

CALIFORNIA COASTAL COMMISSION

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W18d

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STAFF REPORT: REGULAR CALENDAR

Application No.:	5-12-198
Applicant:	Blue Lagoon Community Association
Agent:	Moffatt and Nichol Engineers
Location:	30781 Coast Highway, Laguna Beach, Orange County (APN 656-183-24 through 656-183-39)
Project Description:	Return existing rock revetment to original design configuration through addition of 860 tons of imported or retrieved rock.
Staff Recommendation:	Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION:

The applicants are proposing to return an existing rock revetment to the design configuration previously authorized by the Commission in the 1980's through the importation of rock to replace that which has been lost due to wave action, and the retrieval of existing errant rock located outside the footprint of the revetment. The major issue of this staff report concerns maintenance of existing shoreline protective devices.

Staff is recommending APPROVAL of the proposed project with ELEVEN (11) SPECIAL CONDITIONS regarding: 1) Prior permit conditions; 2) Long term monitoring of revetment; 3) Future maintenance of revetment; 4) No future seaward extension of shoreline protection; 5) Submittal of as built plans; 6) Project modifications require a permit amendment or new permit; 7) Water quality best management practices; 8) Submittal of construction staging and access plan; 9) Assumption of the risk for the development; 10) Evidence of approval from other agencies; and 11)

Recordation of the above conditions on the either deed for the property or the CC&R's for the homeowner's association.

Although the City of Laguna Beach has a certified Local Coastal Program, this project involves development previously permitted by the Commission and is located within an area subject to wave action where the Commission has retained jurisdiction over the issuance of coastal development permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Local Coastal Program may be used for guidance.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION:	3
II. STANDARD CONDITIONS:	3
III. SPECIAL CONDITIONS:	4
IV. FINDINGS AND DECLARATIONS:	8
A. PROJECT LOCATION & HISTORY	8
B. PROJECT DESCRIPTION	10
C. OTHER AGENCY APPROVALS	11
D. SHORELINE PROTECTION	12
E. PUBLIC ACCESS	14
F. WATER QUALITY	16
G. LOCAL COASTAL PROGRAM (LCP)	17
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	17

APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Map
Exhibit 2 – Site Plan
Exhibit 3 – Photographs

I. MOTION AND RESOLUTION:

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-12-198 pursuant to the staff recommendation.*

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

Resolution:

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

II. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

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

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

This permit is granted subject to the following special conditions:

1. **Prior Permit Conditions.** All regular and special conditions attached to Coastal Development Permit Numbers 5-84-777, as amended, and 5-89-986 remain in effect.
2. **Long-Term Monitoring Program.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a long-term monitoring plan for the existing shoreline protection. The purpose of the plan is to monitor and identify damage or changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to the following:
 - a. An evaluation of the current condition and performance of the revetment, addressing any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the revetment that may adversely impact its future performance.
 - b. Measurements taken from the benchmarks established in the survey as required in Special Condition No. 5 of CDP #5-12-198 to determine settling or seaward movement of the revetment. Changes in the beach profile fronting the site shall be noted and the potential impact of these changes on the effectiveness of the revetment evaluated.
 - c. Recommendations on any necessary maintenance needs, changes or modifications to the revetment to assure its continued function and to assure no encroachment beyond the permitted toe.
 - d. An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit and implement the repairs, changes, etc. approved in any such permit.

The above-cited monitoring information shall be prepared after the summer period of high wave action, during November of each year. The monitoring information shall be submitted to the Executive Director no later than December 1st if a monitoring report finds that conditions exist which require maintenance or modifications to the revetment to assure its continued function and to assure no encroachment beyond the permitted toe. Every five years, starting in December 1st, 2018, a summary of the previous five years of monitoring reports shall be submitted to the Executive Director. Monitoring once every five (5) years shall continue throughout the life of the revetment or until the revetment is removed or replaced under a separate coastal development permit.

