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STAFF REPORT: PERMIT AMENDMENT

Application No.:	**5-14-1221-A1**
Permittee:	**OC Dana Point Harbor (County of Orange)**
Agent:	Moffat & Nichol; Attention: Kim Garvey
Location:	34675 Golden Lantern (Sport Fishing Docks 1 & 2), City of Dana Point (County of Orange)
Description of Original Permit	Install 20 round, 14-inch diameter steel guide pile sleeves over 20 existing 10-inch diameter steel guide piles.
Description of Proposed Amendment	Increase the number of concrete filled steel piles to be repaired from 20 to 46, and instead of installing steel guide pile sleeves, wrap the 46 piles in fiberglass jackets (Simpson-Strong Tie Jacket approach).
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

In August 2015, the Commission approved the Coastal Development Permit (CDP) 5-14-1221 with five special conditions for the installation of 20 round, 14-inch outer diameter steel guide pile sleeves coated with a non-toxic coating over 20 existing 10-inch outer diameter round steel guide piles of Docks 1 and 2 of the Sport Fishing Docks at Dana Point Harbor.

Since the project's approval in 2015, the applicant has determined that additional piles need to be repaired due to deterioration and also instead of the repaired piles being sleeved; they will now be wrapped with a fiberglass jacket. Thus, the applicant is requesting an amendment to increase the number of concrete filled steel piles to be repaired from 20 to 46. Each of the 46 piles to be repaired are proposed to be wrapped in a fiberglass jacket (Simpson-Strong Tie Jacket approach). The applicant has stated that they and/or the sportfishing operator will monitor the condition of the jackets on a regular basis to check for signs of wear and/or cracking.

The major issue raised by the proposed amendment is water quality. Commission Staff recommends approval of the amendment request with the addition of one new special condition to the permit's original five special conditions. **Special Condition No. 6** requires best management practices (BMPs) regarding the proposed grout and coating involved with the amended project.

As conditioned, the proposed amendment and development will conform with Sections 30230, 30231 and 30233 of the Coastal Act.

The proposed project is located in the City of Dana Point Harbor, which has a Certified Local Coastal Program (LCP) entitled the Dana Point Harbor Revitalization Plan. However, since the proposed project is taking place seaward of the mean high tide line, it is in the Commission's permit jurisdiction such that the standard of review is the Chapter 3 policies of the Coastal Act. Therefore, the Coastal Commission is the permit issuing authority for this project.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

1) The Executive Director determines that the proposed amendment is a material change, or

2) Objection is made to the Executive Director's determination of immateriality, and at least three Commissioners object to the executive directors' designation of immateriality at the next Commission meeting, or the Executive Director determines that the objection raises an issue of conformity with the Coastal Act or certified Local Coastal Program.

In this case, the Executive Director has determined that the proposed amendment is a material change that affects conditions required for the purpose of protecting a coastal resource or coastal access.

Section 13166(a) of the Commission's Regulations also calls for the Executive Director to reject a permit amendment request if it would lessen or avoid the intended effect of the previously approved permit.

The proposed amendment would not lessen the intended effect of Coastal Development Permit No. 5-14-1221 envisioned in the Commission's August 2015 action approving the project with conditions. Therefore, the Executive Director accepted the amendment request.

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APPENDICES

EXHIBITS

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Amendment No. 5-14-1221-A1, pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit amendment 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 Coastal Development Permit Amendment No. 5-14-1221-A1 on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

II. SPECIAL CONDITIONS OF PERMIT AMENDMENT

Note: All special conditions attached to Coastal Development Permit No. 5-14-1221 are listed below. The special conditions of Coastal Development Permit 5-14-1221 are unchanged and remain in effect on this permit amendment. One new special condition (no. 6) is being imposed as a result of this amendment to the permit, as described below.

1. Pre-and Post-Construction Eelgrass Survey(s)

A. Pre-Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre- construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the "California Eelgrass Mitigation Policy and Implementing Guidelines" dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) adopted by the National Marine Fisheries Service (except as modified by this special condition) and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction, or within the first 30 days of the next active growth period following

completion of construction that occurs outside of the active growth period, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "California Eelgrass Mitigation Policy and Implementing Guidelines" dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 (mitigation:impact) ratio on-site, or at another location, in accordance with the California Eelgrass Mitigation Policy and Implementing Guidelines. Based on past performance of eelgrass mitigation efforts in this area, in order to achieve this minimum, an initial planting ratio of 1.38:1 is recommended. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation: impact). Any exceptions to the required 1.2:1 mitigation ratio found within the California Eelgrass Mitigation Policy and Implementing Guidelines shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

2. Pre-Construction *Caulerpa taxifolia* Survey

A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.

