

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 89 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 585-1800



Th21c

ADDENDUM

DATE: June 11, 2007
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item Th21c, Channel Islands Harbor Notice of Impending Development 1-07 (Marine Emporium Landing Replacement Marina) Thursday, June 14, 2007

The purpose of this addendum is to add and modify Special Conditions and correct minor typographical errors.

Note: ~~Strike through~~ indicates text to be deleted from the May 24, 2007 staff report and underline indicates text to be added to the May 24, 2007 staff report.

1.) The **SUMMARY AND STAFF RECOMMENDATION** shall be modified as follows:

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Staff is recommending that the Commission determine that the impending development is **consistent** with the certified Channel Islands Harbor Public Works Plan (PWP) if modified pursuant to ~~eight (8)~~ **nine (9)** special conditions regarding: (1) ~~pre-construction~~ biological surveys, (2) eelgrass surveys, (3) pre-construction caluerpa taxifolia surveys, (4) construction and maintenance responsibilities and debris removal, (5) best management practices program, (6) marina inspection and maintenance program, (7) removal of temporary construction trailer, ~~and~~ (8) approval of resource agencies, and (9) invasive plants.

2.) The **SPECIAL CONDITIONS** shall be modified as follows:

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1. **Pre-Construction Biological Surveys**

By acceptance of this authorization for development, the Harbor Department agrees to retain the services of a qualified independent biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director, to conduct a biological surveys of trees on or and adjacent to the project site (within 500 feet of any construction activities) just prior to any construction activities, and once a week upon commencement of

construction activities that include grading or use of other heavy equipment that can cause excessive noise, odors, or vibrations **and** that will be carried out between February 1 and August 15th, inclusive. The Ventura Harbor Department shall direct the environmental resource specialist to: (1) conduct a survey in order to determine the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or near the project site, one day prior to commencement of grading or use of any heavy equipment that can cause excessive noise, odors, or vibrations and once a week after such construction begins and (2) immediately report the findings of the survey to the Ventura Harbor Department and the Executive Director.

In the event that the environmental specialist reports any black-crowned night herons, great blue herons, snowy egrets, or other sensitive species exhibiting reproductive or nesting behavior on and adjacent to the project site (within 500 feet of any construction activities), the following restrictions shall apply:

- A. Ventura Harbor District Department shall ~~not commence~~ cease work, and shall immediately notify the Executive Director.
- B. Project activities may commence only upon written approval of the Executive Director and only in areas more than 300 feet from any identified nesting site.
- C. Construction activities that are within 300 feet from any identified nesting site shall not commence until the environmental specialist has determined that black-crowned night herons, great blue herons, or snowy egrets near the project site have ceased to exhibit reproductive or nesting behavior and would not be impacted by any project activities.
- D. The Ventura Harbor Department shall have the environmental resource specialist conduct surveys to determine the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or adjacent to the project site, at least once weekly, during the construction.
- E. Construction noise reduction measures such as sound shields made from plywood or sound-board or molded sound shields shall be used and measures shall be taken to minimize loud noise generation to the maximum feasible extent during construction. Permanent lighting shall be shielded and directed downward. Bright upward shining lights shall not be used during construction and construction employees shall not bring pets (e.g. dogs and cats) to the construction site.

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9. Invasive Plants

By acceptance of this Notice of Impending Development, the applicants agree that vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, and no plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified by the State of California shall be employed in any landscaping or planter areas, or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property

- 3.) In order to correct an inadvertent typographical error, the text in the staff report is modified as follows:

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Page 23, 2nd paragraph:

...As discussed above, the proposed development approved by this NOID, as conditioned, is consistent with the policies of both ~~both~~ [?] the certified PWP.

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Th 21c

DATE: May 24, 2007

TO: Commissioners and Interested Persons

FROM: Jack Ainsworth, Deputy Director
Gary Timm, South Central Coast District Manager
Barbara Carey, Supervisor, Planning and Regulation
Amber Tysor, Coastal Program Analyst

SUBJECT: **Notice of Impending Development (NOID) 1-07**, for the Marine Emporium Landing Replacement Marina for Public Hearing and Commission Action at the June 14, 2007, Commission Meeting in Santa Rosa.

SUMMARY AND STAFF RECOMMENDATION

The impending development consists of the replacement of a small commercial/recreational boating marina and associated gangway and abutment at the Marine Emporium Landing located adjacent to 3600 Harbor Boulevard, Oxnard, Ventura County. The parcel is located on the western side of the Harbor, about .5 miles south of the Channel Islands Boulevard bridge. The construction will replace 8 existing slips, currently accommodating 17 boats, with 11 new slips that will accommodate up to 20 boats. The slips are generally rented to charter boat companies, boat brokerages, the County's water taxi, and ocean excursion operations.

The required items necessary to provide a complete Notice of Impending Development were received in the South Central Coast Office on April 30, 2007 and the notice was deemed filed on May 4, 2007.

Staff is recommending that the Commission determine that the impending development **is consistent** with the certified Channel Islands Harbor Public Works Plan (PWP) if modified pursuant to **eight (8) special conditions** regarding: (1) pre-construction biological surveys, (2) eelgrass surveys, (3) pre-construction caluierpa taxifolia surveys, (4) construction and maintenance responsibilities and debris removal, (5) best management practices program, (6) marina inspection and maintenance program, (7) removal of temporary construction trailer, and (8) approval of resource agencies. As conditioned, the project is consistent with all resource protection policies and provisions of the Public Works Plan. See associated Motion and Resolution beginning on **Page 2**. The standard of review for the proposed NOID is conformity with the policies of the certified PWP.

I. PROCEDURAL ISSUES

Sections 30605 and 30606 of the Coastal Act and Title 14, Sections 13357(a)(5), 13359, and 13353-54 of the California Code of Regulations govern the Coastal Commission's review of subsequent development where there is a certified PWP. Section 13354 requires the Executive Director or his designee to review the Notice of Impending Development (or development announcement) within five working days of receipt and determine whether it provides sufficient information to determine if the proposed development is consistent with the certified PWP. The notice is deemed filed when all necessary supporting information has been received.

Pursuant to Section 13359 of Title 14 of the California Code of Regulations, within thirty working days of filing the Notice of Impending Development, the Executive Director shall report to the Commission the pendency of the development and make a recommendation regarding the consistency of the proposed development with the certified PWP. After public hearing, by a majority of its members present, the Commission shall determine whether the development is consistent with the certified PWP and whether conditions are required to bring the development into conformance with the PWP. No construction shall commence until after the Commission votes to render the proposed development consistent with the certified PWP.

II. STAFF RECOMMENDATION:

MOTION: *I move that the Commission determine that the development described in the Ventura County Harbor Department Notice of Impending Development 1-07 (Marine Emporium Marina Replacement), as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a determination that the development described in the Notice of Impending Development 1-07, as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan, and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DETERMINE DEVELOPMENT IS CONSISTENT WITH PWP:

The Commission hereby determines that the development described in the Notice of Impending Development 1-07, as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan for the reasons discussed in the findings herein.

III. SPECIAL CONDITIONS:

1. Pre-Construction Biological Surveys

By acceptance of this authorization for development, the Harbor Department agrees to retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director, to conduct a biological survey of trees on or adjacent to the project site just prior to any construction activities that include pile driving or use of other heavy equipment that can cause excessive noise, odors, or vibrations **and** that will be carried out between February 1 and August 15th, inclusive. The Ventura Harbor Department shall direct the environmental resource specialist to: (1) conduct a survey in order to determine the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species on or adjacent to the project site, one day prior to commencement of pile driving or use of any heavy equipment that can cause excessive noise, odors, or vibrations and (2) immediately report the findings of the survey to the Ventura Harbor Department.

In the event that the environmental specialist reports any black-crowned night herons, great blue herons, snowy egrets, or other sensitive species exhibiting reproductive or nesting behavior on or adjacent to the project site, the following restrictions shall apply:

- A. Ventura Harbor Department shall not commence work, and shall immediately notify the Executive Director.
- B. Project activities may commence only upon written approval of the Executive Director and only in areas more than 300 feet from any identified nesting site.
- C. Construction activities that are within 300 feet from any identified nesting site shall not commence until the environmental specialist has determined that black-crowned night herons, great blue herons, or snowy egrets near the project site have ceased to exhibit reproductive or nesting behavior and would not be impacted by any project activities.
- D. The Ventura Harbor Department shall have the environmental resource specialist conduct surveys to determine the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or adjacent to the project site, at least once weekly, during the construction.
- E. Construction noise reduction measures such as sound shields made from plywood or sound-board or molded sound shields shall be used and measures shall be taken to minimize loud noise generation to the maximum feasible extent during construction. Bubble curtains shall be employed beneath the surface during pile driving. Permanent lighting shall be shielded and directed downward. Bright upward shining lights shall not be used during construction and construction employees shall not bring pets (e.g. dogs and cats) to the construction site.