The applicant shall undertake development in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved

amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Future Maintenance.** The applicant shall maintain the existing revetment in its approved state so long as the development it was designed to protect remains in need of protection. Any change in the design of the revetment or future additions/reinforcement of the revetment beyond exempt maintenance as defined in Section 13252 of Title 14 of the California Code of Regulations to restore the structure to its original condition will require a coastal development permit. However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the applicant shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.
4. **No Future Seaward Extension of Shoreline Protective Devices.** By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other development affecting the existing shoreline protective device, shall be undertaken if such development extends the footprint seaward of the shoreline protective device seaward of the existing device. By acceptance of this Permit, the applicant waives, on behalf of itself and all successors and assigns, any rights to such development that may exist under Public Resources Code Section 30235.
5. **As Built Plans.** Within 60 days of completion of the project, the applicant shall submit as-built plans for the approved revetment and associated structures and submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the revetment and associated structures have been constructed in conformance with the approved plans for the project (dated August 26, 2012). The plans shall identify permanent benchmarks from fixed reference point(s) from which the elevation and seaward limit of the revetment can be referenced for measurements in the future. The plan shall also indicate the size, number, individual and total weight of any/all imported rock.
6. **Project Modifications.** Only that work specifically described in this permit is authorized. Any additional work requires separate authorization from the Commission or Executive Director, if appropriate. If, during construction, site conditions warrant changes to the project, the South Coast District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field. No changes to the project shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. **Construction Responsibilities and Debris Removal.** By acceptance of this permit, the applicant agrees to comply with the following construction-related requirements:
- A. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave or tidal action, erosion, or dispersion.
 - B. The applicants shall dispose of all construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a separate coastal development permit shall be required before disposal can take place.
 - C. Reasonable and prudent measures shall be taken to prevent any discharge of fuel or oily waste from heavy machinery or construction equipment into coastal waters. The applicants and applicants' contractors shall have adequate equipment available to contain any such spill immediately.
 - D. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day.
 - E. Construction equipment shall not be cleaned on the beach.
 - F. Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone.
 - G. All 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 beach.
 - H. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the beach or in the water, and that the project has not created any hazard to public access.
 - I. Any fueling and maintenance of construction equipment shall occur within upland areas within designated access and staging areas. Mobile fueling of construction equipment and vehicles on the beach shall be prohibited.
8. **Construction Staging and Access Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director a revised construction staging and access plan. The plan shall depict areas used for construction staging, access corridors, and pedestrian detour routes. The plan shall be substantially similar to the construction staging and access plan dated August 26, 2012, but shall be designed to minimize impacts to public access through:
- a) Use of the public beach shall be avoided to the maximum extent feasible, but where unavoidable, that use shall be minimized;
 - b) The construction staging area will gradually be reduced as less materials and equipment are necessary;

- c) Staging areas and construction access corridors shall be located where they will minimize impacts to access to or along the beach;
 - d) If use of the public beach is unavoidable, that use shall not exceed two weeks (14 days) as is proposed by the applicant unless that deadline is extended by up to an additional 14 days by the Executive Director in writing for good cause; any further extension of time beyond 28 days must be authorized through the coastal development permit process;
 - e) Public access shall be fully restored upon completion of the authorized development
9. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from sea level rise, 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.
10. **Other Permits.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicants shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #5-12-198. The applicants shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicants obtain a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.
11. **Deed Restriction/CC&R's Modification.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant homeowners' association (HOA) shall do one of the following:
- A. Submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title to the individual condominium units, and otherwise in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as they apply to the HOA, as covenants, conditions and restrictions on the use and enjoyment of the individual condominium units. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property, or;

B. Submit to the Executive Director, for review and approval, documentation demonstrating that the applicant has executed and recorded an amended version of the condominium homeowners' association's Declaration of Restrictions or CC&Rs, as applicable, in a form and content acceptable to the Executive Director, which incorporates the obligations imposed on the homeowners' association by the special conditions of CDP #5-12-198. This addition to the CC&Rs shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

IV. FINDINGS AND DECLARATIONS:

A. Project Location & History

The proposed project is located seaward of the Blue Lagoon condominium development, at 30781 Coast Highway. The project is located in the City of Laguna Beach, near the northern boundary of the South Laguna segment of the city.

The Montage Resort Hotel is approximately 800 feet south of the site, and single family residences along Lagunita Drive are located adjacent to the site at the north. Vertical access to the beach seaward of the site is available via Dumond Drive, located approximately 1200 feet to the north of the subject site, and via a public beach access path on the Montage Resort, located approximately 200 feet to the south of the subject site.

