

CALIFORNIA COASTAL COMMISSION

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



W11d

ADDENDUM

DATE: April 7, 2008
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item W11d, Channel Islands Harbor Notice of Impending Development 4-07 (Channel Islands Landing/Boatyard Marina Expansion) Wednesday, April 9, 2007.

The purpose of this addendum is to add and modify Special Conditions and attach correspondence from the applicant and interested parties.

Note: ~~Strikethrough~~ indicates text to be deleted from the March 21, 2007 staff report and underline indicates text to be added to the March 21, 2007 staff report.

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

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 ~~thirteen (13)~~ **fourteen (14) special conditions** regarding: (1) biological surveys, (2) eelgrass surveys, (3) pre-construction caluerva taxifolia surveys, (4) construction and maintenance responsibilities and debris removal, (5) best management practices program, (6) marina inspection and maintenance program, (7) water quality management plan, (8) construction materials, (9) lighting restriction, (10) approval of resource agencies, (11) invasive plants, (12) low cost boating in-lieu fee, ~~and~~ (13) slip size mix-, and (14) approval of PWPA 1-07.

2.) The following **SPECIAL CONDITION** shall be added:

Page 12

14. Approval of PWPA 1-07

Commencement of development/construction of the proposed Channel Islands Landing/Boatyard Marina Expansion project shall not occur until the County has acted to accept all suggested modifications to PWP amendment 1-07 and the Executive Director of the Commission has formally concurred with said County action.

3.) The following **SPECIAL CONDITION** shall be modified as follows:

Page 11

12. Low Cost Boating In-Lieu Fee

a. For the Channel Islands Landing/Boatyard marina expansion project, an in-lieu fee must be submitted to the County, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Harbor, and for other similar programs to enhance lower cost boating opportunities. ~~Before such lower cost boating programs are implemented, the County or approved non-profit organization shall provide, for the review and approval of the Executive Director of the Coastal Commission, a detailed description of the lower cost boating program.~~

4.) Correspondence from The Beacon Foundation

The Beacon Foundation ("Beacon") submitted a letter to the Commission regarding NOID 4-07, received on March 28, 2008, attached. First, Beacon raises concerns that this NOID should not be considered until Public Works Plan Amendment 1-07 has been accepted by the Ventura County Board of Supervisors and the Executive Director of the Coastal Commission has formally concurred with County action. This concern has been addressed by the modification above to add Condition 14, which requires that construction of the proposed project shall not occur until the County has acted to accept all suggested modifications to PWP amendment 1-07 and the Executive Director of the Commission has formally concurred with said County action.

Secondly, the Beacon letter argues that the project deprives the public of waterside coastal access. The subject NOID, however, is only for the addition of 66 boat slips over the water to a previously approved marina and does not require approval of any landside portions of Channel Islands Landing/ Boatyard. The Commission previously approved NOID 2-07 for the redevelopment of Channel Islands Landing/Boatyard on June 14, 2007. This approval included reconstruction of a previously demolished recreational boating marina and replacement of 91 slips with 91 new slips within the existing lease line, a new dock system, including new piers, four ramps, gangways and abutments, removal of a travel lift, replacement of an existing marine railroad line with an updated marine railroad line, updating marina utility services and fire suppression systems, and a 1,026 sq. ft. handicapped accessible restroom and shower facility with a storage area, laundry room, and electrical room, and a public walkway around southern portions of the site. The walkway approved under NOID 2-07 did not include extension of the walkway into the boat yard area through the northern portion of the site. Thus, the Commission has previously acted on this issue and approved a public walkway for the previous related project. Additionally, the Harbor Department is currently in the process of developing a harbor-wide pedestrian pathway system for inclusion in a future landside Public Works Plan Amendment, which will necessarily address the issue of providing a continuous walkway around the harbor.



The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

RECEIVED
MAR 28 2008

California Coastal Commission
Cc: John Ainsworth, Barbara Carey
Amber Tysor, Steve Hudson ✓

March 28, 2008

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: NOID 4-07 Channel Islands Boatyard Marina

W 11d

Dear Commissioners and Alternate Commissioners:

The Beacon Foundation is a non profit environmental organization focused on coastal Ventura County. We have worked to protect coastal resources and public access for fourteen years. The NOID should be rejected for the following reasons:

- The Required Public Works Plan Amendment Has Not Been Finalized
Expansion of new marina structures into the existing waterways of The Channel Islands Harbor is expressly prohibited by the certified Harbor Public Works Plan. At a February hearing the Commission approved with Conditions a "waterside" amendment to the PWP that would enable certain waterside elements of projects of the instant type to be processed as a NOID. The Commission has not adopted findings for the Amendment and The County Board of Supervisors has not acted to accept the Conditions imposed by the Commission. Until both these actions are accomplished a NOID should not be considered.
- The Project Deprives The Public of Waterside Coastal Access
Coastal Act Sec 30212(a) provides for shoreline access in new development projects. Policy 5 of the certified Harbor Public Works Plan expands this requirement to incorporate waterfront pedestrian access in all redevelopment projects where this access is not already provided. The instant NOID Provides a shoreline access walkway only partway across the parcels being redeveloped. The portion diagramed as "Boat Yard Area" (see attached NOID diagram) has no pedestrian walkway. Instead a proposed new perpendicular walkway would divert pedestrian traffic inland out to the roadside of Victoria Avenue where not even a sidewalk exists (or is required by this project). It is obvious from the County diagram that a walkway could be routed around the mobile boat lift and the waterside Walkway could then resume on the portion of the project parcel to the north of the lifts. To approve this NOID without the public walkway abandons both Policy 5 and Coastal Act Section 30212(a). A complete walkway needs to be added as a Condition.

Discussion: This is the second instance in recent months that the Ventura County Harbor Department has sought to excuse a developer from the obligation to provide

A public walkway on the waterside of their redevelopment projects. The recent prior instance was the Marine Emporium project approved by the Commission in June 2007 as NOID 1-07. As proposed by the County, that redevelopment did not include an obligation to construct a waterside walkway, One was diagramed in the County NOID submission but it was not actually required. A Condition imposed by the Commission required construction and opening of the walkway contemporaneous with opening all other aspects of the project. It was possible for the Commission to impose this Condition on the County because both the land and waterside areas of the project were held by a common tenant. The proposed NOID for the Channel Islands Boatyard Marina has the same characteristic and is the basis for the same requirement here.

