EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: GregCox

1) Name or description of project: 5-14-1604 (Monarch Bay Club)
2) Date and time of receipt of communication: April 7, 2015 at 4:30pm
3) Location of communication: Telephone
   (If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
4) Identity of person(s) initiating communication:
   Anne Blemker
5) Identity of person(s) on whose behalf communication was made:
   Bill Dodds, KSL
6) Identity of persons(s) receiving communication:
   Greg Murphy for Greg Cox
7) Identity of all person(s) present during the communication:
   Bill Dodds, Susan McCabe, Anne Blemker

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

My staff member, Greg Murphy, received a briefing from the applicants' representatives in which they went through a briefing booklet that was previously provided to staff. They discussed the proposed beach maintenance proposal at the Monarch Bay Club and the history of activities by prior owners. The current proposal involves the relocation of wrack and berming of sand to direct Salt Creek runoff immediately seaward. According to the applicant's representatives, the proposed project will improve the recreational experience of visitors, maintain emergency and ADA beach access, and protect water quality at the subject site. At the time of the briefing, the applicant was unaware of any opposition to the project. The applicant is in agreement with the staff recommendation and requests that the Commission approve the project.

4/10/15
Date

Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

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

W 13b

Click here to go to original staff report

ADDENDUM

April 10, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W13b, 5-14-1604 FOR THE COMMISSION MEETING OF WEDNESDAY, APRIL 15, 2015.**

---

1. CHANGES TO STAFF REPORT

Commission staff recommends modifications to the staff report dated 4/15/15 in the following sections of the staff report: Project Location and Section III (Special Conditions). Language to be added to the findings and conditions is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

A. Page 2 – Correct the Project Location:

…

Project Location: 500 Monarch Bay Drive, Dana Point ~~Newport Beach~~ (Orange County)

…

B. Page 7 – Clarify Executive Director or Coastal Commission approval in Special Condition No. 5, as follows:

…

5. Final Revised Monarch Beach Management Plan (MBMP) that Includes the Grunion Avoidance Protocol and Monarch Beach Wrack Management Protocol.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, two (2) copies of a Final Revised Monarch Beach Management Plan (MBMP), that is in substantial conformance with the plan dated June 2013, that includes a Grunion Avoidance Protocol and Monarch Beach Wrack Management Protocol, except that it shall be modified and be in substantial conformance with the following:

…

(13) At the conclusion of the 2015 summer season, the biological monitor will prepare a report documenting the findings of the monitoring and present suggested revisions to be incorporated into the long-term management

plan, if appropriate, for Executive Director approval or Coastal Commission approval if an amendment is required. If the Executive Director extends the duration of the subject permit, in accordance with the requirements of **Special Condition No. 4**, a monitoring report will also be submitted at the conclusion of each year that is approved; and

…

C. Page 10 – Clarify activity in Special Condition No. 5, as follows:

…

10. Termination of Coastal Development Permit 5-10-237, as amended. By acceptance of this permit the applicant agrees to the termination and extinguishment of all rights and/or entitlements that may exist relative to any development of the subject site approved by Coastal Development Permit No. 5-10-237, as amended, following commencement of the sand relocation ~~development~~ approved by this Coastal Development Permit No. 5-14-1604.

…

D. CORRESPONDENCE RECEIVED

On April 7, 2015 Commission staff received a copy of the briefing book for the Commissioners. In the briefing book, the applicant states that they are in agreement with the staff recommendation and the conditions (See attached Briefing Book). On April 9, 2015 the applicant contacted Commission staff requesting minor changes, as shown in Section C. of this addendum and reiterated their agreement with the staff recommendation and conditions. Commission staff agrees with these minor changes as they only clarify condition compliance and permit activities.

Commission staff also received a letter dated April 8, 2015 from Michael A. Hearn in opposition to Coastal Commission Staff's recommendation of APPROVAL for CDP No. 5-14-1604 (See attached letter). He objects to the location of the south wrack placement area since it is located in front of his home and he feels would impact his private view and value of his home. Protection of private views is not a Coastal Act concern. In addition, public views are not anticipated to be impacted by the proposed project. Commission staff has worked with the applicant to identify a reduced area where wrack relocation could occur; therefore, minimizing the amount of wrack to be placed in the wrack relocation areas. The project has been conditioned (**Special Condition No. 6**) to provide a revised Monarch Beach Management Plan that includes this revision. It is anticipated that this revised plan will include additional parameters for the relocation of the wrack in the wrack relocation areas.

Monarch Bay Club, Dana Point
Monarch Beach Management Plan (MBMP)
CDP Application No. 5-14-1604

CCC Hearing

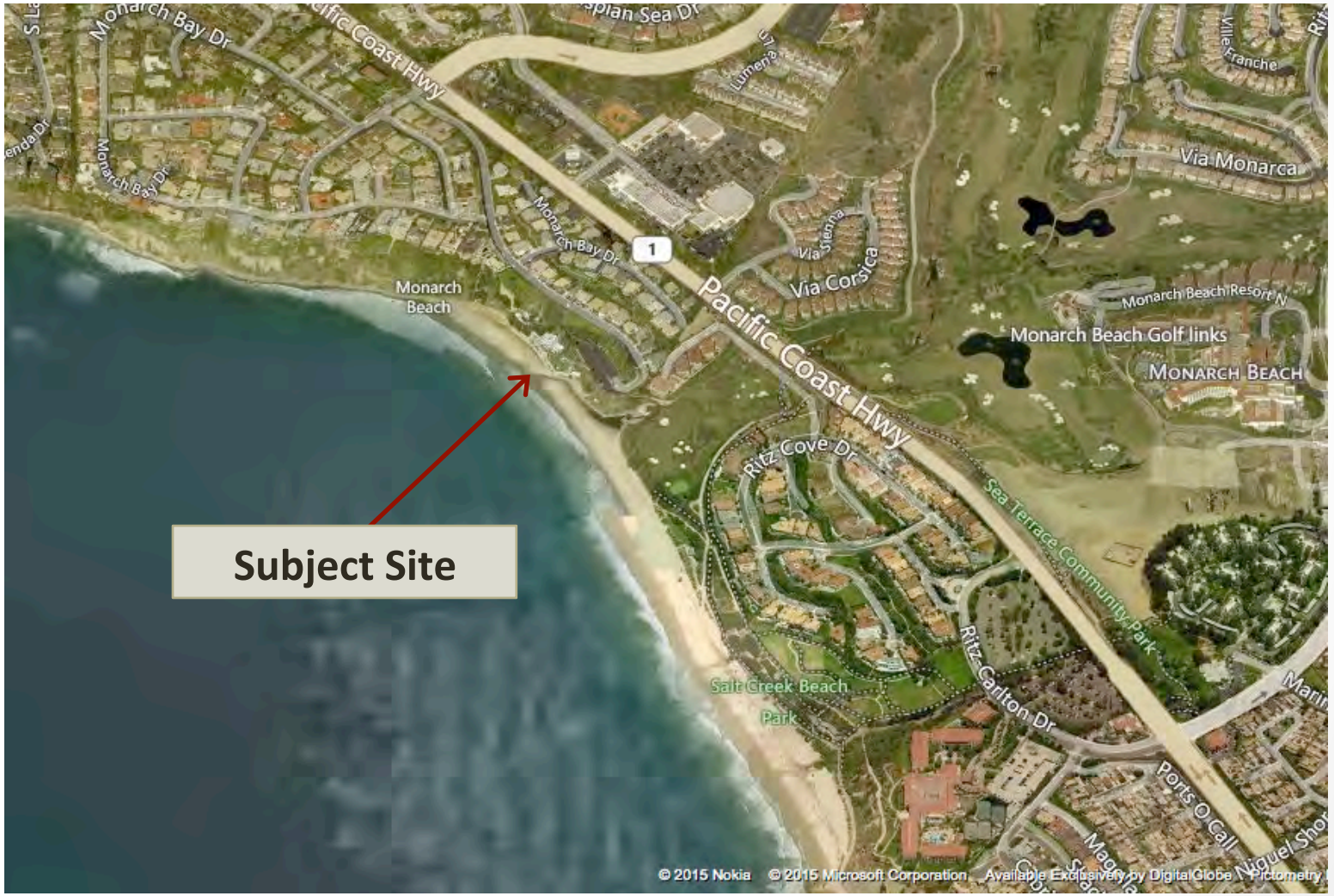
Wednesday April 15, 2015

Item W13b

A copy of these briefing materials has been provided to CCC Staff.

Location

Monarch Bay Club
500 Monarch Bay Drive, City of Dana Point



Background and History

- 2008: City of Dana Point issues local coastal permit (08-0013) to authorize beach maintenance and clean-up.
- April 2008: CCC issues Cease & Desist Order (CCC-08-CD-01) to address unpermitted development related to beach maintenance by prior owner.
- October 2008: CCC appeals local approval.
- June 2012: CCC approves CDP 5-10-237 for pilot project for long term management of Salt Creek. Initial 1-year CDP approval extended by two CDP amendments until June 2015.
- May 2014: New owner acquires property; takes over permit processing in progress.
- September 2014 - Present: Applicant re-submits CDP application; works with CCC staff.
- April 2015: CCC Hearing.

Project Site: 2008

Project Site: 2013

Proposed Project

Applicant proposes Monarch Beach Management Plan (MBMP) to address impacts of Salt Creek outlet drainage onto Monarch Beach.

Primary goals of plan are to:

(1) Reduce beach erosion;

(2) Maintain visitor and emergency beach access;

(3) Balance recreational beach use with protection of beach wrack; and

(4) Reduce the risk of occasional high bacteria levels and improve water quality at the beach.

Proposed Project

MBMP proposed activities include:

1) Relocation of sand deposits from Salt Creek outlet to depressed back beach area above high tide line to direct flow;

2) Maintenance of emergency and ADA access by preventing erosion at base of beach access ramp; and

3) Relocation of beach wrack to areas located above high tide line to north and south ends of beach.

- MBMP includes semi-annual and minor maintenance events, as well as Grunion Avoidance Protocol and Wrack Management Plan to minimize coastal resource impacts.
- CDP approval is for a 1-year pilot project.
- Additional approval granted annually up to 5 years if required monitoring reports show no significant impacts.

Project Plans

Staging Area
All mechanized equipment will be staged, stored, and serviced (e.g., refueled) within the designated staging area, located in the parking area for the Monarch Beach Club. The designated staging area is outside beach and habitat areas in order to minimize impacts to these areas. The equipment stored in the designated staging area will not obstruct public parking or beach access areas. Spill prevention and control measures will be implemented when refueling or servicing the mechanized equipment. No long-term storage of equipment on the site will occur, and no construction materials, debris, or waste will be placed or stored where it may be subject to water, wind, rain, or dispersion.