Like many beaches, the beach at the subject site varies seasonally in width. Usually the minimum beach widths occur during the winter due to more severe storms. However, the beach in front of the condominium development is the narrowest during the summer, when currents transport sand away from the subject site. During the summer months, the beach in the area is very narrow, and lateral access in front of the site is available only intermittently. In the winter months, sand is transported back in front of the revetment, the beach is wider, and lateral access is available throughout high and low tides. Aerial and ground photographs show the site at these two time periods (Exhibit 3)

Site History

Prior to the Coastal Act, in 1963, a seawall approximately 500 feet long and 20 feet high was constructed on the site, and 2000 tons of riprap were placed seaward of the seawall. Soon thereafter, the existing condominium structures, which protrude much farther seaward than adjacent structures, were constructed. If not for the construction of the seawall, the most seaward condominium units would likely be located below the mean high tide line.

In 1980, on appeal from the regional commission, the Commission approved an application to add 700 tons of riprap to the seawall with conditions, including conditions requiring a deed restriction for lateral access seaward of the revetment, and conditions requiring stairways and signs to direct the public to lateral access landward of the revetment via the driveway behind the first row of condominium units when the seaward lateral access was impassable. The proposed development was completed without complying with the imposed permit conditions.

In 1983, the Association received emergency coastal development permit 5-83-874-G in response to storm damage that occurred during the storms of 1982-1983. The emergency permit authorized: 1) construction of a new concrete 78 foot long seawall extension located immediately adjacent to the residences at Lagunita Drive, 2) conduct repairs to the existing seawall including reconstruction of portions of the cement coping and extension of the coping 8-10 inches seaward along the length of the wall, and 3) addition of 2,537 additional tons of riprap in front of the seawall. In 1984 the Commission approved with conditions Coastal Development Permit 5-84-777 authorizing the work performed under the emergency permit. The conditions for the permit included the conditions for lateral access seaward and landward of the seawall that were imposed in the 1980 permit. Additionally, the permit required the Association to assume the risk of the development, to provide required maintenance and sand replenishment, to undertake an engineering review of the long term impacts of the development, and to obtain a State Lands Commission review of the development. The proposed development was again completed without complying with the imposed permit conditions.

In 1985, the Association filed a lawsuit for writ of mandate seeking judicial review of the Commission's 1984 permit decision and the Commission filed a cross action against the 119 condominium owners (who collectively owned the beach seaward of the revetment). After negotiations, the Association and Commission entered into a settlement agreement which required each owner to agree to the previously imposed public access conditions to offer to dedicate an easement for lateral access in front of the seawall and to the sandy beach located on the northern side of the project, provided the Commission eliminate the conditions requiring access behind the revetment. The agreement stated that if the Commission grants a permit amendment to delete the through-project access requirement and the Association complies with the conditions of the 1984 permit, "such actions shall resolve the public access requirements under the Coastal Act applicable to the parties performing future work on the ocean protective device at Blue Lagoon, providing the work performed is located the minimum distance necessary from the existing protective device to permit any construction, reconstruction, repair or maintenance required." In 1987, after a majority of the unit owners had agreed to the settlement, the Commission approved permit amendment 5-84-777-A1, amending the conditions of the permit consistent with the settlement agreement.

In 1989, the Commission approved Coastal Development Permit 5-89-986 to conduct structural reinforcement of concrete sheetpile seawall. Also proposed was the addition of 1440 cubic yards of riprap to the then existing volume of 2810 cubic yards, resulting in a revetment with a total volume of 4,250 cubic yards. This action took place prior to all 119 property owners agreeing to the settlement agreement, and the same conditions from 5-84-777-A1 were assigned.

After each of the unit owners had agreed to the settlement agreement, the City of Laguna Beach accepted the easement on December 13, 1991 for public access to the beach located upcoast of the development, and the beach located seaward of the seawall from the toe of the vertical wall (including the area of rip-rap placed in front of the wall) to the mean high tideline.

B. Project Description

Applicant has submitted a wave runup analysis, dated August 2012, from Moffatt and Nichol Engineers. Wave action has resulted in the movement of rocks composing the revetment and the lowering of the elevation of the revetment in several sections. The submitted wave runup analysis finds that portions of the revetment have had their crest reduced by up to six feet from the 1989 design configuration, and that such impacts to the revetment are compromising its ability to adequately protect the residential development.