It is important to recognize that the NOID now before the Commission is for a very different project than that approved by NOID in June 2007. That NOID 2-07 is replaced and supplanted by the current proposed NOID 4-07. NOID 2-07 was for the emergency replacement of 91 existing storm damaged slips with the exact same number of new slips. That project was never built out.

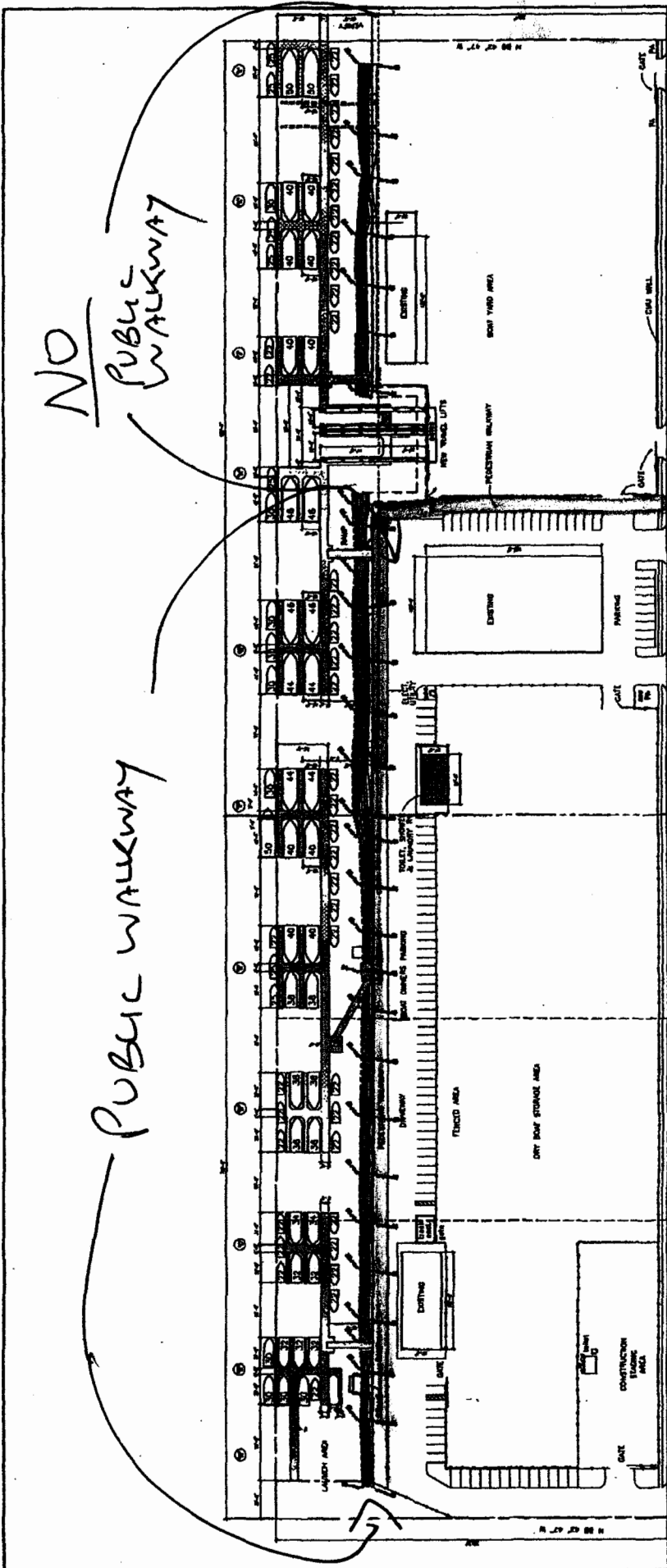
The new proposal enlarges the marina pierhead an Average of 90 feet into the public waterway and increases the number of slips by more than 60%. It changes what was essentially a very small marina and slips adjunct to a boat repair yard into a major marina with the attendant public interest in access and view opportunities. A public walkway needs to be required by the Commission as part of this project to be built out contemporaneously with the redevelopment of the slips.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee Quaintance', written over a horizontal line.

Lee Quaintance
Secretary

Encl.



NO
PUBLIC WALKWAY

PUBLIC WALKWAY

REPLACEMENT DOCKS & RAMPS + TRAVEL LIFT PIERS + NEW BATHROOM BUILDING 'CHANNEL ISLANDS LANDING MARINA' & 'BOAT YARD' CHANNEL ISLANDS HARBOR

EXISTING BOAT SLIP COUNT		NEW BOAT SLIP COUNT	
201	2	201	2
202	1	202	1
203	1	203	1
204	1	204	1
205	1	205	1
206	1	206	1
207	1	207	1
208	1	208	1
209	1	209	1
210	1	210	1
211	1	211	1
212	1	212	1
213	1	213	1
214	1	214	1
215	1	215	1
216	1	216	1
217	1	217	1
218	1	218	1
219	1	219	1
220	1	220	1
TOTAL	20	TOTAL	20

EXHIBIT 4
CI Harbor NOID 2-07
Dock Site Plans

CHANNEL ISLANDS HARBOR
CHANNEL ISLANDS LANDING MARINA & BOAT YARD
CITY OF OXNARD, CALIFORNIA

P. M. BERSON INC.
ARCHITECTS
1000 WEST OXNARD AVENUE
OXNARD, CALIFORNIA 93030
TEL: (805) 781-1100

CHANNEL ISLANDS LANDING MARINA 3021 S. VICTORIA AVE
CHANNEL ISLANDS BOAT YARD - 3015 S. VICTORIA AVE



Lyn Krieger
Director

March 28, 2008

CHANNEL ISLANDS HARBOR

Ventura County Harbor Department
3900 Pelican Way • Oxnard, CA 93035-4367



Telephone (805) 382-3001
FAX (805) 382-3015
www.channelislandsharbor.org

Amber Tysor, Coastal Program Analyst
Barbara Carey, Manager
California Coastal Commission
South Central Coast Area
89 S. California St., Suite 200
Ventura CA 93001

