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STAFF REPORT: ADOPTED FINDINGS

Application No.:	**5-20-0183**
Applicant:	South Orange County Wastewater Authority Jason Manning
Agents:	Dudek Bianca Juarros
Location:	Doheny State Beach, South of San Juan Creek, Dana Point, Orange County (Approximately 200' seaward of State Campground)
Project Description:	Rehabilitate the San Juan Creek Ocean Outfall Junction Structure to resolve its structural deficiencies to prevent potential effluent leakage in the future.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant proposes to repair an existing ocean outfall pipeline junction structure. The junction structure is located on Doheny State Beach. The ocean outfall pipeline discharges secondarily treated and disinfected wastewater (effluent) from four upstream

water reclamation plants[1] into the ocean 2.2 miles off Doheny State Beach, at a depth of 100 feet. The proposed repair is necessary in order to prevent further deterioration of the junction structure, which could result in effluent leaking onto the public beach. The pipeline rehabilitation involves installing linings in the interior of the existing pipeline junction structure.

The proposed project will not occur during the peak use summer period. A special condition is recommended to ensure continued lateral public access during construction. Under the preferred project timeframe, the project will occur concurrent with the planned closure of Doheny State Beach Campground for an unrelated California Department of Parks and Recreation (CSP) sewage line repair project (Coastal Development Permit No. 5-19-0225). By timing both projects simultaneously, impacts to public recreational opportunities (beach camping) will be reduced.

The western snowy plover is known to roost at Doheny State Beach, but has not been observed nesting there. To date, roosting western snowy plovers have been observed more than 500 feet from the proposed work area. The preferred project schedule would avoid most of the bird nesting season and grunion spawning period. Significant impacts to biological resources are not expected, but nevertheless, measures are proposed and conditioned to assure protection of biological resources, if present, during construction, including measures to protect nesting birds, grunion, and the monarch butterfly.

Staff is recommending **approval** of Coastal Development Permit application 5-20-0183 subject to conditions to assure consistency with the Coastal Act policies regarding public access and protection of biological resources. Staff is recommending six special conditions, which require: 1) all mitigation measures to be carried out as proposed; 2) grunion avoidance measures; 3) public access shoreline management; 4) coordination with California Department of Parks and Recreation (CSP) if the campground re-opens for the Thanksgiving weekend; 5) construction responsibilities; and, 6) no waiver of public rights.

Because Doheny State Beach is located within the Commission's retained coastal development permit jurisdiction area, the standard of review is Chapter 3 of the Coastal Act. The motion is on page 4.

[1] The four upstream water reclamation plants are: City of San Clemente Water Reclamation Plant; SOCWA J.B. Latham Wastewater Plant; Moulton Niguel Water District Plant 3A; and, South Coast Water District Groundwater Recovery Facility.

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Exhibit 5 – Preferred Project Schedule Schematic
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I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-20-0183 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration**. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation**. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

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

5. **Terms and Conditions Run with the Land**. These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant 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. **Biological Resources.** The permittee shall adhere to the Mitigation Measures contained in the Biological Resources Letter Report and Impact Analysis for the San Juan Creek Ocean Outfall Rehabilitation Project (Dudek, May 2020) and in the Mitigated Negative Declaration San Juan Creek Ocean Outfall Junction Structure Rehabilitation (SOCWA, Sept. 2015). The Mitigation Measures are attached as **Exhibit 3** to this staff report. In addition, the following requirements shall be met.

   A. The permittee shall ensure that its project biologist coordinates closely with the permittee's contractor and monitors construction-related activities with potential to adversely impact biological resources, including, but not limited to, any construction-related activities occurring during western snowy plover roosting season (September 1 to March 15); bird nesting season (February 15 to September 1); grunion spawning period (March 1 to August 31); and monarch butterfly roosting season (October 15 to March 31).

   B. The permittee shall ensure that its contractor implements all protection measures identified by the permittee's project biologist.

