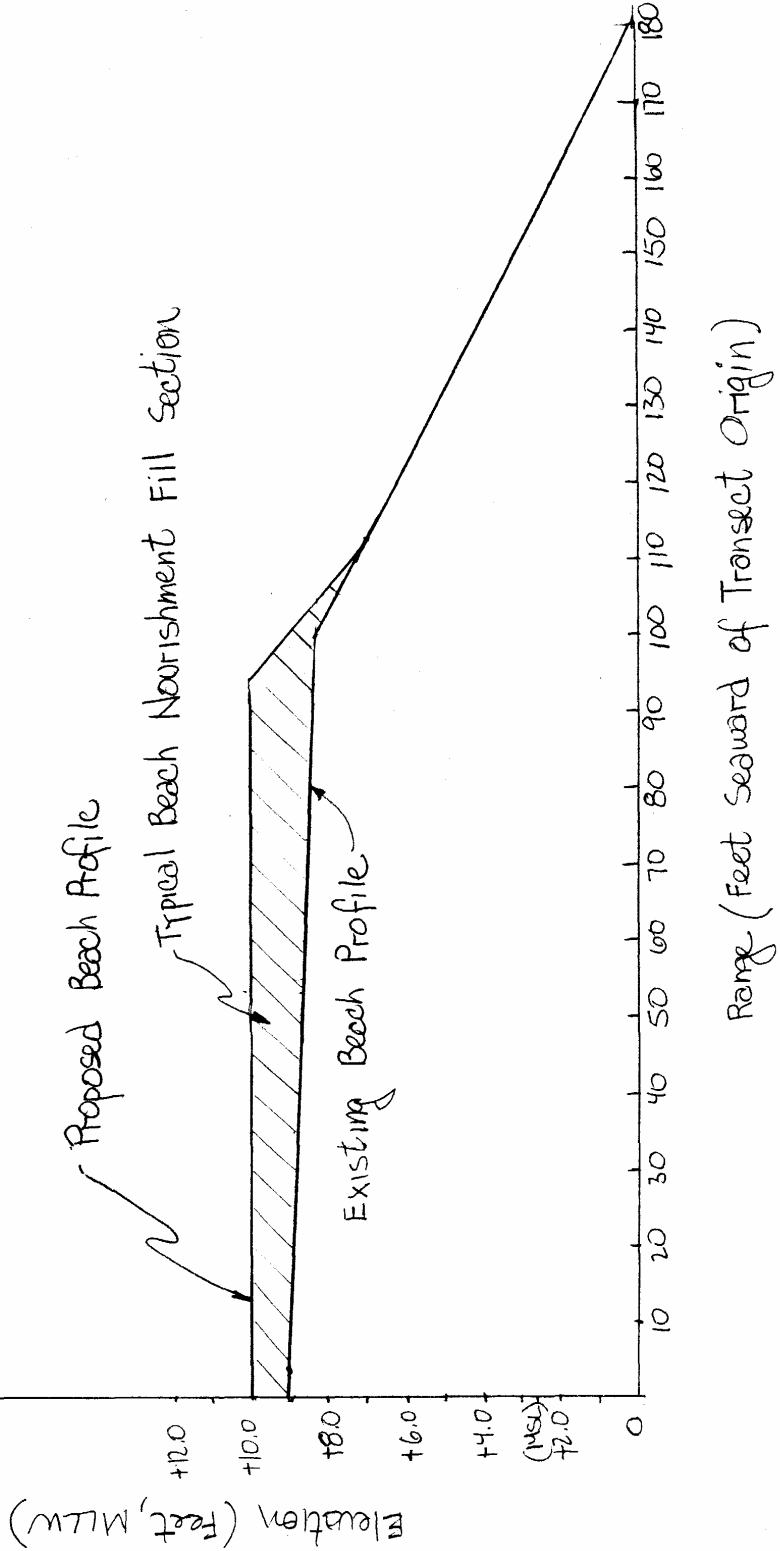
'B' Beach Profile Line - Transect OC-30

Typical Cross-section

• CORONA DEL MAR STATE BEACH •

COASTAL COMMISSION

EXHIBIT # 3
PAGE 2 OF 3

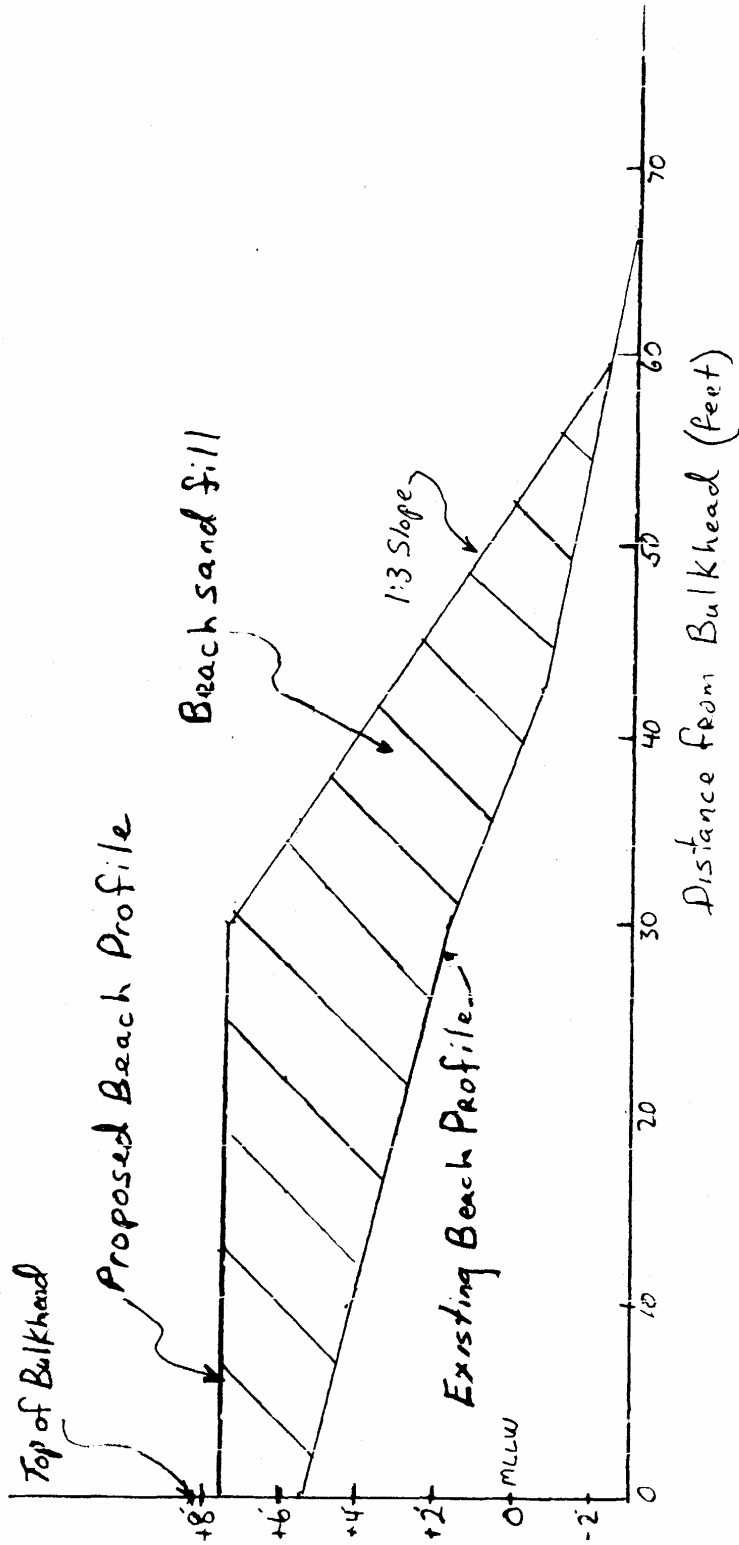


Profile #1
Beach Profile - N. Bay Front & Ruby Ave
5/23/06

COASTAL COMMISSION

EXHIBIT # 3
PAGE 3 OF 3

• RUBY AVENUE BEACH.



Mr. Fernie J. Sy
California Coastal Commission
P.O. Box 1450
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

RE: Permit No. 5-06-225
Channel Reef Community Association

Dear Mr. Sy,

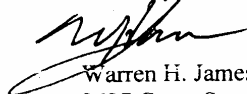
Please review the attached two letters which clearly explain why the residents of China Cove OPPOSE the permit application as it currently exists.

In a public meeting the applicant clearly stated that the sand moves Northerly from China Cove to the Channel Reef. Exporting 7000 cubic yards of sand from Channel Reef will cause additional sand loss from China Cove, which may comprise the structural integrity of the bulkhead supporting several residences.

Having lost 4 to 5 feet of sand, due to the Northerly migration, we need sand, not trucks in China Cove.

Please do not approve a commercial enterprise at the expense of the residents.

Sincerely,



Warren H. James
2627 Cove, St.
Corona del Mar, CA 92625
(949) 675-4412

Enclosure

November 25, 2006

Item No. T-14c
Appl. No. 5-06-225

The following residents
OPPOSE the permit as
submitted.