VIA FAX AT 805 641 1732
ORIGINAL MAILED

**SUBJECT: NOTICE OF IMPENDING DEVELOPMENT 4-07
CHANNEL ISLANDS LANDING/BOATYARD
MARINA EXPANSION**

Dear Ms. Tysor and Ms. Carey:

Thank you for scheduling the Channel Islands Landing NOID for expansion of the marina on the April agenda. This is an important marina to have back into operation as soon as possible. We are in agreement with most of the conditions, but have a few issues on several of them. These are:

1. Biology: The biology condition on this NOID is different from the condition on the previous NOID. This is confusing for the applicant, for Harbor staff, and for the community. It is our opinion that the biology policy included in the suggested modifications to PWP Amendment 1-07 (waterside) is flawed and that the 65 dB noise limitation, at any period in time, is unreasonable and is not based on any scientific or empirical data. In fact, empirical data submitted to the Coastal Commission to date has demonstrated that the herons will nest in areas where construction and other activity is taking place. Further, we have submitted data to you that shows routine activities carried out in the Harbor often exceed 65 dB with no apparent adverse affects on the birds' ability to reproduce. In fact, the data we have submitted to you shows that the wind in the Harbor often exceeds 65 dB.

4. Construction and Maintenance.... The contents of this condition are acceptable and are similar to the condition in the previous NOID, however, the language is different from one permit to another. It seems it would be better for all to develop a single condition on this subject and apply it to all the permits, rather than change the language every time.

7. Water Quality Management Plan: Again, this is similar to the condition in the previous NOID called "Drainage and Polluted Runoff Control Plans," and appears to be acceptable, however, it is different language from the last permit, which we

had tried to incorporate. Also, to what extent does the MS4 permit for Ventura County override this condition? I don't understand why you don't just reference the current MS 4 permit and rely on the County and the Regional Water Quality Control Board to address this issue.

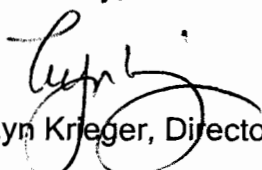
8. Construction Materials: This condition also was not in the previous NOID. Since we are requiring our lessees to utilize concrete piles, this condition is outdated and unnecessary.

9. Lighting Restriction: As we discussed with the last NOID, it is unreasonable for us to construct a new marina, with new restroom facilities and a new pedestrian pathway and expect that no lighting will exceed 2 feet in height or be any brighter than a 60 watt bulb that minimizes "spillover." There are industry standards for lighting different areas for safety purposes, particularly approaching a restroom area. If you would like us to provide specifications, we can. It is our expectation that the landside amenities that go with this marina replacement will have adequate, modern, tastefully done lighting fixtures that direct the light downward onto the pathways and minimize spillage onto adjacent properties, or onto the water itself.

12. Low Cost Boating: As I understand the Commission, and from reading the transcript myself, it was not their intention to have the Executive Director approve specific programs or organizations for low-cost boating prior to its implementation, but to be able to verify that credible programs are actually receiving support. The Harbor's suggestion is that the annual report submitted to CCC includes both a program and budget for the coming year, and a report of the activities of the previous year.

We look forward to resolving these few issues prior to the hearing date.

Sincerely,


Lyn Krieger, Director

C: Bob Nahm, Channel Islands Landing

CALIFORNIA COASTAL COMMISSION

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



W 11d

DATE: March 21, 2008

TO: Commissioners and Interested Persons

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

SUBJECT: **Notice of Impending Development (NOID) 4-07**, for Channel Islands Landing/Boatyard Marina Expansion for Public Hearing and Commission Action at the April 9, 2008, Commission Meeting in Santa Barbara.

SUMMARY AND STAFF RECOMMENDATION

The impending development consists of the addition of 66 slips to a previously approved reconstruction of a demolished recreational boating marina which will result in the replacement of 91 slips with 157 new slips. The proposed project involves the expansion of the marina an average of 90 feet westward into the eastern channel of Channel Islands Harbor. The 91-slip replacement project was approved by the Commission NOID 2-07 on June 14, 2007. However, a total of 157 new slips will be constructed as one project because the previous 91 slips have not yet been constructed. Additionally, the whole marina project (including development considered in both NOID 2-07 and NOID 4-07) includes a new dock system, including new piers, four ramps, gangways and abutments; removal of a travel lift, replacement of an existing marine railroad line with an updated marine railroad line, updating marina utility services and fire suppression systems, and a 1,026 sq. ft. handicapped accessible restroom and shower facility with a storage area, laundry room, and electrical room. All of the improvements that are located on the landside of the project site were previously approved in NOID 2-07.

The required items necessary to provide a complete Notice of Impending Development (NOID) were received in the South Central Coast Office on December 20, 2007 and the notice was deemed filed on February 25, 2008.

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 **thirteen (13) special conditions** regarding: (1) 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) water quality management plan, (8) construction materials, (9) lighting restriction, (10) approval of resource agencies, (11) invasive plants, (12) low cost boating in-lieu fee, and (13) slip size mix . 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 the project proponent's filing of 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 Ventura County Harbor Department Notice of Impending Development 4-07 (Channel Islands Landing/Boatyard Marina Expansion), 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 4-07, 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 4-07, 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. 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 biological surveys of trees on 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, and that will be carried out between December 1st and September 20th, inclusive. Such surveys shall identify the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or near the project site. All surveys conducted pursuant to this condition shall be submitted to the Executive Director of the Coastal Commission.

In the event that the surveys identify 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 (within 500 feet of any construction activities), then the following measures shall be included in the development:

Within 300 feet of any identified active nesting sites, noise monitors shall be present during all pile driving, concrete demolition, or other hardscape demolition. Noise generated by construction (including but not limited to pile driving) shall not exceed ambient noise levels at the construction site and in no case shall construction noise exceed 65 dB at any point in time, at any active nesting site. If construction noise exceeds the standard above, sound mitigation measures shall be employed. If these sound mitigation measures do not reduce noise levels within 48 hours, construction within 300 feet of the tree shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

A qualified independent monitor, approved by the Executive Director, shall be present on site during such construction to measure noise levels. During construction, noise reduction measures such as sound shields shall be used and measures taken to minimize loud noise generation to the maximum extent feasible. Bright upward shining lights shall not be used during construction and

construction employees shall be prohibited from bringing pets (e.g., dogs and cats) to the construction site.

