

**CALIFORNIA COASTAL COMMISSION**

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 Hearing Date: 5/10/18

**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 4-17-0668

**Applicant:** Oxnard Harbor District

**Agents:** Jack Malone, Anchor QEA, LLC

**Project Location:** Hueneme Beach, City of Port Hueneme, Ventura County.

**Project Description:** One-time placement of 30,000 cu. yds. of sediment dredged from the Port of Hueneme within an approximately 9-acre area of Hueneme Beach and an approximately 27-acre area offshore of Hueneme Beach.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed development with **Six (6) Special Conditions** regarding: (1) Sensitive Species Surveys, (2) Construction Responsibilities, (3) Operational Responsibilities, (4) Public Access Program, (5) Conformance with the Requirements of Other Resource Agencies, and (6) Assumption of Risk, Waiver of Liability and Indemnity.

The Oxnard Harbor District is proposing to place 30,000 cubic yards of sediment dredged from Berths 1, 2, and 3 along Wharf 1 in the Port of Hueneme (Port) at two sites that have been identified to receive the dredged material. The first site is an approximately 9-acre area of Hueneme Beach that is located immediately seaward of the Port, and the second site is an approximately 27-acre nearshore area that is located adjacent to Hueneme Beach.

The Port is located within the City of Port Hueneme, in the southwest portion of Ventura County between the Pacific Ocean and the Oxnard Plain. Hueneme Beach is located immediately seaward of the Port. The Port of Hueneme blocks the littoral transport of sand downcoast to Hueneme Beach (as does Channel Islands Harbor which is located north of the Port). As such, the presence of sand on Hueneme Beach is dependent on the deposition of dredged materials from both the Port and Channel Islands Harbor, and when sediment is not placed, the beach becomes severely eroded.

The applicant submitted a Sampling and Analysis Report Port of Hueneme Deepening: Berths 1, 2, and 3, which examines the physical and chemical characteristics of the material to be dredged.

Based upon the results of the report, the sediment is physically and chemically suitable for beach nourishment through direct placement on the beach or placement in the nearshore zone. The Southern California Dredged Material Management Team (DMMT) also reviewed the report and approved the sediment for both beach and nearshore placement. The proposed project is consistent with the beach replenishment priorities of Coastal Act Section 30233(b) because it ensures that dredged material that is suitable for beach replenishment will be placed into the nearshore environment where it will be available for transport to local beaches, or directly onto the beach where it will provide direct sand replenishment.

Depending on when the subject project is implemented, and when the last dredging/deposition cycle occurred, Hueneme Beach may have sand, and the beach could be up to approximately 300 feet wide, or it may be completely eroded. Sensitive species, including the California least tern (*Sterna antillarum browni*) and western snowy plover (*Charadrius alexandrinus nivosus*) have been observed on Hueneme Beach, and as the presence of these species is also dependent on the presence of sand and the time of year that the project is implemented, the proposed deposition has the potential to disturb sensitive species in and around the project area due the construction activities. As such, Special Condition One (1) requires that if sand is present on the beach just prior to implementation of the proposed project, the applicant shall retain the services of a qualified biologist or environmental resource specialist to conduct surveys for sensitive wildlife species and to monitor project operations.

An existing public access pathway, which has been designated as a segment of the California Coastal Trail, extends the length of Hueneme Beach. There are also several other public recreational facilities and amenities located adjacent to the project site on Hueneme Beach, including picnic tables, showers, and educational signage. Public paths to and along the beach surrounding the project site would remain open during construction and all staging areas would be located on Port property, away from public access and recreational areas. However, because the proposed project would be located on the beach and immediately adjacent to public recreational amenities, to ensure the safety of recreational users and to ensure that the interruption to public access of the project site is minimized, Special Condition Four (4) requires the applicant to submit a public access plan to the Executive Director for review and approval. Furthermore, Special Condition Three (3) prohibits all operations on any part of the beach and shorefront in the project area from the Friday prior to Memorial Day in May through Labor Day in September.

