#### CALIFORNIA COASTAL COMMISSION

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



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 10

### STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-09-223

APPLICANT:	County of Los Angeles Department of Beaches & Harbors
AGENTS:	Cesar Espinoza, Regional Planning Assistant Jon T. Moore, P.E., Noble Consultants, Inc.
PROJECT DESCRIPTION:	Remove and redeposit 30,362 cubic yards of dry beach sand one- half mile south to nourish eroded shoreline.
PROJECT LOCATION:	300 to 2300 Ocean Front Walk (on the beach), Venice, City of Los Angeles, Los Angeles County.

#### SUBSTANTIVE FILE DOCUMENTS:

- 1. Coastal Development Permit 5-95-283 (City of Long Beach, Beach Nourishment).
- 2. Coastal Development Permit 5-08-356 (City of Long Beach, Beach Nourishment).
- 3. Biological Resources Report for Venice Beach Renourishment Project, by Chambers Group, 10/6/2009.
- 4. U.S. Army Corps of Engineers Regional General Permit No. 67 (2004-01896-KW), Discharges of Dredged or Upland-Derived Fill Materials for Beach Nourishment, 9/25/2006 (Expiration Date: September 25, 2011).

#### SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission **APPROVE** the coastal development permit for the proposed beach nourishment project with special conditions. The recommended special conditions of the permit, which begin on Page Three, address the timing of the project, protection of marine resources, beach closures, conformance with the requirements of resource agencies, and the waiving of liability. The applicant agrees with the recommendation. **See Page Two for the motion to adopt the staff recommendation.** 

#### STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to <u>APPROVE</u> the coastal development permit application with special conditions:

## **MOTION:** "I move that the Commission approve with special conditions Coastal Development Permit 5-09-223 per the staff recommendation."

The staff recommends a <u>YES</u> vote. Passage of the motion will result in <u>APPROVAL</u> of the coastal development permit application with special conditions, and adoption of the following resolution and findings, as set forth in this staff report or as modified by staff prior to the Commission's vote. The motion passes only by an affirmative vote of a majority of Commissioners present.

#### I. <u>Resolution: Approval of Coastal Development Permit with Conditions</u>

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

#### II. Standard Conditions

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

#### III. Special Conditions

#### 1. <u>Timing of Project</u>

In order to prevent adverse impacts from the proposed project on grunion (*Leuresthes tenuis*), California brown pelican (*Pelicanus occidentalis*) and the California least tern (*Sterna antillarum brownie*) during the grunion breeding runs and the pelican's and least terns' nesting and foraging season, no sand moving or beach nourishment shall occur during the period commencing March 1 and ending September 1.

#### 2. Shoreline Access and Beach Closures

Beach area closures shall be minimized and limited to areas immediately adjacent to the project area (within one hundred feet of the excavation, transport and deposition areas). All beach areas and recreation facilities outside of the 100-foot radius shall remain open and available for public use during the normal operating hours. The beach bicycle path shall remain open and available for public use during the use during normal operating hours. Public access to the water shall be maintained between the sand borrow sites, as shown on **Exhibit #3 of the Staff report dated March 24, 2010**.

#### 3. <u>Protection of Marine Resources</u>

The permittee shall implement the following project staging best management practices in order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into coastal waters:

- A. Prior to excavation of sand and beach nourishment, the permittee shall clean the project site, to a reasonable extent, of any trash to ensure that the transportation of sand does not cause dispersal of trash into coastal waters.
- B. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
- C. Machinery or construction materials not essential for the project are prohibited at all times in the subtidal or intertidal zones.
- D. Sandbag barriers shall be placed around the staging and storage areas and around drainage inlets to control sediment and prevent run-off/sediment transport into the water.
- E. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction, shall not occur where such materials/chemicals could pass into coastal waters. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- F. Spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe

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manner as soon as possible. Disposal within the coastal zone shall require a coastal development permit.

- G. Construction equipment and vehicles shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction equipment shall be serviced immediately. Equipment and machinery shall be serviced, fueled, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into coastal waters. Fueling of vehicles shall not occur over the sand. Thinners, oils or solvents shall not be discharged onto the ground or into sanitary or storm sewer systems.
- H. All floatable debris and trash generated by construction activities within the project area shall be disposed of at the end of each day, or as soon as possible.
- I. In the event that contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported offsite only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.
- J. At the end of the project, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to recreation or navigation.

The permittee shall include the requirements of this condition on all plans and contracts issued for the project. The permittee shall implement and carry out the project staging and construction plan during all demolition, construction, staging and cleaning activities.