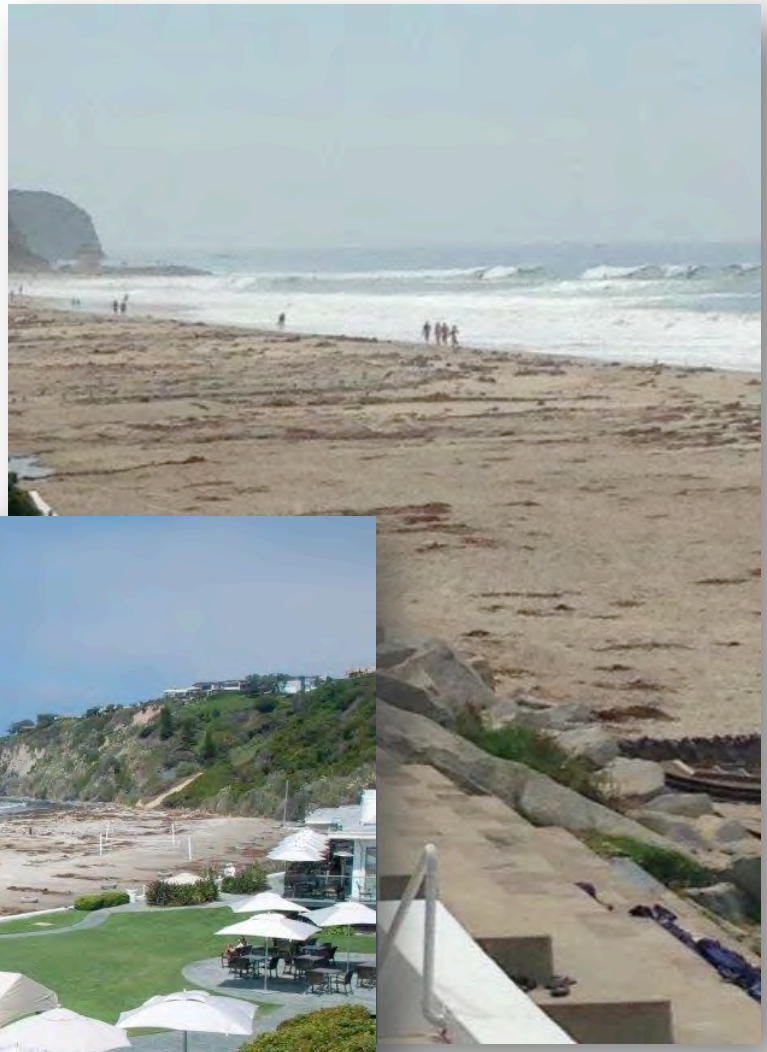
Construction Corridor
Construction equipment will enter and exit the work area via the construction corridor shown and all construction or maintenance activities will be monitored by a biological monitor or appropriately trained personnel.

Construction Site
The construction area consists of Areas A and B within the construction corridor. Construction activities will be contained within these boundaries and will be monitored by a qualified biologist or appropriately trained personnel to ensure that Best Management Practices (BMPs) are being implemented.

Location of Construction Fencing
Temporary construction fencing will be installed, as shown, at the beginning of each day to prevent the public from entering the work area where mechanized equipment will be used during that day. The temporary fencing will consist of caution tape or rope mounted on T-posts or wooden stakes at 10 foot intervals. The fencing will be removed and stored in the designated staging area at the end of each day.

Revised Wrack Relocation Area

Site Photos



Summary of Project Benefits

Proposed MBMP will:

- Enhance recreational use of Monarch Beach;
- Direct Salt Creek runoff to ocean;
- Ensure continued beach water quality for beach visitors;
- Maintain emergency and ADA beach access;
- Reduce beach erosion;
- Balance recreational use of beach with protection of wrack;
- Provide relocation of beach wrack to preserve marine habitat;
- Minimize impacts to coastal resources, including marine resources and public recreation and access; and
- Avoid impacts to California Grunion.

Staff Recommendation

Staff recommends approval with special conditions requiring:

1) No mechanized equipment below high tide line;
2) No development on public beach that would obstruct or impede public access or give impression that beach is private;
3) Acknowledgement that permit does not waive public rights that may exist;
4) CDP duration is 1-year trial period (can be extended up to 5 years);
5) Submittal of final revised plan that includes Grunion Avoidance Protocol and Monarch Beach Wrack Management Protocol;
6) Implementation of BMPs to minimize adverse impacts to water quality;
7) Provision of plan for construction staging areas and construction corridor to avoid impacts to public access, beach and sensitive habitat areas;
8) Compliance with terms and conditions of existing CDO;
9) Withdrawal of application for development approved by local government;
10) Termination and extinguishment of all rights and/or entitlements for beach maintenance previously approved by CCC.

Applicant in agreement with staff recommendation and conditions.

Coastal Act Consistency

Proposed project is consistent with the Coastal Act's requirements for protection of:

- Marine Resources Section 30230, 30231 and 30240: project protects marine species, environmentally sensitive habitat areas and human health. Project also controls runoff, and maintains and enhances biological productivity and water quality (**Staff Report, p. 18-21**)
- Water Quality Section 30230-30232 & 30236: project maintains and protects marine resources/water quality through mitigation measures and best management practices, protects against spillage of hazardous materials, and monitors runoff to ensure surf zone water quality (**Staff Report, p. 22, 23**)
- Public Access Section 30210, 30212: project does not impact public access and recreation (**Staff Report, p. 24, 25**)

Conclusion

- Proposed Monarch Beach Management Plan will ensure preservation of beach water quality and protection of marine resources, and enhance public access and recreational use of Monarch Beach.

- Applicant in agreement with staff recommendation and requests approval by Commission.

Thank you

RECEIVED
South Coast Region

APR 0 9 2015

CALIFORNIA
COASTAL COMMISSION

MICHAEL A. HEARN
6 MONARCH COVE DRIVE
DANA POINT, CALIFORNIA

April 8, 2015

VIA FEDERAL EXPRESS

CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
200 OCEAN GATE, 10TH FLOOR
LONG BEACH, CA 90802-4416

ATTENTION:STAFF

RE: PUBLIC HEARING FOR PERMIT NO. 5-14-1604
APPLICANT: MONARCH BAY CLUB
AGENDA NO: W13b
HEARING DATE: April 15, 2015

Dear Staff:

I am in receipt of "Important Public Hearing Notice Coastal Permit Application" dated March 27, 2015 concerning the above-referenced matter. Part of the Application and Hearing is addressing the relocation of beach wrack from in front of the Monarch Beach Bay Club to an area to the north and south of the project site.

I have attached Exhibit No. 5 to the Notice which shows the wrack removal area as well as the north and south wrack placement areas.

<u>The south wrack placement area is directly in front of my house.</u>

My house is currently on the market and the installation of the Salt Creek Outlet structure and run off of water has already caused a significant and substantial effect on the market value of my house. The addition of adding a breach wrack placement area also directly in front of our house will cause an increase in market value loss and will significantly affect the view of the ocean from our house.

I strongly object to using the beach directly in front of our house as the south wrack placement area. By continuing south, the only thing that is there is the edge of a golf course. This placement area can be moved south by 200-300 yards and will not affect anyone's view or value of their home.

I would like to be able to attend this hearing to further emphasize the dramatic affect the south wrack placement area will have on our lifestyle, our view, and the value of our home, however, the hearing is in San Rafael and I am unable to get there.

Please contact me once you have received this letter and let me know if there is a way I can call in during the hearings so my concerns can be aired. Thank you for your assistance.

Sincerely,

Michael A. Hearn

MAH/dr

MONARCH BEACH
WRACK MANAGEMENT PROTOCOL

Beach wrack is kelp and other organic materials that wash ashore during storms and high tides and remain on the beach. When necessary to promote health and recreational value of the sandy beach area in front of the Monarch Bay Club (Club), the following protocol shall be followed:

- Wrack shall be selectively relocated from areas above the high tide line in front of the Club as depicted in the Wrack Removal Area shown below and placed in the North and South Wrack Placement Areas as depicted below.

- Wrack shall be spread as thinly as possible within the North and South Wrack Placement Areas and shall not be placed in large piles or buried with sand. The height of placed wrack shall not exceed 15 inches.

- WRACK SHALL NEVER BE REMOVED FROM THE BEACH.

Permitted times when beach wrack can be relocated:

During Maintenance Events: During the semiannual (twice per year, before March and after August) and minor (no more then twice per month) Salt Creek outlet maintenance events, beach wrack may be relocated with the use of mechanized equipment.

Once Per Week: Wrack may be selectively relocated by hand, no more than once per week and only as necessary, from the Wrack Removal Area and placed in the North and South Wrack Placement Areas.

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

W 13b

Filed:	8/14/14
180th Day:	2/10/15
270th Day:	5/11/15
Staff:	F. Sy-LB
Staff Report:	4/3/15
Hearing Date:	4/15/15

STAFF REPORT: REGULAR CALENDAR

Application No.:	5-14-1604
Applicant:	Monarch Bay Club (KSL Capital Partners, LLC), Attn: William J. Dodds
Agents:	McCabe & Company & LSA Associates, Inc., Attn: Erin Martinelli/Art Homrighausen
Project Location:	500 Monarch Bay Drive, Newport Beach (Orange County)
Project Description:	Monarch Beach Management Plan (MBMP), which includes the relocation of beach sand to direct the discharge from Salt Creek more directly to the ocean and relocation of wrack from a limited area in front of the Monarch Bay Club at Salt Creek Beach.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Commission staff is recommending **APPROVAL** of the Monarch Beach Management Plan (MBMP), as conditioned. The proposed project is located at the outlet to Salt Creek, at Monarch Beach, seaward of the Monarch Beach Club located at 500 Monarch Bay Drive, City of Dana Point (Orange County). The concrete Salt Creek outlet structure drains runoff water from Dana Point into Monarch Beach. Upon reaching the beach, runoff from the outlet gathers in a fresh-to-brackish scour pond and then flows across the beach in to the Pacific Ocean. A previous Coastal Development Permit (CDP) No. 5-10-237 was issued to address the discharges at this same outlet. That project controlled the water flow from the Salt Creek by creating two (2) sand berms, upcoast and downcoast of the outlet flow, and excavation of a channel, to direct the water toward the ocean. This was a 'pilot' project to be carried out and monitored for an initial period

of one (1) year in order to help develop a long term management plan for the outlet. The CDP was subsequently extended while the Commission considered the more comprehensive plan that is the subject of this current application. While the pilot project was successful, the applicant stated that it needed improvement. The applicant stated that the berms, while effective, were short-lived during high surf and required constant maintenance leading to more recurrent disturbance to the beach.