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 consistent with the survey protocol required by the Southern California Caulerpa Action Team (SCCAT).
- 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 of the Southern California Caulerpa Action Team (SCCAT).
- 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 following construction-related requirements:

- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to ESHA, wetlands or their buffers.
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located within the coastal zone, a separate Notice of Impending Development shall be required before disposal can take place.

- H. 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.
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- J. The discharge of any hazardous materials into any receiving waters shall be prohibited.
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- L. The least damaging method shall be used for the construction of pilings and any other activity that will disturb benthic sediments. The suspension of benthic sediments into the water column shall be minimized to the greatest extent practicable.
- M. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- N. All BMPs shall be maintained in a functional condition throughout the duration of the project.

5. Best Management Practices Program

The Ventura County Harbor Department shall 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.

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. Water Quality Management Plan

A. PRIOR TO DEVELOPMENT, the applicant shall submit, for the review and approval of the Executive Director, a Water Quality Management Plan (WQMP), prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a. The proposed development shall reduce or maintain pre-development peak runoff rates and average volumes to the maximum extent practicable.
- b. Appropriate structural and non-structural BMPs (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters. Structural Treatment Control BMPs shall be implemented when a combination of Site Design and Source Control BMPs are not sufficient to protect water quality.
- c. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible.
- d. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized.

e. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.

f. Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner.

g. Parking lots and streets shall be swept on a weekly basis, at a minimum, in order to prevent dispersal of pollutants that might collect on those surfaces, and shall not be sprayed or washed down unless the water used is directed through the sanitary sewer system or a filtered drain.

h. The detergents and cleaning components used on site shall comply with the following criteria: they shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized to the maximum extent practicable; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used.

i. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

j. All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season.

k. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.

l. It is the Harbor Department's responsibility to maintain or ensure that its lessee maintains the drainage system and the associated structures and BMPs according to manufacturer's specifications.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a new

Notice of Impending Development unless the Executive Director determines that no new Notice of Impending Development is legally required.

8. Construction Materials

The Ventura County Harbor Department shall comply with the following requirements related to construction materials:

Material used for construction of piers, pilings, docks, dolphins, or slips shall not include timber preserved with creosote, (or similar petroleum-derived products.) Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) shall be used only if wrapped or coated prior to installation with a water tight plastic sleeve, or similar sealant. To prevent the introduction of toxins and debris into the marine environment, the use of plastic wrapped pilings (e.g. PVC Pilewrap) and reinforced plastic for pilings (e.g. high density polyethylene (HDPE) pile armor), shall conform to the following requirements:

- a. The material used shall be durable and a minimum of one-tenth of an inch thick.
- b. All joints shall be sealed to prevent leakage.
- c. Measures shall be taken to prevent ACA, CCA and/or ACZA from dripping over the top of plastic wrapping into State Waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.
- d. The plastic sleeves shall extend a minimum of 18 inches below the mudline.
- e. Plastics used to protect concrete or timber piers and docks or for flotation shall be subject to regular inspection to prevent sloughing of plastics into the waterway. A comprehensive inspection and maintenance plan shall be a requirement of any approval for projects involving plastic/or similar material wrapped piles.
- f. The lessee shall be made responsible for removal of failed docks or materials.
- g. If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for new piles or piling replacement, the least environmentally damaging materials and/or methods should be required for such projects, where feasible.

9. Lighting Restriction

The only outdoor night lighting allowed on the docks is limited to the following:

- 1. The minimum necessary to light walkways used for entry and exit, including parking areas on the site. This lighting shall be limited to fixtures that do not

exceed two feet in height, are directed downward and generate the same or fewer lumens than those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.

2. Security lighting shall be controlled by motion detectors and is limited to same or less lumens than those generated by a 60 watt incandescent bulb.
 3. The minimum necessary to light the entry area to the parking area and walkway with the same or less lumens than those generated by a 60 watt incandescent bulb.
- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

10. Resource Agencies

The Ventura County Harbor Department shall comply with all requirements, including required 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.

11. Invasive Plants

By acceptance of this Notice of Impending Development, the applicants agree that vegetated landscaped areas or any planter 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.

12. Low Cost Boating In-Lieu Fee

a. For the Channel Islands Landing/Boatyard marina expansion project, an in-lieu fee must be submitted to the County, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Harbor, and for other similar programs to enhance lower cost boating opportunities. Before such lower cost boating programs are implemented, the County or approved non-profit organization shall provide, for the

review and approval of the Executive Director of the Coastal Commission, a detailed description of the lower cost boating program.

b. The in-lieu fee shall be the equivalent financial value of one 30-foot boat slip (based upon the listed per-foot rental rate posted at the marina on July 1 of each year for 30-foot slips) for each 100 slips of 32 feet 1 inch in length and over that are redeveloped. For marinas containing fewer than 100 slips over 32 feet 1 inch in length, the in-lieu fee shall be prorated based on the number of slips. The payment of the in-lieu fee to the County shall commence upon completion of the marina redevelopment construction and continue annually, throughout the course of the ground lease.

c. The Harbor Department shall provide (or shall cause the appropriate non-profit organization to provide) an annual report, for the review and approval of the Executive Director of the Coastal Commission, detailing the in-lieu fees that have been collected for the redevelopment of the Channel Islands Landing/Boatyard marina expansion project, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15th of each year for the proceeding calendar year.

13. Slip Size Mix

PRIOR TO DEVELOPMENT, the Harbor Department must submit, for the review and approval of the Executive Director, an analysis of harbor-wide conformance, including the proposed project, with the following slip size distribution standards: (A) a minimum of 25% of the total number of slips shall be 32 ft. or under in length and (B) a minimum of 25% of the total number of slips shall be 32 ft., 1 in. – 38 ft. in length. At no time shall NOID 4-07 result in the provision of less than 23% of slips in Category A or less than 23% in Category B, harbor-wide.

