

**CALIFORNIA COASTAL COMMISSION**

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**W20b**

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Staff: Charles Posner - LB  
Staff Report: 2/14/2008  
Hearing Date: March 5, 2008  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-07-443

**APPLICANT:** City of Long Beach Department of Parks, Recreation and Marine

**AGENT:** Mark Sandoval, Marina Manager

**PROJECT LOCATION:** 35 39<sup>th</sup> Place (in the waters near Belmont Veterans Memorial Pier and Island White), Belmont Shore, City of Long Beach.

**PROJECT DESCRIPTION:** Install 45 soil anchors in the sea floor to establish 45 new moorings for limited-term public boat docking.

**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Long Beach certified Local Coastal Program (LCP), July 22, 1980.
2. Biological Resources Assessment for the Belmont Pier Boat Mooring Project, by Merkel & Associates, Inc. May 2006.
3. Mitigated Negative Declaration Case No. MD-11-06 for the Belmont Pier Mooring Project, adopted by the City of Long Beach Planning Commission May 3, 2007 (SCH#2006101151).
4. California Dept. of Fish & Game Comment Letter for the Belmont Pier Boat Mooring Project, November 8, 2006.
5. Coastal Development Permit 5-03-151 (Santa Catalina Island Co. Moorings).
6. Coastal Development Permit 5-06-023 (City of Long Beach Water Dept.).

**SUMMARY OF STAFF RECOMMENDATION**

A coastal development permit is required from the Commission for the proposed project because it is located on State Tidelands within the Commission's area of original jurisdiction. Pursuant to Section 30519 of the Coastal Act, any development located within the Commission's area of original jurisdiction requires a coastal development permit from the Commission. The Commission's standard of review for the proposed event is the Chapter 3 policies of the Coastal Act.

Staff is recommending that the Commission **APPROVE** a coastal development permit for the proposed development with special conditions that address public use of the moorings, the timing of the project, protection of marine resources and water quality, conformance with the requirements of resource agencies, and assumption of risk. The applicant agrees with the recommendation. **See Page Two for the Motion.**

**STAFF RECOMMENDATION:**

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

**MOTION:** *"I move that the Commission approve with special conditions Coastal Development Permit 5-07-443 per the staff recommendation."*

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

**I. Resolution: Approval with Conditions**

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

**II. Standard Conditions**

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

### III. Special Conditions

#### 1. Permit Compliance – Public Use of Moorings

The boat moorings approved by Coastal Development Permit 5-07-443 are for public recreational boating related uses (transient public docking) only. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. No eelgrass shall be disturbed. Any deviation from the approved plans, or any proposed intensification of use of the moorings (e.g., use of the moorings by commercial tour vessels or private charters) must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations. No change in use or other changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

#### 2. Beach and Recreational Facility Closures - Timing of Project

The installation of the permitted development, and the use of the public parking facilities at Belmont Pier as a project staging area, shall not occur during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. Construction activities shall be suspended on all weekends. All beach areas and recreation facilities shall remain open and available for public use during the normal operating hours. The beach bicycle path shall remain open and available for public use during all normal operating hours.

#### 3. Construction Responsibilities

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

- A. No eelgrass shall be disturbed. In order to avoid rocky substrate, eelgrass beds and other sensitive marine resources, each anchor for the new moorings shall be placed carefully by divers during daylight hours only and in the presence of a qualified marine biologist.
- B. If turbid conditions are generated during anchor installation, silt curtains will be utilized to control turbidity.
- C. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- D. Staging and storage of construction machinery and storage of debris shall not take place on the beach.
- E. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
- F. Where permitted, disturbance to the ocean bottom shall be minimized.
- G. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- H. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.

- I. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the beach or in the water, and that the project has not created any hazard to navigation.

4. Caulerpa Taxifolia Pre-Construction Survey

- A. No earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five business days of completion of the survey, the applicant shall submit the survey for the review and approval of the Executive Director; and, to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the 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 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 without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Best Management Practices (BMP) Program

By acceptance of this permit, the permittee agrees that the berthing of boat(s) in the approved moorings will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

A. Boat Cleaning and Maintenance Measures:

1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.

3. The applicant shall prohibit the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

B. Solid and Liquid Waste Management Measures:

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

C. Petroleum Control Management Measures:

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

- D. Nighttime lighting in the mooring areas shall be limited to only the illumination necessary for navigational safety. Noise shall be minimized (e.g., no generators) between the hours of 10 p.m. and 7 a.m.

6. Resource Agencies

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

7. Assumption of Risk

By acceptance of this permit, the applicant, on behalf of a) itself; b) its successors and assigns and c) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees

incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in i through v.

#### **IV. Findings and Declarations**

The Commission hereby finds and declares:

##### **A. Project Description**

The proposed project involves the installation of 45 soil anchors in the sea floor to establish 45 new moorings for limited-term public boat docking in three locations near Belmont Veterans Memorial Pier and Island White (Exhibit #2). The locations of the three proposed mooring fields are: 1) the waters immediately west of Belmont Pier (twenty moorings), 2) the waters immediately east of Belmont Pier (ten moorings), and 3) the waters between Belmont Pier and Island White, three hundred feet on the leeward side (northeast) of Island White (fifteen moorings). The proposed moorings are all located on tidelands that the State has granted to the City pursuant to a Tidelands Grant. A biological survey of the project vicinity characterizes the sea floor in the proposed mooring areas as non-vegetated soft bottom marine habitat.