In order to improve upon the progress made by the "pilot" project, the applicant is proposing the Monarch Beach Management Plan (MBMP). The objectives of the MBMP are to reduce beach erosion, maintain emergency access to the beach, and improve water quality for beach visitors by rearranging sand deposits at the Salt Creek outlet. In addition, the applicant states that the MBMP seeks to balance recreational use of the beach with protection of beach wrack. More specifically, proposed management activities involve (1) relocating sand deposits from in front of the Salt Creek outlet (Area A) to an adjacent area (Area B) above the high tide line (HTL); (2) maintaining emergency access to the beach by preventing erosion at the base of the beach access ramp and importing sand (approximately 100 cubic yards) from a commercial source when necessary to reestablish emergency access; and (3) relocating beach wrack to areas above the high tide line at the northern or southern end of Monarch Beach. This MBMP includes "Semiannual" and "Minor" maintenance events and includes a Grunion Avoidance Protocol, as well as, a Wrack Management Plan to minimize impacts to those habitat and resource areas.

To analyze the potential success of the MBMP as a long term management plan, this new plan would be a one (1) year Pilot project. Additional years may be authorized on a yearly basis for up to a total of five (5) years by the Executive Director if required monitoring demonstrates that there has been no significant adverse impact upon coastal resources. **Special Condition No. 4** sets up this monitoring scheme.

In order to avoid any impacts to California Grunion, the applicant has proposed a Grunion Avoidance Protocol. However, clarifications need to be made within this protocol, such as avoiding "Minor" maintenance work from April to May, during the peak grunion spawning season, to the extent feasible. Therefore, the Commission imposes **Special Condition No. 5**, which requires these changes to the Grunion Avoidance Protocol.

The MBMP includes the relocation of wrack/kelp where it exists above the high tide line. The relocation of wrack raised concerns as it serves as a significant habitat resource. The plan initially proposed by the applicant included wrack relocation over a relatively large area of beach. However, the applicant and Commission staff worked together to identify a relatively narrow zone of beach, located right in front of the Monarch Beach Club building and an adjacent grassy area, where it would be most beneficial to beach users to allow for relocation of wrack (**Exhibit No. 6**). Additional measures were also proposed by the applicant to minimize any adverse impacts to wrack. **Special Condition No. 5** requires the applicant to submit a revised Monarch Beach Management Plan that includes the Wrack Management Protocol that includes these changes to the protocol.

In order to ensure implementation of Best Management Practices and some additional others designed to prevent adverse impacts to water quality and marine waters, the Commission

imposes **Special condition No. 6**, which requires conformance with "Best Management Practices" and requires additional Good Housekeeping Practices.

To ensure that the proposed activities minimize impacts to continued public access, staff recommends the Commission impose four (4) special conditions. **Special Condition No. 1** prohibits the applicant from using any mechanized equipment below the daily high tide mark. **Special Condition No. 2** requires that the applicant agree to not place or install development anywhere on the public beach that would obstruct or impede public access in any way and/or give any impression to a member of the public that the beach area is private and not public, or create the appearance of a private beach. Pursuant to **Special Condition No. 3**, the applicant could not construe the Coastal Commission's approval of this permit as constituting a waiver of any public rights that exist or may exist on the property. Nor shall the permittee use this permit as evidence of a waiver of any public rights that may exist on the property. **Special Condition No. 7** requires the applicant to submit a storage/staging area for construction and construction access corridor plan.

In 2008 the Commission adopted a Consent Cease and Desist Order No. CCC-08-CD-01 to address unpermitted development in the form of grading, berming Salt Creek to restrict its natural flow pattern, artificial breaching of Salt Creek, and removal of beach wrack and other organic material from Monarch Beach, without a coastal development permit. **Special Condition No. 8** is imposed to ensure the applicant continues to understand the requirements of the consent CDO remain in effect.

The proposed MBMP, as conditioned, has addressed the concerns raised in a previous appeal (A-DPT-08-275) of the City of Dana Point's approval of Local Coastal Development Permit No. 08-0013 was filed by Commissioners Wan and Shallenberger. Therefore, staff recommends the Commission impose **Special Condition No. 9**, which requires the applicant to withdraw the application for development sought through the City as a means to settle that appeal. Furthermore, the proposed MBMP would supersede the plan approved under CDP No. 5-10-237 and **Special Condition No. 10** ensures clarity on this issue.

As conditioned, the proposed project will conform with Coastal Act Policy Sections 30230, 30231, 30240, 30231, 30232, 30236, 30210, and 30212(a)(2) of the Coastal Act.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-14-1604 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 will 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 or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment**. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land**. These terms and conditions shall be

perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. No Mechanized Equipment. No mechanized equipment shall operate below the daily high tide line.

2. Public Access. By acceptance of this permit, the applicant agrees to not place or install development anywhere on the public beach that would obstruct or impede public access in any way and/or give any impression to a member of the public that the beach area is private and not public, or create the appearance of a private beach. To minimize impacts on public access, the reconfiguration of beach sand that is authorized by this coastal development permit shall occur during non-holiday, mid-week periods to the maximum extent feasible. The top elevation of the beach sand relocated from Area A to Area B, as identified in the final plan required pursuant to **Special Condition No. 5**, shall not be more than three (3) feet above the adjacent sandy beach and will mimic the natural beach contour as it slopes toward the emergency access ramp (**Exhibit No. 3**). The relocated beach sand will be relocated above the high tide line.

3. Public Rights. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

4. Duration of Approval. Unless this permit otherwise expires pursuant to **Standard Condition No. 2**, this coastal development permit (5-14-1604) shall expire, as follows: the subject development may occur for a one (1) year trial period from the date the applicant initiates the development in accordance with this permit approval; a second year may be authorized by the Executive Director if he determines there has been no significant adverse impact upon coastal resources, based on the information supplied pursuant to **Special Condition No. 5**, and any other relevant information that may become available. Following the same protocol as year 2, additional time may be authorized, on a yearly basis, up to a total of five (5) years from the date the applicant initiates development in accordance with this permit approval. All such extensions will be provided in writing by the Executive Director. If the Executive Director determines that substantial adverse impacts are occurring to coastal resources an amendment or new permit shall be required to adjust the plan to avoid or reduce such impacts. Within thirty (30) days of initiating the project, the applicant shall notify the Executive Director, in writing, of the date development commenced. Except as provided in Public Resources Code Section 30610 and applicable regulations, and as specifically provided in this condition, any future development as defined in PRC section 30106, including but not limited to, maintenance activities beyond the scope of this approval and/or expiration date of this permit, shall require an amendment to 5-14-1604 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission.

5. Final Revised Monarch Beach Management Plan (MBMP) that Includes the Grunion Avoidance Protocol and Monarch Beach Wrack Management Protocol.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, two (2) copies of a Final Revised Monarch Beach Management Plan (MBMP), that is in substantial conformance with the plan dated June 2013, that includes a Grunion Avoidance Protocol and Monarch Beach Wrack Management Protocol, except that it shall be modified and be in substantial conformance with the following:

(1) To the greatest extent practicable, all "Minor" maintenance work will be conducted prior to March 1 and after August 31. To protect grunion during their peak spawning season, all "Minor" Maintenance work, to the greatest extent possible, will be scheduled so as to avoid April and May. "Minor" maintenance work refers to work as defined in the Final Revised Monarch Beach Management Plan (MBMP), that includes a Grunion Avoidance Protocol and Monarch Beach Wrack Management Protocol;

(2) Critical project activity that entails mechanized equipment or other sand disturbance seaward of the marked high tide line established after the previous grunion run can be conducted on the day before the first date of a predicted run series. This day constitutes a narrow window of time during which egg nests and developing larvae are unlikely to be present in the sand; larvae from the previous run series likely would have been flushed by the previous night's high tide, and new eggs likely won't be deposited for at least 24 hours;

(3) If grunion spawning is observed within the work area or 10-yard buffer on any night of a four-day run series, then the high tide line on the morning after the first run of the series shall be marked and project activity that entails mechanized equipment or other sand disturbance seaward of the marked high tide line shall be postponed until after the incubation period (i.e., until the day before the first date of the next predicted run, as described in 2);

(4) Wrack relocation will only take place during the summer months (June 1 through September 30);

(5) Only wrack located in front of the Monarch Bay Club and the adjacent grassy area (as generally identified in **Exhibit No. 6)** will be relocated with such area indicated in the final revised plan;

(6) Wrack shall never be removed from the beach;

(7) Each morning the Monarch Bay Club Staff will photo-document the distribution of wrack on the beach in front of the Monarch Bay Club;

(8) Each morning the Monarch Bay Club Staff may collect the wrack from in front of the Monarch Bay Club without the use of mechanized equipment, measure it by volume, and relocate it to designated adjacent beach areas, immediately upcoast and downcoast of the Bay Club;

(9) Collected wrack will be spread along the high tide line in a natural looking manner and the height of the wrack shall not exceed 15-inches;

(10) Once a week, the Monarch Bay Club Staff will photo-document the distribution of wrack on the beach in front of the Monarch Bay Club but will leave all the wrack in front of the Monarch Bay Club in place;
(11) On those mornings when the wrack is not relocated by the Monarch Bay Club Staff, the biological monitor will monitor bird usage/foraging associated with the wrack for a period of one hour in the mid-morning. Monitoring will include the areas in front of the Bay Club, as well as adjacent areas immediately upcoast and downcoast of the Bay Club. The purpose of this monitoring will be to determine if there is any difference in utilization of the wrack by birds, based on proximity to humans;
(12) Following monitoring activities, the Monarch Bay Club Staff may then collect, measure, and relocate the wrack to the designated adjacent beach areas; and
(13) At the conclusion of the 2015 summer season, the biological monitor will prepare a report documenting the findings of the monitoring and present suggested revisions to be incorporated into the long-term management plan, if appropriate, for Executive Director or Coastal Commission approval. If the Executive Director extends the duration of the subject permit, in accordance with the requirements of **Special Condition No. 4**, a monitoring report will also be submitted at the conclusion of each year that is approved; and
(14) All photo-documentation shall occur from designated points to be established in the final plan.

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

6. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.

