

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.:	5-19-0225
Applicants:	California Department of Parks and Recreation
Agents:	Luke Serna, Associate Park and Recreation Specialist
Location:	25300 Harbor Drive, Dana Point, Orange County
Project Description:	Reline or replace approximately 6,500 linear feet of existing sewer lines within Doheny State Beach. Includes temporary trenching, phased closure of the day use area during construction and complete closure of the campground from November 15, 2020 through April 1, 2021, demolition and replacement of vegetation outside bird breeding season (February 15 to September 1), construction of an approximately 6 foot high maintenance yard lift station, rehabilitation and installation of manholes, and system monitoring.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project is the relining or replacement of approximately 6,500 linear feet of existing aging sewer line, much of which is in poor condition, within the Doheny State Beach. The proposed development includes temporary trenching, potential dewatering, modifications to an existing lift station and construction of a new lift station, rehabilitation of 4 manholes and installation of 21 manholes, vegetation removal and replanting, implementation of impact minimization measures, and system monitoring. Removal of vegetation, as proposed, would be conducted outside of bird breeding season (February 15 to September 1). The applicant also proposes phased closure of the day use area between November 2019 and April 2020 in order to

maintain access to the State Beach and park amenities throughout construction, and temporary closure of the campground from November 15, 2020 through April 1, 2021. No work is proposed on the sandy beach. The applicant is the California Department of Parks and Recreation. This project is funded through a Clean Beaches Initiative grant.

The City of Dana Point, the City in which the proposed project is located, has a certified Local Coastal Program; however, Doheny State Beach is located within the Commission's retained coastal development permit jurisdiction area. Therefore, a CDP from the Coastal Commission is required and the standard of review for the CDP application is Chapter 3 of the Coastal Act.

Staff is recommending **approval** of the coastal development permit with **nine (9) special conditions** including: **1) Permit Compliance; 2) Other Agency Approvals; 3) Temporary Shoreline Access Management; 4) Construction and Pollution Prevention Plan; 5) Biological Resources; 6) Geotechnical Recommendations; 7) No Future Shoreline Protective Device; 8) Assumption of Risk, Waiver of Liability and Indemnity.**

The motion to carry out the staff recommendation is on page four of this report.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Site Plans

Exhibit 3 – Project Avoidance and Minimization Measures

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit Application No. 5-19-0225 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 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 Application No. 5-19-0225 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Permit Compliance.** The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans, including but not limited to the Site Access and Staging Plan, Demolition Plan, Planting Plan, Sewer System Improvement Plans, Project Avoidance and Minimization Measures, and Project Specifications approved by the Executive Director. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.
2. **Other Agency Approvals.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a permit, or letter of permission, or evidence that no permit or permission is required for the project subject to this coastal development permit, issued by the following entities: City of Dana Point; Orange County Flood Control District; South Orange County Wastewater Authority; State Water Resources Control Board; and California Department of Transportation. The applicant shall inform the Executive Director of any changes to the project required by the cited entities. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
3. **Temporary Shoreline Access Management.** Public access to and along the beach shall be maintained during construction.
 - A. Day Use Area Phased Closure. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall submit a Phased Closure Plan for the temporary day-use area for review and concurrence by the Executive Director. As proposed, no more than fifty percent (50%) of the public parking at Doheny State Beach shall be used for construction-related activities on any given day. As proposed, during construction, the permittee shall provide schedule updates showing anticipated temporary parking closures. The applicant shall submit schedule changes to the Executive Director.

The permittee shall undertake development in accordance with the approved Phased Closure Plan unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.
 - B. Campground Closure. The temporary closure of the campground shall be minimized to the greatest extent feasible. Closure of the campground shall not commence prior to

November 15th and shall avoid Thanksgiving weekend, if feasible. As proposed, State Parks shall provide alternate camping opportunities, where available, and based on demand, to offset the temporary loss of camping access during construction.

- C. This CDP does not authorize the closure of any sandy beach area.
 - D. Signage. Public access signs shall facilitate, manage, and provide public access to Doheny State Beach during construction.
4. **Water Quality.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit one copy of a Construction Pollution Prevention Plan (CPPP), or a Certified Stormwater Pollution Prevention Plan (SWPPP), prepared and certified by a qualified licensed professional, for the review and concurrence by the Executive Director. The CPPP (or SWPPP) shall substantially conform to the State's Construction General Permit Order 2009-0009-DWQ, and the Project Specifications dated April 8, 2019, including, but not limited to Section 311235 [*Stormwater Pollution Prevention Plan (SWPPP)*] and Section 000810 (*Constraints and Mitigations*), subsection 3.5 (*Erosion Control*).