The 45 proposed moorings would all be revenue producing moorings that would be rented to the general public for short term recreational use. The City states that the proposed moorings are not intended to serve as long term berths for any vessels at any time for any reason. The City would prohibit the use of a mooring as a live-aboard dock (i.e., residential use). A boater would purchase a permit to use a mooring on a daily basis. Annual permits for mooring use could also be purchased, although the maximum duration for any vessel to occupy a mooring is ten days. After ten days, a boater would have to vacate the mooring and wait another ten days before being permitted to use the mooring again. No single vessel would be allowed to use the moorings more than 156 days in a calendar year.

The permit fees proposed to be charged by the City for use of the moorings are:

#### **MOORING PERMIT RATES**

<u>Vessel Length</u>	<u>Per Night</u>	<u>Annual Pass</u>
0-40 ft.	\$21.00	\$3,275
41-49 ft.	\$28.00	\$4,370
50-59 ft.	\$37.00	\$5,775
60-69 ft.	\$46.00	\$7,175
70-79 ft.	\$57.00	\$8,890
80-89 ft.	\$66.00	\$10,300
90-99 ft.	\$77.00	\$12,000
100-110 ft.	\$87.00	\$13,575

Each mooring would be anchored to the sea floor by a single 4.2-meter long helical soil anchor screwed into the sea floor by divers using a hydraulic drill (Exhibit #3). A seaflex tension band, cable, and a surface identification buoy would be attached to each soil anchor (Exhibit #3). Each soil anchor would displace 4.4 square centimeters of sea floor. The proposed construction staging area for the project is located in a portion of the Belmont Pier public beach parking lot. The floating docks attached to the end of the pier would serve as a launching point for the vessels that will transport the divers and equipment to the three new mooring fields as they are constructed.

The project was initially proposed to establish ninety new moorings in the project area, but the City revised the project during the CEQA (California Environmental Quality Act) review process to include only the currently proposed 45 new moorings. Surfrider Foundation and other interested parties have raised concerns about increased boat traffic and the proposed project's potential adverse impacts to water quality, visual impacts, and the project's compatibility with the possible future reconfiguration of the federal breakwater (Exhibit #4). They requested that the City complete a full Environmental Impact Report (EIR) for the proposed development, but the City certified instead a Mitigated Negative Declaration for the project that imposes several measures to mitigate the potential adverse impacts to the environment (Mitigated Negative Declaration Case No. MD-11-06/SCH#2006101151).

The City of Long Beach Planning Commission held public hearings for the project on December 21, 2006 and May 3, 2007. On May 3, 2007, the Planning Commission adopted the revised Mitigated Negative Declaration for the proposed project. Surfrider Foundation and others appealed the Planning Commission's action to the City Council. On June 19, 2007, the City Council held a public hearing and rejected the appeals, thus upholding the action of the Planning Commission.

## **B. Marine Resources**

The Coastal Act contains policies that address development in or near coastal waters. The proposed development is located in the coastal waters of Belmont Shore in Long Beach (Exhibit #2). The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following marine resource policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation and marine resources.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine

organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

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

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

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

The proposed project involves the placement of 45 helical soil anchors (one per mooring) approximately four meters into the sea floor by divers using a hydraulic drill (Exhibit #3). Each soil anchor would displace 4.4 square centimeters of sea floor. The applicant has proposed mitigation measures in order to avoid adversely impacting marine resources and water quality, both during construction and post-construction. A Biological Resources Assessment for the Belmont Pier Boat Mooring Project was prepared by Merkel & Associates in May 2006 that characterizes the sea floor in the proposed mooring areas as non-vegetated soft bottom marine habitat. Eelgrass (*Zostera marina*), a sensitive marine resource protected by the Coastal Act, was not found when the sea floor in the vicinity of project site was surveyed on March 8, 2006. The report states that the turbidity and depth of the water discourages growth of eelgrass where the moorings are proposed to be placed.

The California Department of Fish and Game (DFG) has reviewed the proposed project and issued a comment letter (dated November 8, 2006) stating that the installation of the proposed mooring tackle will have minimal impacts on the marine environment as long as the drilling for anchor installation occurs only during daylight hours and in the presence of a qualified marine biologist. The DFG voiced its concern that the originally proposed ninety moorings would result in the loss of foraging habitat for marine birds such as the state and federally listed California brown pelican and the California least tern. In response, the City has reduced the total number of proposed moorings from ninety to 45, thus significantly reducing the amount of water surface covered by the proposed moorings.

#### 1. Construction Impacts to Water Quality and Habitat

The Commission recognizes that chemical pollution and siltation adversely affect water quality, biological productivity and coastal recreation. The proposed work is located within coastal waters that support both sensitive species and recreational activities. Therefore, it is important that the work be performed in a manner that avoids or minimizes adverse impacts to water quality and marine resources.

In order to minimize adverse construction impacts, the Commission imposes **Special Condition Three** to require the implementation of best management practices and the



presence of a qualified marine biologist during the placement of the proposed soil anchors in the sea floor in order to avoid rocky substrate, eelgrass beds and other sensitive marine resources. Construction is only permitted during daylight hours in order to minimize disturbance of the adjacent sensitive habitat areas. The condition also requires the proper storage of construction materials and the recovery of any non-buoyant debris by divers as soon as possible after loss. Only as conditioned to protect the marine habitat from adverse construction impacts does the proposed project comply with the marine resource and sensitive habitat provisions of the Coastal Act.

## 2. Post Construction Water Quality and Habitat Protection Plan

The Coastal Act requirements to protect the biological productivity and quality of coastal waters do not end after the proposed project is constructed. The proposed development must also be used and maintained in a manner that sustains water quality and marine habitat. The DFG commented that specific mitigation measures would have to be implemented in order to avoid adverse impacts to water quality and habitat once the moorings were established and being used. Increased noise and artificial night lighting is a concern as artificial lighting can disrupt biological rhythms and otherwise interfere with the behavior of nocturnal animals. Nocturnal and migrating birds and bats, sea turtles, fish and insects are particularly impacted by artificial night lighting. The DFG concurred with the City's proposed mitigation measure to limit nighttime lighting to that necessary for navigational safety only. In order to minimize disturbance caused by noise, the City prohibits the use of generators between the hours of 10 p.m. and 7 a.m.