A. The permittee shall comply with the following construction-related requirements:

1. No construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion;
2. Any and all debris resulting from construction activities shall be removed from the project site within twenty-four (24) hours of completion of the project;
3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of

sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

5. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

1. The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These 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. It shall be located as far away from the receiving waters and storm drain inlets as possible;
2. The applicant shall develop and implement spill prevention and control measures;
3. The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and
4. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

7. Storage/Staging Area for Construction and Construction Access Corridor.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to public access, to beach areas or to sensitive habitat areas.

1. The plan shall demonstrate that:

   (a) Construction equipment shall not be staged or stored outside the staging or storage area;
   (b) Public parking areas shall not be used for staging or storage of equipment;
   (c) Beach areas and habitat areas shall not be used as staging or storage areas; and
   (d) The staging and storage area for construction of the project shall not obstruct vertical or lateral access to the beach.

2. The plan shall include, at a minimum, the following components:

(a) A site plan that depicts:

(1) Limits of the staging area(s);
(2) Construction corridor(s);
(3) Construction site; and
(4) Location of construction fencing and temporary job trailers, if any.

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

8. Consent Cease and Desist Order Remains Fully In Effect. Nothing in this permit shall be construed as superceding or replacing the requirements of Consent Cease and Desist Order No. CCC-08-CD-01, adopted by the Commission on April 9, 2008. As the successor in interest to the responding party subject to the Consent Order, the applicant shall comply with the terms and conditions of the Consent Order, which includes but is not limited to, the prohibition on grading of the beach, construction of berms, breaching of Salt Creek or other breaching activities, and removing wrack and other organic material, except as explicitly authorized in this permit, and the requirements to install and maintain two (2) informational/educational signs which describe, through text and photographs/graphics, the importance and biological significance of beach wrack and grunion, and an agreement to stipulated penalties for non-compliance with the order.

9. Withdraw Project Approved by Local Government. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant agrees to withdraw the application for development of the subject site approved by the City of Dana Point and to abandon and extinguish all rights and/or entitlements that may exist relative to the City's approval of a project at the subject site (Local Coastal Development Permit No. 08-0013) that is the subject of Coastal Commission Appeal No. A-5-DPT-08-245.

10. Termination of Coastal Development Permit 5-10-237, as amended. By acceptance of this permit the applicant agrees to the termination and extinguishment of all rights and/or entitlements that may exist relative to any development of the subject site approved by Coastal Development Permit No. 5-10-237, as amended, following commencement of the development approved by this Coastal Development Permit No. 5-14-1604.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION BACKGROUND AND PRIOR COMMISSION ACTION ON SITE

The proposed project is located at the outlet to Salt Creek, at Monarch Beach, seaward of the Monarch Beach Club located at 500 Monarch Bay Drive, City of Dana Point (Orange County) (**Exhibits No. 1-2**). The concrete Salt Creek outlet structure drains runoff water from Dana Point into Monarch Beach. Upon reaching the beach, runoff from the outlet gathers in a fresh-to-brackish scour pond and then flows across the beach in to the Pacific Ocean. Wrack often collects on the upper beach after a high tide.

Salt Creek Watershed & Current Efforts to Address Water Quality

The watershed which contributes to the flows within Salt Creek is largely developed and includes areas in the Cities of Laguna Niguel and Dana Point. Salt Creek originates in the City of Laguna Niguel, flowing beneath Marina Hills Drive, Niguel Road, Pacific Island Drive, and Pacific Coast Highway, at which point the creek flows into a below-ground pipe underneath a golf course and then daylights and discharges onto Monarch Beach and finally into the Pacific Ocean.

Under guidance and regulatory authority from the San Diego RWQCB (Regional Water Quality Control Board), the County of Orange (Orange County Watersheds and Orange County Flood Control District) and the Cities of Laguna Niguel and Dana Point annually develop a workplan to address water quality at a watershed planning and implementation level. In particular, the City of Dana Point has been implementing "source control" programs to reduce polluted water runoff from its origins throughout the approximately 4,500 acre (6 square miles) Salt Creek watershed area in an attempt to prevent it from reaching storm drains, creeks, waterways, and beaches. These source control programs include efforts to curb irrigation and excess urban runoff, weekly street sweeping, commercial and construction site inspections, ordinance enforcement, inlet filters, new Best Management Practice (BMP) requirements for developments, and public education and outreach.

Source control programs, however, take time to achieve measurable water quality improvements, and despite these programs being implemented, Salt Creek and Monarch Beach continued to have high bacteria levels in the water, and the beach continued to have frequent high bacteria postings. The City of Dana Point, therefore, in 2005, installed an ozone water treatment plant to disinfect the water in Salt Creek before it reaches Monarch Beach and the Pacific Ocean. Water quality has improved with the combined efforts of the source control programs and the ozone treatment plant. However, when flows from the creek are not sufficient to breach the sand berm that naturally forms seaward of the creek outlet, the water ponds within a scoured out area at the outlet and within low depressions on the beach behind the sand berm. Here, the water collects bacteria again and supports growth of bacteria in the stagnated water.

So, despite source control and 'end of pipe' treatment, the runoff from Salt Creek occasionally contains high levels of bacteria that pose a health risk to the public. Water quality data submitted

by the applicant has been reviewed by the Commission's water quality staff, who has confirmed the data shows high levels of bacteria.

From the pond, the runoff meanders laterally along Monarch Beach before reaching the Pacific Ocean. At times, the applicant has stated that the meandering northward flow causes contamination of the beach and makes recreational access to the beach difficult. This flow would impede both beach visitor and emergency vehicle access from the paved driveway to the beach by creating a deep channel at the base of the emergency vehicle access ramp.

To reduce the occasional risk of high bacteria levels and restore emergency and ADA access to the beach at Monarch Beach, the Commission approved in February 9, 2011, Coastal Development Permit (CDP) No. 5-10-237, which became effective on June 14, 2012. This CDP allowed the creation of temporary berms of sand to channel runoff from Salt Creek directly into the Pacific Ocean. The project established water flow from the Salt Creek outlet perpendicular to the shoreline by creating two (2) sand berms, upcoast and downcoast of the ponded water and outlet flow on the beach, that are limited to 3-feet high and 4-feet wide, and approximately 130-feet long, each. If necessary to direct the flow, a pilot channel, no more than 4-feet wide was proposed to be excavated from the area between the berms, and out to the daily high tide line. This was a 'pilot' project to be carried out and monitored for a period of one (1) year in order to help develop a long term management plan for the outlet. In August 2013, the Commission approved CDP No. 5-10-237-A1 which extended the permit for two (2) years from the date the applicant initiated the development to continue the "pilot" project while the Commission considered a more comprehensive beach management plan. In June 2014, the Commission approved CDP No. 5-10-237-A2 which extended the permit for three (3) years from the date the applicant initiated the development. The proposed Monarch Beach Management Plan would supersede the plan approved under CDP No. 5-10-237. The Commission imposes **Special Condition No. 10**, which ensures clarity on this issue.

Monarch Beach Management Plan

The applicant has stated that since the implementation of the "pilot" project water quality has improved and emergency and ADA access to the beach has been improved by directing the Salt Creek runoff westward to the ocean. However, the applicant states that the minimal size of the berm, limited by the existing permits, has been insufficient to withstand high surf and to prevent Salt Creek from meandering northward around the seaward point of the berm. Frequently, the berm and channel do not endure until the following maintenance event, which the permit limited to once per month. For example, the applicant states that a substantial portion of a berm created on May 23, 2013, was washed away within two (2) days due to high surf, but they had to wait a full month to re-establish it.

In order to improve upon the progress made by the "pilot" project, the applicant is proposing the Monarch Beach Management Plan (MBMP). The objectives of the MBMP are to reduce beach erosion, maintain emergency access to the beach, and improve water quality for beach visitors by rearranging sand deposits at the Salt Creek outlet. In addition, the applicant states that the MBMP seeks to balance recreational use of the beach with protection of beach wrack. More specifically, proposed management activities involve (1) relocating sand deposits from in front of the Salt Creek outlet (Area A) to an adjacent area (Area B) above the high tide line (HTL); (2)

maintaining emergency access to the beach by preventing erosion at the base of the beach access ramp and importing sand (approximately 100 cubic yards) from a commercial source when necessary to reestablish emergency access; and (3) relocating beach wrack to areas at the northern or southern end of Monarch Beach (**Exhibit No. 3**).

Management of Salt Creek Outlet

The MBMP includes "Semiannual and "Minor" Maintenance events at the Salt Creek outlet:

"Semiannual" maintenance events would occur in the fall, before the wet season, and in the spring, before the summer season and grunion seasons begin and would involve a reconfiguration of beach sand that accumulates seaward of the Salt Creek scour pond (Area A, approximately 0.26 acres). Excavation of sand within Area A would not exceed 835 cubic yards and would not be more than 2-feet in depth and would be relocated above the HTL to the sandy beach (Area B, 0.2 acres) between the base of the emergency access ramp and the Salt Creek Outlet in order to improve beach visitor and emergency access to the beach and allow Salt Creek to drain directly to the ocean. The sand relocated from Area A to Area B would not exceed a height of 3-feet in Area B compared to the adjacent beach. Rather than creating an elevated, unnatural sand berm as permitted in the "pilot" project, the MBMP sand placement would mimic the natural beach contour. This slight increase in back-beach sand elevation would be gradual and natural looking, rather than abrupt as it slopes down toward the emergency access ramp, and will provide for continuous emergency access to the beach via the existing access ramp.

Area A was designed to extend the period of time subsequent to maintenance events during which Salt Creek would flow directly toward the ocean. The "pilot" project's narrow berm and channel widths (4-feet) have frequently not been able to withstand more than a few days of tidal and wave action, thus requiring frequent use of mechanized equipment on the beach to re-establish the perpendicular flow to the ocean. Area A provides a wider area for natural meandering of Salt Creek to the ocean. Sand will only be moved when and as necessary to maintain the design conditions.

Northward drainage of the Salt Creek outflow has previously impeded emergency and ADA access to Monarch Beach by leaving a low, scoured area at the base of the vehicle access ramp from the club which formed a large pool of water. In 2012, to reestablish emergency access to Monarch Beach, the applicant obtained an Emergency Permit (CDP No. 5-12-236-G) from the Commission to construct at the base of the existing concrete beach access ramp a temporary 10-foot wide by 45-foot long by 3-feet to 4-foot deep extension to the ramp to be made of sand which was necessary to span a deep pool of water that has formed at the back of the beach, in order to allow emergency vehicle access to the beach. Approximately 60 cubic yards of sand was imported from a commercial source to form the sand bridge. The sand used for the bridge was comparable in grain size and appearance to that of the surrounding beach sand.