#### 4. <u>Conformance with the Requirements of the Resource Agencies</u>

The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

#### 5. Assumption of Risk, Waiver of Liability and Indemnity Agreement

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

#### IV. Findings and Declarations

The Commission hereby finds and declares:

#### A. <u>Project Description</u>

The County of Los Angeles proposes to move approximately 30,362 cubic yards of beach sand from the widest sections of Venice Beach to the most severely eroded section of Venice Beach (Exhibit #2). The County proposes to complete the proposed project during a six-week period in the winter (November 2010 – January 2011) in order to avoid grunion spawning and the peak beach use period. The sand source area is the wide beach situated between Dudley Avenue and Horizon Avenue, about two hundred feet seaward of Ocean Front Walk (Exhibit #2). The City of Los Angeles has granted the County permission to carry out the proposed beach nourishment project on the City-owned beach. The proposed project would protect a public recreation area and the County's beach maintenance and lifeguard facilities where the shoreline between Windward Avenue and 23<sup>rd</sup> Avenue has eroded (Exhibit #4).











The 2000-foot long section of eroded shoreline that needs the nourishment is designated by the California Sediment Management Workshop as a Beach Area of Concern (BECA). The Venice Breakwater and stormdrain that exist on the northern end of the eroded shoreline interrupt the transport of sand down the coast, and erosion continues to threaten the public parking lot and County facilities that exist on the beach (Exhibit #2). The County states that this section of the shoreline has been nourished several times in the past, but not since the 1970s. During the storms of December 2004 – January 2005, the County estimates that approximately 30,000 cubic yards of sand was lost from the site.

The County proposes to use scrapers to move dry sand down coast a distance of about onehalf mile. The haul route will be the dry sand area immediately above the high tide line. Scrapers will scrape off the top two or three feet of the bermed sand surface down to the +14foot elevation above MLLW (Exhibit #3). As proposed, no sand excavation will occur within two hundred feet of Ocean Front Walk, and no sand will be excavated below the high water line. Annual High Tide Elevation is +7.4 feet above MLLW.

Four distinct borrow sites, all at least one hundred feet inland of the mean high tide line, have been mapped between Dudley Avenue and Horizon Avenue - about two hundred feet seaward of Ocean Front Walk (Exhibit #2). The beach is about seven hundred feet wide in the borrow area. Temporary barricades (fencing for public safety) will be placed around the perimeter of each borrow site before the commencement of excavation. Each of the four perimeter barricades will be removed subsequent to scraping and transport of the sand, starting with Borrow Site No. 1 and continuing sequentially from north to south until the following amounts of sand have been taken from each borrow site:

Volume - Borrow Site No. 1:	6,177 cubic yards
Volume - Borrow Site No. 2:	10,484 cubic yards
Volume - Borrow Site No. 3:	11,424 cubic yards
Volume - Borrow Site No. 4:	2,277 cubic yards
Total Volume Excavated Sand:	30,362 cubic yards

The excavated sand will be transported down the beach by scraper and placed in berms at the eroded shoreline. Bulldozers and front end loaders will then push sand into the intertidal zone in order to extend the beach about fifty feet further seaward than it currently exists. Some of the sand will be used to raise the elevation of the existing beach up to +14 feet above MLLW and to bury the rock revetment that protects the Venice Lifeguard Headquarters at the southern end of the project site (Exhibit #4). The beach face in the nourishment area will be graded to a 10:1 (horizontal: vertical) slope to match the existing grade.

The project staging and equipment storage area will be located in the paved parking area located immediately inland of the Venice Lifeguard Headquarters at the southern end of the project site (Exhibit #2). The proposed project also includes the construction (and removal) of a temporary bridge where the scrapers must cross over the buried Venice Breakwater stormdrain (Exhibit #2). The temporary bridge is necessary to protect the shallow depth stormdrain pipe from being damaged by the weight of the heavy sand-carrying scrapers. The temporary bridge will be removed in its entirety when the sand excavation is completed.

#### B. <u>Marine Resources</u>

The proposed project involves the transport of beach sand to another section of the beach and deposition on the near shore area below the mean high tide line (MHTL). The placement of any material below the MHTL is fill as defined by Section 30108.2 of the Coastal Act. Section 30233 of the Coastal Act allows filling of coastal waters (or wetlands) only where feasible mitigation measures have been provided to minimize adverse environmental effects, and for only the following seven uses listed in Section 30233(a) of the Coastal Act:

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

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

(3) In 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.

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

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

- (6) Restoration purposes.
- (7) Nature study, aquaculture, or similar resource dependent activities.

In this case, the proposed fill would restore former public beach areas where erosion has narrowed the width of the beach. Excavation of sand for beach restoration is an allowable use of fill pursuant to Section 30233(a)(5) of the Coastal Act and deposition of sand for beach restoration is an allowable resource dependent activity pursuant to Section 30233(a)(7).

Section 30233 of the Coastal Act allows the proposed deposition of sand for beach restoration only if it is planned and carried out to avoid significant disruption to marine habitats and water circulation, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Coastal Act Sections 30230 and 32031 also require that the proposed development be carried out in a manner that protects water quality, biological productivity and marine resources.