The applicant shall submit documentation prepared by the biologist or environmental specialist which indicates the results of each pre-construction survey, including if any black-crowned night herons, great blue herons, snowy egrets, or other sensitive species were observed and associated behaviors or activities. Location of any nests observed shall be mapped.

2. Eelgrass Survey(s)

- A. **Preconstruction Eelgrass Survey.** A valid pre-construction eelgrass 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 condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The Harbor Department shall submit the new eelgrass survey for the review and approval of the Executive Director within five (5) working days of completion of the new eelgrass survey and in any event no later than fifteen (15) working days prior to commencement of construction. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the Harbor Department shall immediately notify the Executive Director.
- B. **Post Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicant 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 application shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty 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 exception to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require a new Notice of Impending Development unless the Executive Director determines that no new Notice of Impending Development is 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 NOID, the Harbor Department shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga

Caulerpa taxifolia or other non-native invasive aquatic species. 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 (5) business days of completion of the survey, the applicant shall submit the survey:
 - 1. for the review and approval of the Executive Director; and
 - 2. to the Surveillance Subcommittee to 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* or other non-native invasive aquatic species is found within the project site or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project site 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 applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur unless the Executive Director is immediately notified.

4. Construction and Maintenance Responsibilities and Debris Removal

The Ventura County Harbor Department shall comply with the submitted "Marine Emporium Landing Marina Replacement, County of Ventura Harbor Department Conditions of Approval," and shall also comply with the following construction-related requirements:

- A. 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.
- B. Any and all construction material shall be removed from the site within 24 hours of completion of construction and disposed of at an appropriate location.
- C. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
- D. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- E. If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity.
- F. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day.

- G. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- H. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a separate Notice of Impending Development or coastal development permit shall be required before disposal can take place.
- I. Reasonable and prudent measures shall be taken to prevent any discharge of fuel or oily waste from heavy machinery or construction equipment into coastal waters. The applicants and applicants' contractors shall have adequate equipment available to contain any such spill immediately.
- J. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- K. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day.
- L. The permittee shall use the least damaging method for the construction of pilings and any other activity that will disturb benthic sediments. The applicants shall limit, to the greatest extent practicable, the suspension of benthic sediments into the water column.

If any conditions in the "Marine Emporium Landing Marina Replacement, County of Ventura Harbor Department Conditions of Approval" (Exhibit 1) are inconsistent with the conditions contained herein, the conditions contained herein shall take precedence.

5. Best Management Practices Program

The Ventura County Harbor Department shall comply with the submitted "Marine Emporium Landing Marina Replacement, County of Ventura Harbor Department Conditions of Approval." Additionally, by acceptance of this authorization for development, the Ventura County Harbor Department agrees to take the steps necessary to ensure that the long-term water-borne berthing of boats at the approved marina will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs:

A. Boat Maintenance and Cleaning Best Management Practices

- Boat maintenance shall be performed above the waterline in such a way that no debris falls into the water.
- In-water top-side and bottom-side boat cleaning shall be by hand and shall minimize the discharge of soaps, paints, and debris. Where feasible, remove the boats from the water and perform cleaning at a location where debris can be captured and disposed of properly.

- Detergents and cleaning products used for washing boats shall be phosphate-free and biodegradable, and amounts used shall be kept to a minimum.
- Detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall not be used.
- In-the-water hull scraping or any process that occurs underwater to remove paint from the boat hull shall be prohibited and shall not occur.
- Boat repair and maintenance shall only occur in clearly marked designated work areas for that purpose.
- All boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall also use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas.

B. Solid and Liquid Waste Best Management Practices

- 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 a gutter.

C. Sewage Pumpout System Best Management Practices

- Vessels shall dispose of any sewage at designated pumpout facilities provided by the Harbor Department.

D. Petroleum Control Management Measures:

- Boaters shall practice preventive engine maintenance and shall use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed 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. The use of soaps that can be discharged by bilge pumps is prohibited.
- If the bilge needs more extensive cleaning (e.g. due to spill of engine fuels, lubricants, or other liquid materials), the boaters shall use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.
- Bilge cleaners which contain detergents or emulsifiers shall not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

E. Public Education Measures

The Ventura County Harbor Department shall distribute a pamphlet with the best management practices included in this condition to all users of the boat docks and end ties. Informative signage and/or depicting best management practices for maintenance of boats and boating facilities consistent with those specific herein shall be posted conspicuously.

If any conditions in the “Marine Emporium Landing Marina Replacement, County of Ventura Harbor Department Conditions of Approval” (Exhibit 1) are inconsistent with the conditions contained herein, the conditions contained herein shall take precedence.

6. Marina Inspection and Maintenance Program

The Ventura County Harbor Department shall exercise due diligence in periodically inspecting the marina facility that is subject to this Notice of Impending Development. The Harbor Department shall immediately require the lessee to undertake any repairs necessary to maintain the structural integrity of the docks, pilings and utility connections, and to ensure that pieces of debris do not enter the marine environment. On a revolving five year basis, following the date that the first dock is installed, the Harbor Department shall conduct an inspection of the marina to ensure the integrity of the docks, pilings and utility connections, and to ensure that all corrective actions have or will be immediately undertaken to maintain the integrity of the facility. The inspections shall be undertaken by boat, during periods of extreme low tides. All periodic reports shall be submitted to the Executive Director for review and approval. If the Harbor Department or the Executive Director concludes that the inspections confirm that the material used in the marina is impacting marine resources, the use of such materials shall be stopped. The Executive Director shall determine if any necessary repairs require a new Notice of Impending Development.

7. Removal of Temporary Construction Trailer

The applicant shall remove the temporary construction trailer and all construction related debris from the staging site within sixty (60) days of completion of all development authorized under Ventura County Harbor Department NOID 1-07, as well as any and all development approved under NOIDS 2-07 and 2-06, if approved.

8. Resource Agencies

The Ventura County Harbor Department shall comply with all requirements 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 the marine environment including bird nesting and foraging activity. 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 new Notice of Impending Development pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IV. FINDINGS FOR APPROVAL OF THE NOTICE OF IMPENDING DEVELOPMENT, AS CONDITIONED

The following findings support the Commission's approval of the Notice of Impending Development, as conditioned. The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION AND BACKGROUND

The Ventura County Harbor Department proposes to demolish and reconstruct a small commercial/recreational boating marina and associated gangway and abutment at the Marine Emporium Landing located adjacent to 3600 Harbor Boulevard, Oxnard, Ventura County (Exhibits 2-4). The parcel is located on the western side of the Harbor, about .5 miles south of the Channel Islands Boulevard bridge. The existing docks are 35 years and in poor condition. The construction will replace 8 existing slips, currently accommodating 17 boats, with 11 new slips that will accommodate up to 20 boats. The proposed dock system will occupy almost the same water area as the existing docks, but they will extend an additional 14.5 feet to the north. The pierhead line will not project any further into the channel than at present (Exhibit 4). Although the water area will be increased slightly, the actual square footage of the new dock will be less: 6,024 sq. ft. of new dock compared to 7,740 sq. ft. of existing dock. The new marina will be comprised of a modern, low-maintenance dock system composed of concrete dock construction. Replacement of the marina will include rehabilitating the marina dock infrastructure, including piers, abutments, and gangways. Pre-stressed concrete anchor guide piles will be used. The marine utility services and fire suppression systems will also be upgraded, along with other modern dock amenities, such as dock boxes. The dock system will adhere to California Building Codes and will meet accessibility requirements under the Americans with Disabilities Act and related State requirements.

A construction staging area will be located at the southern end of the Channel Islands Landing/Boatyard within an open area on the east side of Channel Islands Harbor. (Exhibit 2). The construction staging area will be the same as that used for construction of Channel Islands Landing/Boatyard pursuant to NOID 2-07, if approved. The existing docks will be removed from the pilings and towed across the harbor for removal. Concrete suitable for recycling will be delivered to Calmat/Industrial Asphalt located at 6029 Vineyard Ave., Oxnard, Ca. All other demolition debris will be disposed of at the Simi Valley Landfill, 2801 N. Madera Rd., Simi Valley, Ca. Large pieces of new docks will be delivered and temporarily stored at the staging area. The new concrete docks, pre-manufactured offsite, will be lifted by crane into the water, towed to their destination, and assembled. A temporary construction office will be located within this area. All construction areas will be fenced and secured. Storm water control measures are

proposed in conformance with the general National Pollutant Discharge Elimination System permit. No dredging is proposed as part of this project.