In the future, should an obstacle (depression, erosion, or pooled water) develop that impedes emergency access to the beach via the access ramp, and should the amount of sand relocated from Area A to Area B be insufficient, this MBMP would allow for the import and placement of sand in this location as a remedial measure. The methods of building a sand bridge if necessary in the future would be the same methods as previously implemented. The optimal width would

be 10-feet wide and the optimal elevation would be approximately 1-feet above the water level that must be spanned. The amount of sand would be limited to the minimum necessary to reestablish emergency access to the beach, but it is not expected to require more than approximately 100 cubic yards of sand at any time. The imported sand would originate from the same (or similar) commercial source as was used in 2012 (a quarry located at 31302 Ortega Highway in San Juan Capistrano, outside of the Coastal Zone) and would be comparable in grain size and appearance to that of the surrounding beach sand. It may not ever be necessary to import sand because the sand being relocated from Area A to Area B should be sufficient to maintain emergency access. However, if the import of sand is necessary, it would be from a commercially available source, as described above.

"Minor" maintenance events would be conducted on an as-needed basis throughout the year but not more frequently than twice per month to reestablish Area A and redirect Salt Creek should it begin to meander northward outside of Area A. No outlet maintenance work would be conducted unless Salt Creek has meandered northward outside of Area A, meaning that maintenance work would only attempt to restore Area A and would not create a new channel in addition to and inside of Area A. The shape of the beach following each minor maintenance event would be the same as described above (no deeper than 2-feet in Area A and no higher than 3-feet in Area B compared with the adjacent beach area).

For any "Minor" maintenance during the California grunion season (March–August), a Grunion Avoidance Protocol has been assembled and included in the MBMP (**Exhibits No. 4**). Measures provided within this protocol require a number of directions including that any necessary minor maintenance during California grunion season would be scheduled to occur on the day before the first date of a predicted run series; etc.

Larger machinery may be used, than was used in the "pilot" project, to relocate sand from Area A to Area B during the Semiannual and Minor maintenance. The applicant has stated that Best Management Practices (BMPs) will be implemented, such as: measures to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activities; having all mechanized equipment enter and exit the beach at a single point identified by the biological monitor, having all equipment temporarily staged and serviced (e.g., refueled) only in the nearby paved parking area (without obstructing beach visitor parking or beach access areas); prior to the beginning of each Salt Creek outlet maintenance event, all personnel will be educated on the Agency requirements, pollution prevention measures, and spill response procedures; BMPs will be implemented to control erosion and sedimentation from impacting coastal waters; any and all debris resulting from construction activities will be removed from the project site each day that work occurs and within 24 hours of completion of the project to prevent sediment and other debris from inadvertently entering coastal waters; etc.

Wrack Relocation

The MBMP included a Wrack Management Protocol for proposed relocation of wrack where it exists above the high tide line over a large area of beach (**Exhibit No. 5**). Working together, Commission staff and the applicant have identified a relatively narrow zone of beach, located right in front of the Monarch Beach Club building and an adjacent grassy area, where it would be most beneficial to beach users to allow for relocation of wrack (**Exhibit No. 6**). Wrack would be

relocated only during the summer months, June 1st though September 30th. No mechanized equipment would be used. Additional details regarding this proposal and the accompanying monitoring are discussed in the Marine Resources section of this staff report.

Monitoring and Reporting

All work will be monitored by appropriately trained personnel who will: (1) record detailed notes of the work performed, including date, time, and duration of the construction activities; and (2) ensure that environmental and biological impacts are minimized. Appropriately trained personnel will conduct monthly monitoring visits to assess the physical function of the Salt Creek outlet management and to ensure that the project remains consistent with federal and State environmental regulations and with the Agency permits. Monitoring will include photographs taken from established photo points of conditions immediately prior to and immediately following each maintenance event. Photo-documentation will be done in reasonable accordance with RWQCB guidelines, including the use of global positioning system (GPS) coordinates for each of the photo points referenced. During each year, the monitor will use information and data resulting from the monthly assessments to consider whether the MBMP requires any adaptive management measures for the following year.

Special precautions, avoidance measures, and seasonal restrictions to minimize impacts to wildlife and species of concern (e.g., western snowy plover and California grunion) will be enforced. In the event that an environmental monitor concludes that these conditions have been violated, or if any unforeseen sensitive habitat or environmental issues arise, MBMP-related work will cease. The environmental monitor will immediately notify the Commission's Executive Director and the Agencies if there are any violations, if activities occur that are outside the scope of the CDP or the other permits, or if habitat is removed or impacted beyond what is defined in the scope of the CDP. Work will cease if significant impacts or damage occur to special-status wildlife species, and a revised or supplemental program will be submitted to the Commission to mitigate such impacts. This revised or supplemental program will be processed as an amendment to the CDP.

Appropriately trained personnel will document access conditions for emergency vehicles/emergency personnel. This information will be incorporated into the annual report.

Water quality will be monitored to determine whether MBMP strategies effectively reduce bacteria levels at Monarch Beach. The National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit, issued by the San Diego RWQCB to Orange County and the incorporated cities of South Orange County, requires routine bacteriological monitoring of coastal storm drains and their respective ocean receiving waters. Pursuant to these requirements, a monitoring program was developed by the County, approved by the RWQCB, and implemented by the Orange County Watersheds program. The Salt Creek outfall area is one of the water quality sampling locations monitored by the Orange County Watersheds program. Monitoring is conducted at three locations: (1) at the discharge from the Salt Creek outfall; (2) 25-yards upcoast (northerly direction) of the outfall-ocean interface in the surf zone; and (3) 25-yards downcoast (southerly direction) of the outfall-ocean interface in the surf zone. Dry weather samples are typically collected weekly for the analysis of total coliform, fecal coliform, and *Enterococcus* bacteria. The data collected from the Salt Creek and Monarch Beach sampling site

(S2/SCM1/OSL25) over the course of each year will be analyzed and compared to data from previous years to determine if bacteria levels are affected by the MBMP.

A qualified biologist or other appropriately trained personnel will conduct surveys of all wildlife utilizing Monarch Beach and the Salt Creek outfall pond immediately prior to any maintenance activity in order to monitor the direct impacts of the MBMP on wildlife. If no maintenance is required, surveys will be performed quarterly, at a minimum. The results of these surveys will be incorporated into biological impact assessments included in the annual reports. If necessary to prevent impacts (e.g., to ground nesting birds), the monitor will halt, postpone, or modify the work as necessary to avoid such impacts.

Annual reports will be submitted to the Commission and Agencies that detail the results of the monitoring assessments, which will be performed at any Semiannual Maintenance event or any Minor Maintenance event. The reports will include observations of all MBMP activities as well as results from the wildlife surveys. Within 45 days of the completion of each year's project period, the results of all monitoring will be submitted in the form of an annual report to the Commission's Executive Director and the Agencies for review and approval. The annual report will feature an analysis of the overall effectiveness and impacts of the MBMP and will provide recommendations for any modifications to the MBMP. The report will also contain raw and summarized data in tabular and/or graphical form and an assessment of compliance with the conditions of all permits.

In order to assess the effectiveness of this MBMP to determine if this proposal will be a successful long term management plan, the Commission has determined that the plan shall be a one (1) year Pilot project. Additional years, on a yearly basis, up to a total of five (5) years may be authorized by the Executive Director if he determines that there has been no significant adverse impact upon coastal resources. Therefore, the Commission imposes **Special Condition No. 4**, which states that the CDP will be for a one (1) year trial period, but may be extended on a yearly basis for up to five (5) years.

The sand relocation proposed in the Monarch Beach Management Plan has a larger footprint than the previous "pilot" project approved under CDP 5-10-237, but the proposed sand relocation area is located farther inland than the previous "pilot" project, remains landward of the High Tide Line (HTL) and remains within the private property boundary identified by the applicant, to be discussed below.

The Salt Creek outlet discharges onto a sandy beach area that is owned by the Mathis Family 1996 Trust ("Mathis Trust"). The Mathis Trust property includes a private beach club and some sandy beach area between the ocean and a seawall that protects the club house. The beach seaward of the Mathis Trust property is State tidelands. The private club and the private portion of the beach are used by residents within the Monarch Bay residential community and, through an agreement between the Mathis Trust and the St. Regis Resort, by guests of the St. Regis. Immediately downcoast of the subject property is Salt Creek Beach Park; and the Niguel Marine Life Refuge is located immediately offshore of both Salt Creek and the subject property. The work area depicted on the applicant's plans indicates the project would be located on the Mathis

Trust property. No work would be located within State Tidelands and a letter dated December 18, 2013 from the California State Lands Commission confirms that.

Prior Commission Actions

On April 9, 2008, the Commission adopted Consent Cease and Desist Order No. CCC-08-CD-01 ("Consent Order") to address unpermitted development in the form of grading, berming Salt Creek to restrict its natural flow pattern, artificial breaching of Salt Creek, and removal of beach wrack and other organic material from Monarch Beach, without a coastal development permit. The Consent Order requires the 'Respondents' to "…cease and desist from engaging in any further development, as that term is defined by PRC section 30106 located at or seaward of 500 Monarch Bay Drive, in the City of Dana Point, Orange County, APN 670-151-55 ("subject property"), including, but not limited to, grading, construction of berms, removing wrack and other organic material (noting that this is not intended to prohibit the removal of trash and other inorganic material by hand raking as needed or minor, incidental relocation of wrack within the subject property), and breaching of Salt Creek or other breaching activities, unless authorized pursuant to the Coastal Act, PRC §§ 30000-30900, and/or the City of Dana Point certified Local Coastal Program (LCP), or recognized, in writing, by the Commission to be exempt…" The subject permit would authorize, subject to conditions, certain development that is otherwise prohibited by the Consent Order, including rearranging sand deposits at the Salt Creek outlet to direct flows from the Salt Creek outlet to the ocean, and periodic relocation of beach wrack/kelp. No other berms, trenching, relocation of beach wrack, grading, or beach grooming is authorized. However, nothing in the permit shall be construed as superceding or replacing the requirements of Consent Cease and Desist Order No. CCC-08-CD-01, adopted by the Commission on April 9, 2008, and such requirements remain fully in effect. In addition to the above-listed prohibitions, the Consent Order requires, among other things, the payment of penalties, installation of two (2) informational/educational signs which describe, through text and photographs/graphics, the importance and biological significance of beach wrack and grunion, and an agreement to pay stipulated penalties in the amount of $500 per day per violation for non-compliance with the Consent Order. Pursuant to Section 2.0 and 17.0 of the Consent Order, as a successor in interest to the Respondents, the applicant is required to comply with the Consent Order. Thus, the Commission imposes **Special Condition No. 8**.