To protect water quality, the City has proposed to implement the following BMPs (Best Management Practices) for mooring operations: boaters are required to minimize discharges of soaps, oils and debris and shall properly dispose of trash and waste; in-water hull scraping is prohibited; only phosphate-free and biodegradable detergents and cleaning agents may be used; the use of products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye is prohibited; and all boat mooring occupants to regularly inspect and maintain vessel engines, lines, hoses and oil absorbent materials and replace as necessary. The City will facilitate the proper disposal of trash and waste by providing a mobile vessel pump-out and boat trash collection service for the mooring areas (with no additional cost to boaters as the service fee will be included in each vessel's mooring permit fee).

Also, in order to ensure that illegal dumping of waste will not occur, each vessel using the moorings would have a blue dye tablet placed in its holding tank by the Mooring Master each time a vessel attaches to a mooring. Any vessel caught dumping would be barred from using the City's moorings for two years. The City of Long Beach Department of Parks, Recreation and Marine is responsible for enforcing these BMPs, which are also set forth as mitigation measures in the revised Mitigated Negative Declaration (Case No. MD-11-06) for the project. The DFG has concurred that these BMPs, when properly monitored and enforced, would adequately protect marine habitat and water quality.

The Commission imposes **Special Condition Five** requiring the applicant to implement the proposed BMPs for daily boating operations and to restrict nighttime lighting to only that necessary for navigational safety. The proposed water quality BMPs comply with the Commission's water quality requirements for marina development. Only as conditioned to protect the marine habitat from adverse water quality, noise and lighting impacts does the

proposed project comply with the marine resource and sensitive habitat provisions of the Coastal Act.

### 3. Sensitive Species Impacts – Eelgrass

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

The vicinity of the project site was surveyed for eelgrass in March 2006 and no eelgrass beds were found in the project area. The consulting biologist states that the turbidity and depth of the water discourages growth of eelgrass where the moorings are proposed to be placed. This permit does not authorize the disturbance of any eelgrass. **Special Condition Three** prohibits the disturbance of any eelgrass. If any eelgrass is found that would be disturbed by the proposed project, the applicant is required to apply for an amendment to this coastal development permit. If eelgrass is present in the project area, adverse impacts from the proposed project could result and measures to avoid or minimize such potential impacts must be in place in order for the project to conform with the Southern California Eelgrass Mitigation Policy and Section 30230 of the Coastal Act. Only as conditioned to avoid the disturbance of eelgrass does the Commission find that the proposed project conforms with the marine resource and sensitive habitat provisions of the Coastal Act.

### 4. Sensitive Species Impacts – Toxic Algae

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

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

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

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

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

#### 5. Fill of Coastal Waters

The proposed project includes the placement of 45 soil anchors in the sea floor (one for each mooring) to anchor vessels in the mooring areas (Exhibit #3). The proposed soil anchors constitute fill in coastal waters. Section 30233(a) of the Coastal Act addresses fill of open coastal waters as follows:

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

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

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

Allowable Use - Section 30233(a)(3) of the Coastal Act allows fill of open coastal waters for new or expanded boating facilities that provide public access and recreational opportunities. The proposed project (new moorings for recreational boating) provides public access and recreational opportunities, and constitutes an allowable use under Section 30233(a)(3).

Least Environmentally Damaging Alternative - The project sites are currently used as anchorages. Repeated dropping, lifting and dragging of anchors on the seafloor disturbs and damages the bottom habitat. The proposed project is the least environmentally damaging alternative because the new moorings will eliminate some of the disturbance of the bottom habitat caused by the repeated anchoring. The proposed soil anchors displace only 4.4 square centimeters of sea floor and are stable, non-destructive to marine life (post-placement). The proposed soil anchors are the minimum size and amount necessary to safely secure the vessels against the tides and currents. Thus, the amount of fill needed to support the proposed allowable use is minimized. Also, as conditioned, the soil anchors will be carefully installed by divers in the presence of a qualified marine biologist to minimize disturbance of the sea bottom, and the installation of the moorings shall occur only during daylight hours to avoid adverse impacts to adjacent marine habitat caused by nighttime lighting. Therefore, as conditioned, the proposed project is the least environmentally damaging alternative.

Adequate Mitigation - Section 30233 also requires that any project which results in fill of open coastal waters shall also provide adequate mitigation. Placement of the proposed soil anchors in conjunction with the proposed project will replace some mud and sandy bottom habitat with a hard substrate on which many types of marine organisms can thrive. The soil anchors, although very small in surface area, will provide new habitat area for marine organisms such as mussels, barnacles, limpets, littorine snails, red and brown seaweed, surfgrass, anemones, and polychaetes. No eelgrass beds will be affected by the proposed project. Thus, adequate mitigation is provided by the proposed project in that the loss of mud and sandy bottom habitat is offset by the fact that the soil anchors will provide new hard bottom habitat for marine organisms.

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

The proposed project, as conditioned to minimize the impacts of construction and post-construction activities, will not significantly degrade the beach or any environmentally sensitive habitat areas, and is compatible with the continuance of such habitat and recreation areas as required by Section 30240 of the Coastal Act. In addition, **Special Condition Six** requires the permittees to comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Only as conditioned will the proposed project ensure that marine resources and water quality be protected as required by the ESHA and marine resource policies of the Coastal Act.