B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/caulerpa_taxifolia.html).

C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:

(1) for the review and approval of the Executive Director; and

(2) to the Surveillance Subcommittee to the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Wildlife (858-467-4218/William.Paznokas@wildlife.ca.gov) or Bryant Chesney, National Marine Fisheries Service (562-980-4037/Bryant.Chesney@noaa.gov), or their successors.

D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until: 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project

to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Water Quality

A. Construction Responsibilities and Debris Removal

(1) No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;

(2) Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;

(3) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;

(4) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;

(5) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;

(6) Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;

(7) Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;

(8) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;

(9) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

(10) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

(11) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

(12) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;

(13) The discharge of any hazardous materials into any receiving waters shall be prohibited;

(14) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;

(15) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and

(16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Best Management Practices Program

By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs:

(1) Boat Cleaning and Maintenance Measures:

a. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;

b. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized; and

c. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

(2) Solid and Liquid Waste Management Measures:

a. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.

(3) Petroleum Control Management Measures:

a. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited;

b. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids; and

c. Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

4. Final Construction Staging Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the permittee shall submit for the review and approval of the

Executive Director, two (2) full size sets of construction staging plans, which indicate that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the coast.

(1) The plan shall demonstrate that:

a. Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition;
b. Construction equipment, materials, or activity shall not be placed within any water area; and
c. The construction staging area will gradually be reduced as less materials and equipment are necessary.

(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); and
3. construction site.

The permittee shall undertake development in accordance with the approved final plan. 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.

5. 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.

ADD THE FOLLOWING SPECIAL CONDITION

6. Responsibilities for Use of Grouting and Coatings. The applicant shall comply with the following best management practices for the use of grouting and corrosion coatings:

A. Installation and application of epoxy, resin, or cementitious grout/fill shall be conducted when predicted weather and ocean conditions allow effective control and full containment and will remain dry until cured, in order to prevent any leaching of uncured treatment materials into coastal waters. It is preferable to perform the work in dry conditions (low tide) or off-site in a controlled-environment manufacturing facility, wherever feasible.
B. All cleaning and preparation of surfaces shall use wet vacuum techniques, containment booms or heavy mesh containment netting so that any debris, chips, dust, dirt, and fine particles are collected and disposed of in a location where they will not enter coastal waters.
C. Methods to contain any leaks or spills of treatment materials during application shall be planned in advance, and any necessary equipment or supplies shall be readily accessible onsite. Any leaks or spills of anti-corrosion coatings, epoxy fillers, and waterproofing sealants shall be immediately cleaned up.

D. All pressure-injection and gravity-feed applications of epoxy, resin, or cementitious materials shall be closely monitored visually to ensure that these materials do not leak or spill into coastal waters during application.
E. Coatings and waterproofing sealants used in the field shall be carefully applied by brush or roller to limit application to the immediate surfaces intended for protection, and to prevent drips or spills into coastal waters.
F. All anti-corrosion coatings, epoxy fillers, and waterproofing sealants shall be properly stored and contained so that these products will not leak or spill, or otherwise enter the coastal environment.

III. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

In August 2015, the Commission approved the Coastal Development Permit (CDP) 5-14-1221 with five special conditions for the installation of 20 round, 14-inch outer diameter steel guide pile sleeves coated with a non-toxic coating over 20 existing 10-inch outer diameter round steel guide piles of Docks 1 and 2 of the Sport Fishing Docks located in the eastern portion of Dana Point Harbor, which is owned by the County of Orange and operated by Orange County (OC) Dana Point Harbor, though located within the City of Dana Point (**Exhibit No. 1**).