Warren James
Karen Carlson
Frank Thomas
Don Watson
Don Callender
John Hamilton
Dorothy Hall Family
Bob Ganiere
Catherine Callender
Gerald Thompson
David Beauchamp
Willie Rosoff
Stan Jones
Alan Gin
Joseph B. Udvare

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EXHIBIT # 4
PAGE 1 OF 4

COASTAL COMMISSION
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South Coast Region

1 OF 2

Mr. Daniel P. Swensen
Project Manager
US Army Corps of Engineers

August 5, 2006

RE: Application No. 200601391-DPS

Dear Mr. Swensen,

As currently proposed, we strongly object to the referenced application to dredge 7000 cubic yards of sand and have it hauled to other locations through China Cove. By my calculations that is approximately 450 trucks that will be using the tiny streets in our small neighborhood (7000 c.y. divided by 15 c.y. per truck). That is unreasonable, especially when you consider that, over the recent years, China Cove has lost 4 to 5 feet of sand. It makes no sense to haul sand away when it is desperately needed at the two beaches in China Cove.

Further, a review of the records may reveal a relationship between the Channel Reef's prior dredging permit and the sand loss in China Cove. It is only logical that dredging and export cannot improve the sand level.

This project should not cause additional loss of sand in China Cove, which may undermine bulkheads resulting in bulkhead failure.

Please replace the sand that has been lost in China Cove and only haul away the excess.

Warren James, 2627 Cove St.

Frank Thomas, 2615 Cove St.

Karen Carlson, 2616 Cove St.

Don Watson, 2704 Cove St.

Harold Parker, 2700 Cove St.

Don Callender, 2620 Way Lane

Joseph B. Udvare, 2718 Shell

John Hamilton, 2735 Ocean Blvd.

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EXHIBIT # 4
PAGE 2 OF 4

copy: Newport Beach City Council
City Manager

THE CHANNEL REEF
THINKS 700 IS A
MORE ACCURATE
NUMBER.

2 of 2

Mr. Mark Sites
P.O. Box 498
Balboa Island, CA 92662

Nov. 30, 2006

RE: Sand removal from China Cove

Dear Mr. Sites,

Thank you and the Newport Beach City staff members for meeting with the concerned residents and providing details of the proposed project.

Following the meeting, our concerns are unchanged.

1. Too much sand at the volleyball area.
2. Removal of sand from China Cove to a remote location.
3. Approximately 700 trucks (1400 trips) through our China Cove neighborhood.

We would like to propose an amendment that should satisfy all concerns, plus minimize traffic and pollution negatives.

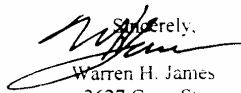
The following appears to have substantial benefits:

1. With a loader, remove the excess sand from the volleyball area and build a dewatering pit/berm on China Cove's south beach.
2. Pump the dredged sand directly to China Cove's south beach.
3. After replenishing the sand to south beach, extend the dredge line, with supplemental pump as necessary, to a new dewatering pit at Corona del Mar main beach.
4. From Corona del Mar's main beach, move 1500 c.y. (150 trucks) to Balboa Island.
5. With a loader, distribute the excess sand on main beach.

Granted, this plan will increase dredging cost. However, those costs will be substantially mitigated by eliminating 550 truck loads. The 150 trucks to Balboa Island will remain unchanged, but this plan will eliminate 700 trucks in China Cove. Further, Main Beach residents should not object since they will be exposed to 150 trucks instead of 550 trucks as currently planned. The benefit of eliminating 550 trucks within residential neighborhoods is obvious.

We feel that this is a "win-win" solution and may prove more economical when ALL the costs are considered.

Please pursue this alternative.


Sincerely,
Warren H. James
2627 Cove St.
Corona del Mar, CA 92625
(949) 675-4412

COASTAL COMMISSION

The following residents of China Cove support this position:

Karen Carlson
Frank Thomas
Don Watson
Don Callender
John Hamilton
Dorothy Hall Family
Bob Ganiere
Catherine Callender

EXHIBIT # 4
PAGE 3 OF 4

2 of 2

Gerald Thompson
David Beauchamp
Willie Rosoff
Stan Jones
Alan Gin
Joseph B Udvar

Copy: Daniel P. Swensen – U.S. Army Corps of Engineers
Newport Beach City Council
Newport Beach City Manager
Tom Rossmiller – City of Newport Beach
William J. McCafferey, Jr. – Channel Reef

COASTAL COMMISSION

EXHIBIT # 4
PAGE 4 OF 4



CITY OF NEWPORT BEACH

Harbor Resources Division
829 Harbor Island Drive
Newport Beach, CA 92660

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COASTAL COMMISSION

The City of Newport Beach is proposing to participate in a cooperative project with the Channel Reef Community Association (CRCA). The proposed project involves dredging of 7,000 cubic yards of sand from the CRCA marina, in approximately 1,500 cubic yard increments, with dewatering of the dredged sand on the China Cove City Beach near the northwesterly end of Cove Street. After dewatering, 5,500 cubic yards of the sand will be trucked to Corona del Mar State Beach and 1,500 cubic yards of the sand will be trucked to North Bay Front on Balboa Island.