In addition to the subject Coastal Development Permit (CDP), the Oxnard Harbor District is concurrently processing an amendment (PMP-4-PHM-18-0003-1) to its certified Port Master Plan (PMP) to make minor revisions to allow for wharf maintenance, maintenance dredging, and deepening of the subject deep draft berths from -35 MLLW to -40 MLLW. If the proposed amendment is certified, implementation of the subject dredging would be authorized by the PMP. However, the two locations that have been identified for sediment deposition are in areas where the Commission has retained jurisdiction over the issuance of coastal development permits. As such, the proposed project requires a coastal development permit from this Commission, and the standard of review for this project is the Chapter 3 policies of the Coastal Act.

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## I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

**MOTION:** *I move that the Commission **approve** Coastal Development Permit No. 4-17-0668 pursuant to the staff recommendation.*

### STAFF RECOMMENDATION OF APPROVAL:

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 TO APPROVE THE PERMIT:

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

## II. STANDARD CONDITIONS

- 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

#### 1. Sensitive Species Surveys

For any deposition activities that occur on Hueneme Beach when there is sandy beach present, the applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, “environmental resource specialist”) with appropriate qualifications acceptable to the Executive Director, to conduct sensitive species surveys (including birds, other terrestrial species, and California Grunion) and monitor project operations associated with all construction activities. Prior to commencement of the initial phase of construction activities, the applicant shall submit the name and qualifications of the environmental resource specialist, for the review and approval of the Executive Director. The applicant shall have the environmental resource specialist ensure that all project construction and operations are carried out consistent with the following:

- A. The environmental resource specialist shall conduct surveys prior to the approved construction activities to detect any active sensitive species, reproductive behavior, and active nests within 500 feet of the project site. Follow-up surveys must be conducted 3 calendar days prior to the initiation of construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.
- B. In the event that any sensitive species are present in or adjacent to the construction area but do not exhibit reproductive behavior and are not within the estimated breeding/reproductive cycle of the subject species, the qualified biologist shall implement a resource avoidance program with sufficient buffer areas to ensure adverse impacts to such resources are avoided. The applicant shall also immediately notify the Executive Director of the presence of such species and which of the above actions are being taken. If the presence of any such sensitive species requires review by the United States Fish and Wildlife Service and/or the California Department of Fish and Wildlife, then no development activities shall be allowed or continue until any such review and authorizations to proceed are received, subject to the approval of the Executive Director.
- C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor or heron is found, the applicant shall notify the appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action specific to each incident. The applicant shall notify the California Coastal Commission in writing by facsimile or e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
- D. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor or heron is found within 300 feet of construction activities (500 feet for raptors), the applicant shall retain the services of an environmental resource specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The environmental resources specialist shall be present at all relevant construction meetings and during all significant

construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resource specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site. If construction noise exceeds a peak level of 65 dB at the nest(s) site, sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 300 ft. (500 ft. for raptors) of the nesting trees/areas shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

- E. If any construction activity occurs on the sandy beach between March 1<sup>st</sup> and September 1<sup>st</sup>, then the applicant shall have the environmental resource specialist conduct a survey of the project site, to determine presence of California Grunion during the seasonally predicted run period and egg incubation period, as identified by the California Department of Fish and Wildlife. If the environmental resources specialist determines that any grunion spawning activity is occurring and/or that grunion are present in or adjacent to the project site, then no construction activities shall occur on the area of the beach where grunion have been observed to spawn until the next predicted run in which no grunion are observed. Surveys shall be conducted for all seasonally predicted run periods in which material is proposed to be placed or removed at the project site. The applicant shall have the environmental resource specialist provide inspection reports after each grunion run observed and shall provide copies of such reports to the Executive Director and to the California Department of Fish and Wildlife.
- F. The environmental resource specialist shall be present during all construction activities, including vehicle traffic associated with placement or removal of the pipeline, if any sensitive species are identified. The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicants shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit or a new coastal development permit.

## **2. Construction Responsibilities**

By accepting this permit, the applicant shall agree to comply with the following construction-related requirements:

- A. The applicant shall not store or place any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be stored or placed in the intertidal zone at any time.

- B. Construction equipment shall not be cleaned on the beach or in the adjacent beach parking areas.
- C. Construction debris and sediment shall be properly contained and secured with best management practices to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.
- D. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.