Since the project's approval in 2015, the applicant has determined that additional piles need to be repaired due to deterioration and also instead of the repaired piles being sleeved, they will now be wrapped with a fiberglass jacket. Thus, the applicant is requesting an amendment to increase the number of concrete filled steel piles to be repaired from 20 to 46 and instead of installing steel guide pile sleeves, wrapping them in a fiberglass jacket (Simpson-Strong Tie Jacket approach) (**Exhibit No. 2**). The final diameter of the guide piles after installation of the sleeves will be 14 inches, i.e. the diameter will be the same as that authorized in the original CDP. The applicant states that the proposed pile wrapping was determined to have fewer environmental impacts than the previously approved steel pipe pile sleeves because the jackets do not disturb the underwater mudline and are not creating fill or generating impacts to benthic organisms as is the case with the steel pipe sleeves.

The pile repair construction work involves several steps. First, reinforcing steel may be employed to the pile to provide additional strength and then spacers will be placed between the pile and the jacket to ensure a consistent void surrounds the area to be repaired. The damaged piles will then be wrapped with a fiberglass jacket that will extend 18-inches to 24-inches above and below the damaged pile section, but not below the mudline. The jacket will extend on the pile above the high water line to approximately +10 feet Mean Lower Low Water (MLLW) and the final depth of the bottom of the repair jackets will be determined by the location of the pile damage and will vary from pile to pile, but will not extend down to the mudline and will maintain a minimum 6 inches above the mudline and not result in additional fill. After installing a bottom seal at the base of the jacket and external bracing around the bracing, grout will be introduced into the void area that exists between the pile and the jacket. The grout will cure overnight after which an epoxy will be installed at the head of the jacket creating a water and chemical-resistant barrier to the repair system. An abrasion-resistant coating, Plasite® 4500-S Epoxy Amine as manufactured by Carboline®, will be factory applied over the jacket. The applicant has stated that it and/or the sportfishing operator will monitor the condition of the jackets on a regular basis to check for signs of wear and/or cracking.

The majority of the repair work will be performed from either the dock float or by divers in the water. It is anticipated that a landside crane will be used to introduce the jackets into the water. The steel surface of the piles will be cleaned by hand to make sure bond will adhere. Any larger debris will be removed by hand. A silt curtain will be set in place during the pile cleaning and jacket placement steps to prevent any debris or leaked materials reaching the larger water body.

The proposed work will take place over approximately three months, one dock at a time and the displaced vessels will be temporarily docked in the Sport Fishing Dock area while construction

takes place. Thus, public access to some of the docks will continue to be provided during construction.

B. 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 30233 of the Coastal Act states (in relevant part):

> *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
> *(l) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
> *(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
> *(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
> *(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
> *(6) Restoration purposes.*
> *(7) Nature study, aquaculture, or similar resource dependent activities.*

1. Fill

The Coastal Act limits the fill of open coastal water and also requires that any project which results in fill of open coastal waters provide adequate mitigation. Section 30233 of the Coastal Act allows

fill of open coastal waters, such as Dana Point Harbor, for recreational boating purposes. The project originally proposed the installation of 20 round, 14-inch outer diameter steel guide pile sleeves over 20 existing 10-inch outer diameter round steel guide piles resulting in the fill of 11 square feet of soft bottom habitat. The applicant is now revising that approach and instead the piles will now be wrapped with a fiberglass jacket and therefore no fill will result. The installation of the jacket on the piles is necessary to provide continued operation of the sport fishing docks used for public recreational opportunities. The proposed project does not result in any new fill and it therefore need not meet the tests in section 30233. Nevertheless, the project as conditioned to require construction best management practices (**Special Condition No. 6**) is the least environmentally damaging alternative.

The applicant states that the proposed pile wrapping was determined to have less of an environmental impact than the previously approved steel pipe pile sleeves because the jackets do not disturb the underwater mudline and are not creating fill or generating impacts to benthic organisms as is the case with the steel pipe sleeves. The jacket approach also differs from the steel pile alternative in that driving of steel piles is no longer necessary.