### **C. Recreation and Public Access**

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

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30213 of the Coastal Act states, in part:

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

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

Section 30220 of the Coastal Act 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 of the Coastal Act states:

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

Section 30234 of the Coastal Act states:

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

Section 30224 of the Coastal Act states that recreational boating activities should be encouraged. Section 30234 of the Coastal Act states that recreational boating facilities shall be protected and upgraded. The proposed project, located within coastal waters and also between the nearest public road and the sea, involves the expansion of recreational boating facilities. As proposed, 45 new moorings will be installed in the waters of Belmont Shore.

The construction of the proposed mooring fields includes the use of Belmont Pier and the public beach parking lot next to the pier (for equipment and materials storage and staging). In order to reduce conflicts between the construction activities and the recreational use of the pier and beach, the construction activity is permitted to occur only on weekdays (no weekend construction) outside of the "peak use" beach season that runs from Memorial Day weekend to Labor Day weekend (See Special Condition Two). The beach bicycle path will remain open at all times, as will most of the public beach parking lot.

One letter of opposition has been received that raises public access concerns (Exhibit #5). The letter from Cloyd Milton (dated January 3, 2007) asserts that the proposed moorings will displace a sheltered anchorage, and that the fees charged for using the moorings are unfair. Since the letter was written, the City has modified the project to reduce the number of moorings from ninety to 45. The City asserts that, with the number of proposed moorings being reduced, half of the existing anchorage area on the lee of Island White will remain as a free anchoring area (Friday, Saturday and Sunday only – no anchoring has been permitted Mondays through Thursdays). Therefore, the currently proposed project with 45 moorings will not eliminate the existing free anchorage area.

In conclusion, the Commission finds that the 45 proposed moorings will not eliminate the free anchorage area and will not adversely affect public access and recreation. As conditioned, the proposed project will improve recreational boating opportunities and will not interfere with public access and recreation along the shoreline. Therefore, the proposed project, as conditioned, is consistent with the public access and recreation policies of the Coastal Act.

#### **D. Visual Resources**

Section 30251 of the Coastal Act states:

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

Section 30251 of the Coastal Act requires that the scenic and visual resources of coastal areas be considered and protected as a resource of public importance. In addition, public views to and along the ocean and scenic coastal areas shall be protected. The proposed development involves the placement of 45 soil anchors in the sea floor and 45 buoys that float on the water surface within three proposed mooring fields (Exhibit #3). The 45 buoys, and the vessels that will be attached to the mooring buoys, will not adversely affect the seascape or any public views from sea or from the shoreline. Vessels already anchor near the pier and in the lee of Island White (which is an oil platform constructed of fill material) and do not constitute a

negative visual impact. The buoys will be visible, but they will not obstruct any views or otherwise degrade the visual resources of Belmont Shore seascape. Therefore, the proposed project is consistent with Section 30251 of the Coastal Act.

#### **E. Hazards**

The Coastal Act states that new development must minimize risks to life and property and not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed project, as conditioned, will minimize risks to life and property by providing moorings anchored to the sea floor and by providing mobile trash and sewer pump-out vessels to maintain water quality. The proposed project will not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Surfrider Foundation is concerned that the establishment of the proposed moorings could be used in the future as a reason to maintain the current configuration of the Federal Long Beach Breakwater (Exhibit #4). The Commission finds that the proposed moorings cannot be used to justify the maintenance of a pre-existing protective device since the moorings are not considered to be permanent structures or development (i.e., the moorings can simply be removed or relocated in order to avoid any adverse environmental effect that would result from the reconfiguration of the breakwater or other protective device). Therefore, the approval of this permit and the installation of the proposed moorings shall not be used as a basis to construct any new protective device or to prevent the reconfiguration of an existing protective device.

No development in the water can be guaranteed to be safe from hazard. All development located in or near the ocean has the potential for damage caused by wave energy, floods, seismic events, storms and erosion. The proposed project is located in the Pacific Ocean and is susceptible to natural hazards. The Commission routinely imposes conditions for assumption of risk in areas at high risk from hazards. The condition of this permit (Special Condition Seven) ensures that the permittee understands and assumes the potential hazards associated with development in or near the water. Such knowledge is the first step towards the minimization of risks to life and property. The proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

**F. Local Coastal Program**

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Long Beach LCP on July 22, 1980. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