### **3. Operational Responsibilities**

By accepting this permit, the applicant shall agree to comply with the following operational requirements:

- A. All operations, including operation of equipment, spoil disposal, placement or removal of disposal pipelines, or other construction, maintenance, material removal, or activities involving mechanized equipment shall be prohibited on any part of the beach and shorefront in the project area from the Friday prior to Memorial Day in May through Labor Day in September to avoid impact on public recreational use of the beach.
- B. All pipeline operations and staging areas shall be limited to the locations depicted on Exhibit 4.
- C. Project activities shall minimize crossings or disturbance of the wrack zone. Wrack shall be separated and retained, to the maximum extent feasible, in areas where discharge operations will result in the loss or disturbance of wrack. Wrack shall be moved to the side during discharge operations, pipeline placement, and other project activities, and replaced in its original location/configuration, to the maximum extent feasible, at the completion of project operations where possible.
- D. At the completion of the deposition, but consistent with the timing restrictions specified in Special Condition One (1) above, the sand deposited on the beach shall be rough graded to natural beach contours to restore the dynamic shoreline habitat and to facilitate recreational use.

### **4. Public Access Program**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPEMNT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a report which describes the methods (including signs, fencing, posting of security guards, etc.) by which safe public access to or around the beach deposition sites and/or staging areas shall be maintained during discharge operations. The applicant shall maintain public access pursuant to the approved Public Access

Program. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

### **5. Conformance with the Requirements of the Resource Agencies**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence that they have obtained all other necessary State permits that may be necessary for all aspects of the proposed project (including, but not limited to, approvals from the California State Lands Commission and California Regional Water Quality Control Board unless evidence is submitted that such approval(s) are not required). In addition, by acceptance of this permit, the applicant agrees to obtain all necessary Federal permits that may be necessary for all aspects of the proposed project (including, but not limited to, the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service). Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

### **6. Assumption of Risk, Waiver of Liability and Indemnity**

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

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

## **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. PROJECT DESCRIPTION AND BACKGROUND**

#### Project Description

The Oxnard Harbor District is proposing to place 30,000 cubic yards of sediment dredged from Berths 1, 2, and 3 along Wharf 1 in the Port of Hueneme at two sites that have been identified to receive the dredged material. The first site is an approximately 9-acre area of Hueneme Beach that is located immediately seaward of the Port, and the second site is an approximately 27-acre



nearshore area that is located adjacent to Hueneme Beach (Exhibit 3). To place sediment on the beach, it would be dredged using a hydraulic dredge and pumped directly to the beach through temporary pipes. Sediment placement would begin on the westernmost portion of the beach and would progressively move east as the beach is built up. After the placement is complete, the sediment would be contoured. To place sediment in the nearshore site, it would be dredged using mechanical equipment such as a derrick barge and clamshell, transferred into a split-hull or bottom-dump barge, and transported to the nearshore area.

In addition to the subject Coastal Development Permit (CDP), the Oxnard Harbor District is concurrently processing an amendment to its certified Port Master Plan (PMP) to make minor revisions to allow for wharf maintenance, maintenance dredging, and deepening of the subject deep draft berths from -35 MLLW to -40 MLLW. The purpose of the proposed amendment (PMP-4-PHM-18-0003-1) is to facilitate continued use of the deep water berths by deep-draft vessels. Currently, deep-draft vessels calling on the Port are required to lighten their loads and work around tide cycles due to insufficient water depths. Deepening of the berths would allow for the Port to more efficiently accommodate deep-draft vessels and minimize vessel safety concerns.

The Commission certified the PMP on May 15, 1979. The PMP contains policies and objectives relating to current and future land and water uses for the commercial areas of the Port. Upon certification of a PMP, permit authority for any new development contained within the plan is delegated to the appropriate port governing body, which in this case is the Harbor District. As described above, PMP-4-PHM-18-0003-1 would add language to the certified PMP to allow for dredging and deepening. If the proposed amendment is certified, the Port would have the authority to approve and implement these projects.

Although implementation of the proposed dredging project would be authorized by the PMP, the two locations that have been identified for sediment deposition are in areas where the Commission has retained jurisdiction over the issuance of coastal development permits. As such, the proposed project requires a coastal development permit from this Commission, and the standard of review for this project is the Chapter 3 policies of the Coastal Act.