The City of Newport Beach recognizes that there will be some temporary impact to the China Cove Community, and the City has participated in a public outreach meeting with the residents of China Cove and Channel Reef. The purpose of the meeting was to hear the concerns of the community and develop a plan to modify the proposed project to minimize the impacts on the neighborhood.

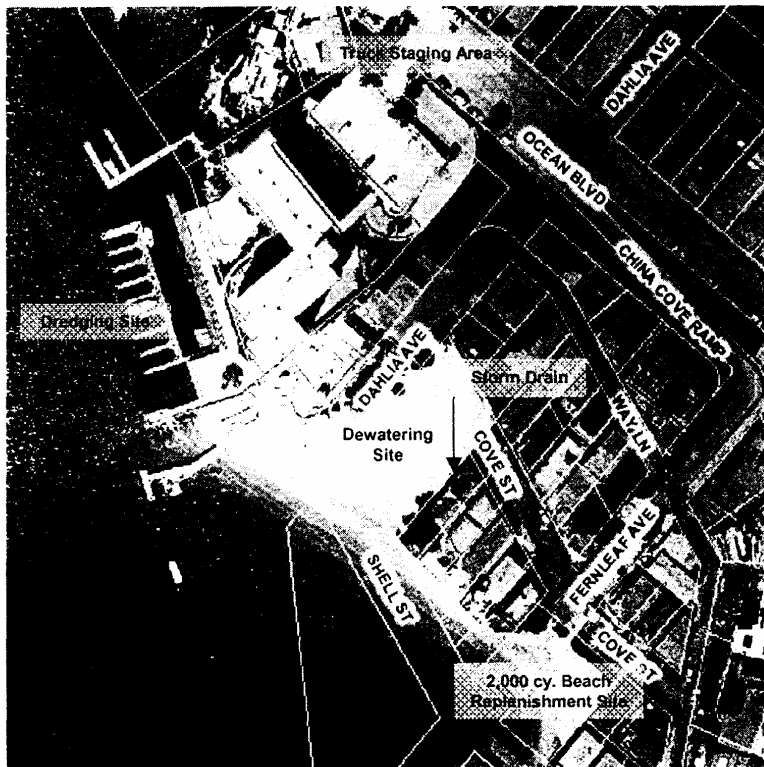
Based on community input, following are some recommended actions that the City can take to successfully implement an acceptable project:

1. The City and County will jointly apply for an RGP-54 dredging permit to remove 1,000 cubic yards of sand from a hazardous shoal west of the CRCA marina and place the sand on the southeasterly end of China Cove City Beach near Fernleaf Avenue.
2. The City and Kerchoff Laboratory will apply for a RGP-54 permit to move 1,000 cubic yards of sand from the northern end of the low-tide beach in front of the laboratory to the southeasterly end of the China Cove City Beach near Fernleaf Avenue.
3. The City will remove excess sand from the China Cove Beach near the storm drain inlet at the northwesterly end of Cove Street.
4. The City will require the trucking contractor to employ a flagman to guide the trucks backing down Cove Street.
5. The City will require the contractor to allow only one truck at a time in the China Cove Community (from China Cove Ramp, down Fernleaf Ave and Cove St.).
6. The City will require the contractor to stage additional trucks on Ocean Blvd with idling not to exceed 2-3 minutes.
7. The City will require the contractor to video document the condition of the truck travel path roadway, sidewalks, driveways and curbs and be responsible to repair any damages beyond existing conditions.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 2

8. Since the roadways have relatively new slurry seal, the City will require the contractor to protect the roadway and/or repair as needed.
9. The City will require the contractor to sweep the streets along the path of travel within the China Cove Community at the end of every truck hauling day.
10. The City will require the contractor to limit sand hauling operations to the hours of 8:00 a.m. to 5:00 p.m. within China Cove.
11. All work shall be done Monday through Friday. No work shall be done on weekends or holidays. Dredging will be allowed as an exception to this rule provided there is no noise disturbance to the adjoining properties.
12. The City will investigate the need for a storm drain catch basin on Fernleaf Ave.



COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 2

Harold G. Parker

2700 Cove Street
Corona del Mar, CA 92625
phone 949-675-3198
fax 949-675-2168
E-mail: haroldgparker@aol.com

To: Mr Mark Sites
Copy to: Warren H. James
From: Harold G. Parker & Vicki L Parker
Subject: Sand Removal from Channel Reef Marina
Date: 11/25/06

After the related meeting in the Channel Reef lobby, we are even more concerned about the proposed process for moving sand from the Channel Reef marina, via China Cove, with particular reference to the large number of truck loads involved and the relatively small amount of sand to be returned to the smaller (southeasterly) beach and in the area in front of the sea wall between the two China Cove beaches.

At the very least, we believe a much greater than currently proposed amount of sand should be pumped to the smaller beach and sea wall areas which would, obviously, decrease the number of required truck loads through our tiny, already congested neighborhood.