2. **Grunion Impact Avoidance & Monitoring.** Should construction activities be necessary below the highest high tide line between March 1 – August 31, the permittee will do the following to avoid impacts to mature and/or spawning grunion and to grunion eggs during a spawning event. The permittee shall retain the services of a qualified biologist. The permittee shall consult with recognized grunion experts such as the California Department of Fish and Wildlife (CDFW) or grunion.org to ascertain expected grunion runs to determine possible grunion spawning periods. If construction work occurs below the highest high tide line between March 1 and August 31, at a minimum, the permittee shall assure the following occur in conjunction with the proposed project:

   A. The area ranging in width from the highest high tide to the lowest low tide line, and in length from 150 feet upcoast to 150 feet downcoast of the junction structure, shall be monitored for grunion runs beginning at least two weeks prior to commencement of construction activities and throughout the construction period during the grunion spawning period of March 1 through August 31.

   B. Grunion monitoring shall be conducted by a qualified biologist for 30 minutes prior to, and two hours following, the predicted start of each spawning event. Sufficient personnel shall be utilized to ensure that the entire area described in 2.A above is monitored during the specified period. The magnitude and extent of

a spawning event shall be defined as the 300-foot segment of beach including and nearest the project site using the Walker Scale, and every individual fish (males and females) is to be included in the counts. Construction activities will be modified per the following plan for various magnitude Walker Scales:

1. Walker Scale of 0 or 1:

   If a grunion run consisting of 0-100 individual fish per 300-foot segment (Walker Scale of 0 or 1) is reported within two weeks prior to, or during, construction activities, the permittee does not need to take any avoidance action for grunion eggs. No mature grunion may be buried or harmed as a result of construction activities.

2. Walker Scale of 2, 3, 4, or 5:

   If a grunion run consisting of more than 100 individual fish per 300-foot segment (Walker Scale of 2, 3, 4, or 5) is reported within two weeks prior to construction commencement, the permittee shall avoid mobilization on the beach segment(s) and shall avoid a 100-foot buffer on either side of the segment(s) to ensure that no grunion eggs are buried or disturbed at the construction site. This area shall be memorialized through multiple GPS coordinates, and then marked with irrigation flags. The permittee shall adapt the beach construction schedule to avoid operations on beach segments with a Walker Scale of 2, 3, 4, or 5 and their associated buffers. No mature grunion may be harmed as a result of construction/beach replenishment.

   If beach construction has already commenced, and a grunion run consisting of 100 to 500 individual fish per segment (Walker Scale of 2) is reported, no impacts to grunion eggs may occur. These areas shall be memorialized through multiple GPS coordinates, and then marked with irrigation flags. The applicant shall avoid impacts to areas of high concentration of grunion and grunion eggs. Construction activities must halt, or may continue if observing a 100-foot buffer on either side of the highly concentrated areas. No mature grunion may be buried or harmed as a result of beach replenishment.

   If beach construction has already commenced, and a grunion run consisting of 500 or more individual fish per segment (Walker Scale of 3, 4, or 5) is reported, no impacts to grunion eggs may occur. These areas shall be memorialized through multiple GPS coordinates, and then marked with irrigation flags. The applicant shall avoid impacts to grunion eggs in 300-foot segments of the beach, plus 100-foot buffers on either side of the segments within that portion of the beach construction site. Beach construction activities at this location shall cease if avoidance measures are not feasible. No mature grunion may be buried or harmed as a result of beach replenishment. Construction activities in areas with a Walker Scale 3, 4, or 5 must stop until

the eggs have hatched and the next run does not occur, or the next run is a Walker Scale 0 or 1.

3. **Public Shoreline Access Management.** Lateral public access along the beach shall be maintained during construction.