**G. California Environmental Quality Act (CEQA)**

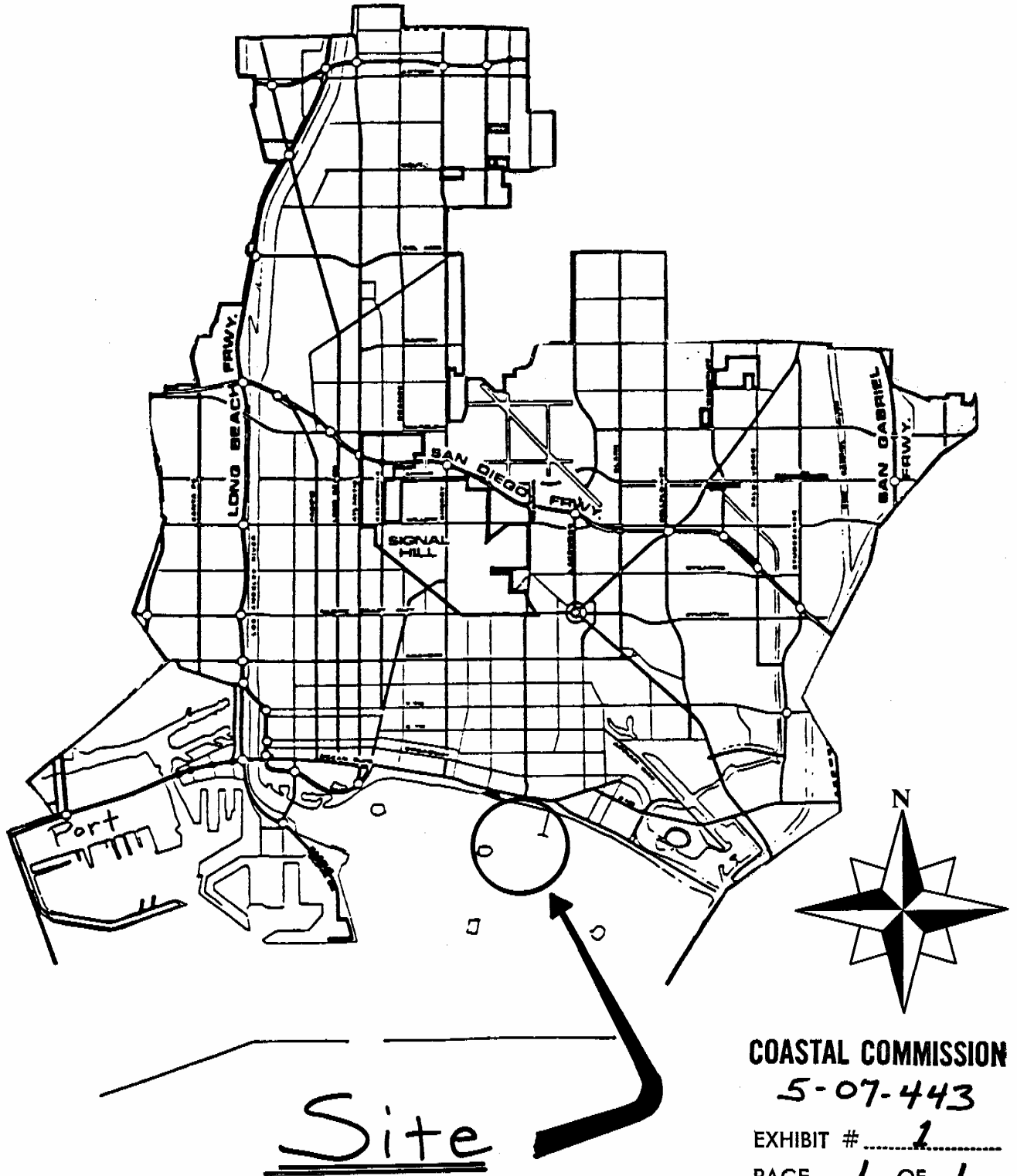
Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Long Beach is the lead agency for purposes of CEQA review of this project. The City certified Mitigated Negative Declaration No. MD-11-06 for the proposed project on May 3, 2007.