The permittee shall undertake development in accordance with the CPPP (or SWPPP), unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

5. **Biological Resources.** The permittee shall adhere to the project specifications attached as **Exhibit 3** to the staff report dated 10/3/19, including but not limited to: Section 000810 (*Constraints and Mitigations*), subsections 3.3 (*Natural Resource Constraints*) and 3.5.B; Section 015000 (*Temporary Facilities and Controls*), subsection 3.4 (*Security and Protection Facilities Installation*); Section 015639 (*Temporary Tree and Plant Protection*); and Section 329900 (*365-Day Landscape Establishment Period*). In addition, all of the following requirements shall be met.
- A. The permittee's Natural Resource Specialist shall coordinate closely with the permittee's Contractor and shall monitor construction-related activities with potential to adversely impact biological resources including, but not limited to vegetation removal and ground disturbing activities during bird nesting season (February 15 to September 1) and monarch butterfly roosting season (October 15 to March 31).
 - B. The Contractor shall implement all protection measures identified by the permittee's Natural Resource Specialist.
 - C. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Native and low-water use plants shall be used to the maximum extent feasible.
 - D. Plantings will be maintained in good growing condition throughout the life of the project.

6. **Geotechnical Recommendations.** All recommendations of the geotechnical report titled “Geotechnical Investigations: Sewer System Rehabilitation, Doheny State Beach,” prepared by Geocon Consultants Inc. and dated December 12, 2018 shall be adhered to including recommendations for site preparation, excavation support, trench dewatering, soil corrosion screening, pipe bedding and trench backfill, foundation and pipe loading design, and all other recommendations.
7. **No Future Shoreline Protective Device.** By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-19-0225 including, but not limited to, the relined, replaced, and/or abandoned sewer pipes, manholes, and/or lift stations, including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, groundwater intrusion, or other coastal hazards in the future, and as may be exacerbated by sea level rise.

By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including but not limited to, the relined, replaced, and/or abandoned sewer pipes, manholes, and/or lift stations, if any government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required.

In the event that portions of the development are inundated or fall to the bluffs or ocean before they are removed, the landowner shall remove all recoverable debris associated with the development from the bluffs and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

8. **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, including but not limited to waves, storms, flooding, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

Doheny State Beach is located in Orange County in the community of Dana Point. The 62-acre State Beach is located to the south of Pacific Coast Highway, and adjacent to Dana Point Harbor (**Exhibit 1**). Doheny includes two sections separated by San Juan Creek. The northernmost section includes the park entrance and a day use area with a sandy beach, several large expanses of grass, picnic tables, restrooms, small park office with interpretive center, food concessions, and the North Day Use parking. The southern portion includes campground parking, restrooms, a day use area and the South Day Use parking. Altogether, the park has 1,267 existing parking spaces.

The California Department of Parks and Recreation (CSP) is proposing to reline or replace approximately 6,500 linear feet of existing aging sewer line (5,000 linear feet of 4 to 8-inch clay and iron gravity force main pipes and 1,500 linear feet of 4 and 6-inch PVC pipe sewer laterals (**Exhibit 2a**). The sewer system collects sewage generated from the park facilities (restrooms, sinks, water fill stations), which is then conveyed to the lift stations on-site, pumped to the South Coast Water District Sewer system (off-site), and then pumped to a treatment facility(ies) located inland of the project site. After initial investigations into the condition of the existing sewer infrastructure, CSP concluded that much of the existing sewer system within Doheny State Beach is in poor condition. A small amount of the existing sewer system, if not in poor condition, may be relined using cured-in-place-pipe liner. The remaining aged sewer infrastructure is proposed to be replaced. Sewer lines to be replaced in the same location will either be replaced by pipe bursting and left in-situ or will require retrenching, demolition, removal, and disposal of existing pipe and replacement with new heavy wall 6 to 8-inch PVC pipes with watertight gasketed joints or jointless high-density polyethylene pipe. Where trenching is required, new pipes will be installed on a deepened 1-foot rock trench foundation wrapped in geotextile fabric. Where excavation will exceed 8 to 10 feet above mean sea level (AMSL), dewatering will be required. No dewatering holding area is proposed on the beach. Produced water will be plumbed to tanks, filtered, and discharged into the sewer system. Sewer lines to be replaced with a new alignment are proposed to be capped and abandoned-in-place.