The slips are generally rented to charter boat companies, boat brokerages, the County's water taxi, and ocean excursion operations and will continue to serve the same purposes when replaced.

Background

On September 19, 1986, the Channel Islands Public Works Plan (PWP) was effectively certified by the Commission. The purpose of the PWP, as certified, is to provide "a detailed and specific planning document to guide future Harbor development." Jurisdiction within the Channel Islands Harbor is shared by both the County of Ventura and the City of Oxnard. Oxnard's City limits extend to all Harbor land areas. Based on a previous agreement between the two governmental authorities and the Commission's certification of the Public Works Plan, the County assumed planning and regulatory authority within the Harbor. Under the certified PWP, the County is responsible for approval of all development within the Harbor permitted by the plan. Under the PWP the County must submit a Notice of Impending Development (NOID) describing any proposed development that is listed in the plan, for review and approval by the Commission. For a project contained in the certified PWP, the Commission's review of a Notice of Impending Development is limited to determining whether the development is and can be made consistent with the PWP, or imposing reasonable terms and conditions to ensure that the development conforms to the PWP and Coastal Act.

Requirements for the level of information contained in a Public Works Plan are contained in Section 13353 of Title 14 of the California Code of Regulations, which states that a PWP "shall contain sufficient information regarding the kind, size, intensity and location of development activity intended to be undertaken pursuant to the plan." Such information includes: 1) the specific type of activity or activities proposed to be undertaken; 2) the maximum and minimum intensity of activity or activities proposed to be undertaken; 3) maximum size of facilities proposed to be constructed pursuant to the plan; and 4) the proposed location or alternative locations considered for any development activity or activities to be undertaken pursuant to the proposed plan. The Coastal Act envisions that a Public Works Plan functions more as a Specific Plan or a master development permit in order for specific projects or activities described in the PWP to be approved quickly through the Notice of Impending Development Process at later dates with minimal review. Activities, projects, or facilities not specifically proposed in a Public Works Plan in the level of detail described above may require an amendment to the certified PWP that must be approved by the Coastal Commission prior to approval and issuance of a Notice of Impending Development for said activity, project, or facility.

The standard of review for the Notice of Impending Development is the certified 1986 PWP. The PWP contains policies and provisions that identify areas for harbor development while protecting coastal resources including the marine environment, scenic and visual resources, and public access and recreation.

B. MARINE RESOURCES

The certified Channel Islands Harbor PWP incorporates Sections 30240, 30230, 30231, and 30233 of the Coastal Act. Section 30240 provides for the protection of Environmentally Sensitive Habitat Areas. Sections 30230 and 30231 of the Coastal Act mandate that marine resources and coastal water quality shall be maintained and where feasible restored. Section 30233 of the Coastal Act permits fill of coastal waters for boating facilities.

Section 30240 of the Coastal Act States:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

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 states (in part):

(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:

(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.

In addition, existing Policy 2 under Biological Resources in the Public Works Plan states:

Use of the marine environment shall be permitted to the extent that it does not adversely impact the biological productivity of Harbor and coastal waters.

The Channel Islands Harbor Public Works Plan contains policies to protect marine and biological resources and environmentally sensitive habitat areas in and around Harbor waters. The proposed Marine Emporium Landing Replacement Marina is located on the western side of the Harbor and includes demolition of eight existing slips and reconstruction of 11 new slips. This development has the potential to adversely impact marine and biological resources during the construction phase of the project.

1. Nesting Birds

Section 4.5 (Biological) of the PWP states:

Within Channel Islands Harbor terrestrial biological resources are limited in distribution and significance. The area is completely developed with commercial, recreational and residential structures; terrestrial vegetation consists entirely of introduced landscaping species.

However, several bird species, such as great blue herons, black-crowned night herons, and snowy egrets utilize the trees in the Harbor for roosting and nesting. Although none of these species is listed as threatened or endangered, their presence is considered important because some species of herons and egrets are considered Sensitive Species and play an integral role in the ecosystem as top wetland predators

The proposed project is located on the west side of Channel Islands Harbor. There are no trees located within approximately 370 feet of this marina that are known to provide nesting areas for either black-crowned night herons or great blue herons. However, great blue herons and black-crowned night herons use various locations throughout the Channel Islands Harbor as nesting sites and these sites have been documented monthly from 2003 to the present by Dr. Froke. The most recent report from Dr. Froke, dated April 22, 2007, states that, as of March 5, 2007, the only nesting sites for the great blue heron were located on the peninsula in the middle of the harbor and there were no nesting sites documented for the black-crowned night heron (Exhibit 6).

The closest tree to the Marine Emporium Landing dock area on the west side of the harbor is a New Zealand Christmas Tree located approximately 533 feet to the south, which has not contained a nest since 2003. However, if great blue or black-crowned night herons were to begin nesting near the project site, there is the potential that activities associated with the construction of the new docks, such as excessive noise above the normal level of acoustic noise normally existing at the marina, could adversely impact nesting herons, egrets, or other sensitive species. Therefore, to ensure that nesting herons are not adversely affected by construction activities, the Commission is requiring **Special Conditions One (1)** which requires a pre-construction survey by a qualified independent biologist approved by the Executive Director to determine whether herons are nesting near the project site, if construction will occur during nesting season (between February 1 and August 15). Should nesting activity within the project site be observed in the pre-construction survey, then several restrictions will apply to the construction, including that construction may not commence in the areas within 300 feet of any identified nest(s), that construction over 300 feet from any nest(s) will employ noise reduction measures [such as sound shields and silt and turbidity reduction measures, e.g. silt curtains, as recommended in a report by the harbor biologist, Dr. Froke (Exhibit 7)], and trees on the site and immediately adjacent will be surveyed weekly during construction. Finally, the designated biologist is required to submit written documentation of the pre-construction survey and any required weekly survey(s) regarding the status of heron or egret nesting and foraging in the immediate vicinity of the construction site.

2. Aquatic Plants and Seabird Foraging Habitat

Caulerpa Taxifolia

The Commission further finds that the demolition and driving of piles on the sea floor could disturb and cause the spread of non-native and invasive species, such as *Caulerpa taxifolia* and Japanese kelp (*Undria pinnatifida*). *Caulerpa taxifolia* is a tropical green marine alga that spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. Because of toxins in its tissues, *Caulerpa taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation of *Caulerpa taxifolia* has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial

fishing in places such as the Mediterranean¹. Because of the grave risk to native habitats, in 1999 *Caulerpa 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.

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 States, federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

If *C. taxifolia* or Japanese kelp or other non-native invasive aquatic species is present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments. In order to assure that the proposed project does not cause the dispersal of *C. taxifolia* and other non-native species, the Commission imposes **Special Condition Three (3)**. Special Condition Three (3) requires the applicant, prior to commencement of development, to survey the project area for the presence of *C. taxifolia* and Japanese

¹ References:

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

Chisholm, J.R.M., M. Marchionetti, 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

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.

kelp. If *C. taxifolia* or Japanese kelp is present in the project area, no work may commence and the applicants shall immediately notify the Executive Director.

Eelgrass

The project has the potential to directly impact sensitive resources, including eelgrass that may be present in the project area. Installation and driving of piles can directly remove and disturb eelgrass. In addition, vessels moored above these resources can reduce the light available to eelgrass and kelp by shading portions of the ocean floor. It is possible that eelgrass has established in portions of the project area not shaded by vessels. Therefore, **Special Condition Three (3)** requires, prior to construction, the Harbor Department to conduct a survey of the project area for eelgrass. If the survey identifies any eelgrass within the project area which would be impacted by the proposed project, the Executive Director must be notified prior to construction. If any eelgrass is identified in the project area prior to construction, the applicant shall also conduct a second eelgrass survey one month after the conclusion of construction to determine if any eelgrass was adversely impacted. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1. Implementation of mitigation shall require a new Notice of Impending Development.

3. Fill of Coastal Waters

The proposed project includes the complete reconstruction of 11 boat slips, including the installation of new concrete piles in the marina. The new piles constitute fill of open coastal waters. Under Section 30233 of the Coastal Act, fill of open coastal waters is only allowed when several criteria are met, including: a) the project must fall within one of the allowable use categories specified; b) the proposed project must be the least environmentally damaging alternative; and c) feasible mitigation measures to minimize adverse environmental effects must be provided. The proposed project meets the first criteria (allowable use) because it is for a public boating facility. Fill of open coastal waters for the construction of a public boating facility is an allowable use under Section 30233(a)(4) of the Coastal Act.