The subject CDP application was submitted to the Commission on August 9, 2017. This permit application was deemed incomplete and letters outlining the additional information needed were sent to the applicant. The applicant provided all of the information items requested by staff and the permit application was deemed complete for filing on April 26, 2018.

### Background

The Port is situated at the head of a submarine canyon, which provides deep water access to the Port approach and entrance channels. The Port contains berths owned by the Harbor District that are utilized for commercial shipping, as well as berths that are owned by the U.S. Navy that serve as a military port for the Naval Base of Ventura County. The Port also contains federal channels that are maintained by the U.S. Army Corps of Engineers. As such, all three entities are responsible for maintaining authorized navigation depths in different areas of the Port. Specifically, the Harbor District and the Navy are responsible for maintaining water depths along

their wharves and berths, and the Army Corps is responsible for maintaining safe navigation depths in the approach channel, entrance channel, and turning basin.

Construction of the Port in 1940 formed nearly a complete barrier to littoral sand transport, which would typically deposit sand on Hueneme Beach and other downcoast beaches. In order to create a sand trap to collect sand for placement on these beaches, the Channel Islands Harbor (Harbor) was constructed in 1960. However, construction of the Harbor also formed a barrier to littoral sand transport, which would typically deposit sand on Silver Strand Beach. As such, in 1963, the USACE began implementing the biennial Sand Bypassing Program and began dredging at the Harbor and the Port in order to supply sand to Silver Strand and Hueneme Beaches.

Most recently, in 2012, the Commission concurred with the Army Corps' Negative Determination ND-045-12, thereby authorizing a six-year maintenance dredging program at the Harbor and Port in order to maintain both at their authorized depths and widths, to maintain the sand traps located outside of Channel Islands Harbor at their design depths and capacities, and to replenish the downcoast beaches of Hueneme and Silver Strand, which as mentioned above erode as a result of altered littoral drift patterns associated with both the Harbor and Port. The six-year program includes three dredging cycles that are scheduled to occur biennially. The Army Corps estimates that over the six-year program, approximately 7.9 million cubic yards of sediment will be dredged from the Harbor and Port and placed on downcoast beaches and/or in adjacent nearshore zones.

Due to federal funding limitations in recent years, the frequency of placement, as well as amount of sand placed on Hueneme Beach has been much less than the targeted volume. In 2013, approximately 400,000 cubic yards of sand was placed; however, this sand quickly eroded over a period of months. As the sand on Hueneme Beach continued to erode, portions of a public access pathway, which runs parallel to the coast between Hueneme Beach and Surfside Drive, began to be partially undermined due to wave and tidal action. In response to this erosion, the Commission issued four Emergency Permits from July 2013 - June 2014 for the installation of a rock revetment. During this time the City was able to secure Senate Bill 436 (Jackson) and Assembly Bill 606 (Williams), which were both approved by the Governor on September 28, 2013. Under these bills, up to \$2 million in Proposition 12 funds were appropriated to the Coastal Conservancy for a grant to the City to help fund the shoreline revetment protection project.

On July 10, 2014, the Commission approved CDP No. 4-13-0971 for permanent authorization of a revetment installed pursuant to the emergency permits, as well as 1,200 ft. of additional revetment to be installed on a programmatic basis. Three public access stairways and replacement of public recreational amenities, including picnic tables, benches, and barbeques were also approved in a more landward location. Further, in recognition of the fact that sand placement could discontinue in the future and result in erosion at Hueneme Beach, a 25-year revetment repair and maintenance program that allows for retrieval of dislodged rock and infill of voids within the design footprint of the approved revetment was also approved as a component of the CDP.

**B. DIKING, FILLING, DREDGING OF OPEN COASTAL WATERS**

Section 30233 of the Coastal Act states:

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

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

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

...

*(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.*

Section 30233 of the Coastal Act states that diking, filling, and dredging of coastal waters may be permitted for expanding port or coastal-dependent industrial facilities, and for maintaining or restoring previously dredged depths where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30233 of the Coastal Act also mandates that dredging and disposal operations shall be carried out to avoid disruption of marine and wildlife habitats, and that suitable dredge sediments shall be deposited for beach replenishment.