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 the addition of 66 slips to a previously approved reconstruction of a recreational boating marina which will result in the replacement of 91 slips with 157 new slips. The project is known as the Channel Islands Landing/ Boatyard in Channel Islands Harbor, located at 3615 and 3821 S. Victoria Avenue, Oxnard, Ventura County (Exhibit 1). The parcel is located on the east side of the harbor, about one-half mile south of the Channel Islands Boulevard bridge. The previously existing docks were demolished on an emergency basis. The aging

docks were damaged by strong winds and storm surges, preventing access to the docks and creating hazardous conditions for the public. The applicant proposes to construct a completely new dock system for 157 boats slips, 66 more than the 91 slips that previously existed. The reconstruction of 91 slips with 91 new slips was previously approved in NOID 2-07. The lease line for this project will expand approximately 90 feet westward into the eastern channel. The 157 new slips will range in length from 22 ft. to 50 ft. (Exhibits 1 and 5). No change to the existing revetment is proposed. The dock system will meet accessibility requirements under the Americans with Disabilities Act and related State requirements.

A construction staging area, previously approved in NOID 2-07, will be located at the southern end of the property within an open area on the Channel Islands Landing parcel. The new concrete docks will be pre-manufactured offsite, 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.

Background

On September 19, 1986, the Channel Islands Public Works Plan (PWP) was effectively certified by the Commission and most recently amended in February 2008. 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 the 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 by reference 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 Channel Islands Marina Expansion project is located on the eastern side of the Harbor and includes construction of 66 slips in addition to the previously approved 91 replacement boat slips, for a total of 157 new boat 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.

Notwithstanding this man-made environment, several bird species, such as great blue herons and black-crowned night herons, 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. In addition, nearby Hollywood Beach west of the Harbor is designated as critical habitat for western snowy plover and California least tern.

The presence of these bird species is 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 east side of Channel Islands Harbor. The existing dry-storage boat yard on the project site includes only a few scattered trees, most of which are along the far eastern boundary of the property, adjacent to Victoria Avenue. There are only approximately three trees near the water-side of the parcel where the replacement docks will be constructed. There are no trees located on or near the project or construction staging area that are known to provide nesting areas for either the great blue heron or black-crowned night herons. No trees are proposed to be removed as part of this project. The Harbor biologist, Dr. Jeffery Froke, regularly conducts surveys of trees within Channel Islands Harbor to identify the location of great blue heron and black-crowned night heron nests. Dr. Froke has never documented nesting trees on the Harbor's east side along Victoria Avenue, where the project site is located. 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 reports from Dr. Froke, dated January 14, 2008 and February 5, 2008, indicate that no nesting sites are present on the east side of the harbor and that several nesting sites are present on the peninsula in the center of the harbor. (Exhibits 2-4).

The proposed project is located 350 feet or less away from the closest known nesting trees. (Exhibits 3 and 4) 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 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 Condition One (1)** which requires construction surveys to be prepared by a qualified independent biologist approved by the Executive Director to conduct biological surveys of trees on

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, and that will be carried out between December 1st and September 20th, inclusive. The surveys will identify the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or near the project site and will be submitted to the Executive Director of the Coastal Commission.

Further, under Special Condition One (1), in the event that the surveys identify 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 (within 500 feet of any construction activities), then the Harbor Department must include following measures in the development: within 300 feet of any identified active nesting sites, noise monitors shall be present during all pile driving, concrete demolition, or other hardscape demolition. Noise generated by construction (including but not limited to pile driving) must not exceed ambient noise levels at the construction site and in no case will construction noise exceed 65 dB at any point in time, at any active nesting site. If construction noise exceeds the standard above, the Harbor Department must employ sound mitigation measures. If these sound mitigation measures do not reduce noise levels within 48 hours, construction within 300 feet of the tree must cease and must not recommence until either new sound mitigation can be employed or nesting is complete. This condition also requires a qualified independent monitor, approved by the Executive Director, to be present on site during such construction to measure noise levels. During construction, noise reduction measures such as sound shields must be used and measures taken to minimize loud noise generation to the maximum extent feasible. Bright upward shining lights must not be used during construction and construction employees must be prohibited from bringing pets (e.g., dogs and cats) to 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

¹ References:

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

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

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 Agua 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*, 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*, or other non-native invasive aquatic species such as Japanese kelp. If *C. taxifolia*, Japanese kelp, or other non-native invasive aquatic species is present in the project area, no work may commence and the applicants shall immediately notify the Executive Director.

Eelgrass

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.

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 Two (2)** 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 addition of 66 slips to a previously approved 91-slip marina reconstruction, for a total of 157 new 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 addition of 66 slips to a previously approved 91-slip marina reconstruction which will expand an average of 90 feet into the waterway. Alternatives to the proposed project include no project or a change to the proposed configuration. Under the no project alternative, the marina would remain at 91 slips and would not provide for the 66 additional slips, which would provide additional boater-serving facilities. A change to the proposed configuration would also result in less slips and boater-serving facilities because of the need to comply with ADA standards. The proposed project is the least environmentally damaging alternative because the boat slips would extend out into the already existing harbor channel. Dredging occurs on a routine basis in this navigation channel. Further, conditions are imposed to assure no spread of *caluerpa taxifolia* occurs and that eelgrass will be not be impacted or any impacts will be mitigated, per **Special Conditions (3) and (2)**, as explained above.

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. Additionally, **Special Condition Eight (8)** requires the Harbor Department to put restrictions on materials used for construction of piers, pilings, docks, dolphins, or slips, including preventing the use of timber preserved with creosote, (or similar petroleum-derived products.) Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) are permitted only if wrapped or coated prior to installation with a water tight plastic sleeve, or similar sealant. This condition also includes other restrictions to prevent the introduction of toxins and debris into the marine environment. 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 Ten (10)** 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 Channel Islands Landing/Boatyard 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 10 under Recreational Boating in the Public Works Plan states:

10. Slip Size Distribution for New or Reconstructed Marinas

The following slip size distribution standards shall apply to the Channel Islands Harbor overall:

A. A minimum of 25% of the total number of slips shall be 32 ft. or under in length.

B. A minimum of 25% of the total number of slips shall be 32 ft., 1 in. – 38 ft. in length.

The County shall maintain an up-to-date harbor-wide accounting of the total number of slips existing and approved through NOIDs, with a breakdown by slip size category (including slips in Categories A and B, and slips over 38 ft. in length).