   A. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall submit a lateral public access plan, for the review and approval of the Executive Director. The plan shall identify the means for providing on-going lateral access during construction, and shall include, but is not necessarily limited to:

      1. Gates within the construction fencing are required.

      2. A lateral public access corridor of no less than fifteen (15) feet wide is required.

      3. Lateral public access may be limited during high tide when active construction is occurring during site preparation, junction structure work, and site restoration to allow construction personnel and equipment to transit between the staging area and the junction structure locations. When active construction is not occurring during site preparation, junction structure work, and site restoration, public access corridor gates shall remain open at all times which includes all weekends.

         "Active construction" means daytime site preparation, nighttime work associated with the junction structure work itself, and daytime site restoration includes work necessary to return the site to pre-work conditions, as described in this staff report. Site preparation work includes sand movement as described in the staff report, as necessary for construction access to the junction structure and preparation of the plastics-free sand bag barrier, construction of temporary barriers around the work area, and other work necessary to access the junction structure; nighttime work on the junction structure itself includes installation of the pipe liners; and site restoration includes moving sand to its previous condition once work in the pipeline and on the junction structure is complete. This work is expected to require a maximum of two weeks for the preparation period (which would occur once under the proposed/preferred project timing, and twice under the alternate/phased project timing), six non-consecutive working nights (in both the proposed/preferred and phased/alternate project timeframes), and a maximum of one week for site restoration (which would occur once under the proposed/preferred project timing, and twice under the alternate/phased project timing).

      4. If the permittee's project biologist determines that installation of sound walls is necessary pursuant to the Mitigation Measures included in Exhibit 3 of this staff report, to protect roosting western snowy plovers, nesting birds, or other

wildlife, the applicant shall submit a plan to accommodate public access with the necessary sound wall installation.

B. Signage. Public access signs shall manage and facilitate the public access described in 3.A above during construction.

C. The permittee shall undertake development in accordance with the approved Lateral Public Access 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.

4. Thanksgiving Campground Opening. If California Department of Parks and Recreation (CSP) opens Doheny State Beach Campground over the Thanksgiving weekend, as described in CDP No. 5-19-0225, the permittee shall coordinate with CSP and accommodate the campground opening, including but not limited to relocating or reducing construction staging and staging footprint in the campground.

5. Construction Best Management Practices.

A. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;

2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;

3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;

4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

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

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

1. The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;

2. The permittee shall develop and implement spill prevention and control measures;

3. The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and

4. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

6. **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. By acceptance of this permit, the applicant acknowledges, on behalf of itself and its successors in interest, that issuance of the permit and construction of the permitted development shall not constitute a waiver of any public rights that may exist on the property.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The South Orange County Wastewater Authority (SOCWA) proposes to rehabilitate an existing junction structure as necessary to avoid failure of the ocean outfall pipeline and effluent leakage on the beach. The junction structure joins the existing landward outfall pipeline with the existing marine outfall pipeline. The proposed project involves installation of a flow-through stainless steel pipe liner within the pipelines in the junction structure. When the liner installation is complete, the junction structure would be sealed and hydrologically isolated from the outfall pipeline. The upper five feet of the junction structure will be removed to provide additional sand cover, minimizing the likelihood of exposure due to tidal erosion. The junction structure would then be abandoned in place. SOCWA anticipates no future need for the junction structure once the proposed project is complete. Once the junction structure is abandoned in place, no future access or maintenance is expected to be needed. Alternate access to the ocean outfall pipeline is available at the upstream surge tower.

The junction structure is a circular reinforced concrete structure, 10 feet in diameter and 26 feet tall (the majority of which always remains below sand level), which provides a

flow-through interface between the land and marine sections of the ocean outfall pipeline (**Exhibit 2**). The ocean outfall pipeline discharges secondarily treated and disinfected wastewater (effluent) from four upstream water reclamation plants[2] into the ocean 2.2 miles off Doheny State Beach, at a depth of 100 feet. This proposed repair project would have no effect on the ocean outfall's capacity.