2. Eelgrass (*Zostera marina) and Caulerpa taxifolia*

Eelgrass (*Zostera marina)* is an aquatic plant consisting of tough cellulose leaves, which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered important to protect because it functions as important habitat for a variety of fish and other wildlife, according to the California Eelgrass Mitigation Policy (CEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (CDFW). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

In 1999, a non-native and invasive aquatic plant species, *Caulerpa Taxifolia*, was discovered in parts of Huntington Harbor (Emergency Coastal Development Permits 5-00-403-G and 5-00-463-G). *Caulerpa Taxifolia* is a type of seaweed which has been identified as a threat to California's coastal marine environment because it has the ability to displace native aquatic plant species and habitats. Information available from the National Marine Fisheries Service indicates that *Caulerpa Taxifolia* can grow in large monotypic stands within which no native aquatic plant species can co-exist. Therefore, native seaweeds, seagrasses, and kelp forests can be displaced by the invasive *Caulerpa Taxifolia*. This displacement of native aquatic plant species can adversely impact marine biodiversity with associated impacts upon fishing, recreational diving, and tourism. *Caulerpa Taxifolia* is known to grow on rock, sand, or mud substrates in both shallow and deep water areas. Since eelgrass grows within the general project vicinity, *Caulerpa Taxifolia*, if present, could displace eelgrass in the channels.

The applicant has provided information from a 2010 analysis indicating that neither eelgrass nor *Caulerpa taxifolia* is found on site. Up to date surveys are necessary prior to construction of the project to verify that no resources are impacted by the development. Therefore, the Commission continues to impose **Special Conditions No. 1** and **No. 2**, which identify the procedures necessary to be completed prior to beginning any construction. Also, if any *Caulerpa taxifolia* is found on the project site**, Special Conditions No. 2** identifies the procedures necessary to be completed prior to

beginning any construction. These two special conditions were previously imposed on the original permit CDP No. 5-14-1221 and are unchanged and are also required with this amendment.

3. Construction Impacts to Water Quality

The proposed work will be occurring on and within coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment, inconsistent with the requirements of sections 30230 and 30231. To assure that all impacts to water quality are minimized, to reduce the potential for construction related impacts on water quality, and to reduce the potential for post-construction impacts to water quality, the Commission continues to impose **Special Condition No. 3**, without changes, which requires, but is not limited to, appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and the continued use and maintenance of post construction Best Management Practices (BMPs). This special condition was previously imposed on the original permit CDP No. 5-14-1221 and is unchanged and is also required with this amendment.

The proposed project now includes the wrapping of the repaired piles with a fiberglass jacket with abrasion resistant coating instead of sleeving the piles as originally proposed. A grout will be used between the existing pile and the fiberglass jacket to form an adhesive bond between these two areas. In order to ensure impacts to water quality are minimized from the proposed grout and coating, the Commission imposes **Special Condition No. 6**, which requires BMPs regarding the grout and the coatings.

As conditioned, the Commission finds that the development conforms to Sections 30230, 30231 and 30233 of the Coastal Act.

C. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. LOCAL COASTAL PROGRAM (LCP)

The proposed development is taking place in the City of Dana Point that has a Certified Local Coastal Program, the Dana Point Harbor Revitalization Plan Local Coastal Plan (the Land Use Plan (LUP) component was effectively Certified on October 13, 2010 and the Implementation Plan (IP) was effectively certified on October 6, 2011). The proposed development is taking place in the Harbor water (Planning Area II of the Certified LCP), the Commission's area of retained permitting jurisdiction under Coastal Act Section 30519(b). The development must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The policies of the Certified LCP may only be used for guidance. The proposed development is consistent with Policies 7.2.1-4, 7.2.1-4, 7.2.1-5, 7.2.1-6, 7.2.1-9 and does not conflict with any provision of the certified LCP.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications, and amendments, 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.

OC Dana Point Harbor is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The County determined that in accordance with CEQA, the project is covered by FEIR 591 certified on January 31, 2006. The County has determined that the proposed amendment is also covered under FEIR 591. Accordingly, and as conditioned herein to avoid and minimize adverse environmental impacts, there are no feasible mitigation measures available that would substantially lessen any significant adverse effect which the proposed activity may have on the environment, and the project conforms with CEQA.

APPENDIX A: Substantive File Documents

Letter to Commission staff from Moffat and Nichol dated December 22, 2017; Letter to Moffat and from Commission staff dated January 25, 2018; Letter to Commission staff from Moffat and Nichol dated March 12, 2018; Letter to Moffat and Nichol from Commission staff dated April 13, 2018; Letter to Commission staff from Moffat and Nichol dated May 1, 2018; Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. R9-2014-0089 by the San Diego Regional Water Quality Control Board dated March 23, 2018; and U.S Army Corp s of Engineers Letter to OC Parks dated April 30, 2018.