Any NOID for the development or redevelopment of marinas shall include an analysis of harbor-wide conformance, including the proposed development or redevelopment, with the slip size distribution standards. At no time shall a NOID for the development or redevelopment of marinas result in the provision of less than 23% of slips in Category A or less than 23% in Category B, harbor-wide.

In addition, Policy 12 under Recreational Boating in the Public Works Plan states:

12. Low Cost Boating

a. The development or redevelopment of marinas or boat slips (not including commercial fishing or commercial sport fishing slips) shall include the provision of an in-lieu fee to the County, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Harbor, and for other similar programs to enhance lower cost boating opportunities. Before such lower cost boating programs are implemented, the County or approved non-profit organization shall provide, for the review and approval of the Executive Director of the Coastal Commission, a detailed description of the lower cost boating program.

b. The in-lieu fee shall be the equivalent financial value of one 30-foot boat slip (based upon the listed per-foot rental rate posted at the marina on July 1 of each year for 30-foot slips) for each 100 slips of 32 feet 1 inch in length and over that are redeveloped. For marinas containing fewer than 100 slips over 32 feet 1 inch in length, the in-lieu fee shall be prorated based on the number of slips. The payment of the in-lieu fee to the County will commence upon completion of the marina redevelopment construction and continue annually, throughout the course of the ground lease.

c. The Harbor Department shall provide (or shall cause the appropriate non-profit organization to provide) an annual report, for the review and approval of the Executive Director of the Coastal Commission, detailing the in-lieu fees that have been collected, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15th of each year for the proceeding calendar year.

As proposed, the Channel Islands Landing/Boatyard marina expansion project consists of the addition of 66 slips to a previously approved reconstruction of a demolished recreational boating marina which will result in the replacement of 91 slips with 157 new slips to be used primarily by recreational boaters. The certified PWP designates the water portion and the southern portion of the landside portion of the Channel Islands Landing/Boatyard 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 landside visitor serving boating designation is for “dry storage of boats, the parking of vehicles, and boat trailers and, where launching facilities exist, the washing of boats and flushing of saltwater engine cooling systems, boat and boat equipment sales, rentals, display, brokerage, storage and minor

repair and packaged (carry-out) food or beverage sales.” The northern portion of the property is designated for boating dependent industrial uses. The purpose of this designation is “to provide for uses which are necessary for the repair and construction of vessels and the movement of vessels and Harbor maintenance operation equipment to and from the water.” Permitted uses in the boating dependent industrial zone are “boat haul-out, building, maintenance, repair, inspection, and storage and Harbor maintenance operations.” The Third Amendment to the Public Works Plan approved by the Commission on February 8, 2008 permits marina expansion at this marina, as shown on the Master Plan Marina Map in Appendix E.

The Channel Islands Landing/Boatyard marina expansion project meets the stated purpose in the certified PWP to provide visitor serving boating facilities and is located in an area approved for marina expansion.

The Commission has previously found that redevelopment of existing marinas will result in an increase in slip rental fees and a reduction in the number of lower cost boat slips in the harbor. One way to ensure that recreational boating will remain more affordable is by ensuring a slip mix that includes slips for smaller boats. Policy 10 of the Recreational Boating Chapter of the PWP requires that a minimum of 25% of the total number of slips in the harbor overall must be 32 feet or under in length and that an additional 25% of slips must be between 32 ft. 1 in. and 38 ft. in length. In this case, the NOID was submitted before the Commission’s approval of PWPA 1-07 which added the slip size mix requirement of Policy 10. Therefore, the County has not provided an analysis of the harbor-wide conformance with this standard, as required. In order to assure conformance, **Special Condition Thirteen (13)** requires the County to demonstrate that the harbor-wide slip mix will be consistent with the provisions of Policy 10.

Additionally, the Commission has found that provision of other lower cost boating opportunities will provide mitigation for the inevitable increase in slip fees as marinas are rebuilt. **Special Condition Twelve (12)** requires the provision of an in-lieu fee for low cost boating pursuant to Policy 12 of the most recent amendment to Public Works Plan, as stated above. The County has not provided a breakdown of the number of the 66 additional slips that will be over 32 feet, 1 inch in length. The mitigation fee must be based on this calculation. Special Condition Thirteen will ensure that lower cost boating opportunities are provided. 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 the addition of 66 slips to a previously approved reconstruction of a demolished recreational boating marina which will result in the replacement of 91 slips with 157 new slips. Current access to the water exists via a pedestrian walkway through the existing parking lot. This walkway will be maintained in the proposed project. Additionally, a new pedestrian walkway was approved in NOID 2-07 to parallel the water along the western portion of the project site. No modifications to the pedestrian accessways are proposed as part of the subject slip addition.

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. 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.

Further, Policy 6 under Biological Resources states:

Activities which produce, handle or transport petroleum products or hazardous substances within Harbor water areas shall be discouraged. This policy does not apply to retail fuel sales/operations for boaters and commercial fishermen in the Harbor.

Policy 7 under Biological Resources states:

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

Policy 8 under Biological Resources states:

Pump-out facilities adequate for all marine needs (i.e. bilges, holds, oil changes) shall be provided by the Harbor Department.

Boating Activities

The proposed expansion of the docks at Channel Islands Landing/Boatyard 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.

Additionally, **Special Condition Eight (8)** requires the Harbor Department to put restrictions on materials used for construction of piers, pilings, docks, dolphins, or slips, including preventing the use of timber preserved with creosote, (or similar petroleum-derived products.) Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) are permitted only if wrapped or coated prior to installation with a water tight plastic sleeve, or similar sealant. This condition also includes other restrictions to prevent the introduction of toxins and debris into the marine environment. Further, 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.

Construction Activities

The proposed reconstruction of the docks at Channel Islands Landing/Boatyard 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 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.

Additionally, **Special Condition Seven (7)** requires the Harbor Department to submit a water quality management plan. The proposed development will result in an increase in hard surface areas. The staging site is adjacent to harbor waters and runoff associated with the impervious surface on the site may impact water quality in the harbor.