The Harbor District is proposing to place 30,000 cubic yards of sediment dredged from the Port of Hueneme within an approximately 9-acre area of Hueneme Beach that is located immediately seaward of the Port and within an approximately 27-acre nearshore area that is located adjacent to Hueneme Beach. The sediment would be dredged by the Harbor District from the existing deep-draft berths along Wharf 1 to allow for the continued use of these berths by deep-draft vessels. Pursuant to Port Master Plan (PMP) Amendment PMP-4-PHM-18-0003-1, this dredging would be authorized under the PMP and processed by the Harbor District.

The applicant submitted a Sampling and Analysis Report Port of Hueneme Deepening: Berths 1, 2, and 3, completed by Anchor QEA, LLC, and dated May 2017, which examines the physical and chemical characteristics of the material to be dredged. Testing for suitability of the material for beach nourishment included physical and chemical analyses of the dredge area and physical analysis of the placement sites (on Hueneme Beach and nearshore) to determine compatibility. Testing was performed in accordance with guidelines specified in the Evaluation for Dredged Material Proposed for Ocean Disposal –Testing Manual (OTM; USEPA/USACE 1991), the Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. – Inland Testing

Manual (ITM; USEPA/USACE 1998), and the Los Angeles Contaminated Sediments Task Force/DMMT guidance.

The Sampling and Analysis Report found that the grain size of sediment from Berths 1, 2, and 3 consisted primarily of sand. Percent fines of composite samples ranged from 16.1 to 26.4% and sediments were classified as silty sand or poorly graded sand with silt. Grain size of sediment from Hueneme Beach also consisted primarily of sand. Percent fines of the Hueneme Beach ranged from 0.8 to 22.9% and the sediment was classified as silty sand, poorly graded sand, or poorly graded sand with silt. Furthermore, the analysis found that within the sediment from Berths 1, 2, and 3, concentrations of all contaminants were low; that the sediment does not pose a toxicity risk to water column organisms after discharge; and that the sediment is not acutely toxic to benthic organisms.

Based upon the results of the Sampling and Analysis Report, the sediment dredged from Berths 1, 2, and 3 are physically and chemically suitable for beach nourishment through direct placement on the beach or placement in the nearshore zone. Furthermore, the Southern California Dredged Material Management Team (DMMT) reviewed the Sampling and Analysis Report and also approved the sediment for both beach and nearshore placement.

Coastal Act Section 30233(b) requires that dredge material suitable for beach replenishment be transported for such purposes to appropriate beaches. As described above, the sediment dredged from the Port has been tested and determined to be both physically and chemically suitable for placement on or in the nearshore waters of Hueneme Beach. Furthermore, the presence of sand on Hueneme Beach is dependent on the deposition of dredged materials, and when sediment is not placed, the beach becomes severely eroded. As such, the proposed project is consistent with the beach replenishment priorities of Coastal Act Section 30233(b) because it ensures that dredged material that is suitable for beach replenishment will be placed into the nearshore environment where it will be available for transport to local beaches, or directly onto the beach where it will provide direct sand replenishment.

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

### **C. MARINE RESOURCES AND WATER QUALITY**

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 that:

*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 protects environmentally sensitive habitat areas (ESHA) by restricting development in and adjacent to ESHA. Section 30240 states:

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

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

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Coastal Act Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Further, Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained and protected through measures such as controlling runoff, preventing depletion of groundwater supplies, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing the alteration of natural streams. Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHA) must be protected against disruption of habitat values and that only resource dependent uses may be allowed within ESHA. Additionally, development adjacent to ESHA must be sited and designed to prevent impacts that would significantly degrade ESHA.

The proposed sediment deposition would be located within an approximately 9-acre area of Hueneme Beach that is located immediately seaward of the Port and within an approximately 27-acre nearshore area that is located adjacent to Hueneme Beach. To place sediment on the beach, it would be dredged using a hydraulic dredge and pumped directly to the beach through

temporary pipes. Sediment placement would begin on the westernmost portion of the beach and would progressively move east as the beach is built up. After the placement is complete, the sediment would be contoured. To place sediment in the nearshore site, it would be dredged using mechanical equipment such as a derrick barge and clamshell, transferred into a split-hull or bottom-dump barge, and transported to the nearshore area.