The proposed project would result in the return of the revetment to the 1989 design configuration of a 1.5:1 slope, crest elevation of 13 feet MLLW, and crest width of 11 feet. Out of the total 578 foot length of the revetment, significant addition of rock is proposed to approximately 134 linear feet, and minor repair is proposed to 120 linear feet. In terms of quantity, the repair would result in the importation of up to 860 tons of rock. The applicant anticipates being able to retrieve approximately 60 tons of rock which has migrated outside of the footprint of the 1989 design configuration, and proposes to import approximately 800 tons of new 6-8 ton rock to be placed in the same footprint, height, and shape as the 1989 design configuration to replace rock which has migrated away. Thus, the proposed project would not result in the expansion of the revetment or further seaward encroachment of the shoreline protective device. Exhibit 2 shows the proposed areas of work to the revetment, and representative cross sections for these areas.

The Commission's administrative regulations state that repairs or maintenance on seawall revetment or similar shoreline work that involves the placement of riprap on a shoreline protective work requires a Coastal Development Permit. The administrative regulations furthermore state that, unless destroyed by natural disaster, a project resulting in the replacement of 50 percent or more of a seawall or revetment constitutes a replacement structure requiring a coastal development permit.

The Commission's action on CDP 5-88-986 effectively resulted in the creation of a new revetment, as the project resulted in complete reconstruction and a substantial increase in the size of the revetment. Therefore, the 1989 design configuration acts as the baseline condition for the revetment on the site. Changes to the revetment from the 1989 design configuration, such as the currently proposed addition of 800 tons of rock, would count against that baseline. Any subsequent projects which individually or cumulatively propose substantial changes or a substantial reconstruction of the revetment as it was constructed pursuant to 5-88-986 would result in a review of the entire revetment.

Although the proposed project is a type of development that requires a Coastal Development Permit, the proposed work would not reach the criteria in the Commission's regulations to constitute a replacement structure. The proposed work does not include changes to the underlying structure of the revetment. No changes are proposed to the seawall on the site, as the applicant's engineer finds that the seawall has been inspected regularly and continues to perform as intended. No significant changes to the rock revetment is proposed, including no work proposed to the filter fabric located under the revetment, and no significant repositioning of rocks forming the underlying layers of the revetment. Although the project would result in work along much of the length of the revetment, the work consists of filling holes where rock has washed away. The work would not include substantial rebuilding of the revetment in these areas – the newly added 800 tons of rock and 60 tons of retrieved rock comprises approximately 13% of the existing design volume of 6400

tons. Therefore, the work is properly considered to be repair and maintenance typically associated with rock revetments, and not rebuilding or substantially altering the revetment.

The construction access corridor would travel from Coast Highway and through the residential development on Blue Lagoon Road to reach the sandy beach. The construction staging area would be located on the beach just to the north of the residences, within the applicant's property line and within the area subject to the public access easement. The applicant states that due to the limited space available on site, there are no feasible alternative locations for the construction staging area located off of the beach. However, the closure of this section of the beach would be limited to the period of construction, which is anticipated to take approximately two weeks.

Heavy equipment would work from the beach during periods of low tide, to move existing errant rock, import new rock, and reposition rock to ensure proper fitting of the revetment. Just beyond the toe of the existing revetment, the applicant is proposing to excavate down to 0 MLLW elevation to expose errant rock. Any errant rock would be placed on the revetment according to the 1989 design configuration. Excavated sand would be stockpiled, and then placed back on the beach to fill holes.

In reviewing requests for shoreline protection, the Commission must assess both the need to protect private residential development and the potential adverse impacts to public resources associated with construction of such protection. A number of adverse impacts to public resources are associated with the construction of shoreline structures. These include loss to the public of the sandy beach area that is displaced by the structure, "permanently" fixing the back of the beach, which leads to the narrowing and eventual disappearance of the beach in front of the structure, sand loss from the beach due to wave reflection and scour, accelerated erosion on adjacent unprotected properties, and the adverse visual impacts associated with construction of a shoreline protective device on the contrasting natural shoreline. As such, the construction of shoreline development raises consistency concerns with a number of Coastal Act policies, including Sections 30210, 30211, 30212, 30235, 30240, 30251, and 30253.