Thank you for your consideration of our concerns and possible alternatives.

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EXHIBIT # 6
PAGE 1 OF 1

FROM :

FAX NO. :

Dec. 07 2006 09:33AM P1

TO: MR. SY

T-140

Tom Rossmiller, Manager
Harbor Resources Division
829 Harbor Island Drive
Newport Beach, CA 92660

December 6, 2006

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RE: Channel Reef Dredging

Dear Mr. Rossmiller,

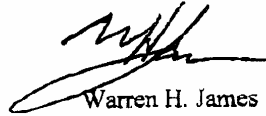
Thank you for your letter of November 30 and our telephone conversation on December 6, 2006.

Those communications made it perfectly clear that the Channel Reef and the City of Newport Beach are pursuing the trucking of 7000 cubic yards of sand through China Cove. Even though safety precautions are included, it does not solve the basic issue that the residents of China Cove do not want 700 trucks in and out through our neighborhood.

Further, the suggestion that China Cove's loss of sand may be partially satisfied by future dredging by the City and the Kirkoff Laboratory has little merit, especially, when it was readily admitted that this may or may not happen.

It makes no sense to haul away sand with Phase 1 with the questionable hope of replacing sand with Phase 2.

We want sand before any of it is trucked or pumped to another location.



Warren H. James
2627 Cove St.
Corona del Mar, CA 92625
(949) 675-4412

The following residents of China Cove support this position:

Frank Thomas	Don Watson
Don Callender	John Hamilton
Dorothy Hall Family	Bob Ganiere
Catherine Callender	Gerald Thompson
David Beauchamp	Willie Rosoff
Stan Jones	Alan Gin
Joseph B. Udvar	Karen Carlson

COASTAL COMMISSION

EXHIBIT # 7
PAGE 1 OF 1

Mark Sites
P.O. Box 498
Balboa Island, CA 92662
(949) 675-1071

December 5, 2006

Fernie Sy, Coastal Program Analyst
California Coastal Commission
South Coast District
P. O. Box 1450
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Dear Mr. Sy:

I received the faxed copies of the letters you forwarded to me from some of the residents of China Cove regarding the proposed dredging and sand hauling project. Since there are only three, I will respond to them here, individually.

The letter dated November 25, 2006, from Harold and Vicki Parker, states two issues. Those concerns are the amount of sand to be left behind on the China Cove beach, and the number of trucks used to haul the sand from the dewatering site. As was explained at the meeting, and in a letter to Mr. and Mrs. Parker, there is additional sand available that will be provided from an adjacent sandy shoal to be removed under the City's RGP #54. Under the conditions of the RGP, that sand must be placed on the adjacent China Cove beach. That work description was not included within the permit application on which the Parkers are commenting, however, they have been made aware that the shoal sand will be available. In addition, the City is also proposing to transport a quantity of sand via loader from the north end of the China Cove beach (near Channel Reef) to the south end (near Mr. Parker's house). This should provide up to two thousand yards of sand in front of some of the resident's homes. What is important to note here is that there are substantial eelgrass beds off-shore of this beach. Mr. Parker's desire to place even more sand than proposed on the beach near his house ignores the facts that have been pointed out to him, i.e., that eel grass is protected, and that placing too much sand in his location will likely bury at least some of the eel grass. After considering the above facts, there are still 7000 cubic yards of sand to be removed from the Channel Reef marina, and there is simply nowhere on the China Cove beach that can receive that much sand and not risk impacting the eel grass.

The second letter, dated November 30, 2006, from Warren James to Mark Sites, lists three concerns. The first, that of too much sand at the volleyball area (presumably causing sand to blow out on to the street), has been addressed in the City's response to the China Cove residents after the public meeting. The second concern, removal of sand from China Cove to a remote location, has also been addressed in numerous verbal and written responses to Mr. James. Briefly, Mr. James notices the 4-5 foot sand loss in front of his house at the south end, but fails to see the 18 foot high build up of sand at the north end of China Cove that is destroying a marina and causing a navigational hazard in the main channel.

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PAGE 1 OF 5

of the residents' point of view is that to remove any of the sand from the China Cove area will result in further sand loss in front of their homes. As explained to them, this is not the case. Historical evidence and photographs were presented at the meeting showing the China Cove beach area to be much smaller than it exists today. After the Channel Reef marina and its accompanying groin wall were constructed in the early 1960's, the China Cove beach began to grow due to the continual accumulation of ocean front sand pushed north into the harbor entrance (this is more fully described under "Project Description" in the permit application). Today, that accumulation has now built to a level that is over 18 feet higher than when the marina was built (the design drawings for the Channel Reef groin show the rocks placed in water that was -18' MLLW). In short, there is an extreme overabundance of sand at the north end of the beach, and a dearth of sand at the south end that can be replenished to the extent possible (due to eel grass), as previously described. The surplus sand is to be hauled to other public beaches via truck.