The applicant submitted a Survey of Biological Resources, Completed by Ecomarine Consulting and Anghera Environmental, dated September 22, 2017 which indicated that the nearshore deposition area is characterized by sandy bottom habitat. One area with a small rock outcrop approximately 4 meters by 6 meters, and approximately 1 meter tall was identified along one of the transects surveyed. This rock outcrop did not support kelp and was surrounded by sand. Along another transect, a large number of sand dollars (*D. excentricus*) were observed. Based upon these results, the applicant revised the location of the nearshore deposition area to avoid these areas.

Several sensitive species have been identified near the Hueneme Beach deposition site, including the California brown pelican (*Pelecanus occidentalis californicus*), a CDFG species of special concern, California least tern (*Sterna antillarum browni*), a federal and state endangered species, and western snowy plover (*Charadrius alexandrinus nivosus*), a federal threatened species. The presence of sand on Hueneme Beach is dependent on the deposition of dredged materials, and when sediment is not placed, the beach becomes severely eroded. As such, depending on when the subject project is implemented, and when the last dredging/deposition cycle occurred, the Hueneme Beach deposition site may have sand and the beach could be up to approximately 300 feet wide, or it may be completely eroded. As the presence of these species is also dependent on the presence of sand and the time of year that the project is implemented, the proposed project has the potential to disturb sensitive species in and around the project area due to the construction activities. As such, to ensure that potential adverse impacts to sensitive bird species are avoided, **Special Condition One (1)** requires that if sand is present on the beach prior to implementation of the proposed project, the applicant shall retain the services of a qualified biologist(s) or environmental resource specialist(s) to conduct surveys for sensitive wildlife species and to monitor project operations. Prior to commencement of any project operations, the applicant shall submit the name and qualifications of the biologist or specialist, for the review and approval of the Executive Director. The environmental resource specialist shall conduct a survey of all areas within and near the project site to determine presence and behavior of sensitive wildlife species prior to any project operations. In the event that any sensitive wildlife species exhibit reproductive or nesting behavior, the environmental specialist shall immediately notify the Executive Director and local resource agencies in writing.

The project area is also located within the expected range of the California Grunion. To ensure that any potential adverse effects to the California Grunion are minimized, Special Condition One (1) also requires that if sand is present on the beach prior to implementation of the proposed project, a qualified biologist or environmental resource specialist shall conduct a survey of the project site each day prior to commencement of any construction activities that occur between March 1<sup>st</sup> and September 1<sup>st</sup>, to determine whether any California Grunion, or eggs, are present. In the event that the California Grunion are present on the project site, and exhibit reproductive behavior, the environmental specialist shall require the applicant to cease work, and shall

immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The monitor(s) shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The monitor(s) shall immediately notify the Executive Director if activities outside of the scope of this coastal development permit. If significant impacts or damage occur to the California Grunion, the applicant shall be required to submit a revised, or supplemental, program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

Furthermore, construction activities have the potential to impact the wrack zone. Removal of wrack can have significant impacts on the natural ecology of sandy beaches, including invertebrates and foraging seabirds. Therefore, in order to avoid potential adverse impacts to sensitive habitat, **Special Condition Three (3)** requires the applicant to retain wrack on the beach to the maximum extent feasible during project activities, including stockpiling of wrack during and replacement of the wrack in the same location/configuration at the completion of project operations where possible. To further ensure that impacts to sensitive species and habitats are avoided, Special Condition Three (3) also requires that the applicant limit all pipeline operations and staging areas to the locations depicted on Exhibit 4.

The proposed beach nourishment would be located in and adjacent to coastal waters. Construction of any kind, adjacent to or in coastal waters, has the potential to adversely impact marine resources and water quality through the introduction of pollutants associated with construction. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. In order to avoid adverse construction-related impacts upon marine resources and water quality, **Special Condition Two (2)** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Lastly, the applicant must also comply with all other applicable federal and state requirements and mitigation measures. As such, **Special Condition Five (5)** requires that the applicant comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, State Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30230, 30231, and 30240.

## **D. PUBLIC ACCESS AND RECREATION**

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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

Section 30240 of the Coastal Act states:

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

Coastal Act Section 30210 and Coastal Act Section 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Section 30240 requires that development adjacent to recreation areas protect those areas.