On October 10, 2008, Commissioners Wan and Shallenberger filed an appeal (A-DPT-08-275) of the City of Dana Point approval of Local Coastal Development Permit No. 08-0013. Local Coastal Development Permit No. 08-0013 approved beach maintenance and cleanup using rakes, hand shovels and light weight motorized equipment on an on-going and as-needed basis. The appellants contended that the proposed project did not conform to the requirements of the Certified LCP and the public access and recreation policies of the Coastal Act. In addition, since the Commission would be the permit issuing authority based on Section 9.69.030(c)(1) of the Dana Point Zoning Code, a Coastal Development Permit from the Commission was necessary. However, a Coastal Development Permit was instead obtained from the City. Therefore, the proposed development was inconsistent with Section 9.69.030(c)(1) of the Dana Point Zoning Code. On October 27, 2008, the applicant agreed to waive the 49-day limit for hearing the appeal. The proposed MBMP, as conditioned, has addressed the concerns raised in this appeal and a CDP is being sought for the development. Thus, the appeal concerns have been addressed. Therefore, the Commission imposes **Special Condition No. 9**, which requires the applicant to

withdraw the application for development of the subject site approved by the City of Dana Point (Local Coastal Development Permit No. 08-0013) and to abandon and extinguish all rights and/or entitlements that may exist relative to the City's approval of a project at the subject site that is the subject of Coastal Commission Appeal No. A-5-DPT-08-245.

B. LOCAL GOVERNMENT AND OTHER APPROVALS

In a letter dated December 18, 2013, the California State Lands Commission (CSLC) confirmed that no work included in the MBMP will be located within state tidelands. Therefore, no approval from them is needed for the proposed development.

The Regional Water Quality Control Board (RWQCB) issued a Clean Water Act Section 401 Water Quality Certification No. R9-2013-0126 dated May 7, 2014 for the MBMP.

The California Department of Fish and Wildlife (CDFW) stated in an email dated February 2, 2011 that a Streambed Alteration Agreement (SAA) is not necessary because the project is located within jurisdiction of the Marine Region which does not issue SAAs. The CDFW also stated in an email dated December 2, 2013, that the project area is adjacent to the Dana Point Marine Conservation Are (DPSMCA), but not within the DPSMCA.

The U.S. Army Corps of Engineers (USACOE) issued a Public Notice for the MBMP on May 1, 2014.

C. MARINE RESOURCES

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Section 30240 of the Coastal Act 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.*

1. California least tern

The California least tern is a migratory bird species usually arriving at southern California breeding sites in late March or early April and departing by mid-September. The closest California least tern (*Sterna antillarum brownii*) nesting sites are located at Newport Bay, over 13 miles north, and Camp Pendleton, over 10 miles south of the subject site (*California Least Tern Breeding Survey*, 2008, California Department of Fish and Game). Because of the distance from the breeding colony the project will not adversely impact California least terns by interfering with nesting and/or foraging activities.

2. California Grunion

The California grunion is a small fish in the silversides family and is extremely unusual among fish in its spawning behavior. The grunion spawn on the sandy beaches in the project vicinity immediately following spring tides (high tides that occur during the full and new moons) from March to August. The eggs are incubated in the sand until the following series of spring tide conditions, approximately 10 to 15 days, when the eggs hatch and are washed into the sea. California grunion is a species of concern due to its unique spawning behavior. They are carefully managed as a game species.

According to CDFW, all beaches are potential grunion spawning habitat. Monarch Beach's wide, gently sloping beach serves as spawning habitat for the California grunion, as observed during grunion monitoring for the "pilot" project. The applicant is proposing to avoid impacts to grunion by following the Grunion Avoidance Protocol, they developed for any "Minor" maintenance during the California grunion season (March–August) (**Exhibit No. 4**). Measures provided within this protocol include: no mechanized equipment will enter jurisdictional waters or potential grunion spawning areas; in the case that work is required during the spawning season, a qualified biologist shall be engaged to monitor the activity, and protocols such as no project activity that entails sand disturbance seaward of the high tide line during the four day period of predicted grunion runs posted by the CDFW; any necessary minor maintenance during California grunion season would be scheduled to occur on the day before the first date of a predicted run series.; etc. While the applicant has provided a Grunion Avoidance Protocol, revisions need to be made within the document in order to ensure that no adverse impacts to California grunion take place during activities part of the MBMP. The protocol must make it clear that all "Minor" maintenance work to the greatest extent possible be conducted prior to

March 1 and after August 31 to avoid the grunion spawning season. Additionally, to protect grunion during their peak grunion spawning season of April to May, to the greatest extent possible, work will be scheduled to avoid those months. Also, revisions must be made regarding project activity taking place on other days of the spawning season making it clear what "Minor" maintenance can occur. Therefore, the Commission imposes **Special Condition No. 5**, which requires the applicant to revise the Grunion Avoidance Protocol to make it clear that project activities shall not be allowed to the greatest extent practicable during the grunion spawning season.

3. Western Snowy Plover

The Western snowy plover (*Charadrius alexandrinus nivosus*) are small, sand colored shorebirds that use sandy beaches for nesting and roosting from southern Washington to Baja California. The snowy plover forages on invertebrates in the wet sand, amongst surf-cast kelp, on dry sandy areas above the high tide, on salt pans, on spoil sites, and along the edges of salt marshes, salt ponds, and lagoons (USFWS 20001). Snowy plovers breed primarily above the high tide line on coastal beaches, sand spits, dune-backed beaches, sparsely-vegetated dunes, beaches at creek and river mouths, and salt pans at lagoons and estuaries. They tend to be site faithful, with the majority of birds returning to the same nesting location in subsequent years (USFWS 2001 citing Warriner et al. 1986). The breeding season for snowy plovers along the Pacific coast extends from early March to mid-September. The majority of California's wintering snowy plovers roost and forage in loose flocks on sand spits and dune-backed beaches, with some occurring on urban and bluff-backed beaches, which are rarely used for nesting (USFWS 2001). Roosting snowy plovers usually sit in small depressions in the sand, or in the lee of kelp, other debris, or small dunes (USFWS 2001 citing Page et al. 1995).

The snowy plover was listed by the U.S. Fish and Wildlife Service (USFWS) as a threatened species in March 1993. Subsequently USFWS designated 180 miles of coastline in California, Oregon, and Washington as critical habitat in 1999. Critical habitat is a specific designation that identifies areas that are essential to conservation of an endangered species. The USFWS has released a *Recovery Plan for the Pacific Coast Population of Western Snowy Plover* (August 2007).

The salt creek lagoon/estuary/pond and surroundings do provide many of the requirements of snowy plovers. Although they have been documented here, they have not been observed nesting in the area. The MBMP states that during the breeding and nesting season (March 1 to September 30), a qualified biologist will survey for and document any presence of this species. If any snowy plovers are present during this time, no excavation, construction, reconstruction, maintenance, or removal activities will occur within 300-feet of any nesting or breeding areas for this species until subsequent monitoring indicates that the nesting or breeding snowy plovers are no longer present.

4. Beach Sand Habitat

A variety of biological resources are present on sandy beaches. Intertidal sand is habitat to a variety of invertebrates such as amphipods, isopods, and polychaete worms. Beach wrack, an important habitat for coastal marine life, located on the upper beach provides habitat for more

invertebrates such as beach hoppers, flies and their larvae. Wrack and these other species are significant food resources for shore birds.

The MBMP includes the relocation of wrack/kelp where it exists above the high tide line. Working together, Commission staff and the applicant have identified a relatively narrow zone of beach, located right in front of the Monarch Beach Club building and an adjacent grassy area, where it would be most beneficial to beach users to allow for relocation of wrack (**Exhibit No. 6**). Wrack would be relocated only during the summer months, June 1st though September 30th. No mechanized equipment would be used. Each morning wrack would be photo-documented in front of the Monarch Bay Club and then collected, measured and then redistributed along the natural wrack line north and south of the removal area. Once a week, the Monarch Bay Club Staff will photo-document the distribution of wrack on the beach in front of the Monarch Bay Club but will leave all the wrack in front of the Monarch Bay Club in place. On those mornings when the wrack is not relocated by the Monarch Bay Club Staff, a biological monitor will monitor bird usage/foraging associated with the wrack for a period of one hour in the mid-morning. Monitoring will include the areas in front of the Bay Club, as well as adjacent areas immediately upcoast and downcoast of the Bay Club. The purpose of this monitoring will be to determine if there is any difference in utilization of the wrack by birds, based on proximity to humans. Following monitoring activities, the Monarch Bay Club Staff may then collect, measure, and relocate the wrack to the designated adjacent beach areas. This wrack management plan would be a one (1) year trial program. After a year, the information will be processed and a revised plan be developed if necessary along with an amendment or new permit as determined by the Executive Director. If no significant adverse impact is identified by the Executive Director, additional time may be added, with yearly renewal, up to a total of five years. After that period of time, subsequent Commission action would be required for further extension. Any trash or inorganic debris found within the wrack on the beach during the course of wrack relocation will be removed and disposed of in a trash receptacle. A Final Revised Monarch Beach Management Plan that includes this current proposal (**Exhibits No. 6**) would be prepared in accordance with **Special Condition No. 5**.

In order to verify that these changes to the plan have been incorporated, the Commission imposes **Special Condition No. 5**, which requires the applicant to submit a revised Monarch Beach Management Plan that includes the Wrack Management Protocol that includes these changes to the protocol.

Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30240 of the Coastal Act with regard to maintaining and enhancing biological productivity and water quality.

D. WATER QUALITY

Section 30230 of the Coastal Act states, in pertinent part:

> *Marine resources shall be maintained, enhanced, and where feasible, restored.*

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 30232 of the Coastal Act states, in pertinent part:

> *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.*

Section 30236 of the Coastal Act states:

> *Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.*

The proposed project involves work at an urban stream outlet that carries urban runoff to the sea. Although Salt Creek is a naturally occurring stream, the stream outlet has been previously modified through the construction of a concrete box culvert and concrete erosion control apron. The project does not constitute channelization or substantial alteration of rivers and streams. The capacity of the existing outlet will not be changed. As such, no additional storm water runoff will result from the proposed project. Nevertheless, urban stream outlets are the discharge points for contaminants that are entrained in urban runoff. The contaminants may include trash and particulate debris, petroleum hydrocarbons, bacteria and pathogens, heavy metals, sediments, synthetic organic compounds, nutrients, pesticides and herbicides, and others. These pollutants may build up at the ocean outlet, and any movement of sediment at the mouth may cause the release of contaminants into coastal waters. The applicant proposes to utilize Best Management Practices when carrying their activities and will monitor the runoff being discharged from the

outlet to determine if the proposed maintenance will have a detrimental effect on the surf zone water quality.