In some cases, there is existing park vegetation where trenching is proposed. As proposed, trenching will result in the removal of native and non-native ornamental tree and shrub species including 1 Brazilian pepper tree (highly invasive), 8 Mexican fan palms, 3 eucalyptus trees (moderately invasive), 26 pink melaleuca, 2 sycamores (native), 11 toyon shrubs (native), 9 lemonade berry plants (native), and 1 Mexican elderberry (native). Removal of vegetation, as proposed, will be conducted outside of bird breeding season (February 15 to September 1). Vegetation removal and other construction-related activities within 250 feet of the Visitor Center, as proposed, will also avoid monarch butterfly overwintering season (October 15 through March 31). Upon backfilling the constructed trenches, the applicant is proposing to plant 16 pink melaleuca, 6 Torrey pine trees, one sycamore, 5 native cherry trees, 4 California fan palms, 2 coyote brush, 19 toyon, 35 lemonade berry shrubs, 1 Mexican elderberry, 7 laurel sumac, and other plant species in accordance with plant protection best practices. No planting of invasive species is proposed.

The proposed development also includes modifications to an existing lift station and construction of a new lift station, rehabilitation of 4 manholes and installation of 21 manholes. Specifically, the existing lift station in the campground is proposed to be rehabilitated with new pumps, piping, interior lining, and sealing of the wet wall. The new lift station, approximately 6 feet by 6 feet by 6 feet, is proposed to replace an existing underground pump station that is not meeting current requirements. The new lift station will be located above ground in an existing maintenance yard surrounded by an existing 6-foot high fence to allow for easy maintenance.

To complete the project expeditiously with minimum impacts to public access, the applicant proposes phased closure of the Day Use areas between November 2019 and April 2020 in order to maintain access to the State Beach and park amenities throughout construction, and temporary closure of the campground from November 15, 2020 through April 1, 2021 for project-related activities. As proposed, at least 634 parking spaces in the Day Use areas will remain available for public use on a first come, first serve basis throughout project construction on any given day. No permanent change in the number of parking spaces is proposed.

CSP is proposing to implement best practices and mitigation measures listed in the proposed project specifications (**Exhibit 3**) for the minimization of impacts to resources including, but not limited to biological resources, archaeological resources, and water quality. These include tree protection measures, avoidance of construction during bird breeding season and monarch butterfly overwintering season, covering of open trenches or bore holes to avoid harm to wildlife, erosion and runoff control measures, preparation of a Stormwater Pollution Prevention Plan (SWPPP), and requirements to retain an archaeological monitor on-site during ground disturbing activities who would stop work if potentially sensitive resources are found. No tribal cultural resources are anticipated to be found within the project vicinity.

On January 7, 2019, the State Lands Commission determined that the proposed project is not subject to its leasing or permitting requirements. This project is funded through a Clean Beaches Initiative grant with the goal of reducing bacterial concentrations at public beaches as a result of prioritization of Doheny State Beach by the Clean Beaches Task Force (which is a group appointed by the State Water Board). As a result of this project, the sewer pipe crossing the bridge over San Juan Creek would be decommissioned and realigned under Pacific Coast Highway (Highway 1).

The City of Dana Point, the City in which the proposed project is located, has a certified Local Coastal Program; however, Doheny State Beach and the portion of Highway 1 affected by this development are located within the Commission's retained coastal development permit jurisdiction area. Therefore, a CDP from the Coastal Commission is required and the standard of review for the CDP application is Chapter 3 of the Coastal Act.

B. PUBLIC ACCESS & RECREATION

The following Coastal Act policies protect the public's right to public access and recreation opportunities:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and

recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30213 of the Coastal Act states:

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

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot be readily provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

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

Coastal Act section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The Doheny State Beach provides coastal recreation opportunities, including beach camping, fishing, surfing, kayaking, windsurfing, swimming, beach volleyball, and other recreational activities, as well as open space for enjoyment of the park and sandy beach. During the proposed

sewer system improvements project, the applicant proposes phased closure of the Day Use areas between November 2019 and April 2020 in order to maintain access to the State Beach and park amenities throughout construction, and temporary closure of the campground from November 15, 2020 through April 1, 2021 for project-related activities. CSP submitted an Access and Staging Plan (**Exhibit 2b**) that shows existing public beach accessways. Signs proposed to be developed by the applicant will facilitate and encourage continued access to the beach and park amenities throughout construction. These signs will be located at park entrances for vehicles and pedestrians and will meet State Parks' approved ADA guidelines. Wayfinding signs directing park visitors around construction areas to the beach will be sited appropriately for the proposed construction staging and area closures.