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



# City of Long Beach

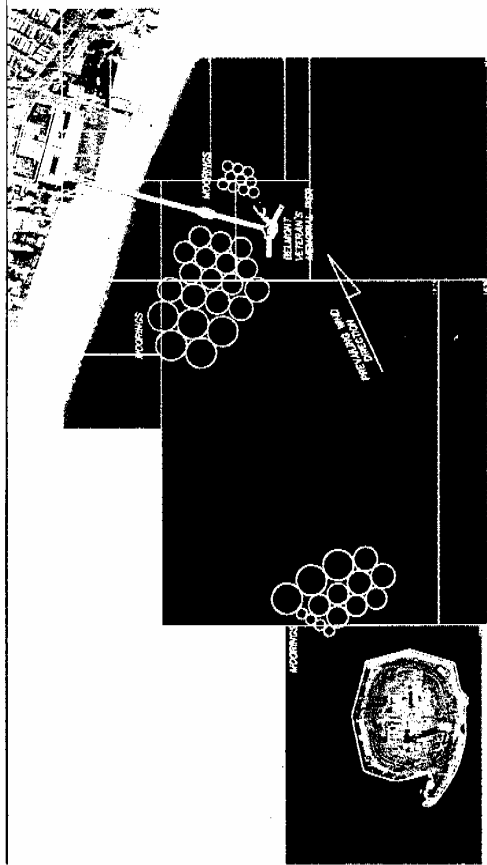


COASTAL COMMISSION

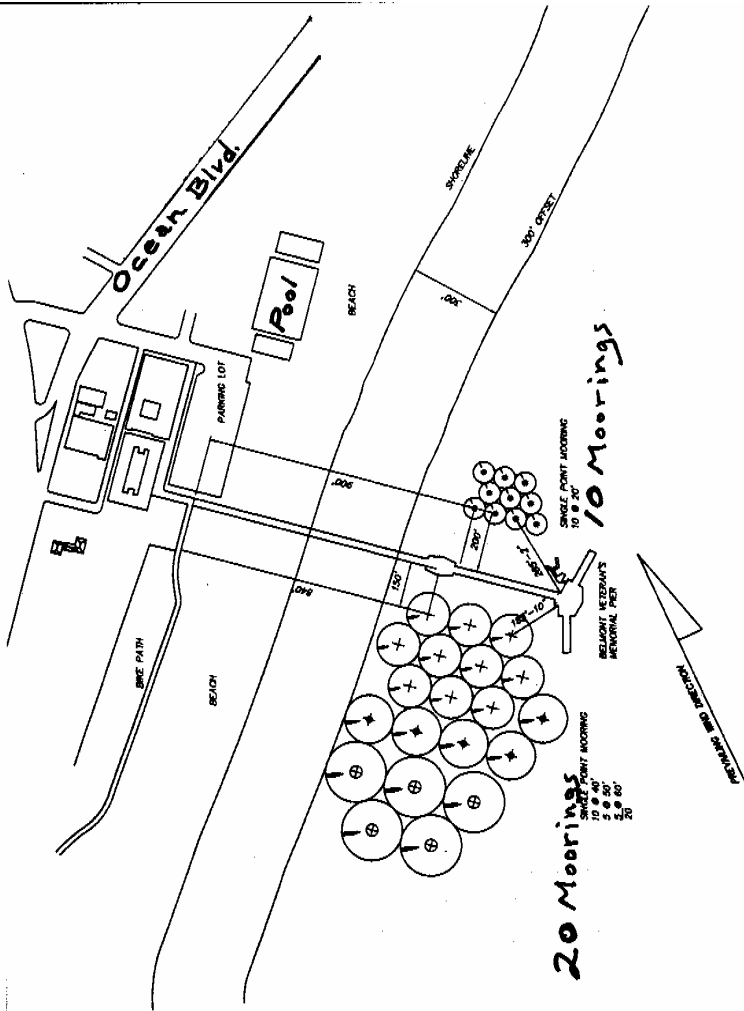
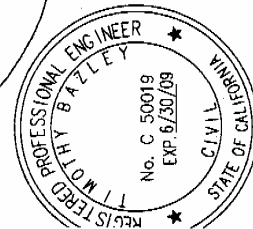
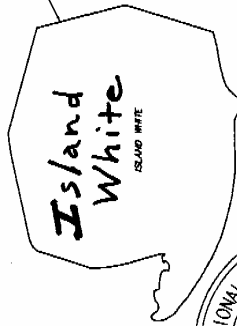
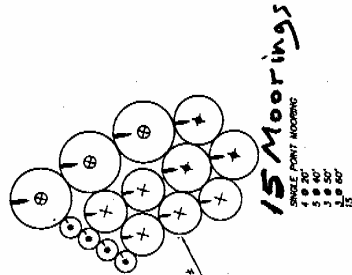
5-07-443

EXHIBIT # 1

PAGE 1 OF 1

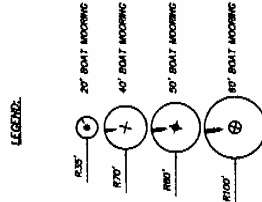


**AERIAL**  
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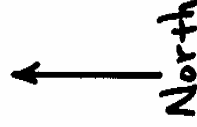


BOAT LENGTH	QTY
20'	14
40'	15
50'	8
60'	8

**Total: 45**



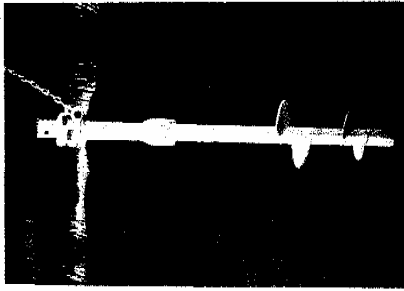
**SITE PLAN**  
SCALE 1"=400'



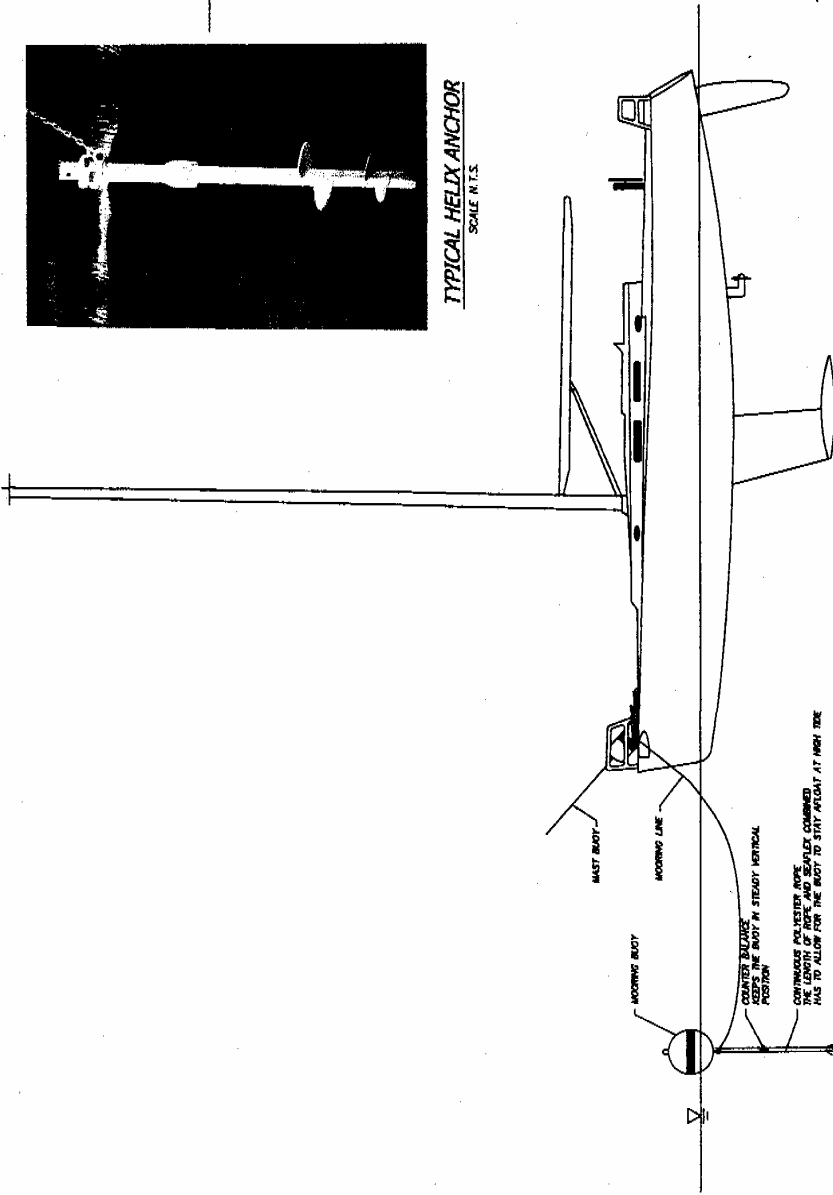
GRAPHIC SCALE 1"=400'