The proposed restroom development will result in an intensification of use in the parking lot area which in turn decreases the infiltrative function and capacity of existing permeable land on site. Further, pollutants commonly found in runoff include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and cleaners; soap and dirt; litter; and bacteria and pathogens from waste. 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.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act and the Public Works Plan, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of

appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the amount of stormwater produced by all storms up to and including the 85th percentile, 24 hour storm event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Five (5)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Therefore, the Commission finds that the proposed Notice of Impending Development for the Channel Islands Landing/Boatyard, as conditioned to incorporate and maintain a water quality management 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, which 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.

In addition, 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 addition of docks and 66 slips on the water will not impact any viewshed existing within the harbor or shown on the Land Use Plan/Access map within the PWP. Night lighting on the building has been restricted in **Special Condition Nine (9)** in order to minimize visual impacts to the public and biological resources. As such, the development will have no significant adverse impact on visual resources. Therefore, the Commission finds that the proposed Notice of Impending Development for the Channel Islands Landing/Boatyard marina expansion project, as conditioned to restrict lighting 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

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

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 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 4-07, as conditioned herein, is consistent with CEQA Section 21080.5(d)(2)(A), and the applicable provisions of the Public Works Plan.



Jeffrey B. Froke, Ph.D.

CALIFAUNA

3158 Bird Rock Road / Pebble Beach, CA 93953

TEL (831) 224-8595 / FAX (831) 649-3765

jbfroke@mac.com

05 February 2008

RECEIVED
FEB 21 2008

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Report on Annual Tree-Use Sequence by Nesting Great Blue Herons & Black-crowned Night Herons at Channel Islands Harbor, Ventura County, CA / 2003-2007

As previously reported, Great Blue Herons (GBH) and Black-crowned Night Herons (BCNH) nested over a five-year consecutive period (2003-2007) inside the urban marina environment at Channel Island Harbor. A third species, the Snowy Egret, also nested in the same environment, but for one season only (1 pair on the Westside of the harbor during 2004). As an outlier, the species is not discussed further in this report.

This report focuses on the observed selection of 43 specific nest trees by the herons. The following two graphs show the number of nest trees used by each of the two heron species over the five-year period; and in particular how the nest-tree uses were distributed between the PENINSULA and WESTSIDE segments of the harbor area. By the way, these data describe all nesting by the two species of herons anywhere in the harbor setting during 2003-2007.

In summary, BCNH nested in a total of 33 of the 43 nest trees, and GBH in 13; and four of the GBH nest-uses overlapped with those of the BCNH (pairs of both species nested simultaneously in the four of the same trees).

Patterns of use represent the most telling findings from these data: Over the five-year period, BCNH nested in 28 -> 15 -> 9 -> 5 and then 6 trees; and the principal location of BCNH nest trees shifted from the Westside in 2003 (57 pct) to the Peninsula in 2004 (73 pct), 2005 (66 pct), 2006 (100 pct), and 2007 (83 pct).

Simultaneously, GBH nested in 4 > 4 > 2 > 8 and then 8 trees; and the principal location of GBH nest trees shifted from the Westside in 2003 and 2004 (75 pct each year) to the Westside/Peninsula in 2005 (50/50 pct), and the Peninsula in both 2006 and 2007 (86 and 100 pct, respectively).

Wildlife Science & Management Consulting

EXHIBIT 2

CI Harbor NOID 4-07

Froke February 2008 Report

All together, dominant nest tree-use by the two heron species moved from the Westside in 2003 (60 pct) to the Peninsula in 2004 and thereafter (63, 64, 92, and 100 pct, in sequence).

Ultimately, the Westside counted for the majority of 2003 tree-uses when there was a larger population of BCNH present; but following the first year, BCNH numbers both diminished steeply and most/all of the remaining tree-users moved across the Channel in 2004. Concurrently, BCNH tree-uses dropped off from a high of 28 (2003) to a low of 5 and 6 in 2006 and 2007.

Similarly, GBH had nested mostly on the Westside in 2003 and 2004 (75 pct of nest-uses both years), then switched to the Peninsula in 2005 - 2007 (first 50 pct, then 88 and 100 pct, in sequence).

The following graphics are intended to illustrate these clear nesting shifts from the *Westside to the Peninsula* as well as the *decrease of BCNH* that occurred while the *GBH increased* in numbers and corresponding nest-uses.

JBF

Final, 05 Feb 08.2



JEFFREY B. FROKE, Ph.D.

CALIFAUNA

3158 Bird Rock Road / Pebble Beach, CA 93953

TEL (831) 224-8595 / FAX (831) 649-3765

jbfroke@mac.com

14 January 2008

RECEIVED
FEB 21 2008

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

CHANNEL ISLANDS HARBOR HERONRY

NEST TREE DISTRIBUTION

The following table represents the annual distribution of nest trees for all tree species used by all nesting heron species during nest years 2003-2007. During the five-year study period, 43 individual trees were used for nesting; and altogether, 90 uses of those trees were counted. Black-crowned Night-Herons (BCNH) accounted for 63 of the 90 total tree-uses*, Great Blue Herons (GBH) 26, and Snowy Egret (SNEG) 1 (2004 only).

Hérons nesting along the PENINSULA counted for 57 tree-uses (63 pct) over the five-year period, and the balance of 33 tree-uses (37 pct) occurred on the WESTSIDE. The largest annual tree-usage (and nesting effort) was made by BCNH on the Westside during the 2003 nesting period (BCNH used 16 Westside trees for nesting). Presently shown data do not reflect the actual number of nests used during any period. These nest effort data do exist and are reportable, per species.

Tree-use data are being analyzed to understand the annual patterns of new tree accession (NTA). NTA represents tree-selection patterns of individuals or a population of animals (herons) that annually select nest trees from a larger field of suitable trees, and particularly when they adopt a previously unused tree for nesting, i.e., the population of nest trees increases over time by accession.

DEFINITION: USE means that one or more pairs of a species used the tree for nesting in a given year. Whether one or two GBH pairs nests in a tree, the event is a single use. The actual count of nests is not factored into this description of use.