The junction structure is located on Doheny State Beach near the outlet of San Juan Creek, approximately 200 feet from the Doheny State Beach Campground. The proposed project work area will be located on Doheny State Beach. The work area on the beach is estimated to be 0.35 +/- 0.05 acres and the approximate dimensions are 111 feet on the north side, 175 feet on the east and west sides, and 75 feet on the south side. The staging area will be located within the Doheny State Beach Campground.

Doheny State Beach is located in Orange County in the City of Dana Point. The 62-acre State Beach is located between Pacific Coast Highway and the Pacific Ocean, downcoast of Dana Point Harbor (**Exhibit 1**). Doheny State Beach includes two sections separated by San Juan Creek. The upcoast section includes the park entrance from Dana Point Harbor Drive and a day use area with a sandy beach, several large expanses of grass, picnic tables, restrooms, a small park office with an interpretive center, food concessions, and the North Day Use parking area. The downcoast portion of the park includes the park entrance from Coast Highway, a campground, a parking area, restrooms, a day use area and the South Day Use parking area. Proposed project staging will occur within the downcoast portion of Doheny State Beach, within the campground. No work will occur in the upcoast portion of Doheny State Beach.

The applicant, the South Orange County Wastewater Authority (SOCWA) is a Joint Powers Authority (JPA) with ten member agencies. SOCWA operates three treatment plants and two ocean outfalls, including the subject San Juan Creek Ocean Outfall. The land and marine sections of the San Juan Creek Ocean Outfall were constructed in 1979 pursuant to CDP P-76-6902. The junction structure is located within the City of Dana Point, on Doheny State Beach.

Staging for the proposed development will occur on Doheny State Beach Campground. The timing of the proposed project is intended to coincide with a California Department of Parks and Recreation (CSP) project at Doheny State Beach, pursuant to CDP 5-19-0225. For that project, the campground will be closed from November 15, 2020 to April 1, 2021. The applicant has coordinated use of a portion of the closed campground for a staging area with CSP.

Inspections[3] have revealed that structural deficiencies at the meeting point of the landward outfall pipe, seaward outfall pipe, and junction structure may result in effluent

[2] The four upstream water reclamation plants are: City of San Clemente Water Reclamation Plan; SOCWA J.B. Latham Wastewater Plant; Moulton Niguel Water District Plant 3A; and, South Coast Water District Groundwater Recovery Facility.

[3] Black & Veatch, San Juan Creek Outfall Junction Structure Rehabilitation, Technical Memorandum, April 2014. Dudek, Constrction Review Report, March 2008. Carollo Engineers, Final Report, March 2007.

leakage in the future. More specifically, inspections have revealed the potential for differential settlement during a seismic event. If differential settlement were to occur, cracking may result at the pipeline-to-junction structure interface, resulting in potential leaking of effluent onto the sand of Doheny State Beach (**Exhibit 7**). The junction structure has been identified by SOCWA as a potential point of failure from a structural capacity perspective due to weakness of the pipelines structure at the connection between the land and marine sections of the outfall pipelines. The installation of a flow-through stainless steel pipe liner within the junction structure pipelines is proposed to address these deficiencies and avoid effluent leakage onto the public beach.

The junction structure once provided access to the point where the landward outfall pipeline and seaward outfall pipeline connected. However, access capabilities were lost with work on the junction structure in the 1990s. The junction structure is proposed to be modified by cutting an opening through the top slab of the structure so that it can again provide access to the outfall pipelines connection point. This renewed access will allow access for divers and materials necessary for interior inspection and installation of the stainless steel liners into the pipelines.

Generally, the junction structure is above high tide, but highest tides do reach the structure, and then it can be submerged (**Exhibit 4**). In addition, the junction structure is usually outside the flowlines of San Juan Creek, but occasionally the flow of the creek meanders widely such that the junction structure is within the flow (**Exhibit 4**). And, sometimes the junction structure is buried by sand, and other times, the upper few feet of the structure are exposed (**Exhibit 4**). Thus, the junction structure falls within a dynamic triple zone, affected by the tides, creek flow, and natural seasonal sand deposition cycles and beach replenishment projects.