The number of truck cycles, which is Mr. James's third listed concern, has also been thoroughly explained and discussed. The project was designed to minimize the impact to the neighborhood by using the trucks three days per week, every-other week (i.e., 3 days out of 14). This two-week cycle would be repeated up to five times. In addition, the work is to be scheduled during the winter off-peak season. While making the actual dredging operation more difficult (due to the likelihood of winter storms and the exposure at the harbor entrance), the timing of the work was chosen to be the least disruptive to beach users and residents of China Cove.

Mr. James goes on in his letter to suggest alternatives as to how he feels the work could be performed. As I understand his proposed alternative, #1, the sand-berm dewatering pit would be constructed in front of his house, on the south end of the China Cove beach. He has already stated that the sand is 4' to 5' below a desirable level. The dewatering pit would then necessarily be constructed below the high tide line. This presents at least two problems. First, with the pit constructed below the high tide line, the dredging tail water would have nowhere to drain. Second, a sand wall pit constructed below the high tide would be under nearly constant assault by waves and tidal action, much as a sand castle is washed away when the tide comes up. It would need to be repaired or reconstructed every day.

He then proposes to pump the sand, suggestion #2, directly to the south end of the China Cove beach. I agree with Mr. James that sand is needed at the south end of the beach, however, for the previously stated reasons, I believe the alternative the City has proposed is far more efficient in both cost and time.

In Mr. James's suggestion #3, he proposes that after sufficient sand is pumped on the beach in front of his house, the dredging pipeline be extended to the Corona del Mar main beach, and a second dewatering site be constructed at that location. The excess sand would then be distributed from that site. As explained at the public meeting, there are valid reasons why this work should be performed in the winter off-peak season. It was explained that a very long pipeline presented serious challenges in the environment posed by the likely winter storms within the confines of the harbor entrance. During and after a storm, large ocean swells and even breaking waves are not uncommon in the area.

proposed long pipeline would need to be positioned. The pipeline would likely be torn apart in such an event. In addition, the supplemental dredging booster pump that Mr. James proposed would also need to be anchored in this exposed area. If a large storm were to hit, it is a likely possibility that the pump, engine, and associated fuel could be torn loose from the mooring and either capsized or sunk. Furthermore, unless a large dredge and/or booster pump were to be used, along with the associated large diameter pipeline, there is a very high risk of plugging nearly the entire length of pipeline due to the high sand content (and associated friction) of the dredged slurry. Plugging the pipeline in this way could delay the project by several weeks.

The proposal that Mr. James is making for pumping sand to the Corona del Mar beach and transporting from that location is not an original idea. This concept was originally presented by me, at the public meeting, as an alternative that had been considered and rejected for the above reasons. Mr. James, in his suggestions for a "win-win", failed to mention the technical reasons why the long pipeline and booster pump were not given further consideration. He also briefly mentions additional costs. The dredging costs would likely be increased by 4 to 5 times under his proposal, *if* a contractor could be found who was willing to incur the above-mentioned risks.

The third document, a copy of the petition sent to the Army Corps of Engineers, has been responded to in several ways. (1) I responded to each person who signed with individual letters. (2) Before issuing their permit, the ACOE asked for a response from the City and from me, as Channel Reef's agent. You have received copies of those responses. (3) As a result of that petition, the Channel Reef Community Association organized a public meeting in order to better explain the project to those who had signed the petition, as well as other interested parties. (4) After the meeting, the City of Newport Beach generated a list of conditions on the project to address, to the extent possible, the concerns of the residents in China Cove. A copy of that letter has also been provided to you.

In conclusion, the project, as proposed, is the method that the Channel Reef Community Association, the City of Newport Beach, other agencies, and I believe to be the most workable solution to the severe problem faced by Channel Reef. While we have worked to minimize the temporary impacts to the community at China Cove, we have also had to factor in other considerations of cost, timing, and risk. In addition, the wishes of other members of the community and the public have been considered, as this project also seeks to rebuild bay and ocean beaches with the excess sand. Copies of the letters from those residents (to the ACOE) who are in favor of the project will be provided if you wish to review them.