C. Other Agency Approvals

Although the City of Laguna Beach has a certified Local Coastal Program, this project involves development previously permitted by the Commission and is located within an area subject to wave action where the Commission has retained jurisdiction over the issuance of coastal development permits. The proposed project has been granted an Approval in Concept by the City of Laguna Beach dated 11/14/2011.

The applicant has not submitted evidence that the State Lands Commission has reviewed the project. Therefore, the Commission imposes **Special Condition 10**, requiring evidence that the State Lands Commission has approved the project, or a letter stating that no review is required, prior to issuance of the permit.

D. Shoreline Protection

Coastal Act section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Coastal Act section 30253 states:

New development shall do all of the following:

- (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.*
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
- (d) Minimize energy consumption and vehicle miles traveled.*
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Rock revetments require occasional repair and maintenance due to: (1) the natural settling or subsidence of the rock structure into the sand over time and (2) the inadvertent loss of rock material due to errant rock becoming dislodged from the structure and settling on the sandy beach seaward of the structure. In this case, the proposed addition of rock is considered a relatively minor repair and maintenance project which will be limited to maintaining the existing revetment at its previously approved design height and footprint through the addition or retrieval of 860 tons of rock. No encroachment beyond the permitted revetment footprint is proposed.

On November 20, 1989, the Commission approved CDP 5-88-986, resulting in the repair of the existing seawall and a substantial increase in the volume of the revetment. In their review, the Commission found that the existing condominiums at the site were in danger from wave action, and that shoreline protection was required to protect the existing structures.

The applicant has submitted a new wave uprush study, dated August 2012. The wave uprush study determines that the existing seawall is in good condition and continues to be performing as intended. The study compared the dimensions of the existing revetment footprint with the permitted footprint and determined that voids have developed in the revetment, which has compromised its ability to protect the existing residences from flooding. The report provides evidence that shoreline protection continues to be necessary in this case to protect the existing beachfront structures which are currently threatened by wave overtopping and flooding. The Commission's civil engineer has reviewed the project and agrees that the maintenance is necessary and represents the minimum appropriate maintenance to address the threat.

As previously discussed, seawalls and revetments are subject to damage from wave action over the lifetime of the protective device. The wave uprush study submitted by the applicant recommends the continuation of a monitoring and maintenance program, including periodic inspection following each winter and periods of severe storms to determine the maintenance requirements of the revetment. Prompt maintenance of the revetment and seawall is necessary to ensure that the seawall and revetment continues to provide adequate protection against wave action. Furthermore, a maintenance program will ensure that errant rock will be promptly returned to the revetment, reducing the potential for impacts to public use of the beach and minimizing the need for importation of additional rock. However, this beach, unlike many California beaches, is often narrowest during the summer months and widens during the winter, so that errant rocks may be covered by sand during the winter, yet be an obstruction to the already limited summer-time access. Therefore, the Commission imposes **Special Condition 2** requiring the applicant to perform a long term monitoring program, that monitors beach conditions during the late summer to complement the applicant's recommended end-of-winter monitoring. Therefore, the Commission also imposes **Special Condition 3**, requiring the applicant to maintain the existing revetment in its approved state so long as the development it was designed to protect remains in need of protection.

Maintenance of the revetment was encouraged and required by the previous permits on the site. As proposed, the project will not result in any new or additional impacts beyond those which have been previously authorized. The added amount of rock is within the range acceptable for repair and maintenance. To ensure that the project does not result in any additional impacts, the Commission imposes **Special Condition 5**, requiring the applicant to submit as-built plans demonstrating that the revetment has been built within the boundaries of the previously approved height, width and configuration, and that benchmarks be identified from fixed reference point(s) from which the elevation and seaward limit of the revetment can be measured in the future, and **Special Condition 6**, requiring modifications to the approved plans to be subject to an amendment to this Coastal Development Permit, unless the Executive Director determines that no amendment is required.