Project Timing

CDP No. 5-19-0225 allows for the temporary closure of Doheny State Beach Campground between November 2020 and March 2021. The preferred timing alternative for the proposed project is to conduct the project at the time that Doheny Beach campground is already planned for closure. There are effectively 17 weeks within the preferred timeframe between November 2020 and March 2021. As described by the applicant, there will be a maximum of two weeks of daytime work in the beginning to prepare the site. Proposed site preparation includes constructing public safety barriers, constructing equipment access transitions from the campground to the beach, exposing the junction structure, and constructing tidal protection measures (sand bag berm, using on-site sand). There will then be six non-consecutive working nights on the beach. This work will occur within the junction structure and is limited to once every seven calendar days. There will be a maximum of one week of daytime work at the end of the project to restore the site to pre-work conditions prior to demobilization from the work site. The 17-week window allows for float weeks due to rain events. Over this 17-week timeframe, the proposed project is expected to occur on ten working days (between 7 am and 4 pm) and six working nights (between 11 pm and 7 am). Work will not occur during the peak summer season, to minimize impacts to public beach access. Additionally, the

applicant states that by only mobilizing the site once (under the preferred timing alternative), there would be less disruption on the beach.

Ideally, the project would be completed within the November 15, 2020 and April 1, 2021 campground closure timeframe. However, if that project timing becomes infeasible (due to permitting delays or other unanticipated delays), the proposed timing of the project would change such that it would occur in two phases between Spring 2021 and Fall of 2022. The Phase 1 work would be spread over four weeks and the Phase 2 work would take up to six weeks. Between Phase 1 (inspection) and Phase 2 (installation), there would be six months within which to fabricate the stainless steel liner (**Exhibit 6**), resulting in extra set up and take down of activities.

The work that would occur under the Phased timeframe would remain the same as the work that would occur during the campground closure schedule. Unlike the proposed Project which involves Remote Operated Vehicle (ROV) inspection during Phase 1 work to confirm dimensions, the phased project would require diver inspection during Phase 1 work to confirm dimensions. Work activities during the last week of Phase 1 would include sealing the junction structure top slab, restoring the work area site, restoring the staging area, and demobilizing. Work activities during the first week of Phase 2 would include mobilizing, establishing the Phase 2 staging and work areas, and preparing the work area. The timing of the alternate project schedule would still be limited to avoid the peak use summer season (between Memorial Day weekend and Labor Day weekend). This time frame would also avoid the rainy season. The following is a description of the work that would occur with the proposed project regardless of timing alternative, but described below in two phases. The only differences between the work proposed under the two different timeframe schedules is that there would be additional demobilization and set up with the two phase project, as well as slightly different staging area perimeters, a different amount of campsite closures, and a different means of access into the junction structure for Phase 1 inspections. Schematics of the two project timeframes are included as Exhibit 5 (proposed, preferred schedule) and Exhibit 6 (alternate, phased schedule).

The night work is proposed to allow work to occur within the pipeline when flows within the pipeline are at their lowest, which is between the hours of midnight and 4 am. During that timeframe, the SOCWA member agencies would store effluent at their treatment facilities' sites while the divers are working within the junction structure. After the divers have exited the junction structure, the stored effluent would then be released into the ocean outfall pipeline. This nighttime work, with the related effluent storage, would occur only once per week due to the additional staffing and coordination required to implement changes in wastewater operations (i.e. effluent storage on site). In addition, work within the pipeline is proposed to occur at low tides. For these reasons, nighttime work will only occur once per week.