No construction or staging is proposed on the beach and access to and along the beach will remain open at all times, as proposed. Subsection 3.4.D of CSP's specifications Section 015000 requires the applicant to maintain access to public facilities throughout the duration of the project (**Exhibit 3**). In addition, as proposed, at least half of the parking spaces in the Day Use areas will remain available for public use on a first come, first serve basis throughout project construction; altogether, the park has 1,267 public parking spaces. State Parks plans on commencing project development Fall 2019, finishing in Spring 2021, and avoiding work during peak beach use season; so, the Day Use area parking lots are not anticipated to exceed capacity. In addition, there are other public parking areas in the immediate project vicinity that service the beach and adjacent harbor. No permanent change in the number of parking spaces is proposed. **Special Condition 3** requires CSP to submit to the Executive Director, a final schedule and plan for phased closure of the Day Use Area that is consistent with the proposal described herein. Any changes to the final schedule and plan must also be submitted to the Executive Director.

The closure of the campground is also proposed outside of peak beach use season; however, Doheny State Beach is also heavily used during holidays including Veteran's Day and Thanksgiving. **Special Condition 3** requires the campground to remain open until the proposed closure date (November 15th) and avoid, if feasible, closure during Thanksgiving weekend to minimize the impacts of the development on public use of the unique beach camping facilities. Before and during the campground closure, CSP intends to notify the public by posting notices on-site and on the Reserve California (California State Parks campground reservation) website and redirect visitors to unaffected campgrounds including San Clemente State Beach, San Onofre State Beach, and San Mateo Campground.

The proposed project includes connection of force main sewer line to existing sewer infrastructure via trenching below Pacific Coast Highway (PCH) between October 1st and November 15th, 2019. As proposed, there will be no complete closure of PCH; traffic will be temporarily diverted within or in close proximity to the PCH right-of-way. **Special Condition 1** requires the development to be carried out consistent with the proposed project. CSP is working with California Department of Transportation (Caltrans) on a Traffic Management Plan for coastal access along PCH (Highway 1), which is located immediately adjacent to (inland of) Doheny State Beach. **Special Condition 2** requires the applicant to provide evidence of approval of the project from Caltrans prior to issuance of the coastal development permit. In any case, at this location, PCH is a one-way street directed away from the entrance to Doheny State Beach; so, while access heading downcoast along Highway 1 may be slowed during construction of the sewer improvements under PCH, the work is proposed outside of peak beach use season and no significant impacts to public access to Doheny State Beach are anticipated.

As conditioned, the Commission finds that the development conforms with the public access policies of the Coastal Act.

C. MARINE RESOURCES AND WATER QUALITY

The following Coastal Act policies protect marine resources from the effects of polluted runoff:

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

The existing sewer system at Doheny includes sewage transmission lines made of clay, plastic, and metal that, according to the applicant, are nearing the end of their useful life. Investigations of the aging infrastructure, including camera surveys, suggest that deficiencies, including pipeline sags and offsets, are present due to suspected soil settlement from groundwater fluctuations. Thus, CSP concluded that much of the existing sewer system within Doheny State Beach is in poor condition. With current conditions, seismic activity or rupture due to the age of the infrastructure and its location in a coastal environment could result in the discharge of sewage effluent directly into San Juan Creek, which discharges directly into the Pacific Ocean in an area with high recreational use and near a marine protected area. As a result of this project, the sewer pipe crossing the bridge over San Juan Creek would be decommissioned. This project is funded through a Clean Beaches Initiative grant with the goal of reducing bacterial concentrations at public beaches as a result of prioritization of Doheny State Beach by the Clean Beaches Task Force (which is a group appointed by the State Water Board).