The Port of Hueneme (Port) is located within the City of Port Hueneme, in the southwest portion of Ventura County between the Pacific Ocean and the Oxnard Plain. Hueneme Beach is located immediately seaward of the Port, and extends the length of Surfside Drive, as depicted on Exhibit 1.

An existing public access pathway, which has been designated as a segment of the California Coastal Trail, extends the length of Hueneme Beach. Specifically the pathway begins just east of the Port entrance and extends downcoast approximately 1.4-miles towards Ormond Beach. In addition to the public access pathway there are several other public recreational facilities and amenities located on Hueneme Beach, including picnic tables, showers, and educational signage which provide the public with information regarding the effects of sea level rise, coastal hazards on Hueneme Beach, and the history of the Army Corps of Engineers' Sand Bypassing project and how it affects erosion on Hueneme Beach.

Public paths to and along the beach surrounding the project site would remain open during construction and all staging areas would be located on Port property, away from public access and recreational areas, as depicted on Exhibit 4. The pipelines utilized for deposition on Hueneme Beach would also be located outside of public access and recreational areas. Although



construction and staging areas would be located outside of areas utilized by the public, because the proposed project would be located on the beach and immediately adjacent to public access and recreational amenities, to ensure the safety of recreational users and to ensure that the interruption to public access of the project site is minimized, **Special Condition Four (4)** requires the applicant to submit a public access plan for review and approval of the Executive Director. Special Condition Four (4) also requires that the plan contain a description of the methods (including signs, fencing, posting or security guards, etc.) by which safe public access to and around the project area shall be maintained during all project operations.

Additionally, to further ensure that potential impacts to public access are avoided, and that maximum public access is provided, **Special Condition Three (3)** requires that all operations, including operation of equipment, spoil disposal, placement or removal of disposal pipelines, or other construction, maintenance, material removal, or activities involving mechanized equipment are prohibited on any part of the beach and shorefront in the project area from the Friday prior to Memorial Day in May through Labor Day in September. Special Condition Three (3) also requires the applicant to ensure that the beach is graded and groomed to natural beach contours at the completion of the sediment deposition to facilitate recreational use.

For these reasons, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30210, 30211, and 30240.

## **E. HAZARDS AND SHORELINE PROCESSES**

Section 30253 of the Coastal Act states, in pertinent part, that new development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard*
- (2) *Assure stability and structural integrity, and neither create or contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction or protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30253 of the Coastal Act mandates that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The Ventura County coastal area, where the subject site is located, has historically been subject to flooding and damage resulting from wave action during storm conditions, including those experienced during El Nino winter storm seasons. Additionally, because the presence of sand at Hueneme Beach is dependent on sediment deposition, during the cessation of the Army Corps Sand Bypassing Project described in Section IV, Part A of this report, Hueneme Beach and surrounding downcoast beaches experienced increased erosion, which resulted in damage to public beach amenities at Hueneme Beach, including a portion of a public access pathway wall. Thus, ample evidence exists that all beachfront areas in the Ventura County area, including the

subject project site, are subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding.

Thus, in this case, the Commission finds that due to the possibility of tsunami, storm waves, surges, and erosion the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special Condition Six (6)**, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the development it protects, and will effectuate the necessary assumption of those risks by the applicant

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

## **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The Harbor District, as lead agency, prepared and certified a mitigated negative declaration for this project pursuant to the California Environmental Quality Act (CEQA). Section 13096(a) of the Commission's administrative 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 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. Special Conditions One (1) through Six (6) are required to assure the project's consistency with Section 13096 of the California Code of Regulations. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A**

### **Substantive File Documents**

Negative Determination ND-045-12 (Six-Year Maintenance Dredging Program at Channel Islands and Port Hueneme Harbors, Ventura County).

Port of Hueneme Master Plan De Minimis Amendment PMP-4-PHM-18-0003-1 (Deep Draft Berth Maintenance and Dredging).

Survey of Biological Resources Offshore of the Port of Hueneme nearshore Placement Site, completed by Ecomarine Consulting LLC and Anghera Environmental, dated October 15, 2017.

Sampling and Analysis Report Port of Hueneme Deepening: Berths 1, 2, and 3, Anchor QEA LLC, dated May 2017.

California State Lands Commission Lease No. PRC 9435.9