**5-07-443**

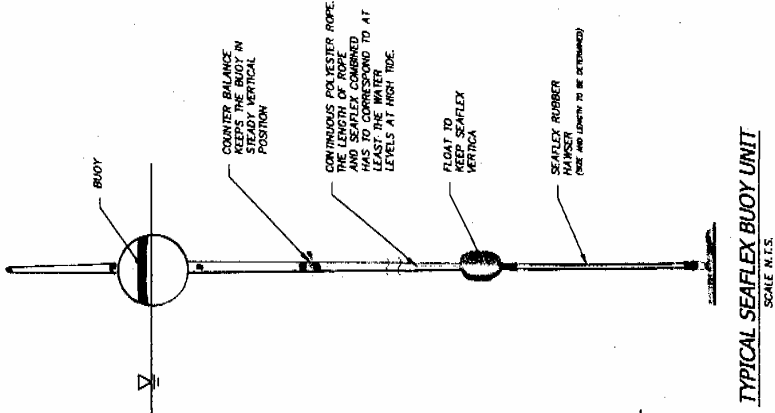
<b>CITY OF LONG BEACH</b> <b>MARINA BUREAU</b> <b>LONG BEACH, CA</b>	<b>BELMONT SHORES</b> <b>MOORINGS</b>	PROJECT 2000 W. Colorado Avenue, Suite 200 San Pedro, CA 90731 TEL: 310 546 3132 FAX: 310 546 3134	SHEET NO. 2012-C SHEET C-1 SHEET 2 of 3
		DESIGNED BY: PT/GB DRAWN BY: PT/GB CHECKED BY: TB	<b>SITE PLAN</b>



TYPICAL HELIX ANCHOR  
SCALE N.T.S.

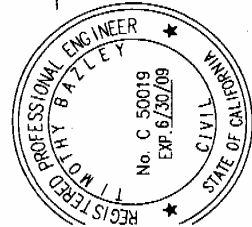


TYPICAL MOORING  
SCALE 1"=8'



TYPICAL SEAFLEX BUOY UNIT  
SCALE N.T.S.

NOTE: SEAFLEX UNITS TO BE DETERMINED FOR EACH VESSEL SIZE DURING FINAL DESIGN PRIOR TO APPROVAL FOR CONSTRUCTION.



5-07-443  
GRAPHIC SCALE  
0 1'

PROJECT <b>CITY OF LONG BEACH MARINA BUREAU LONG BEACH, CA</b>		BELMONT SHORES <b>MOORINGS</b>		FROM THE DRAWING ROOM, SHEETS 200 TEL 310 548 3137 FAX 310 548 1924 DRAWN BY: PT/GB CHECKED BY: TB		<b>MOORING SYSTEM CONCEPT PLAN</b> SCALE AS NOTED 4-25-05 JOB NO. 2012-C SHEET C-2 SHEET 3 OF 3	
NO.	REVISION	BY	DATE				



**Surfrider  
Foundation.**

www.surfrider.org

April 17, 2007

## SPECIFIC ISSUES REQUIRING FULL REVIEW

### 1) Altered aesthetics

We want to first recognize the project proponent's revised plan to limit the number of moorings to 45 – allowing a reduced number of moored vessels to 90. While we recognize that this reduces the visual impact of the project, we do not believe it reduces it to a less than significant impact.

Furthermore, we find the response to comments in the Planning Department's letter to the Planning Commission (Response to Comments), dated December 21, 2006, both non-responsive and contradictory. In the response to this specific issue, the Department appears to be arguing that because there are already existing obstructions to the ocean vista, any additional obstruction would be consistent with the current obstructions. See response to Comments, P.6. However, in the next paragraph the Department argues that there will be no "cumulative impacts" from the addition of the moored boats.

These two positions are inconsistent and a misinterpretation of the requirements of the California Environmental Quality Act. Given existing impairments to viewing the horizon and open ocean, the addition of 90 vessels in close proximity to each other will surely create an additional impact – and consequently a significant "cumulative impact."

We want to be clear, like other aspects of this project, identifying the significant impact to unimpaired aesthetic natural vistas will not necessarily lead to denial of the project. However, CEQA demands that these significant impacts be clearly identified in an EIR so that decisionmakers and citizens fully understand the impacts and the overriding considerations that justify going forward – should the City ultimately decide to permit the project.

### 2) Inconsistency with proposed alterations to the breakwater

The Long Beach City Council adopted a resolution on 7/5/2005 for a study ("Reconnaissance Study") to determine Federal interest in a study of a reconfiguration of the Long Beach breakwater. We believe that this action by the City of Long Beach raises enough grounds to consider a reconfiguration of the breakwater "reasonably foreseeable." So, we disagree with the Department's argument denying an EIR. See Response to Comments, P.7.

Nonetheless, the Response to Comments argued that:

*[M]any mooring areas along the coastline function without a nearby breakwater or similar impediment to wave action (i.e., Avalon). Therefore, no significant impacts to the moorings from ocean currents and wave action are anticipated. See Response to Comments, P. 7.*

We choose not to challenge this assertion by the City. However, we interpret the Department's response to this comment as a positive affirmation by the City that, should the moorings and supporting infrastructure (e.g., unloading docks at the Belmont Pier,

etc) be built, it will not be subsequently used as an argument by the City for opposing the potential future reconfiguration of the breakwater.