New sewer lines are proposed to be heavy wall 6 to 8-inch PVC pipes with watertight gasketed joints or jointless high-density polyethylene pipe to strengthen the sewer system and prevent groundwater intrusion. Where trenching is required, new pipes are designed to be installed on a deepened 1-foot rock trench foundation wrapped in geotextile fabric to prevent soil migration and reduce settlement, which are the conditions that CSP contributes to the degradation of the existing infrastructure. **Special Condition 1** requires the development to be carried out

consistent with the proposed project, as conditioned, including the applicant's sewer system improvement plans.

Project-related construction, including excavation and dewatering, has the potential to adversely impact water quality and marine resources if effluent is released or dewatered fluids are disposed of improperly. As proposed, where excavation will exceed 8 to 10 feet above mean sea level (AMSL), dewatering will be required. Produced water will be plumbed to tanks, stored, filtered, tested (as required), and discharged into the sewer system. **Special Condition 6** is imposed to require CSP to adhere to the recommendations in the geotechnical report, which include dewatering recommendations. In addition, CSP is proposing to implement Project Avoidance and Minimization Measures and project specifications (**Exhibit 3**) that include dewatering best practices (Sections 312319 and 015000, subsection 3.3.D) and erosion controls (Section 000810, subsection 3.5; Section 015639, subsection 3.1.F; Section 311000, subsection 3.2; and Section 311235) for the minimization of impacts to biological resources and water quality, which include use of silt fencing, fiber rolls, and/or other erosion and runoff control measures and site management practices to ensure no material is discharged into San Juan Creek; implementation of best management practices (BMPs) for any sediment stockpiles; implementation of measures to ensure discharge does not contain toxic substances and will not increase turbidity or erosion; refueling and maintenance of equipment off-site; and preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Special Condition 1 requires the development to be carried out consistent with the proposed project, as conditioned, including the applicant's project specifications, BMPs, and mitigation measures. As required by the State Water Quality Control Board (SWQCB), CSP must prepare and implement a SWPPP certified by a qualified practitioner. **Special Condition 4** requires the applicant to submit a Construction Pollution Prevention Plan or the Certified SWPPP, which must be consistent with the proposed Project Specifications and prepared by a qualified professional, to the Executive Director for concurrence. Further, **Special Condition 2** requires the applicant to provide evidence of approval of the project from the SWQCB prior to the commencement of construction. These special conditions also serve to protect San Juan Creek, which historically provided critical habitat for steelhead (not known to be present currently).

In addition, CSP is proposing to continue water quality monitoring for fecal indicator bacteria to compare post-project data to collected baseline data. The applicant is also proposing to conduct a low pressure or hydrostatic leak test for water tightness and/or a closed-circuit television inspection post-construction. As proposed, State Parks will share the final Project Assessment and Evaluation report with the Executive Director within 90 days of completion of the proposed development, which will assess the success of the project and associated water quality impacts or improvements.

As described above, the project is proposed and conditioned to prevent adverse impacts to water quality and marine resources and designed to avoid such impacts for the expected life of the development. The special conditions discussed above minimize adverse impacts to water quality and do not conflict with any determination by the State Water Quality Control Board or any California regional water quality control board determination in matters relating to water quality as required by Section 30412 of the Coastal Act. As proposed and conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

D. LAND RESOURCES

Coastal Act section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Coastal Act section 30240(b) states:

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.

Archaeological Resources

A CSP archaeologist determined that no known archaeological sites have been found in the project vicinity. In addition, according to the applicant, no tribal resources have been recorded within or near the project area and the Native American Heritage Commission notified CSP on September 20, 2018 that the Sacred Lands File search had negative results. Furthermore, per the applicant's Project Avoidance and Minimization Measures (**Exhibit 3**), CSP will have an archaeological monitor on-site during all ground-disturbing activities and if potentially significant resources are encountered, then work shall cease until a qualified resource specialist can evaluate the resource and implement appropriate protection measures. **Special Condition 1** requires the development to be carried out consistent with the proposed project, as conditioned, including the applicant's Project Avoidance and Minimization Measures. Thus, no adverse impacts to archaeological resources are anticipated. As proposed, the project is consistent with Section 30244 of the Coastal Act.

Coastal Habitat

There is existing park vegetation along the roadways, in the parking lots, in the street medians, and surrounding recreation areas. According to CSP records and the California Natural Diversity Database, no sensitive plants are known to be present in Doheny State Beach. The landscaping at Doheny State Beach is composed of isolated native, non-native, and invasive non-native plants (selected from State Parks' established and approved plant list for State beaches) that are not attached to contiguous sensitive habitat and, thus, do not rise to the level of environmentally sensitive habitat area (ESHA). The proposed trenching, in some locations, necessitates removal of some vegetation, which is shown in the table below. The applicant's current proposal to realign some of the sewer lines, rather than replace the pipes at their current location, was selected in order to minimize the amount of vegetation impacted by the project. As proposed, approximately 3% of Doheny State Beach's vegetation would be temporarily removed. CSP is also proposing to replant affected vegetation areas with the plants listed in the table.