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Specific mitigation measures must be implemented in order to ensure that water quality, biological productivity and marine resources are protected as required by the above-stated Coastal Act policies. The proposed deposition sites are beaches where grunion (*Leuresthes tenuis*), a species of fish, are known to spawn. The waters in the project area are also used as a feeding area by the California brown pelican (*Pelicanus occidentalis*) and the endangered California least tern (*Sterna antillarum brownie*). The period between March 1 and September 1 is the primary grunion-spawning season as well as the least tern's nesting season. The U.S. Army Corps of Engineers (Permit No. 2004-01896-KW) prohibits beach nourishment activities during these times. The County proposes to complete the proposed project during a six-week period in the winter (November 2010 – January 2011) in order to avoid grunion spawning and the peak beach use period. In order to minimize any adverse impact that the proposed activity may have on these species, the coastal development permit is conditioned so that the proposed project is not permitted during the period commencing March 1 and ending September 1. Only as conditioned is the proposed project consistent with the marine resource sections of the Coastal Act.

The Biological Resources Report for the Venice Beach Renourishment Project (by Chambers Group, 10/6/2009) states that the proposed beach nourishment will not adversely impact eelgrass beds, surfgrass, or kelp because these resources do not exist in the project area. The sand excavation and deposition areas are entirely sandy beach. No rocky intertidal or subtidal habitat exists in the project area. The placement of sand in the intertidal area will bury some invertebrates, but this will not result in a significant adverse effect because the invertebrate community is expected to recover within a few months, the report concludes.

Water quality must also be protected from discharges and polluted runoff. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. In order to reduce the potential for construction related impacts on water quality, the Commission imposes a special condition requiring the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of best management practices. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

The resource agencies may require further mitigation measures to minimize or avoid impacts to marine resources. Therefore, a condition of approval requires the permittee to comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S.

Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed changes shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. Only as conditioned to mitigate and avoid impacts to marine resources does the Commission find the proposed project to be consistent with Sections 30230, 30231 and 30233 of the Coastal Act.

#### C. <u>Recreation and Public Access</u>

The proposed beach nourishment will partially mitigate beach erosion and provide for the continuing and increased recreational use of the beach by the public. The proposed nourishment will increase the size of the beach and will provide a larger area for recreational use. Therefore, the proposed project, as conditioned, is consistent with the following Coastal Act policies which encourage public access and recreational use of coastal areas.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30213 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The proposed project will temporarily impact the use of some portions of the beach during the excavation and deposition of the sand. However, because the permit is conditioned to prohibit replenishment during the least tern nesting season and grunion spawning season (March 1 - Sept.1), public access and recreation will not be impacted during the peak summer season. When the proposed work on the beach is permitted to occur, a condition of the permit requires the County to minimize beach area closures by limiting closed beach areas to an area not to exceed one hundred feet from the excavation and deposition areas. In addition, a condition of

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approval requires that public access to the water shall be maintained between the sand borrow sites, as shown on Exhibit #3.

The long-term benefits of beach nourishment offset the temporary reduction in beach use by providing a larger, more stable beach for public recreation. Further, as conditioned, the impacts of the proposed development on access and recreation have been minimized. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 32011, 30213 and 30221 of the Coastal Act.

#### D. <u>Hazards</u>

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

Section 30253 of the Coastal Act states, in part:

New development shall:

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

The proposed project will not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project will minimize risks to life and property and will not significantly contribute to erosion or destruction of the area. The elevation of the existing seven hundred foot wide beach, where the sand excavation is proposed, will not be reduced by the project below the +14-foot elevation above MLLW (Exhibit #3). Since the annual High Tide Elevation is +7.4 feet above MLLW, the beach's +14-foot elevation above MLLW is expected to continue to provide protection from high tides and normal storm events. The nourishment of the beach at the eroded shoreline is being done to provide additional protection for a public recreation area and the County's existing beach maintenance and lifeguard facilities.

However, no development near the shoreline can be guaranteed to be safe from hazard. All development located in or near the ocean has the potential for damage caused by wave energy, floods, seismic events, storms and erosion. The project area is susceptible to natural hazards. Special Condition Five requires that the permittee assume the risks of the potential hazards associated with development, and indemnifies the Commission against liability with respect to the approval of the proposed project.

#### E. Local Coastal Program

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

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The proposed project is located within the Venice area of the City of Los Angeles. The City of Los Angeles has granted the County permission to carry out the proposed beach nourishment project on the City-owned beach. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### F. California Environmental Quality Act (CEQA)

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

The County of Los Angeles is the lead agency for the purposes of CEQA review and has determined that the proposed project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c), (f), (h) (Class 1 maintenance of existing facilities and topographical features) and Section 15304(c) (Class 4 minor alterations to land). On July 13, 2009, the Los Angeles County Department of Beaches and Harbors issued Notice of Exemption No. 09-0034847.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require a) limiting the activity to as to not disrupt breeding and foraging of endangered and sensitive species; and, b) implementation of best management practices to protect water quality. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may

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have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

# **VENICE, CA**