Best Management Practices

Semiannual and minor maintenance activities as part of the MBMP may require larger machinery than used in the "pilot" project to relocate sand from Area A to Area B. Best Management Practices (BMPs) will be implemented to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activities. Additional measures the applicant has proposed consists of: having all mechanized equipment enter and exit the beach at a single point identified by the biological monitor, and having a staging are only in the nearby paved parking area that would not impact access to the beach and never on the beach or in habitat areas. Also, temporary construction fencing consisting of caution tape rope mounted on T-posts or wooden stakes at 10-foot intervals will be installed at the beginning of each maintenance event. It will be removed and stored in the designated staging area at the end of each day. Additionally, prior to the beginning of each Salt Creek outlet maintenance event, all personnel will be educated on various agency requirements, pollution prevention measures, and spill response procedures. BMPs will be implemented to control erosion and sedimentation from impacting coastal waters. No long-term storage of equipment will occur on site, and no construction materials, debris, or waste will be placed or stored where it may be subject to water, wind, rain, or dispersion. Any and all debris resulting from construction activities will be removed from the project site each day that work occurs and within twenty (24) hours of completion of the project to prevent sediment and other debris from inadvertently entering coastal waters. In order to ensure implementation of these BMPs and some additional others designed to prevent adverse impacts to water quality and marine waters, the Commission imposes **Special condition No. 6**, which requires conformance with "Best Management Practices" and requires additional Good Housekeeping Practices.

Monitoring

Compliance with the special condition discussed above will mitigate any immediate water quality impacts associated with the proposed maintenance activities. However, the long-term effects of maintenance activities must also be considered. During each year, the applicant states that the monitor will use information and data resulting from the monthly assessments to consider whether the MBMP requires any adaptive management measures for the following year.

Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 3023, 30232 and 30236 of the Coastal Act with regard to maintaining and enhancing marine resources, biological productivity and water quality, protection against the spillage of crude oil, gas, petroleum products, or hazardous materials in relation to any development and channelizations, dams, or other substantial alteration of rivers and streams.

E. PUBLIC ACCESS AND RECREATION

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 30212(a)(2) of the Coastal Act states, in pertinent part:

> *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
>
> *(2) adequate access exists nearby*

As described previously, the proposed MBMP will address adverse water quality conditions at the beach by relocating sand deposits from in front of the Salt Creek outlet (Area A) to an adjacent area (Area B) above the high tide line. Construction impacts, such as obstruction of lateral or vertical access to the shoreline with equipment, can affect the public's ability to access the beach and recreate on it. Construction related impacts can be partially alleviated by conducting work when beach use by the public is typically low. Furthermore, the reconfiguration of beach sand across the beach can be an impediment to lateral access along the beach, if they are too tall, wide or deep. However, adverse water quality, which this project is attempting to address, can also impact public use and enjoyment of the beach. Directing flows straight to the ocean, instead of allowing those flows to meander across the beach, may also increase the amount of dry sandy beach available for public recreational use. The applicant has stated that all equipment will be temporarily staged and serviced (e.g., refueled) only in the nearby paved parking area (without obstructing beach visitor parking or beach access areas), but no such plan has been submitted. The benefit to public access of the presence of dry sandy beach will only be realized if the applicant agrees to not place or install development anywhere on the public beach that would obstruct or impede public access in any way and/or give any impression to a member of the public that the beach area is private and not public, or create the appearance of a private beach. To ensure that the proposed activities minimize impacts to continued public access, the Commission imposes **Special Conditions No. 1, 2, 3** and **No. 7**. **Special Condition No. 1** prohibits the applicant from using any mechanized below the daily high tide mark. **Special Condition No. 2** requires that the applicant agree to not place or install development anywhere on the public beach that would obstruct or impede public access in any way and/or give any impression to a member of the public that the beach area is private and not public, or create the appearance of a private beach. Pursuant to **Special Condition No. 3**, the applicant shall not construe the Coastal Commission's approval of this permit as constituting a waiver of any public rights that exist or may exist on the property. Nor shall the permittee use this permit as evidence of a waiver of any public rights that may exist on the property. **Special Condition No. 7** requires

the applicant to submit a storage/staging area for construction and construction access corridor plan.

Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30210 and 30212(a)(2) of the Coastal Act with regard to the public's right of access and recreation.

F. LOCAL COASTAL PROGRAM (LCP)

Section 30604(a) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be used if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The proposed development is taking place in the City of Dana Point, which has a certified Local Coastal Program (LCP). However, the development is taking place on the beach, all of which is occurring partially or wholly within the Commission's area of original jurisdiction. Section 30601.5 of the Coastal Act allows the Commission to take action on development proposals where there is both local and Commission jurisdiction, and the City of Dana Point has agreed to let the Commission process a CDP for the portions of this project within the City's jurisdiction. Therefore, the development must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act and therefore will not prejudice the ability of the City to continue to administer its LCP.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

In this case, the City of Dana Point is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Dana Point on July 18, 2013 determined that the development is Categorically Exempt from CEQA. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the marine resources, water quality and public access and recreation policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX 1

SUBSTANTIVE FILE DOCUMENTS: City of Dana Point Community Development Department Approval-In-Concept dated September 5, 2013; City of Dana Point Community Development Department Notice of CEQA Exemption dated July 18, 2013; Consent Cease and Desist Order No. CCC-08-CD-01-(Washington Holdings); City of Dana Point Local Coastal Development Permit No. 08-0013; Coastal Commission Appeal No. A-5-DPT-08-245; CDP No. 5-10-237-(Washington Holdings); CDP No. 5-20-237-A1-(Washington Holdings); CDP No. 5-10-237-A2-(Washington Holdings); CDP No. 5-12-236-G-(Washington Holdings); California State Lands Commission (CSLC) letter dated December 18, 2013; Regional Water Quality Control Board (RWQCB) Clean Water Act Section 401 Water Quality Certification No. R9-2013-0126 dated May 7, 2014; California Department of Fish and Wildlife (CDFW) email dated February 2, 2011; California Department of Fish and Wildlife (CDFW) email dated December 2, 2013; Letter from Commission staff to LSA Associates, Inc. dated July 26, 2013; Letter from LSA Associates, Inc. to Commission staff dated January 7, 2014; and Letter from LSA Associates, Inc. to Commission staff dated July 29, 2014.

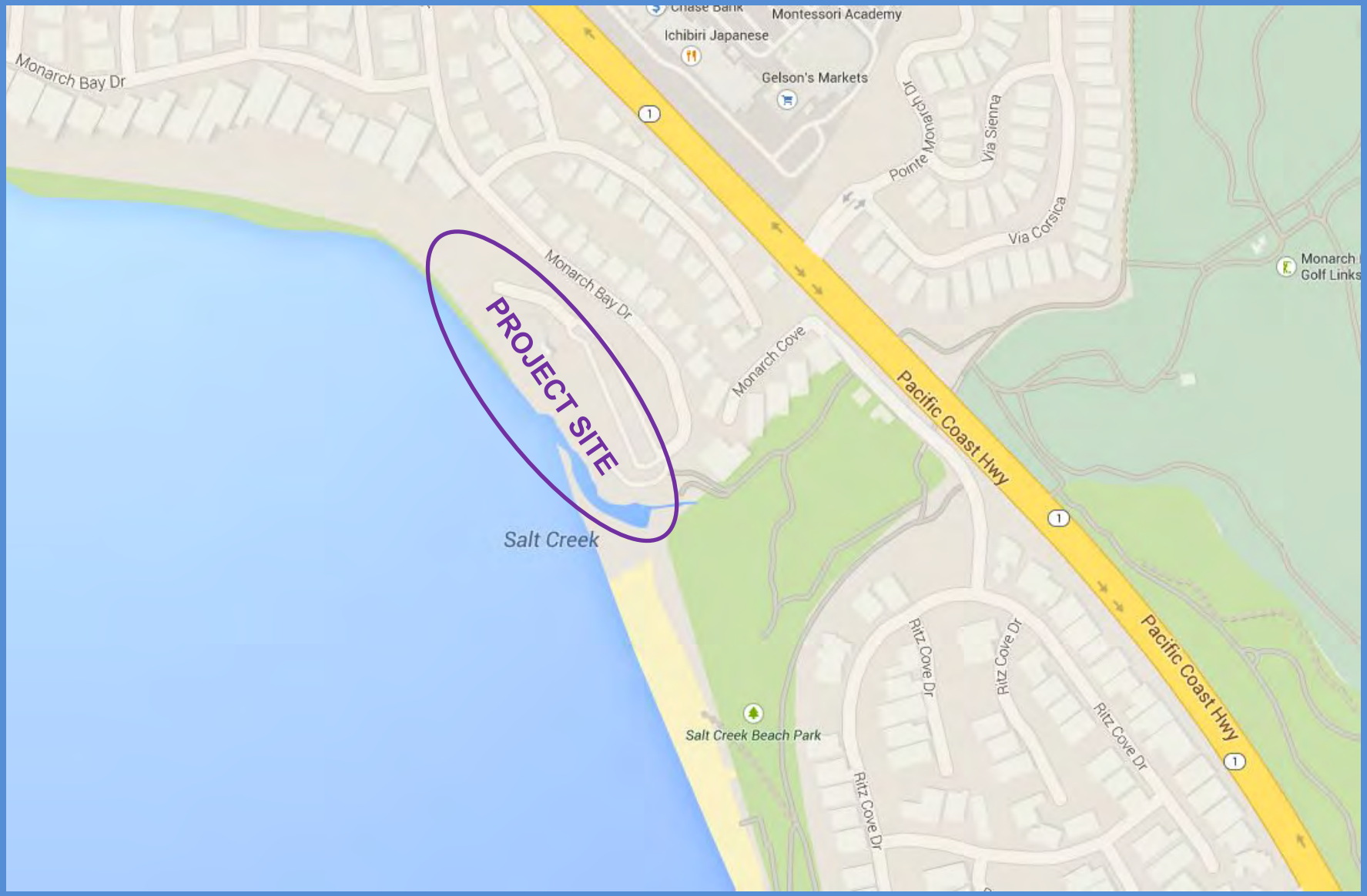


Exhibit No. 1
Page 1 of 1

Exhibit No. 2
Page 1 of 1

① Staging Area
All mechanized equipment will be staged, stored, and serviced (e.g., refueled) within the designated staging area, located in the parking area for the Monarch Beach Club. The designated staging area is outside beach and habitat areas in order to minimize impacts to these areas. The equipment stored in the designated staging area will not obstruct public parking or beach access areas. Spill prevention and control measures will be implemented when refueling or servicing the mechanized equipment. No long-term storage of equipment on the site will occur, and no construction materials, debris, or waste will be placed or stored where it may be subject to water, wind, rain, or dispersion.