Tree and Shrub Removal and Replacement					
<i>Species</i>	<i>Existing</i>	<i>Proposed</i>	<i>Species</i>	<i>Existing</i>	<i>Proposed</i>
Carrotwood Tree	1	-	Fortnight Lilly***	±17	51
Eucalyptus Tree**	3	-	Russian Olive	3	4
Australian Willow	1	-	Toyon*	11	33
Flaxleaf Paperbark	3	3	Myoporum Laetum**	25	-
Pink Melaleuca	26	16	Lemonade Berry*	9	35

Tobira	1	1	Mexican Elderberry*	1	1
Sycamore Tree*	2	1	Cape Honeysuckle	1	-
Torrey Pine Tree*	1	6	Jade Plant	1	-
Pine Tree	1	-	Coyote Brush*	-	2
Yew Pine	1	-	Coast Sunflower*	-	±19
Holly Leafed Cherry*	2	4	Laurel Sumac*	-	7
Catalina Cherry*	1	1			
Brazilian Pepper**	1	-			
Mexican Fan Palm	8	-			
Red Alder	-	1			
Feather Myrtle	-	3			
Queen Palm	-	1			
California Fan Palm	-	4			
Total	52	41	Total	±68	±152

* Native plant species; **Invasive plant species; ***Plants to be divided replanted

As shown above, CSP is proposing to remove native, non-native ornamental, and invasive non-native plants and plant or replant native and non-native ornamental species (**Exhibit 2c**). CSP proposes planting native species in areas where a contiguous native planter could be established and elsewhere in the temporarily disturbed areas to the maximum extent feasible. Where existing non-natives are removed from a contiguous or homogeneous stand of non-natives, the same non-natives are proposed as a replacement to afford a uniform appearance/structure. The applicant's proposal involves removal of a Brazilian pepper tree, a highly invasive tree species, and two moderately invasive species (California Invasive Plant Council designations), eucalyptus and myoporum, and planting additional native species at a higher native to non-native plant ratio than currently exists, which enhances the habitat value of the vegetated areas. Furthermore, key habitat indicator species (i.e. lemonade berry) are proposed to be planted in close proximity to one another, as opposed to scattered around the park, which also enhances the habitat value of the segmented vegetated areas within Doheny. No non-native invasive species are proposed to be planted.

Per the applicant's planting plans and project specifications, all tree and plant work is proposed to be performed with a natural resource specialist present and in accordance with best practices, including protection of rootballs, use of aeration tubes, use of native soils, tree canopy care techniques, and protection of existing plants on-site. Per the project specifications (Section 329900), CSP also requires the contractor to maintain and monitor the landscaping for one year until maintenance duties are taken over by State Parks staff. **Special Condition 5** requires the applicant to adhere to the projects specifications. In addition, the applicant's Project Avoidance and Minimization Measures include additional plant protection measures including clean cutting of roots less than 2 inches in diameter, hand digging around roots with diameters greater than 2 inches, and avoidance of roots greater than 5 inches. **Special Condition 1** requires the development to be carried out consistent with the proposed project, as conditioned, including the applicant's vegetation removal and planting plans and Project Avoidance and Minimization Measures. **Special Condition 5** also ensures that no invasive species are planted and that the landscaping is maintained in good growing condition for the life of the development.

Therefore, as conditioned, the project not only improves the sewer system to prevent adverse impacts to water quality and marine resources due to the existing aged structures, but will also result in enhanced, location-appropriate, native vegetation areas within Doheny State Beach and,

therefore, will not significantly degrade adjacent park areas, and is compatible with the continued existence of the state park, consistent with Section 30240(b) of the Coastal Act.