**3) Increased benthic habitat degradation from deposition of anti-fouling “bottom paint.”**

We disagree with the Department’s characterization of our concerns about the potential for an increased deposition of bottom paint residue in the mooring area. The Department argues that because the project is not considered as “growth inducing” it is not expected to “generate any types of impacts that would result from increases in boat traffic volumes.”

This is unresponsive to the concern that increased boat moorings in a discreet area of the nearshore waters creates potential significant impacts on the immediate environment. As we explained in our earlier letter, deposition of bottom paint residue is proven harmful to the environment. A project that creates a significant presence of vessels in a discreet area, as opposed to the Department’s characterization of the absence of increased transient boat traffic passing through the area, raises a reasonably foreseeable concern about significant impacts from bottom paint deposition from the moored vessels.

**4) Cumulative Impacts to Nearshore Water Quality**

Again, we believe that the reduction in the number of moorings anticipated in the project, along with the proposed heightened monitoring of human waste discharge through compulsory “dye” being added to vessel sanitary systems and other controls is an improvement of the original proposal.

Nonetheless, we have several responses to the Department’s replies to these important and legitimate concerns:

- a) The waters around the Belmont Pier are already degraded. We understand that areas around the Pier are being considered for addition to the “303(d) list” for impaired water bodies. Should this occur, it will require the implementation of a regulatory “Total Maximum Daily Load” for the area. In short, the City would be compelled to reduce pollutant loadings to the area – and even incremental and other “insignificant” discharges would be strictly prohibited.
- b) The “dye installation” in the vessel sanitary system is an admirable attempt to create incentives for vessel owners not to discharge their sanitary systems while on the moorings. However, this mitigation effort seems to rely on monitoring by non-governmental agents. In fact, it appears to rely on monitoring and reporting by the very agent who stands to profit from vessels paying for the use of the moorings. We believe this creates a potential “conflict of interest” for the project proponent and undermines the limited assurances that the “dye” program will actually result in the strict prohibition of discharges from sanitary systems.
- c) Finally, the Department seems to have narrowly focused their mitigation measures on discharges from vessel sanitary systems. However, vessels can and do automatically discharge bilge water to ensure against sinking, and discharge “grey water” from sinks, deck washing, and other sources that can also pollute the immediate area.

We believe that, until these issues are resolved in a way that can assure compliance with mitigation measures to guard against any potential discharge that will add to the cumulative degradation of water quality in the immediate area, a full EIR is necessary.

#### CONCLUSION

For all the reasons stated above, it violates the spirit and letter of CEQA to simply perform the analysis in this Mitigated Negative Declaration. Only a full EIR will meet the expressed purposes of informing the public, and our elected representatives, of the adverse impacts on our environment before a project is permitted.

We want to be clear that we are not opposed to the recreational use and enjoyment of safe and healthy beaches and nearshore waters – including recreational boating. But, unfortunately, the City faces an intractable pollution problem and impediments to full enjoyment of an experience at the beach – in part caused by the existence of an unnecessary breakwater.

We want to be cooperative partners with the City in efforts to create a holistic plan for resolving the multiple impediments to a healthy environment at Long Beach's shore and nearshore waters. We think the City needs to take immediate steps to:

- restore wave action at the beaches through the reconfiguration of the breakwater,
- simultaneously take steps to dramatically improve water quality at our beaches,
- plan a sustainable beach management plan that ensures year-round broad beaches that protect homes and property on the shoreline,
- and finally, and only after the above goals are well underway, consider other amenities like moorings at the Belmont Pier to enhance recreational uses of our beaches and nearshore waters.

We hope you agree that a holistic and comprehensive plan for our beaches and nearshore waters that will dramatically improve the natural environment, as well the enjoyment of these treasures by local residents and visitors to our City, is the prudent and responsible path for our Planning Commission and City Hall.

**COASTAL COMMISSION**

EXHIBIT # 4  
PAGE 3 OF 3

Cloyd Milton  
12501 Matteson Ave.  
Los Angeles, Ca 90066

RECEIVED

January 3, 2007

South Coast Region

JAN 5 2007

CALIFORNIA  
COASTAL COMMISSION

Deborah Lee, Senior Deputy Director  
200 OceanGate, 10th floor  
Long Beach, Ca 90802-4416

Dear Madam,

I have read the article in The Log, a boating and fishing newspaper, about the city of Long Beach desiring to place 90 mooring buoys in the inner waters of the harbor.

I am particularly opposed to the placement of any mooring buoys in the lee of Island White. For many years I have enjoyed sailing my boat to this oil island from Marina del Rey, anchoring and spending the night. This is the only anchorage I know of on the mainland. Island White offers an easy access and a pleasant anchoring experience where a boater use and improve his boating skills making the sport of boating more meaningful and enjoyable.

There have only been a few boats, five or six, at the most each time I've been to the island. There has been no problem with boats interfering, damaging or being a danger to others. Thus I can see no safety reason for the moorings.

The moorings are to be operated by a private company. This means that the moorings are for the profit of the company. Most places we sail, drive to or visit involves a payment of some kind. I am upset that one of the places I have enjoyed will become a source of profit for someone. My guess is that the harbor area is public land and that this company will charging the public to use land it does not own.)

The Log states that the mooring plans must be approved by the Coastal Commission. I hope that the mooring plan is not approved and that the boating public can continue to use the area unencumbered by fees or company officials directing the activities of boaters.

Sincerely,



Cloyd Milton

COASTAL COMMISSION

5-07-443

EXHIBIT # 5

PAGE 1 OF 1