The goal of the first phase is to inspect the interior and confirm interior dimensions. The first phase would include site preparation and staging. For the phased project timeframe, the first phase would include re-opening the junction structure, and entry into

the open structure and outfall pipelines by divers to inspect the interior to confirm internal dimensions and take detailed measurements of the interior. However, for the proposed project timeframe, entry into the outfall pipelines to confirm internal dimensions would occur via Remote Operated Vehicle (ROV) inspection. The detailed measurements will be used to create the stainless steel liners that will be inserted into the pipelines in the second phase. Once the measurements are obtained, the stainless steel liner would be fabricated off site.

The goal of the second phase is to install the flow through stainless steel liner, remove the top five feet of the junction structure, backfill the structure with lightweight concrete, and finally, re-seal the junction structure, preventing any future access. The second phase will begin after the stainless steel liners have been fabricated. Multiple diver entries into the junction structure via the opening cut into the top slab would occur for installation of the stainless steel pipe liner segments. The liner segments would be welded together or mechanically joined with the plain ended pipe couplings. The pipeline liner segments inserted into the pipelines would be provided with inflatable mechanical seals. The seals would be inflated after the middle liner (final) segment is connected. Once the seals are inflated, the junction structure will be hydrologically isolated from the ocean outfall pipeline (landward and seaward pipes). Upon completion of the liner construction, the junction structure would be filled with light weight cellular concrete. When the junction structure is filled and sealed, it would be weighted down to avoid floatation of the structure that might otherwise occur due to rising sea levels. The first and last weeks of both Phase 1 and Phase 2 will include site preparation and restoration. However, the proposed project eliminates the need for Phase 1 restoration and Phase 2 preparation, since all work would be done within a 17-week period. The work within the junction structure includes divers in the pipeline and would only occur on a single evening per week. Once all these steps are complete, the site would be restored to its natural condition.

Additionally, as part of the site preparation, 15-foot-high sound barriers will be installed along the north and east sides of the work area to limit noise at the nearby DoubleTree Hotel, in compliance with the City of Dana Point's nighttime noise ordinance. In addition, although not expected, if the project timeframe coincides with wildlife breeding season, and if breeding wildlife are revealed by the required surveys, and if construction noise levels warrant attenuation, then additional sound barriers may be added to the work site.

Project Staging

The proposed construction access route to the staging and work areas would be through the campground. The western portion of the campground will be fenced for staging during Phase 1 and 2 of the proposed project. A majority of the existing campground has been reserved for equipment staging use (Exhibit 2). However, the actual equipment staging area footprint will be a smaller subset of the larger area the boundaries of which will be established in the field using temporary chain link fencing prior to construction. For the phased project, the southwest corner of the campground

(nearest the beach and creek) will be fenced for staging during Phase 1 and the construction staging fenced area will expand north to include additional campground area (**Exhibit 2**) during Phase 2 work; in addition, an area of the campground parking lot will be fenced for contractor parking and staging area (**Exhibit 2**). Regardless of timeframe, the work area on Doheny State Beach would be accessed from the campsites in the southwest corner of the campground to provide the shortest access route across the sand to the junction structure work area. Construction vehicles on the beach would be limited only to those required for the execution of the work. Prior to commencement of construction, the boundaries of the equipment staging area within the campground and the work area on the beach will be demarcated with temporary chain link fencing to enforce the limits of the work footprint (**Exhibit 2**).

Temporary barriers, fencing, and sound walls will be constructed around the perimeter of the work area. The north and east perimeters of the work area will be secured with k-rail barrier (sides facing the campsites and adjacent beach area to the south); temporary chain link fencing with visual screens will be installed along the remainder of the work area. The temporary barriers would remain in place throughout the work phase duration, to be removed as part of the site restoration activities. The primary equipment access routes on the beach would be confined to steel landing mats and metal plates. Lightweight vehicular access within the work area would be achieved with four-wheel drive vehicles.

The proposed contractor parking and staging area would be located within the campground. The primary contractor access gate for the phased project would be constructed between campsites 43 and 44 to provide ingress and egress during project construction.