Next, the proposed project must be the least environmentally damaging alternative. The proposed project is the replacement of docks in substantially the same configuration of the previously demolished docks. Alternatives to the proposed project include no project or a change to the proposed configuration.

Under the no project alternative, the applicant could only pursue simple maintenance repair activity. However, simple maintenance repair could not feasibly repair the docks, nor bring them up to present engineering and safety standards, or ADA requirements. Simple maintenance would slow, but not prevent further deterioration of any damaged docks. In addition, marine habitat would not significantly benefit from the no project alternative since this alternative would necessitate that the structure remain in place. Continued, safe use of the facility for marine recreational purposes would be precluded without replacement of the dock system.

The second alternative, replacement of the project in a new configuration, would eliminate the need for additional pilings. However, the applicant asserts that the additional piles are necessary to build the proposed alternative to meet current engineering and safety standards, ADA requirements and Department of Boating and Waterways criteria, and to minimize the loss of slips.

The proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures, such as the use of silt curtains during pile removal and driving to limit turbidity and to minimize adverse environmental effects. **Special Condition Five (5)** requires the Harbor Department to incorporate Best Management Practices during construction, including measures for erosion and sediment control and debris removal, such as use of silt curtains and turbidity reduction measures. Therefore, the Commission finds the proposed Notice of Impending Development is consistent with the applicable policies of the Public Works Plan relating to fill of coastal waters.

4. Resources Agencies

In addition, in order to ensure that the proposed project is consistent with all California Department of Fish and Game and other agency regulations, **Special Condition Eight (8)** requires the applicant to agree to comply with all requirements and mitigation measures from the California Department of Fish and Game, United States Army Corps of Engineers, US Fish and Wildlife Service, and the Regional Water Quality Control Board prior to commencement of construction.

The proposed reconstruction of the Marine Emporium Landing marina has the potential to impact marine and biological resources. Special conditions relating to nesting birds, aquatic plants, and foraging habitat that will minimize these impacts have been required. Thus, for the reasons discussed above, the Commission finds that the proposed Notice of Impending Development, subject to the recommended special conditions, is consistent with the PWP relative to marine and biological resources.

The Commission, therefore, finds that the Notice of Impending Development is consistent, as conditioned, with the biological policies of the certified PWP.

C. RECREATIONAL BOATING

The certified Channel Islands Harbor PWP incorporates by reference Coastal Act Sections 30213, 30220, 30224, and 30234, to protect and promote recreational boating and commercial fishing facilities in the Harbor.

Section 30213 states (in part):

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

Section 30220 states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30224 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 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.

In addition, Policy 3 under Recreational Boating in the Public Works Plan states:

To provide for, protect and encourage increased recreational boating use of coastal waters, the following policies shall be implemented:

- a. Harbor recreational boating facilities shall be protected, and where possible upgraded in order to provide further opportunity to the recreational boater;**
- b. dry boat storage spaces shall be provided at or adjacent to the Harbor to accommodate a minimum of 300 vessels;**
- c. water storage space shall be provided for at least 2,500 recreational boat slips**
- d. no more than 30% of the Harbor land area shall be developed for visitor serving uses not directly related to boating;**
- e. a target number of 5% of the recreational boat slips shall be available as guest slips**

- f. to protect the recreational character of the Harbor areas, no more than 5% of the boating supply shall be provided for live-aboard use;**
- g. the existing open water areas in the inner Harbor, as depicted on the Land Use Map as “Waterways” and as defined by existing pier head lines at the time of original approval of the California Coastal Commission of the Harbor’s Public Works Plan, shall not be developed with surface structures of any kind, floating or otherwise, except in cases of emergency where temporary structures are required.**

As proposed, the Marine Emporium Landing marina replacement project consists of replacing 8 existing slips with 11 new upgraded boat slips to be used primarily by recreational boaters. The slips are generally rented to charter boat companies, boat brokerages, the County’s water taxi, and ocean excursion operators. One of the larger 65-foot slips is currently used to house a bait receiver for sport fishing operations.

The certified PWP designates this parcel to be developed as visitor serving boating. The purpose of the visitor serving boating designation is to provide “access to and storage of boats, and where launch facilities exist, to provide for the entry and removal of boats from (or to) the waters of the Inner Harbor.” The waterside permitted uses of this designation are “boat storage, boat and boating equipment rental, sales, display, brokerage, and minor repair services.”

The reconstruction of the Marine Emporium Landing marina meets the stated purpose in the certified PWP to provide visitor serving boating facilities. The marina will provide new upgraded visitor serving facilities and new berthing space as contemplated in the PWP and Coastal Act. Therefore, as proposed, the Notice of Impending Development is consistent with the recreational boating policies of the certified Public Works Plan.

D. COASTAL ACCESS

In addition to the recreational provisions mentioned above, the certified Channel Islands Harbor PWP incorporates by reference Coastal Act Sections 30211 and 30212 to ensure that maximum public access and recreational opportunities be provided to allow use of dry sand and rocky coastal beaches and that development not interfere with the public’s right to access the water, consistent with the need to protect public safety, private property and natural resources.

Coastal Act Section 30211 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.

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected.

Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Further, Policy 5 in the Public Access Chapter of the PWP states that:

Maximum pedestrian waterfront access shall be provided by incorporating waterfront pedestrian walkways into all redevelopment projects. Where existing structures are found to interfere with lateral shoreline access, walkways shall be located as close as possible to the water. All walkways shall be linked with adjacent walkways in order to insure uninterrupted pedestrian movement. A promenade walkway shall be provided along the Harbor frontage for all new development.

The proposed project involves reconstruction of the waterside portion of the Marine Emporium Landing marina. The project involves replacement of 8 existing slips with 11 new slips. In NOID 2-06 (Marine Emporium X-1-B), filed concurrently with the present NOID1-07, the Harbor Department proposes to construct a new commercial fishing and retail building on the land adjacent to the proposed Marine Emporium marina. The proposed building on the Marine Emporium site incorporates a public promenade around the building and along the waterfront with access to the currently proposed Marine Emporium marina replacement docks. Additionally, current access to the water exists via the existing parking lots. When built, this project will enhance public access to and along the water.

Further, although a small fenced construction staging area will be set up on the east side of the harbor, the proposed staging area will occupy only a small portion of a parking lot on a temporary basis. **Condition Nine (9)** requires that the temporary construction trailer be removed when construction is completed. A large number of parking spaces in this lot are routinely vacant. Therefore, the proposed temporary staging area in the parking lot will not result in any significant adverse impacts to public parking.

The Commission finds that the proposed project will not result in any adverse impacts to public access to and along the waterways in the Harbor. In fact, the project will enhance access by providing a new public pedestrian walkway along the water. Therefore, the Commission finds that the Notice of Impending Development is consistent with applicable public access policies of the Channel Islands PWP.

E. WATER QUALITY

As previously explained in the Biological Resources section above, the certified Channel Islands Harbor PWP incorporates by reference Coastal Act Sections 30230 and 30231, mandating that marine resources and coastal water quality shall be maintained and where feasible restored. Additionally, Coastal Act Section 30232, also incorporated by reference into the certified PWP, requires protection against spillage of hazardous substances into the marine environment relating to any new development.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

In addition, Policy 2 under Biological Resources in the Public Works Plan states:

Use of the marine environment shall be permitted to the extent that it does not adversely impact the biological productivity of Harbor and coastal waters.

Policy 3 under Biological Resources states:

Activities which produce, handle or transport petroleum products or hazardous substances within Harbor water areas shall be discouraged unless it can be proven beyond reasonable doubt that such activity will not result in any significant environmental impact. This policy does not apply to retail fuel sales/operations for boaters and commercial fishermen in the Harbor.

Policy 4 under Biological Resources states:

Adequate cleanup procedures and containment equipment shall be provided by the Harbor for all hazardous materials stored in the Harbor.

Boating Activities

The proposed reconstruction of the docks at the Marine Emporium Landing marina has the potential to adversely impact coastal water quality through introduction of pollutants associated with boating activities.