Sincerely,

Mark Sites
Agent

COASTAL COMMISSION

EXHIBIT # 8
PAGE 3 OF 5

Description of sand transport from the China Cove dewatering site to Balboa Island and Corona del Mar Beach

Dewatering pit capacity is 1500 cubic yards

6" dredge at 300 cu yds / day will take 5 days to fill pit (300 X 5 days = 1500 cu yds)

Truck capacity is 10 cubic yards

China Cove to Balboa Island2.1 miles / 11 minutes travel, one way

China Cove to Corona del Mar.....0.8 mile / 6 minutes travel, one way

Assume 5 minutes to load and 5 minutes to dump

Balboa Island (Ruby Ave. & N. Bay Front, 1500 cubic yards)

5 min. (load) + 11 min. (travel) + 5 min. (dump) + 11 min. (travel) = 32 min. cycle time

Using 5 trucks at <2 trips per hour = 9 cycles / hr X 10 cu. yds per truck = 90 cu. yds/ hr

Assuming a 6 hour day... 6 hrs. X 90 cu yds / hr. = 540 cu yds / day

1500 cu yds / 540 cu. yds per day = **2.8 days (total of 150 truck cycles)**

1 dewatering pit fill / empty cycle for Balboa Island beach

Corona del Mar Beach (up to 5500 cubic yards)

5 min. (load) + 6 min. (travel) + 5 min. (dump) + 6 min. (travel) = 22 min. cycle time

Using 4 trucks at 2.5 trips per hour = 10 cycles /hr. X 10 cu. yds per truck = 100 cu yds /hr

Assuming a 6 hour day.... 6 hrs X 100 cubic yards/ hr = 600 cubic yards / day

Pit capacity of 1500 cubic yards / 600 cu yds. per day = **2.5 days (total of 150 cycles)**

5500 cubic yards / 1500 cu yds = 3.7 pit fill / empty cycles for CDM Beach

Total of up to 550 truck cycles over a 7 1/2 week period (2.5 days, every other week) for CDM beach.

It is anticipated that the dredge will take approximately 5 days (1 week) to fill the pit. The following week would be used to fill trucks. **Therefore, trucks and loader would be present for approximately 2.5 days, every other week.**

COASTAL COMMISSION
EXHIBIT # 8
PAGE 4 OF 5

Up to 4.7 pit fill / empty cycles are anticipated at approximately 2 weeks per cycle. Therefore, approximately 9.5 weeks would be required to complete the project. In every cycle, up to 3 days have been left for contingencies (bad weather, break-downs, etc.), so the project could take less than 9.5 weeks.

Since the dredge is over 300' from the pit, there would be no noise impact to residents near the pit during the week-long filling cycle.

I have made assumptions and approximations in this estimate of cycle times, however I believe my calculations to be on the conservative side.

Debris Management

The sand to be removed from the Channel Reef marina is quite clean, with little debris present. This observation comes from several past dredging projects at this site. The dredge itself will not pass anything larger than a 4" sphere. Smaller objects, such as shells and cobble, may be pumped to the pit with the sand where they would be difficult to remove before becoming buried.

Sand transported to Corona del Mar will be spread with a loader and then graded with the city's beach rake, which is regularly used to remove trash and debris on this beach after every weekend.

Sand transported to Balboa Island will be dumped over the bulkhead and spread with a rubber tracked loader. As the sand is spread, it will be necessary to manually remove any debris that is observed.

Note to Coastal Commission

The above plan was prepared at the request of the Army Corps of Engineers during their review of the project. As stated, this is the best estimate for the trucking times that can be made without actually making test runs. The one hauling contractor that I talked to at the site agreed with my estimate of the number of truck cycles that could be made per day. After a public meeting with the residents of China Cove, the City proposed modifications to this plan that could reduce the number of truck cycles per day. If enacted, the reduced daily truck cycles could lengthen the number of days required per week to remove the pit capacity of 1500 cubic yards.

Submitted:

Reference: Cousyn Grading and Demolition

(714) 557-1566

Mark Sites

December 8, 2006

COASTAL COMMISSION

EXHIBIT # 8
PAGE 5 OF 5

WILLIAM J. McCAFFREY JR.
2525 OCEAN BOULEVARD, APT. G-4
CORONA DEL MAR, CALIFORNIA 92625

RECEIVED
South Coast Region
REF ID: A61110
DEC 7 2006

CALIFORNIA
COASTAL COMMISSION
COASTAL COMMISSION

December 6, 2006

Agenda No. T 14c
Permit No. 5-06-225

California Coastal Commission
South Coast Area Office
200 OceanGate #1000
Long Beach, CA 90802-4416

Dear Commissioners and Staff:

I am a 20 year owner and resident and the current president of the Board of Directors at Channel Reef Community Association. We have over 70 residents, most of whom own their condominium unit and, to my knowledge, all of whom are also in favor of this project. Please also note that our marina is on a tidelands lease which we have leased from the city and county since the early 1960's, currently at an annual rate of \$21,924.

Our marina has filled with sand and is fast becoming unusable, and the waves magnified by the shallow water are damaging our docks. We employed a dredge consultant who has worked closely with both the city and harbor officials and the state and federal regulatory agencies. He has developed a plan which benefits not only our community association but also several public beach areas in need of this high quality sand. The plan is also cost effective so that we and the city are able to afford the project. This is a very important consideration because, even as proposed, it is a big budget item for us. We can not afford any more costly alternative.