For the phased timeframe, a total of 18 campsites (Nos. 27 through 44) would be utilized for staging for Phase 1 work, with an additional 13 campsites (Nos. 13 – 44) for Phase 2. The Phase 2 staging area is larger to account for larger construction crews, additional equipment, and storage required for the installation of the liner segments. The proposed timeframe would not require any new campsite closures, since work would take place at the same time as the approved Campground closure per CDP No. 5-19-0225. Regardless of timeframe, use of the designated, developed campsites for staging is intended to minimize construction related storage of equipment and materials on the sandy beach itself. As proposed, no construction materials, debris, or waste will be placed or stored in a manner where materials may be subject to erosion or dispersion by waves, wind, rain, or tides.

Construction lighting would be trailer mounted to the junction structure to provide adequate lighting for safe execution of the work. Project lighting will be pointed directly toward the work area, with the goal of minimizing excessive illumination.

As proposed, the fencing of the work area would limit lateral public beach access from east and west in the area from the junction structure inland. At lower tides lateral access would remain available seaward of the fenced work area. Signage is proposed along

the work site and construction access fencing notifying the public of the duration of construction and limited access, as well as providing a web address where the public can learn more about the project.

Moving sand around the junction structure will depend on the site conditions (i.e. whether the junction structure is exposed or buried) at the time of commencement of construction. If the junction structure is buried, the sand around and over the junction structure may need to be relocated to the northeastern (inland) portion of the work site to access the junction structure top slab. The work area dimensions recognize the need to accommodate mounding the sand to access the structure. Alternately, in the event sand has been washed out around the structure, temporary fill may need to be placed around the junction structure to provide a safe dry work platform protected from tidal action. No sand will be imported or exported from the site for the proposed project. Initial grades will be reestablished upon completion of the work. Once access to the structure is secured, an opening will be cut through the top slab to provide diver and materials access.

In addition, to protect the work area around the junction structure and assure that sand around the structure is not displaced due to tidal action during construction, a temporary sand bag barrier would be constructed on the ocean side of the structure. The height and width of the barrier would vary depending upon site conditions at the time of construction, the barrier footprint will not extend beyond the Work Area. It will be constructed of plastics-free sand bags filled with sand excavated from within the work area.

If the junction structure is in the buried condition at the time of the project commencement, less than 1,600 cubic yards of sand will be moved around the site, of which 25% will be used to form the sandbag berm. The remainder will be mounded within the work area in a location where it will not impact access of materials and equipment to the junction structure. The applicant states that, if the junction structure is exposed at the time of project commencement, the balance of sand moved around the site to provide access to the junction structure would be nominal in comparison to the buried condition. Under this scenario, it is estimated that approximately 450 cubic yards of sand would still be used to construct the sandbag berm.

Although the top of the junction structure is higher than the predicted high tides during the spring and fall work windows, a temporary riser section with a water tight cover would be constructed to mitigate potential inflow of beach sand and ocean or creek water into the junction structure. This temporary riser would be in place during any work that may occur in the winter as well. The riser will consist of a short stainless steel segment with flanges on both ends, a removable stainless steel blind flange, and a tall stainless steel standpipe with flanges on both ends. The short pipe segment will be bolted to the top face of the junction structure and sealed with a mastic material. The tall stand pipe will be bolted to the short pipe segment to keep sand from flowing into the structure and to keep effluent from flowing out. The blind flange will be bolted to the top flange of the tall standpipe unless divers are working within the junction structure. For

the phased timeframe, in between project phases, the tall pipe segment will be removed and replaced with the blind flange until the second phase begins. The riser section, with its water tight cover, will prevent inflows from San Juan Creek, ocean water or beach sand from entering the junction structure. The riser section is shown on **Exhibit 2**.

Post Work Site Restoration

After completion of the work, the watertight cover would be bolted back onto the junction structure and secured over the bolted frame without the temporary riser. The beach sand would be restored to pre-work lines and grades. The temporary sand bag barrier, k-rail with sound wall, and all perimeter fencing would be removed from the site. The temporary sand bag barrier would be disassembled and the sand would be distributed back to the area around the work area. Similar site restoration activities would occur at the contractor staging areas within the campground at the completion of the work.