Potential sources of pollutants associated with boating activities such as chemicals, petroleum, cleaning agents and sewage result in potential adverse impacts to water

quality in the Harbor and surrounding coastal waters. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health. Such cumulative impacts can be minimized through the implementation of boating BMPs. Therefore, **Special Condition Five (5)** requires the Harbor Department to submit a Water Quality Best Management Practices (BMPs) Program that demonstrates that boating activity in the project area will be managed in a manner that protects water quality.

In addition, there is the potential for the materials used in the marina to degrade over time. Piles and fenders use plastic and other materials for protection and are constantly subject to abrasive forces from boats and ships. If the plastics were to become brittle, they may splinter or chip upon impact and would introduce plastic debris into the coastal waters, and thus would adversely affect water quality resources. Because of the potential for pieces of unattached plastic or other materials to enter into the marine environment due to damage or degradation, the docks must be routinely inspected to ensure that the facility is being maintained in an environmentally safe operating condition and so that any damaged or degraded pieces are replaced in a timely manner. To minimize the potential of plastics and other debris from entering the water due to damage or deterioration of the docks, **Special Condition Six (6)** requires that all docks must be inspected at least every five years. If monitoring confirms that the use of plastic or other materials in the marina is damaging marine resources, the use of such materials shall be stopped, as more environmentally friendly products are developed. Future repair work may require a new Notice of Impending Development if the Executive Director determines that one is required.

Demolition and Construction Activities

The proposed demolition and reconstruction of the docks at the Marine Emporium Landing marina has the potential to adversely impact coastal water quality through introduction of pollutants associated with construction.

Construction, debris removal and erosion and sediment control measures implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from the use of construction materials and methods. To ensure that these measures are properly implemented and in order to ensure that adverse effects to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the Harbor Department, as required by **Special Condition Four (4)**, to submit a final Demolition/Construction, Debris Removal and Erosion and

Sediment Control Plan. This plan will include measures such as the use of turbidity screens/siltation curtains to isolate work area during pile removal and installation, floating booms to contain debris or spills, minimization of bottom disturbance, removal of bottom debris following demolition and prior to construction, recovery of any non-buoyant debris by divers as soon as possible after loss, storage of all construction materials or waste in a manner which prevents their movement via runoff, or any other means, into coastal waters, the removal of any and all construction equipment, materials and debris from the project site at the conclusion of construction, the disposal of all demolition and construction debris at an appropriate site, and the implementation of appropriate erosion and sediment control BMPs.

Therefore, the Commission finds that the proposed Notice of Impending Development , as conditioned to incorporate and maintain a drainage and polluted runoff control plan and to incorporate best management practices during construction, is consistent with the applicable water quality protection policies of the certified Public Works Plan.

F. VISUAL RESOURCES

The certified Channel Islands Harbor PWP incorporates by reference Coastal Act Section 30251 seeks to protect the visual and scenic qualities of coastal areas as a resource of public importance.

Coastal Act Section 30251 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Policy 2a under Public Access and Recreation in the certified PWP states (in part):

View corridors shall be landscaped in a manner that screen and softens the view across any parking and pavement areas in the corridor. This landscaping, however, shall be designed to frame and accentuate the view, and shall not significantly block the view corridor. All redevelopment shall provide maximum views.

Policy 2d states:

Future building or redevelopment in the Harbor shall not exceed 2 stories or 25 feet in height...Height shall be measured from the centerline of the frontage road.

The replacement of docks on the water will not impact any viewshed existing within the harbor or shown on the Land Use Plan/Access map within the PWP. The replacement will not have additional impacts to public views than what currently exists. Therefore, the Commission finds that the proposed Notice of Impending Development, as conditioned, is consistent with the applicable visual resource protection policies of the certified Public Works Plan.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Harbor Department, in its role as lead agency for the PWP and the NOID for purposes of the California Environmental Quality Act ("CEQA"),² has determined that the project is categorically exempt from the provisions of CEQA, under CEQA Guidelines Section 15302. 14 C.C.R. § 15302 ("Replacement or Reconstruction"); see also CEQA section 21084 (authorizing promulgation of regulations listing categorical exemptions). For CEQA purposes, the Commission's role with respect to this project is that of a responsible agency. Despite the lead agency's determination of categorical exemption for the project, the Commission has separately considered the potential environmental impacts of the project as it would be characterized under both CEQA and the Coastal Act. As an agency with a certified regulatory program under CEQA section 21080.5, the Commission regularly assesses whether its approval of a project, as modified by any conditions of approval, is consistent with the provisions in CEQA Section 21080.5(d)(2)(A) that a proposed project not be approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect the activity may have on the environment. As in other contexts, the Commission has considered that question here.

The Commission has imposed conditions upon the Notice of Impending Development to include such feasible measures as will reduce environmental impacts of new development. The Commission incorporates its findings on Coastal Act and PWP consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development approved by this NOID, as conditioned, is consistent with the policies of both [?] the certified PWP. Feasible mitigation measures that will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, that would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that Notice of Impending Development, as conditioned herein, is consistent with CEQA Section 21080.5(d)(2)(A), and the applicable provisions of the Public Works Plan.

² Cal. Pub. Res. Code ("PRC") §§ 21000 *et seq.* All further references to CEQA sections are to sections of the PRC.

**MARINE EMPORIUM LANDING REPLACEMENT OF MARINE, INCLUDING DOCKS
AND GANGWAY (2007-MEL-2)
COUNTY OF VENTURA HARBOR DEPARTMENT
CONDITIONS OF APPROVAL**

1. Prior to obtaining a building permit from the City of Oxnard, the Harbor Department shall approve all plans for construction of this development. The plans submitted to the City of Oxnard shall substantially conform to the plans approved as a part of this Notice of Impending Development.
2. Any modifications to the plans after approval of the Harbor Department shall also be approved by the Harbor Department. Copies of the approved plans shall be provided to the Harbor Department in both paper and electronic format.
3. A copy of these conditions shall be reproduced on the initial pages of the plans submitted for approval to the City of Oxnard for building permit issuance.
4. Gangway, abutment, security devices, entry gates and other marina-associated structures shall be located off of the area intended for the public walkway and the walkway shall be left clear for public access.
5. No materials classified as flammable, combustible, radioactive, carcinogenic, or otherwise potentially hazardous to human health shall be handled, stored or used on the project property, except as provided by a permit issued by the City of Oxnard or County of Ventura Fire Departments.
6. All Fire Department approvals to ensure access and the availability of water for fire combat operations to all areas of the project shall be obtained prior to final occupancy.
7. Prior to installation of any lighting, a lighting plan shall be submitted to the Harbor Department showing type of fixtures, heights, and intensity of illumination. Lighting fixtures shall be cut-off type fixtures that divert lighting downward onto the property and shall not cast light onto adjacent property, adjacent roadways or adjacent waterways.
8. Lessee's contractor shall ensure that all construction equipment is maintained and tuned to meet applicable Environmental Protection Agency (EPA) and California Air Resources Board (CARB) emission requirements. At such time as new emission control devices or operational modifications are found to be effective, lessee's contractor shall immediately implement such devices or operational modifications on all construction equipment.
9. Lessee's contractor shall minimize the number of vehicles and equipment operating on site at the same time.
10. At all times during construction activities, lessee's contractor shall minimize the area disturbed by clearing, grading, earth moving, or excavation operations to prevent excessive amounts of dust.
11. Adjacent streets and public access ways shall be kept free from debris and lessee's contractor shall sweep or clear areas daily as necessary.