② Construction Corridor
Construction equipment will enter and exit the work area via the construction corridor shown and all construction or maintenance activities will be monitored by a biological monitor or appropriately trained personnel.

③ Construction Site
The construction area consists of Areas A and B within the construction corridor. Construction activities will be contained within these boundaries and will be monitored by a qualified biologist or appropriately trained personnel to ensure that Best Management Practices (BMPs) are being implemented.

④ Location of Construction Fencing
Temporary construction fencing will be installed, as shown, at the beginning of each day to prevent the public from entering the work area where mechanized equipment will be used during that day. The temporary fencing will consist of caution tape or rope mounted on T-posts or wooden stakes at 10 foot intervals. The fencing will be removed and stored in the designated staging area at the end of each day.

LSA

Property Limit (APN: 670-151-55)
Construction Corridor
Temporary Construction Fencing
Mean High Tide or Mean High Water Line *
Typical Observed High Tide Line
Area A
Area B
Wrack Removal Area
Wrack Placement Area
Photo Point and Direction
Beach Access

N

0 50 100
FEET

SOURCE: *Aerial*- Google Earth (3/7/2011)

FIGURE 2

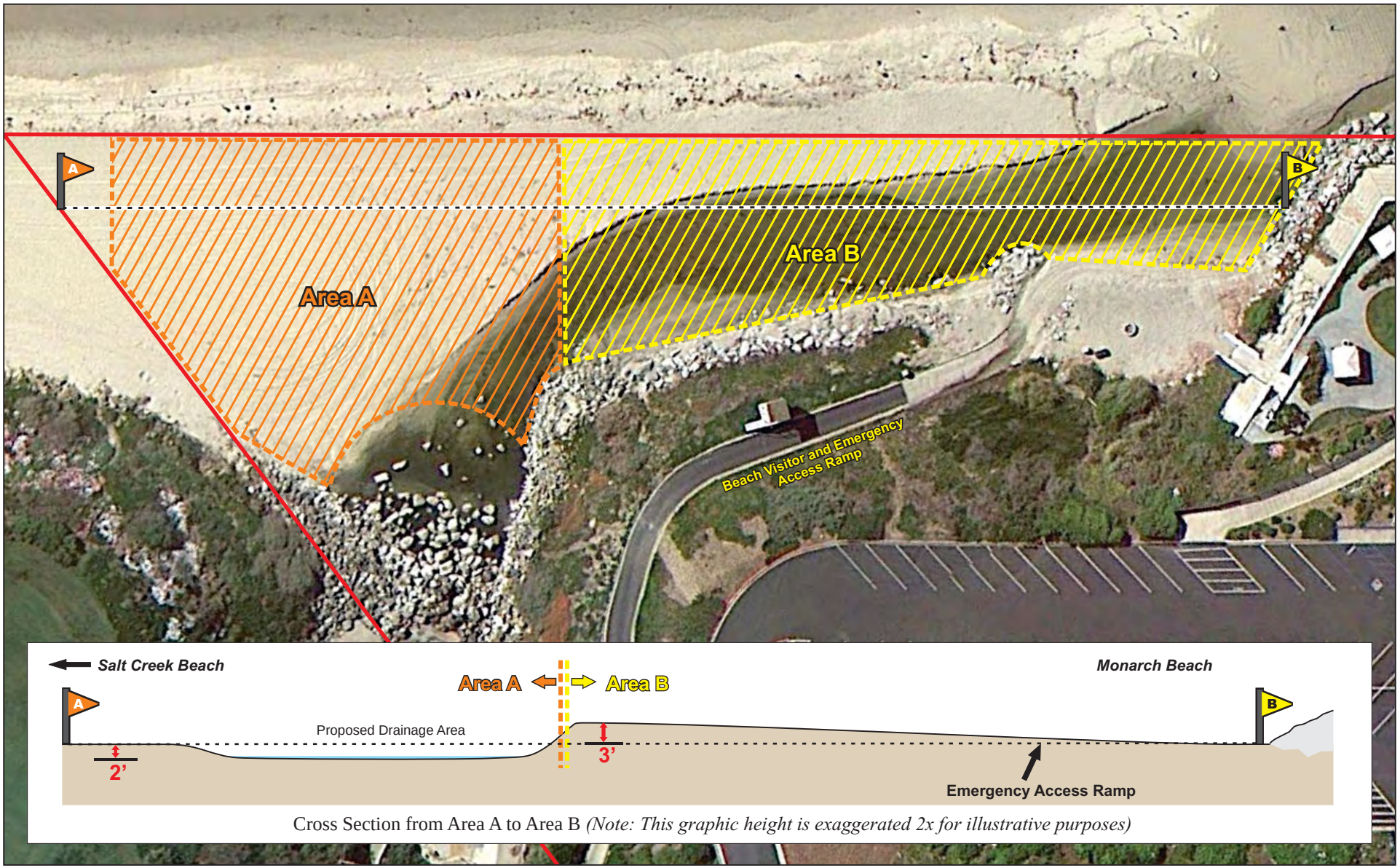
Footnote: Details may be revised in the field according to natural conditions, which frequently change.

* Surveyed by Hunsaker & Associates – November 29, 2011. Under California law, the Mean High Tide (MHT or Mean High Water [MHW]) line, is the boundary that separates private property and State property (See California Civil Code §830). In California, the MHT or MHW is determined by taking an 18.6 year average of all high tides. That average for Monarch Beach is determined to be approximately 4.48 ft (Referenced to NAVD88).

Monarch Beach Management Plan
Site Plan with Photo Points

I:\WAH1001\G\MB Management Plan\Wrack Areas_Site Plan.cdr (10/7/13)

Project Description - Figure 2



Cross Section from Area A to Area B *(Note: This graphic height is exaggerated 2x for illustrative purposes)*

LSA

FIGURE 3

Area A

Area B

Section Line Between Area A and Area B

Property Limit

N

0 19 38

FEET

SOURCE: *Aerial*- Google Earth Pro

I:\WAH1001\G\MB Management Plan\Berm Areas A-B_Xsection.cdr (10/8/13)

Monarch Beach Management Plan

Construction Areas A and B Profile

MONARCH BEACH
GRUNION AVOIDANCE PROTOCOL

The following protocol minimizes the possibility of impact to California grunion (*Leuresthes tenuis*) during any maintenance required during grunion spawning season, which falls between March 1 and August 31. The grunion runs occur late at night, up to twice a month, during the highest tides associated with a full or new moon. No mechanized equipment will enter jurisdictional waters or potential grunion spawning areas. In the case that work is required during the spawning season, a qualified biologist shall be engaged to monitor the activity, and the following protocol shall be implemented:

1. **Four-day predicted runs:** No project activity that entails sand disturbance seaward of the high tide line will be conducted during the four-day periods of predicted grunion runs that are posted by the California Department of fish and Game (http://www.dfg.ca.gov/marine/grunionschedule.asp)
2. **Day before the first date of a run series:** Project activity that entails sand disturbance seaward of the high tide line can be conducted on the day before the first date of a predicted run series. This day constitutes a narrow window of time during which egg nests and developing larvae are unlikely to be present in the sand; larvae from the previous run series likely would have been flushed by the previous night's high tide, and new eggs likely won't be deposited for at least 24 hours.
3. **Other days:** Prior to project activity that entails sand disturbance seaward of the high tide mark on other days during the spawning season, the presence or absence of egg nests in or near the work area must first be determined by monitoring for the presence of adult grunion on the beach during predicted runs.
    a. A qualified biologist or appropriately trained personnel shall monitor for the presence of adult grunion during the predicted run series prior to the work activity, except that if grunion are observed spawning within the work area or a 10-yard buffer on a given night, the presence of egg nests can be assumed and surveys on subsequent nights are not required. For example, if grunion are observed in the work area or the 10-yard buffer on night 1, then monitoring on nights 2, 3, and 4 would not be required. If grunion are not observed within the work area or the 10-yard buffer on night 1, then night 2 would be surveyed and so forth.
    b. Monitoring must start at the time of the high tide and continue for two hours or until the grunion stop running, whichever is later. For each night of monitoring, recorded information must include the time period monitored, grunion run time and duration, approximate grunion density within the work area and 10-yard buffer, and approximate grunion density in a broader area (i.e., within approximately 50 yards up-coast or 50 yards down-coast of the work area).
    c. If grunion spawning is observed within the work area or 10-yard buffer on any night of a four-day run series, then project activity that entails sand disturbance seaward of the semilunar high tide line shall be postponed until after the egg incubation period (i.e., until the day before the first date of the next predicted run, as described in 2).

d. If grunion spawning is *not* observed within the work area or 10-yard buffer on all four nights of a predicted run series, then the absence of egg nests and incubation activity near the work area can be assumed and, if needed, project activity that entails sand disturbance can be conducted seaward of the semilunar high tide line up to and including the day before the date of the next predicted run. For example, if no grunion were observed during the predicted runs on July 4, 5, 6, and 7, and the date of the next predicted run is July 18, then work can occur seaward of the semilunar high tide line from July 8 through July 17.

MONARCH BEACH
WRACK MANAGEMENT PROTOCOL

Beach wrack is kelp and other organic materials that wash ashore during storms and high tides and remain on the beach. When necessary to promote health and recreational value of the sandy beach area in front of the Monarch Bay Club (Club), the following protocol shall be followed:

- Wrack shall be selectively relocated from areas above the high tide line in front of the Club as depicted in the Wrack Removal Area shown below and placed in the North and South Wrack Placement Areas as depicted below.

- Wrack shall be spread as thinly as possible within the North and South Wrack Placement Areas and shall not be placed in large piles or buried with sand. The height of placed wrack shall not exceed 15 inches.

- WRACK SHALL NEVER BE REMOVED FROM THE BEACH.

Permitted times when beach wrack can be relocated:

During Maintenance Events: During the semiannual (twice per year, before March and after August) and minor (no more then twice per month) Salt Creek outlet maintenance events, beach wrack may be relocated with the use of mechanized equipment.

Once Per Week: Wrack may be selectively relocated by hand, no more than once per week and only as necessary, from the Wrack Removal Area and placed in the North and South Wrack Placement Areas.

Exhibit No. 6
Page 1 of 1