Wildlife

Sensitive bird species including California gnatcatchers, willow flycatchers, least Bell's vireo, black-crowned night herons, great blue herons, and snowy egrets have been reported in the project vicinity. As proposed, removal of vegetation will be conducted outside of bird breeding season (February 15 to September 1) with monitoring by a Natural Resource Specialist. If work must occur during nesting season, subsection 3.3.C of Section 000810 of the project specifications requires the State Parks' Natural Resource Specialist to survey the site for nesting birds prior to construction and determine the best course of action regarding the protection of nesting birds (**Exhibit 3**). **Special Condition 5** further ensures protection of nesting and breeding birds by requiring the Contractor to implement the protection measures recommended by the applicant's Natural Resource Specialist. As shown in the table above, 52 trees are proposed be removed and 41 are proposed be planted. The resulting loss of 11 trees is not expected to have a significant adverse impact on wildlife, including birds, because of the number of mature trees located in close proximity to the areas impacted by proposed trenching activities within Doheny State Beach Construction and the additional habitat value of new native tree and shrub species.

CSP also proposes specifications that require the applicant's contractor to manage/offset potential impacts from noise generating activities (Section 000810, subsections 3.3.D and E), which serve to protect wildlife including birds and monarch butterflies. To further protect monarch butterflies, State Parks' project specifications require noisy work within 250 feet of the Visitor's Center (where butterflies are known to overwinter) avoid butterfly roosting season (October 15th through March 31st). Per the project specifications, if work must occur during monarch overwintering season, then the Natural Resource Specialist will survey the site prior to construction and if butterflies are found roosting, require work be delayed until they leave of their own accord. The CSP Project Avoidance and Minimization Measures also include requirements to have a natural resources monitor present during project activities that may impact monarch butterflies.

In addition, State Parks proposes and requires trenches and bore holes to be covered to prevent entrapment of animals and outlines measures to be taken if wildlife are affected by the proposed development (**Exhibit 3**). Furthermore, construction activities are proposed to be conducted between 8:00 am and 5:00 pm; thus, no impacts to birds or other wildlife due to nighttime construction lighting are anticipated. **Special Condition 5** requires CSP to adhere to the proposed project specifications, minimization and avoidance measures, and plans, including those described in this section. **Special Condition 5** also requires the applicant's Natural Resource Specialist to monitor all construction-related activities with the potential to impact biological resources and work closely with the applicant's contractor to ensure that the recommendations for biological resource protections are implemented.

Therefore, as proposed and conditioned, the development will not result in significant degradation of recreation areas or parks and is compatible with the continuance of those recreation and park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

E. DEVELOPMENT AND COASTAL HAZARDS

Coastal Act section 30250 states, in part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Coastal Act section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Coastal Act section 30253 states, in part:

New development shall do all of the following:

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

Coastal Hazards

Concentrations of atmospheric greenhouse gases have been increasing substantially in recent centuries, largely due to human-induced greenhouse gas emissions, which has resulted in considerable warming of the Earth and ocean. This global warming is causing and will continue to cause, among other things, sea levels to rise due to a combination of thermal expansion of ocean water and melting land ice. Depending on current and future concentrations of greenhouse gas emissions, scientists have developed projections of future sea level rise scenarios based on different emission scenarios and existing development. Sea level rise projections for Los Angeles, provided in the 2018 Ocean Protection Council Sea Level Rise Guidance, range from approximately 1.7 feet (low risk aversion) to 3.3 feet (medium-high risk aversion) to 5.0 feet (extreme risk aversion) of sea level rise by 2070, which according to the applicant would be the approximate end of the useful life of the proposed sewer system.

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea-level change is clear and it is critical to continue to assess sea level rise vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme sea level

rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

Doheny State Beach is located in a low-lying, flood-prone area; however, using the Our Coast Our Future model (Coastal Storm Modelling System data), which is a publicly available tool for modeling impacts of sea level rise, even under an extreme risk aversion scenario (5 feet of sea level rise) with a 100-year storm, the sewer improvement areas are not expected to be subject to flooding or wave run-up by the end of the sewer system's 50-year anticipated life. Nonetheless, the applicant considered relocating the entire sewer system inland, but found it to be economically infeasible because it would require relocating the public restrooms, and lifeguard headquarters, and other park facilities and utilities. The proposed location of the sewer improvements also minimizes landform alteration by replacing much of the sewer system in the current location or within close proximity to the existing sewer lines and facilities supported by the sewer system.