EXHIBIT 1

CI Harbor NOID 1-07

Harbor Department Conditions

12. Lessee and/or lessee's contractor shall employ current Best Management Practices to protect against storm water runoff into storm drains and the harbor.
13. No demolition/construction materials, equipment, debris or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion or where it may enter a storm drain.
14. Any alteration of rock slope resulting from removal of old gangway support abutments shall be restored to its original footprint and shall not extend further into Harbor waters.
15. Any and all debris resulting from demolition/construction activities shall be removed from the project site and disposed of within 24 hours of completion of construction.
16. Lessee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate approved dumping location either outside the coastal zone or at a site within the coastal zone permitted to receive the debris. The lessee shall provide the Harbor Department with the location of the disposal site prior to commencing construction.
17. Construction staging areas shall be screened and protected to avoid material being blown or washed into the harbor. Screening material shall be approved by the Harbor Department. Lessee shall limit outdoor storage of materials to the locations shown and all construction material shall be stored within the staging area. Construction staging area shall remain locked and secured when not in use.
18. Machinery or demolition/construction materials not essential for the project are prohibited at all times in the subtidal and intertidal zones.
19. The use of creosote treated wood piles is prohibited.
20. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
21. Silt curtains shall be utilized to control turbidity during placement and removal of all piles.
22. Existing piles shall be removed as soon as possible after dock removal to reduce hazards to boat traffic in the area.
23. Floating booms and silt curtains shall be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
24. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
25. Erosion control/sedimentation BMPs shall be used to control sedimentation impacts to coastal waters during project staging, demolition and construction. BMPs designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with the construction activities shall be implemented prior to the onset of such activity. These BMPs shall include, but are not limited to: storm drain inlets must be protected with sandbags or berms, all stockpiles must be covered, the storage, application and disposal of pesticides, petroleum and other construction chemical materials must be managed and controlled, and

- adequate sanitary and waste disposal facilities must be provided. BMPs shall include a preconstruction meeting to review procedural and BMP guidelines.
26. Temporary erosion control measures shall be implemented should construction or site preparation cease for a period of more than 30 days. These temporary erosion control measures shall be monitored and maintained until demolition or construction operations resume.
 27. The areas to be disturbed by construction activities, including any temporary access roads, staging areas, and stockpile areas, shall be delineated.
 28. At the end of the demolition/construction period, the Lessee shall have divers inspect the project area, including the path across the channel from the construction site to the staging site, and ensure that no debris, trash or construction material has been left on the shoreline or in the water, and that the project has not created any hazard to navigation. All debris, including old floats, pilings, pieces of docks, boat material and any other debris that has accumulated on the bottom shall be removed prior to final occupancy approval.
 29. Hours of construction shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, and not allowed on Sunday or holidays without prior approval of the Harbor Department.
 30. Signage shall be provided to notify the public when access to public sidewalks will be blocked because of construction. Signage will indicate alternate routes.
 31. Lessee is responsible for removing all graffiti from the project site within 24 hours and restoring the surface to match the existing.
 32. Adequate trash facilities and pick-ups shall be provided to maintain the site free of debris, food waste, and to minimize scavenger birds.
 33. Preconstruction Eelgrass Survey: A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The preconstruction survey shall be completed prior to the commencement of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the latest revision of the "Southern California Eelgrass Mitigation Policy" adopted by the national Marine Fisheries Service and shall be prepared in accordance with the protocol acceptable to the California Department of Fish and Game. The Lessee shall submit the eelgrass survey within five business days of completion to the Harbor Department. If the survey identifies any eelgrass within the project area that would be impacted by the proposed project, the development may be subject to additional permitting and mitigation requirements.
 34. Post Construction Eelgrass Survey: If any eelgrass is identified in the project area by the survey required in condition 30, within one month after the conclusion of construction, the Lessee shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in compliance with the National Marine Fisheries Policy quoted above. Lessee shall submit the survey to the Harbor Department within 30 days after completion. If any eelgrass has been impacted, the Lessee shall

- replace the impacted eelgrass at a minimum of 1.2:1 ratio onsite, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy.
35. *Caulerpa Taxifolia* Preconstruction Survey: No earlier than ninety (90) days, nor later than thirty (30) days prior to commencement or recommencement of any construction authorized under this exemption, the Lessee shall undertake a survey of the project area and a buffer area at least ten (10) 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. The survey protocol shall be prepared according to the requirements of the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service. Within five (5) business days of completion of the survey, the Lessee shall submit the survey to the Harbor Department and to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). If *Caulerpa taxifolia* is found within the project buffer areas, the Lessee shall not proceed with the project until 1) the Lessee submits a plan proposing measures formulated to avoid, minimize and otherwise mitigate impacts that the proposed development might have resulting from the dispersal of *Caulerpa taxifolia* in the project area and that further provides evidence that all the *C. taxifolia* discovered within the project and/or buffer area will be eliminated in a manner that complies with all applicable governmental approved requirements, including but not limited to those of the California Coastal Act, or 2) the Lessee has revised the project to avoid contact with *C. taxifolia*. No revisions to the project shall occur without approval from the Harbor Department.
36. Water Quality/Best Management Practices Program: Prior to final approval of the project construction, Lessee shall develop and submit for approval by the Harbor Department, a detailed Water Quality/Best Management Practices (BMP) Program for controlling adverse impacts to water quality resulting from operation of the public boating facilities. The plan shall demonstrate that boating in the project area will be managed in a manner that protects water quality and that persons or employees maintaining boats in slips or using slips on a transient basis are made aware of water quality provisions. The plan shall include, at a minimum, the following provisions:
- a) Boat Maintenance Best Management Practices
 - i. Clean boat hulls above the water line and by hand. Where feasible, remove the boats from the water and perform cleaning at a location where debris can be captured and disposed of properly.
 - ii. Detergents and cleaning products used for washing boats shall be phosphate-free and biodegradable, and amounts used shall be kept to a minimum.
 - iii. Detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall not be used.
 - iv. In-the-water hull scraping or any process that occurs underwater to remove paint from the boat hull shall be minimized to the maximum extent possible.

- b) Solid Waste Best Management Practices Related to Boat Maintenance
 - i. Boat maintenance and cleaning shall be performed above the water line in such a way that no debris falls into the water.
 - ii. Clearly marked designated work areas for boat repair and maintenance shall be provided. Work outside of designated areas shall not be permitted.
 - iii. Hull maintenance areas, if provided, shall be cleaned regularly to remove trash, sanding dust, paint chips and other debris.
 - iv. Public boat facility patrons shall be provided with property disposal facilities, such as covered dumpsters or other covered receptacles.
 - v. Receptacles shall be provided for the recycling of appropriate waste materials.
 - c) Hazardous Waste Best Management Practices
 - i. Storage areas for hazardous wastes, including old gasoline or gasoline with water, oil absorbent materials, used oil, oil filters, antifreeze, lead acid batteries, paints, and solvents shall be provided, or, information shall be provided to public boat owners on where and how such materials may be disposed of.
 - ii. Containers for used anti-freeze, lead acid batteries, used oil, used oil filters, used gasoline, and waste diesel, kerosene, and mineral spirits which will be collected separately for recycling shall be provided in compliance with local hazardous waste storage regulations and shall be clearly labeled.
 - iii. Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes.
 - d) Sewage Pump Out System Best Management Practices: Adequate sewage pump out facilities to serve the proposed development shall be provided to prevent the overboard disposal of untreated sewage within the project area and surrounding waters.
 - e) Public Education Measures: The Lessee shall distribute the Water Quality Management Plan to all users of the boat docks. Informative signage describing and/or depicting Best Management Practices for maintenance of boats and boating facilities consistent with those specified herein shall be posted conspicuously.
37. Marina Inspection and Maintenance Program: Lessee shall cooperate in periodic and regular inspections of the marina facilities that are the subject of this NOID. The Lessee will be immediately required to undertake any repairs necessary to maintain the structural integrity of the docks, pilings and utility connections, and to ensure that pieces of debris do not enter the marine environment. On a revolving five year basis, following the date that the first dock is installed, the Harbor department shall conduct an inspection of the marina to ensure the integrity of the docks, pilings and utility connections, and to ensure that all corrective actions have or will immediately be undertaken to

maintain the integrity of the facility. Lessee shall cooperate with all inspections and repairs.

38. The Lessee 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 the marine environment including nesting and foraging activities. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Harbor Department in order to determine if the proposed change will require a new permit.