CIH Nest Tree Distribution, 2003-2007

CIH AREA	2003		2004			2005		2006		2007		TOTALS
	BCNH	GBH	BCNH	GBH	SNEG	BCNH	GBH	BCNH	GBH	BCNH	GBH	
PENINSULA	12	1	11	1	0	6	1	5	7	5	8	57
WESTSIDE	16	3	4	3	1	3	1	0	1	1	0	33
TOTALS	28	4	15	4	1	9	2	5	8	6	8	90

Nest Tree Worksheet, 2003-2007

The following worksheet incorporates all basic tree-use data about CIH nesting herons during 2003-2007. Tree numbers correspond with trees marked on the **All Nest Map for 2003-2007** (attached). The 5 tree species are indicated by color-coded dots on the same map. Individual trees that are highlighted in yellow, below, have been used only once by herons. To date, this feature is more significant for trees used before 2007 as it indicates the trees to which herons did not return after the prior year. Future, or repeat use of trees used during 2007 only has not been determined (also, see All Nest Map).

TREE #	TREE NAME	NEST YEAR	HERON SPECIES
1	Magnolia	2003	BCNH
1	Magnolia	2004	BCNH
1	Magnolia	2005	BCNH
2	Melaleuca	2006	BCNH
2	Melaleuca	2007	BCNH
3	Cypress	2003	BCNH
3	Cypress	2004	BCNH
4	Cypress	2003	BCNH
4	Cypress	2004	BCNH
5	Cypress	2007	BCNH
6	Cypress	2007	BCNH
7	Cypress	2003	BCNH
7	Cypress	2004	BCNH
7	Cypress	2005	BCNH
7	Cypress	2003	GBH
7	Cypress	2004	GBH



8	Cypress	2003	BCNH
8	Cypress	2004	BCNH
8	Cypress	2005	BCNH
8	Cypress	2003	GBH
8	Cypress	2004	GBH
8	Cypress	2006	GBH
8	Cypress	2004	SnEg
9	Cypress	2003	BCNH
9	Cypress	2004	BCNH
9	Cypress	2005	BCNH
9	Cypress	2003	GBH
9	Cypress	2004	GBH
9	Cypress	2005	GBH
10	Cypress	2007	BCNH
11	Pohutukawa	2003	BCNH
11	Pohutukawa	2004	BCNH
11	Pohutukawa	2005	BCNH
11	Pohutukawa	2006	BCNH
12	Pohutukawa	2003	BCNH
12	Pohutukawa	2004	BCNH
12	Pohutukawa	2005	BCNH
12	Pohutukawa	2006	BCNH
13	Pohutukawa	2003	BCNH
13	Pohutukawa	2004	BCNH
13	Pohutukawa	2005	BCNH
13	Pohutukawa	2006	BCNH
14	Pohutukawa	2003	BCNH
14	Pohutukawa	2004	BCNH
14	Pohutukawa	2005	BCNH
14	Pohutukawa	2006	BCNH
15	Pohutukawa	2003	BCNH
16	Pohutukawa	2003	BCNH
17	Pohutukawa	2003	BCNH
18	Pohutukawa	2003	BCNH
19	Pohutukawa	2003	BCNH
20	Pohutukawa	2003	BCNH
21	Pohutukawa	2003	BCNH



22	Pohutukawa	2003	BCNH
23	Pohutukawa	2003	BCNH
24	Pohutukawa	2003	BCNH
25	Pohutukawa	2003	BCNH
26	Mont Pine	2003	BCNH
26	Mont Pine	2004	BCNH
27	Mont Pine	2007	BCNH
28	Mont Pine	2003	BCNH
28	Mont Pine	2004	BCNH
29	Mont Pine	2003	BCNH
30	Mont Pine	2003	BCNH
30	Mont Pine	2007	BCNH
31	Mont Pine	2003	BCNH
31	Mont Pine	2004	BCNH
31	Mont Pine	2005	BCNH
31	Mont Pine	2003	GBH
31	Mont Pine	2004	GBH
31	Mont Pine	2005	GBH
31	Mont Pine	2006	GBH
31	Mont Pine	2007	GBH
32	Fan Palm	2006	GBH
33	Fan Palm	2006	GBH
33	Fan Palm	2007	GBH
34	Fan Palm	2006	GBH
34	Fan Palm	2007	GBH
35	Fan Palm	2006	GBH
36	Fan Palm	2007	GBH
37	Fan Palm	2006	GBH
37	Fan Palm	2007	GBH
38	Fan Palm	2007	GBH
39	Fan Palm	2006	GBH
39	Fan Palm	2007	GBH
40	Fan Palm	2007	GBH
41	Pohutukawa	2004	BCNH
42	Pohutukawa	2003	BCNH
43	Pohutukawa	2003	BCNH

End of collected tree-use data , 2003-2007

HERON NEST ATLAS for CHANNEL ISLANDS HARBOR HERONRY, 2003-2007



- Nest Tree Species:**
- Monterey Cypress
 - Monterey Pine
 - Pohutukawa (New Zealand Christmas Tree)
 - Magnolia (01) & Melaleuca (02)
 - Mexican Fan Palm
 - Red circle indicates trees that were used only once during 2003-2007

n = 43

Channel Islands Landing/Boatyard NOID 4-07



EXHIBIT 4
CI Harbor NOID 4-07
Previous Nesting Sites

© 2007 Europa Technology, Inc.
© 2007 TurnHere, Inc.

No new construction has taken place since approval of NOID 2-07 because the lessee has elected to combine the construction of both phases. Therefore, the slip mix will change as follows:

Slip Mix Approved in NOID 2-07:

Slip Size	# Existing	# Proposed
60 ft.	1	0
55 ft.	8	0
50 ft.	0	3
46 ft.	0	4
44 ft.	0	4
40 ft.	0	10
38 ft.	0	4
36 ft.	0	2
35 ft.	24	0
34 ft.	0	2
32 ft.	0	5
30 ft.	15	10
25 ft.	4	7
22 ft.	39	40
Total Slips	91	91

Slip Mix Proposed with Marina Expansion:

Slip Size	# Proposed
60 ft.	0
55 ft.	0
50 ft.	7
46 ft.	12
44 ft.	12
40 ft.	30
38 ft.	13
36 ft.	7
35 ft.	0
34 ft.	5
32 ft.	8
30 ft.	10
25 ft.	17
22 ft.	36
Total Slips	157

The slips are generally rented to recreational boaters, a boat brokerage, and an occasional commercial vessel.