Although the Commission finds that the proposed repair work has been designed to minimize the risks associated with its implementation, the Commission also recognizes the inherent risk of shoreline development. The revetment will be subject to wave action. Thus, there is a risk of damage to the revetment or damage to property as a result of wave action. Given that the applicant has chosen to perform these repairs despite these risks, the applicant must assume the risks. Accordingly, **Special Condition 9** requires that the applicant acknowledge the risks and indemnify the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit. **Special Condition 11** requires the applicant to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Because the subject property includes multiple owners comprising a Home Owners Association (HOA) the standard language for the deed restriction would require each individual property owner to record its own deed restriction which could be an arduous and expensive responsibility; as such, **Special Condition 11** provides a second option to record the findings and conditions of the subject permit into the HOA's Covenants, Conditions, and Restrictions (CC&R's) thereby memorializing the findings and requirements of this permit and providing notice to future owners relative to the coastal resource protection measures required by the special conditions.

In summary, the Commission finds that the applicant has demonstrated that the existing primary structures continue to be subject to threat from wave action and erosion and that repairs/maintenance of the existing revetment is necessary and the minimum necessary to assure continued protection. The project will restore the revetment to its previously approved configuration and will not encroach any further seaward or be any higher than the previously approved revetment, which the Commission found consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed repair project, as conditioned, is consistent with Sections 30235 and 30253 of the Coastal Act.

E. Public Access

Coastal Act section 30210 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.

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 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act section 30214 states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

In its approval of CDPs 5-84-777, 5-84-777-A1, and 5-88-986, the Commission recognized that maintenance would be necessary for the revetment to retain its approved form and to minimize impacts on public access from errant stones rolled onto the beach. Therefore, the permits were conditioned to ensure that the applicant was responsible for maintenance of the shoreline protective device in the future.

Since the Commission's approval of CDP 5-88-986, previously approved riprap has sunk into the beach sand, and is no longer providing adequate protection for the residences. The proposed project would pull back the riprap that has migrated beyond the approved revetment footprint, and would restore the revetment to its approved footprint, configuration and height. Thus, although the project does involve the placement of additional rock on the beach, the new rock will not result in any additional encroachment on the beach, or adversely impact public access. Replacing the migrated riprap will remove an existing access obstruction on the beach, as required by the previous permit.

To ensure that new rocks placed on the revetment do not result in any new impacts to public access, the Commission imposes **Special Condition 2**, requiring the applicant to perform long term monitoring of the revetment to determine whether settling or seaward movement of the revetment has occurred to ensure the revetment continues to be configured to minimize impacts to public access.

The project is located on sandy beach and construction activities associated with the project have the potential to impact public access. The construction access corridor would travel from Coast Highway and through the residential development on Blue Lagoon Road to reach the sandy beach. The applicant proposes to construct the project in the spring, before the beginning of the high wave period during the summer, to ensure continued protection of the adjacent residences during the period of high wave action. The construction staging area would be located on the beach located just to the north of the residences, within the applicant's property line and within the easement dedicated to the City for public access. The applicant states that due to the limited space available on site, there are no feasible alternative locations for the construction staging area. The proposed staging area will not block public access to the beach, but will occupy an area of public beach that could be used for public recreation. To minimize impacts to public access from usage of the beach as a construction staging area, the Commission imposes **Special Condition 8**, requiring the applicant to submit a revised construction staging and access plan which minimizes the area of public beach used for construction staging, and to reduce the area of the staging area as less materials and equipment are necessary.

The applicant is proposing to maintain the permitted shoreline protection consistent with the requirements of the original permit. The project will restore the revetment to its previously approved configuration and will not encroach any further seaward or be any higher than the previously approved revetment, which the Commission found consistent with the Chapter 3 policies of the Coastal Act. Although some impacts to public access remain, as the revetment will still be on the beach, the

impacts are no more than that of the original revetment that was constructed before enactment of the Coastal Act. Therefore, as conditioned, the proposed project would not result in impacts to public access and is consistent with Sections 30210, 30211, 30212.5, and 30214 of the Coastal Act.

F. Water Quality

Coastal Act section 30230 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.

Coastal Act section 30231 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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act section 30232 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 general, it is anticipated that water quality impacts will be limited to disturbance of beach sediments and thus short-term elevation of turbidity levels as exposed fine sediments are released from the sands and gravels of the beach. There is also the potential for petroleum discharges to the ocean associated with mechanized equipment. The applicant is proposing to reduce adverse impacts during construction by: 1) performing work during low tide hours; 2) staging of construction equipment and material stockpile on the roadway and beach area located above the high tide line; and 3) Selection of clean rock, without foreign matter. To ensure that the proposed development does not result in adverse impacts to water quality, the Commission imposes **Special Condition 7**, requiring the applicant to conform to Best Management Practices to minimize the impacts of the project on water quality. Therefore, the project, as conditioned, can be found consistent with Sections 30230, 30231, and 30232 of the Coastal Act.