**Marine Emporium
Landing Marina
Replacement Site**



**Channel Islands
Landing/Boatyard
Marina
Replacement
Site**

**Exhibit 2
CI Harbor NOID 1-07
Harbor Aerial**



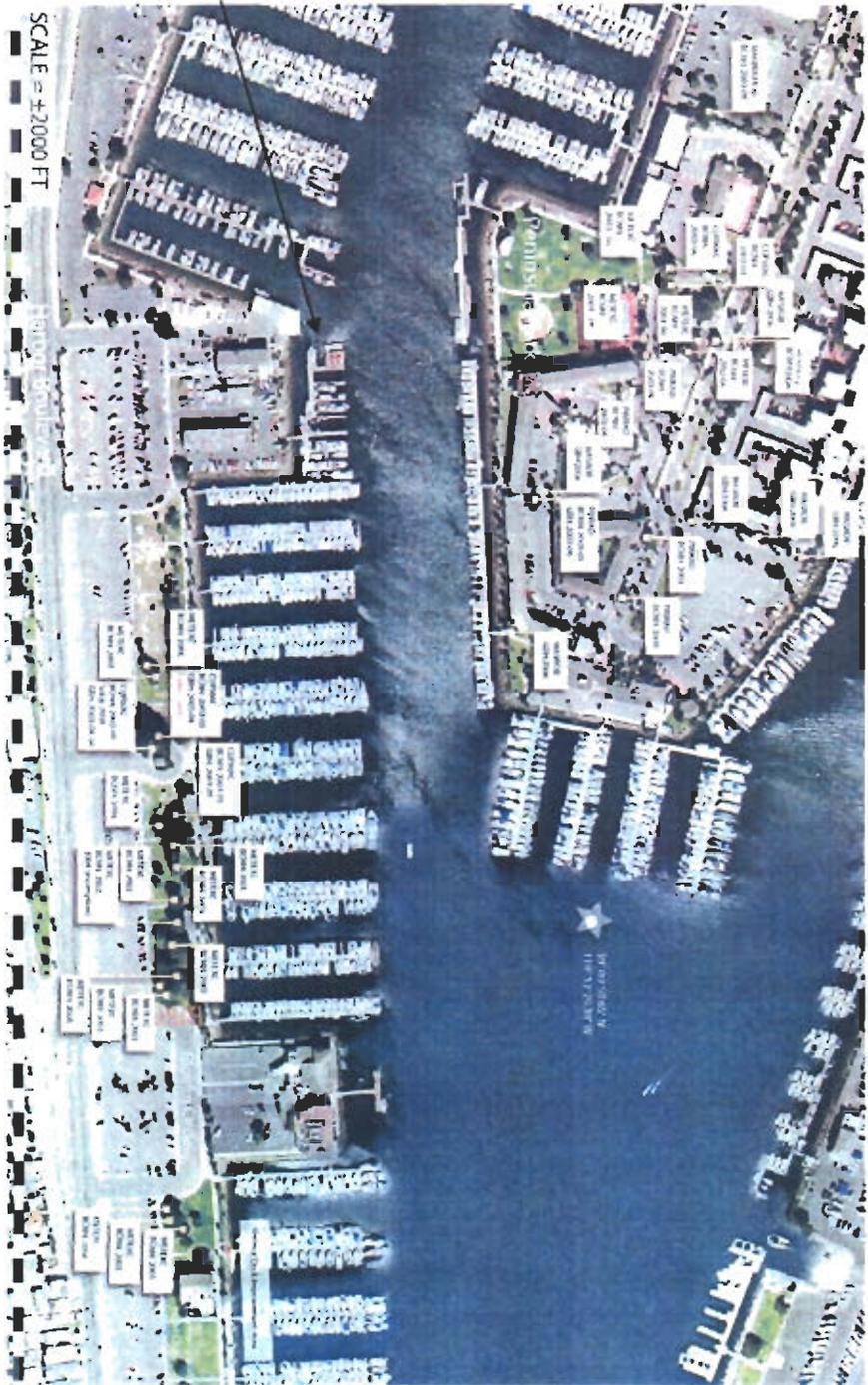
**Existing
Crane/Hoist**

**MARINE
EMPORIUM
MARINA
REPLACEMENT**

**Exhibit 3
CI Harbor NOID 1-07
Marina Replacement
Site**

Marine Emporium Landing
Dock Replacement Site

Heron Nest Trees, CHANNEL ISLANDS HARBOR, Ventura Co., California (2003-2006)



This map shows all trees in the CIH study area that were confirmed as used by nesting herons during 2003, 2004, 2005 & 2006. Tree species are New Zealand Christmas Tree (METECL), Monterey Pine (METEAD), Monterey Cypress (UPMACI), Mexican Fan Palm (WASPDB), a Melaleuca (MELALEUCA ssp), and a Magnolia (MAGNOQUA ssp). Heron species are Black-crowned Night-Heron (BCNHL), Snowy Egret (SGBH), and Great Blue Heron (GBH).

Note: Black-crowned Night-Herons, which were most numerous @ CIH in 2003 (39 nesting pairs on the West Side), have since declined in numbers: 5 pairs in 2004, a single pair in 2005, and no birds in 2006. Simultaneously, BCNH numbers have grown to match Snowy Egrets at 100 pairs total, and a period-high of approximately 17 pairs of Great Blue Herons nested at Ventura Harbor during 2005.

18/04/07/04/07

Exhibit 5
CI Harbor NOID 1-07
Heron Nesting Site Aerial



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CHANNEL ISLANDS HARBOR FIELD REPORT

DATE: 22 April 2007
TO: Lyn Krieger
Ventura County Harbor Department
CC: Andi Culbertson
Culbertson Adams & Associates

This report of all herons' nesting status at Channel Islands Harbor is as of 15 Mar 07, the date of my most recent onsite inspection. The previously submitted report (05 Mar 07) gave the status of the CIH colony per 22 Feb 07. My next scheduled field inspections will be this week, on 23 and 26 Apr 07.

Black-crowned Night-Heron -

There were no BCNH pairs nesting or starting to nest in the harbor study area. My information consisted of direct observations plus those of Greg Ainsworth (Impact Sciences). By mutual agreement, Greg and I will notify one another whenever we detect or suspect BCNH to be nesting or displaying serious nesting behavior in the harbor environment.

Great Blue Heron -

Westside. There were no GBH nesting on the Westside of CIH, including the two large cypresses at Barracuda Way. [running total: 0 GBH prs]

Peninsula/Peninsula Park. There were no nesting herons at Peninsula Park or its vicinity. [0 GBH]

Peninsula/Casa Sirena. Three pairs of GBH were nesting on the grounds of Casa Sirena, two of which were in the well-established Monterey Pine in the central portion of the (3-story) hotel complex (*stairwell pine*). It is likely these are the same birds observed by our tour group in February. A third Casa pair was nesting in an adjacent palm, 25 ft distant from the pine in the parking lot; this is one of the palms that was first used by a nesting pair last year (2006). [running total: 3 GBH prs]

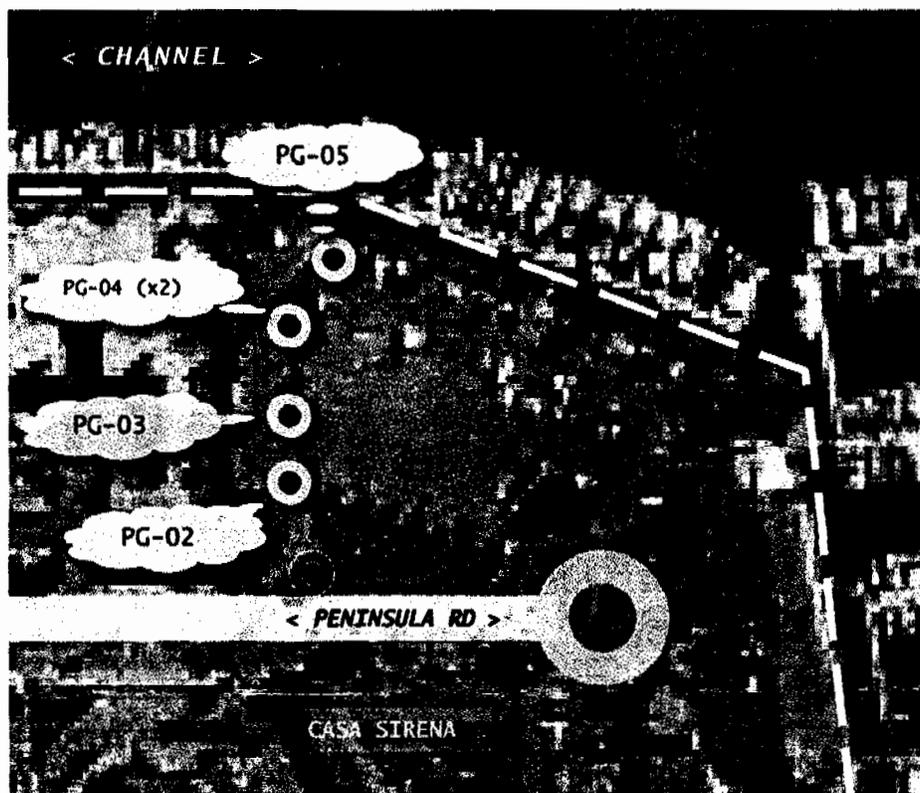
Peninsula/Boat Lot. Five pairs of GBH were nesting in as many palms on the north edge of the Boat Anchorage Parking Lot, along its border with the adjacent apartment complex. See attached figure. At the time of observation (3.5 hrs, midday), no evidence of hatched eggs or nestlings was observed; and either single or both adults were attending the nests. The pair at nest site Pen-PG-

EXHIBIT 6

CI Harbor NOID 1-07

Froke April 2007 Report

03 (see figure) was building or rebuilding their nest, and the collecting adult (likely the male) was making its circuit @ \pm 7-minute intervals. [running total: 8 GBH prs]

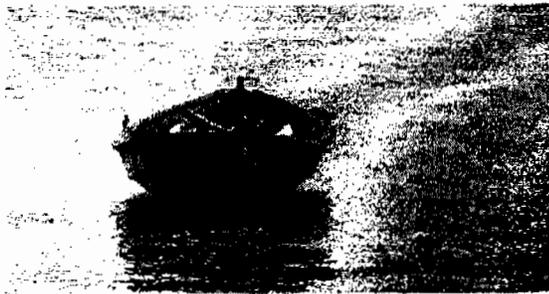


CIH Peninsula Boat Anchorage Parking Lot. Linear grouping of Mexican Fan Palms along the border of the parking lot and adjacent apartment complex (right): Single trees in Palm Groups 02-05[Ⓢ] are occupied by nesting pairs of Great Blue Heron, 22 March 2007. Two trees in Palm Group 04 are occupied.