Additionally, the sewer system, as proposed, is designed to accommodate flooding through the inclusion of design elements such as the use of heavy wall PVC pipe, epoxy-coated manholes, manhole sealing inserts, and lift station improvements. The new pipes with gasketed joints and jointless segments will prevent groundwater intrusion and exfiltration of sewage. The new lift station, as proposed, is corrosion and weather resistant. Similarly, the epoxy-coating on the manholes will slow corrosion and prevent infiltration and exfiltration. If flooding does occur on-site, the manhole sealing inserts proposed to be added to new and existing manholes within Doheny will prevent water from entering the system.

The subject project is largely funded by a State Water Board grant, which obligates CSP to a project life expectancy of 50 years. While the project site is not anticipated to flood during this proposed 50-year life of the sewer infrastructure, the proposed development is located adjacent to a beach, which is inherently subject to coastal hazards from wave runup and erosion.

Therefore, **Special Conditions 7 and 8** are imposed requiring the applicant to assume the risks of the development and waive rights to future installation of a shoreline protective device as a precautionary approach given the uncertainty about the future conditions at this location.

Specifically, Doheny State Beach is largely low-lying and flood-prone; thus, if there was a breach or substantial change in the morphology of the creek banks or beach (due to, per say, erosion caused by flash floods or high surf), then the development may be threatened. Given the high rates of erosion recently observed at the beaches fronting the South Day Use area and just downcoast of Doheny State Beach at Capistrano Beach, this hypothetical situation does not seem unrealizable.

Furthermore, sea level rise models indicate that the project site may be subject to inundation by 2080, depending on risk levels and storm conditions. In any case, new development is not entitled to shoreline protection under the Coastal Act; therefore, CSP may need to relocate the storm drain system inland and/or at a higher elevation in the future. State Parks knowingly accepts such risk. If the subject development remains operational past its anticipated life or another coastal development permit is not obtained prior to impacts from coastal hazards occurring prior to such relocation of the sewer system, then **Special Condition 7** would ensure that impacts to coastal resources are minimized by requiring the permittee to remove the subject development if a government agency with legal jurisdiction issues a final order determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards

and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices. Any removal plans would be subject to review and approval by the Executive Director. As proposed, State Parks will submit a new CDP application for any future development on-site.

As proposed and conditioned, the subject project has been designed to assure structural integrity and minimize risks to life and property. Therefore, the Commission finds that the development, as conditioned, conforms to Sections 30250 and 30253 of the Coastal Act.

Structural Stability

Relating to structural stability, Geocon Consultants, Inc. prepared a geotechnical report for the sewer system rehabilitation project that includes recommendations to assure the structural stability of the system. The report concludes that there are no soil or geologic conditions on-site that would preclude development of the proposed project, provided that the report's recommendations including appropriate trench dewatering, careful excavation, adherence to Cal-OSHA standards, corrosion-prevention, and use of appropriate backfill material. Based on the CSP plans, the deepened 1-foot rock trench foundation wrapped in geotextile fabric included in the proposed sewer system design is consistent with some of the bearing conditions/pipeline foundation and pipe loading design criteria recommendations in the geotechnical report; however, **Special Condition 6** is imposed to require CSP to adhere to all of the recommendations in the geotechnical report.

As proposed and conditioned, the subject project has been designed to assure structural integrity and minimize risks to life and property. Therefore, the Commission finds that the development, as conditioned, conforms to Sections 30250 and 30253 of the Coastal Act.

Visual Impacts

While there may be temporary visual impacts to Doheny State Beach during construction, the proposed sewer system improvements are almost exclusively underground and will, therefore, not result in any permanent visual impacts. Similarly, the proposed vegetation removal may temporarily impact the aesthetic of the park, but new native vegetation will be planted to replace the removed trees and shrubs. The one structural element proposed to be located above ground is the new lift station, which has a proposed height of 6 feet. The new lift station is located in an existing maintenance yard that is screened by approximately 6-foot high fencing and vegetation. Thus, the proposed development will be compatible with the development in area and will not have a significant adverse impact on public views to and along the coast. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

F. LOCAL COASTAL PROGRAM

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's retained coastal development permit jurisdiction area. Therefore, the Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified City of Dana Point local coastal program is advisory in nature and may provide guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 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.

On February 13, 2019, the California Department of Parks and Recreation, the lead agency for CEQA, determined that the proposed development is categorically exempt from CEQA, under CEQA Section 15301—Existing Facilities, finding that the proposed project is not anticipated to have any significant impacts to the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the development may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, has no remaining significant environmental effects, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- *City of Dana Point Local Coastal Program*