Our consultant has also gone further and helped to arrange and moderate a meeting in which the city was able to hear the concerns of our neighbors. In a letter dated November 30, 2006 the city responded with 12 specific additions to the plan details which address these concerns.

We feel we have a sound project which benefits several areas, hurts no areas, and is economically feasible. We also feel we have been abundantly reasonable and cooperative in developing the plan and working with the city, the harbor officials, the regulatory agencies and our neighbors. We strongly urge you to approve this project.

Sincerely,

William J. McCaffrey Jr.

COASTAL COMMISSION
EXHIBIT # 9
PAGE 1 OF 5

Ruth B. Budlong

ITEM NO: T 14c
PERMIT Number: 5-06-225
Ruth Budlong – In Favor

December 6, 2006

RECEIVED
DEC 7 2006

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, #1000
Long Beach, California 90802-4416

CALIFORNIA
COASTAL COMMISSION

RE: Channel Reef Community Association
City of Newport Beach, Community Development

Dear Sirs:

I have been a resident of Channel Reef, 2525 Ocean Blvd. Corona del Mar for 20 years. The condition of the marina has been a constant concern to me and other residents.

The shifting sands and prohibition of adequate dredging has made it impossible to maintain a safe and usable marina. While the reduced number of boat slips is a detriment to the Channel Reef property, of far greater importance is the hazard created by the build up of sand into the main harbor. Unfortunately, I have witnessed several incidents when boats have gone aground and I have alerted the Harbor Patrol to assist the innocent, stranded boat owners.

I understand that the situation could be remedied by a cooperative effort of the City of Newport Beach, Channel Reef Community Association and neighbors in China Cove. The high grade quality of the sand to be dredged should be a great bonus to eroding beaches such as China Cove, Big Corona and Balboa Island.

While the transport of the sand might be a temporary annoyance, the ultimate benefit to the residents who enjoy China Cove and other beaches would far outweigh any inconvenience.

COASTAL COMMISSION

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PAGE 2 OF 5

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
December 6, 2006
Page 2

A community meeting was held on November 9, 2006 to provide a forum for the City of Newport to explain the **advantages of endorsing the dredging program at Channel Reef**. On November 30, 2006, in a letter from Tom Rossmiller, Manager, Harbor Resources Division, the City of Newport Beach provided a draft proposal responding to the comments of the residents. This letter addresses the concerns of the residents of China Cove and explains how the City will implement measures to prevent any negative impacts on China Cove and the residents

Above all, let's preserve the beauty, safety and navigability of our harbor.

Sincerely,



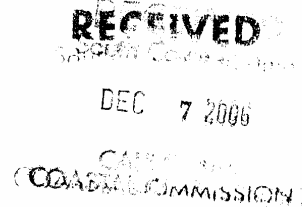
Ruth Budlong
Channel Reef
2525 Ocean Blvd. #B5
Corona Del Mar, California 92625
<RuthBudlong@cs.com>

COASTAL COMMISSION

EXHIBIT # 9
PAGE 3 OF 5

December 5, 2006

California Coastal Commission
South Coast Area Office
200 OceanGate #1000
Long Beach, CA 90802



Permit Number 5-06-225

Dear Commissioners and Staff:

I have owned my property at Channel Reef Community Association since 1971.

Our dock and slips have been gradually deteriorating since we have not been permitted to dredge. Not only have we lost slip space and side ties to the sand build up, but a sandbar has developed out in the Channel and at low tide keel boats often go aground.

In newspaper articles and editorials I read that Big Corona and Balboa Island need sand. From observation so does China Cove, and at medium tide pipes are exposed.

Our sand is graded as very acceptable, so please consider making it possible for us to dredge, and share with areas where sand is needed.

Sincerely,

Patricia Zorn
2525 Ocean Blvd. #A-3

Corona del Mar, CA 92625

COASTAL COMMISSION

EXHIBIT # 9
PAGE 4 OF 5

RECEIVED
South Coast Region

DEC 8 2006

CALIFORNIA
COASTAL COMMISSION

RE: permit # 5-06-225
Item # T14c

December 7, 2006

California Coastal Commission
South Coast District
200 Oceangate #1000
Long Beach, CA 90802-4416

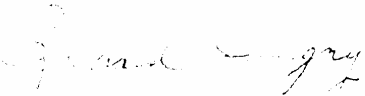
Dear Coastal Commission,

I am a resident of Channel Reef and I would like to relate the urgency we have for the dredging of our marina. The sand build up has taken away the use of many of our slips and has created a large shoal into the bay area where boats have actually gone aground. If we have any significant winter storms, the waves created by the shoal would most likely destroy our marina. We have already sustained some damage just through normal surge.

Since we have grade A sand, many beaches around our area can use the sand we dredge.

Thank you for your help.

Sincerely,



Richard Sevigny

COASTAL COMMISSION

EXHIBIT # 9
PAGE 5 OF 5