G. Local Coastal Program (LCP)

The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit issuing authority at that time.

The subject site is located within an area subject to wave action where the Commission has retained jurisdiction over the issuance of coastal development permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Local Coastal Program.

H. California Environmental Quality Act (CEQA)

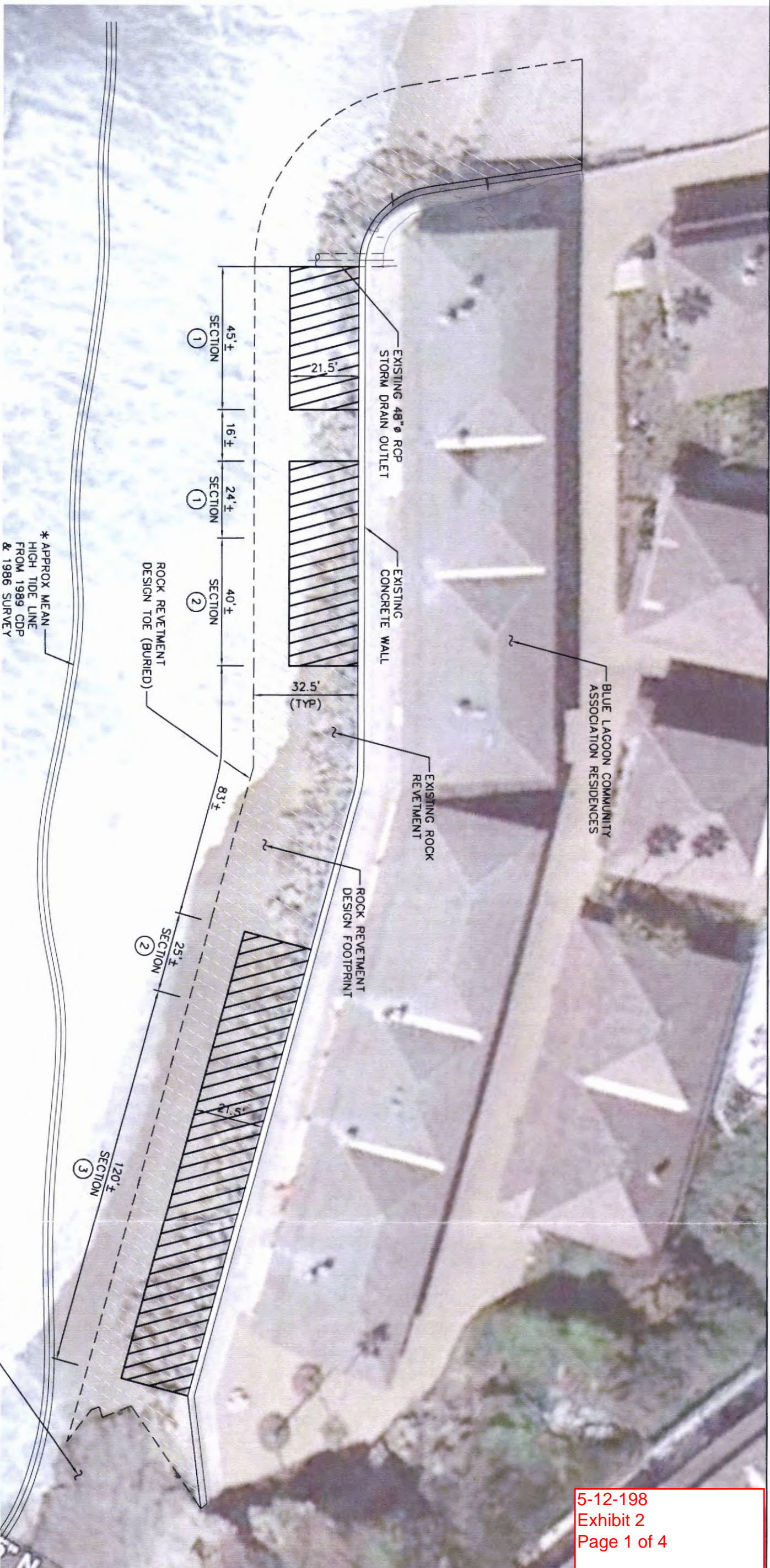
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A - Substantive File Documents