Notes:

- (1) Three palms occupied by nesting GBH on 22 Feb 07 were in PGs 02, 03, and 04.
- (2) AP07 Photographs of the nesting herons and the palm nest sites are on file and available.

John



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Revised 29 March 2006

MEMORANDUM

TO Ms Lyn Krieger, Director
Ventura County Harbor Department

SUBJECT Channel Islands Harbor | Basins D & E
Dock Construction and Heron Protection

BACKGROUND

Construction of a replacement marina is proposed for Basins D and E, which are located south and adjacent to the future Boating Instruction and Safety Center (BISC) on the West Side of Channel Islands Harbor.

In past years (previous to and including 2002-2003), there existed both a nesting colony and day roost of Black-crowned Night-Herons scattered over the West Side area, particularly adjacent to the E Basin, and across the channel on the mid-harbor Peninsula. Effective in 2004 and to the present, however, the majority of the night-heron population relocated to a larger dual-species heronry in Port Hueneme, leaving the sites of the former West Side colony mostly quiet of herons. The Port Hueneme heronry consisted of nearly 100 pairs of Snowy Egrets and Black-crowned Night-Herons in 2005. On the other hand, Great Blue Herons (at least 3 pairs in early 2006) remain attached to the West Side (1 pair) and Peninsula (at least 2 pairs) colony locations for at least another nesting season.

Despite the limited presence of Black-crowned Night-Herons in the vicinity of the proposed construction area, special consideration of the

EXHIBIT 7
CI Harbor NOID 1-07
Froke March 2006 Report

birds and conservative actions to assure that the birds will not be harmed or adversely affected by proposed construction activities are essential. A conservative approach would be called for to avoid even mildly disrupting the birds. It is possible that individuals or small groups of night-herons might return to the West Side to day roost or nest; and in fact three pairs were present on nests in adjacent trees on 24 March 2006. Therefore, the conservation objective of this project is to avoid disrupting or causing harm to night-herons, especially breeding night-herons.

Arrival of Adults Birds

The following statement addresses when Black-crowned-Night-Herons may arrive to breed at the West Side of Channel Islands Harbor:

Adult Black-crowned Night-Herons arrive where they will nest to then pair-up and initiate breeding activities as early as January and February, but more typically during March; and some early nesting may be underway as early as March. Nesting can be expected to be in full-swing by mid-April, then as a colony - if there are numerous pairs - to continue as long as August. The latest it is reasonable to expect arriving new birds is mid-late April.

IMMEDIATE OBJECTIVE

To protect Black-crowned Night-Herons and Great Blue Herons from disturbance during the construction phase of the marina, each construction activity capable of such disturbance should be evaluated to determine if precautions are in order. The types of activities that may disturb or discourage herons may be characterized as sudden and exceptionally loud noise generation, bright upward shining lights, and - at least in the case of night-herons - both leashed and unleashed dogs and cats that are left to harass birdlife in the park trees. The following

set of responsible construction and management practices should be administered whenever and wherever the birds may be nesting. Nesting boundaries, including nesting location and timeline, should be carefully identified and monitored by a qualified heron ecologist.

It is noted that the Project Owner has committed to employ certain silt and turbidity reduction measures, these including silt curtains and partially-set piles. Whether nesting herons are present to benefit from these environmental protection allowances, the sum effects will be positive for all waterbirds and the total marine environment of the harbor.

Prescriptive Measures

Construction Noise & Setbacks

Setbacks and buffer distances. Although there is usually discussion about whether and how extensive to make linear setbacks or buffers from, e.g., present or even former but presently vacant heron nests to active machinery or other sources of industrial noise, the argument in support of setbacks lacks data. In fact, all real evidence points to the species' tolerance of noise and source activity, especially in the realm of outdoor recreation and human and mechanical sounds that have a repetitive and predictably broad pattern, e.g., marine and auto traffic.

In the present case, the distance from the noise source (assumed to be an on-ground compressed-air pump (diesel) operating at the work site) to the protected resource (active heron nests) can be accurately measured. With respect to Basin D, the measured distances from the proximal nest tree to the respective bulkhead for each of the first six docks, starting from the *Whale's Tale* and headed south range from 128 – 651 feet. By contrast, the same nest tree is located 34 ft. from the adjacent parking lot, which includes not only the general public and

Yacht Club members' autos but also the neighborhood dumpster, which occupies the parking stall closest to the tree.

Distance to known nest trees from 2006. A reasonable use of the current data is to identify the distance from the only West Side heron nest trees (four active in 2006) to the closest respective construction sites. As stated, the proximal of three contiguous night-heron nest trees is 128 ft from the closest possible construction point, a dock bulkhead in Basin D. The only Great Blue Heron nest, in a 60-ft cypress at Barracuda, is located more than 132 ft (ground distance) to the closest construction point, a dock bulkhead in Basin E.

CONCLUSION

A specific setback of hundreds of feet from construction activity to heron nesting spaces is already in-play. In fact, available data and observations of contemporary Southern California heronries surely illustrate that Black-crowned Night-Herons, Great Blue Herons, and Snowy Egrets not only tolerate presence of humans and structures associated with urban-waterscape settings, but under certain circumstances the species may also be *attracted* to such settings. (See findings of my ongoing studies of herons in human settings at both Channel Islands Harbor (2004) and Marina del Rey (2005)). The dual-species heronry of Black-crowned Night-Herons and Snowy Egrets at Dana Point Harbor is yet another interesting case where nearly 100 pairs nest directly above a popular bait hut and roadway turnout.

Positive Prescriptions for Environmental Management

Sound Prescription. The power systems that will be employed for the jack-hammers and pile-drivers (etc.), will be driven by compressed air, and it is reasonable that the engine and compression unit would be shielded from the external environment for the purpose of reducing sound emissions. Shields made from ordinary heavy plywood or sound-

board, or molded sound shields that are custom-made for the compression unit would be suitable if properly managed, and monitored throughout the work day.

Dog-Free Parks. During the heron nesting period, when this protection plan is in effect, construction employees must abstain from bringing their pets (dogs and cats) to the job site. Workers should not be permitted to lunch under nesting trees.

No Loud Music. During the heron nesting period, when this protection plan is in effect, construction employees must abstain from playing loud music or other programs in and around the job site.

Overall Connection. Throughout the construction period, when it intersects with the active nesting period for herons within Channel Islands Harbor, an ornithologist who is familiar with the local heronry shall make the rounds of the project area and all known nesting neighborhoods, on a twice-a-month basis for the following monitoring and protective purposes:

- (1) To ensure that approved measures are taken to shield generated noise from designated construction power systems;
- (2) To ensure that construction crews have left their pets at home and are not playing loud music in or around the job site; and,
- (3) To locate and reconfirm the presence and status of nesting heron pairs and their eggs/young in the harbor environment.

Through work sponsored by the Ventura County Harbor Department over the last 3-4 years, we have learned a great deal about three

species of breeding herons in coastal Ventura County. The best news of all is that the herons' numbers appear to be growing, their geographic range is advancing, and their adaptability to live in human occupied settings is assured.

Respectfully,

A handwritten signature in black ink, appearing to be 'JBF', followed by a horizontal line extending to the right.

**Channel Islands Harbor
Proposed Slip Sizes
Marine Emporium Landing Marina Replacement
NOID 1-07**

Slip Size	#	Linear Feet
85 ft.	3	255
75 ft.	4	300
65 ft.	3	195
38 ft.	1	38
30 ft.	1	30
End Ties	4	138

Exhibit 8
CI Harbor NOID 1-07
Slip Size Mix