- City of Laguna Beach Approval in Concept dated 11/14/2011
- Wave Uprush Study titled Shore Protection at Blue Lagoon Laguna Beach, California dated August 2012



Figure 1. Blue Lagoon Location



LEGEND:



REPAIR FOOTPRINT
(PROPOSED PROJECT)



ROCK REVETMENT
DESIGN FOOTPRINT (EXISTING)

ROCK REVETMENT
DESIGN TOE (BURIED)

* BACKGROUND PHOTO TYPICAL
OF SUMMER (NARROW BEACH)
CONDITION

ROCK REVETMENT REPAIR AREA

* APPROX MEAN
HIGH TIDE LINE
FROM 1989 CDP
& 1986 SURVEY

EXHIBIT





5-12-198
Exhibit 2
Page 2 of 4

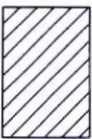
LEGEND:



CONTRACTOR STAGING
AND ACCESS WAY



AREA SUBJECT TO PUBLIC
ACCESS DEDICATION
(PER CDP 5-89-986)



REPAIR FOOTPRINT
(PROPOSED PROJECT)

CONSTRUCTION STAGING AREA

EXHIBIT

NO.	REASON	BY	DATE	COMMENTS

3780 KILBOY AIRPORT WAY, LONG BEACH CA 90806 TEL. NO. (562) 426-9351	
DESIGNED BY	KG
CHECKED BY	SS
DRAWN BY	RB

BLUE LAGOON SHORE PROTECTION MAINTENANCE/REPAIR PLAN
BLUE LAGOON COMMUNITY ASSOCIATION 30781 PACIFIC COAST HIGHWAY, SOUTH LAGUNA, CA 92651 TRACT NO. 5263

SCALE	DATE
NTS	8-16-12
7310	2
4	4



LEGEND:

APPROX REPAIR VOLUME:
ADD NEW AND/OR SALVAGED ROCK

1. SECTION LOCATIONS WERE SELECTED TO REPRESENT TYPICAL CONDITIONS WITHIN A SEGMENT OF THE ROCK REVEMENT STRUCTURE. ACTUAL CONDITIONS WILL VARY OVER REACH REPRESENTED BY EACH SECTION.
2. NEW REVEMENT ROCK TO CONSIST OF 6 TO 8 TON ARMOR STONE. NO REPAIR TO UNDERLAYER STONE REQUIRED.
3. SOME REMORKING OF EXISTING ARMOR STONE WITHIN A SECTION MAY BE REQUIRED TO BETTER KEY INTO ADJACENT STONE MATRIX.
4. EXISTING REVEMENT PROFILE BELOW SAND IS AN APPROXIMATION.
5. CREST ELEVATION SHALL BE RESTORED TO EL. +13.0 FEET MLW. CONTRACTOR SHALL FIELD VERIFY THE AMOUNT OF CREST RECONSTRUCTION REQUIRED IN COORDINATION WITH THE ENGINEER.
6. RETRIEVE AND REPLACE ARMOR STONE LOCATED SEAWARD OF THE TOE OF THE REVEMENT AS DIRECTED BY THE ENGINEER.
7. SAND COVER VARIES SEASONALLY AND ALONG LENGTH OF REVEMENT. SAND COVER HIGHEST DURING WINTER. REVEMENT MOST EXPOSED DURING SUMMER.
8. WORK TO BE DONE DURING LOW TIDE HOURS.

5-12-198
Exhibit 2
Page 3 of 4

[illegible]



LEGEND:

 APPROX REPAIR VOLUME,
ADD NEW AND/OR SALVAGED ROCK



VERTICAL DATUM: MLLW, FEET

8'-0" 0'-0" 8'-0"

SCALE: 1/8"=1'-0"



Picture Taken 1/12/2013



September 19, 2008
Image # 2008 03493
Courtesy California Coastal Records Project
www.californiacoastline.org

5-12-198
Exhibit 3
Page 2 of 2