CSP's Comments on Project Timing & Staging

In email correspondence dated 3/4/2020, CSP staff indicates preference that the proposed project occur during the time of the approved temporary campground closure. However, CSP also makes clear in the email that CSP's project will have priority, and that if SOCWA's proposed staging and/or construction work interferes with CSP's project, SOCWA may be precluded from extensive use of the campground for anything other than access to the junction structure on the beach. CSP indicates it could support locating SOCWA's construction staging in the south day use parking area of Doheny State Beach. However, CSP is required by CDP 5-19-0225 to maintain at least 50% of the State park's parking areas available to the public during CSP's project work, which might affect availability of the south day use parking area for SOCWA's use. If the south day use parking area is needed by CSP, SOCWA's staging may need to be moved off site.

Based upon this correspondence from CSP, it appears likely that the northern campground area will be available for staging, but not guaranteed. However, construction access to the junction structure work site will be available, regardless of available construction staging area. Although staging in the northern area of the campground would allow easiest access to the work site, the applicant, SOCWA, has indicated that staging in the south day use area would still be acceptable. In the event that staging area is not available, SOCWA has indicated staging could be accommodated at its nearby South Coast Water District site (approximately one mile northeast of the construction site). So regardless of whether the project occurs under the preferred timeline and whether the northern campground area remains available for staging, project site access will remain and feasible alternate staging locations are available.

Background

The subject junction structure was constructed along with the San Juan Creek Ocean Outfall. The junction structure formed the interface between the land and marine

sections of the outfall and allowed access into the outfall for internal inspections through an access hatch. The outfall and junction structure were approved via CDP P-76-6902. CDP P-76-6902 allowed: “Construct a 57” diameter land and ocean outfall to discharge regional waste water effluent to the Pacific Ocean waters. Planned capacity of 36 MGD average flow and 54 MGD peak. Also to expand the existing 9 MGD pump station to 13.8 MGD.”

Jurisdiction

The City of Dana Point has a certified Local Coastal Program (LCP); 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. The certified City of Dana Point Local Coastal Program is advisory in nature and may provide guidance.

Because the project is located on the state beach, the California State Lands Commission was consulted as to its jurisdiction in the area. In correspondence dated March 9, 2020, California State Lands Commission staff informed the applicant that the proposed project is not subject to its leasing or permitting requirements.

B. Biological Resources

Coastal Act Section 30230:

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

Coastal Act Section 30231:

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

Coastal Act section 30240(b):

> (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
>
> (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject site is located on a beach (Doheny State Beach) and near the mouth of a stream (San Juan Creek). The site is located within and adjacent to a park and recreation area. Recent historic photos indicate that at times the high tide reaches the junction structure and at times flows from the creek meander widely and reach the structure. However, most of the time the junction structure is on dry sand, sometimes partially exposed and sometimes buried.

A Biological Resources Letter Report and Impact Analysis (2020 Report) was prepared for the proposed project (Dudek, 5/15/2020). In addition, a Mitigated Negative Declaration (MND) was prepared for the proposed project by SOCWA (September 2015), which also includes, as Appendix C, a Biological Resources Letter Report and Impacts Analysis (Dudek, 2015), (2015 Report). The 2020 Report identifies nine mitigation measures to address indirect impacts to biological resources that may occur due to the proposed project. The MND also identifies mitigation measures to address potential biological impacts. These mitigation measures are proposed as part of the subject project. The full mitigation measures are attached as **Exhibit 3** and summarized later in this report.

Vegetation Communities/Land Covers

The 2020 Report identifies two Vegetation Communities/Land Covers: Beach and Urban/Disturbed. The 2020 Report describes the beach community at the site as sandy, unvegetated shoreline bordering the existing campground and states that areas mapped as beach habitat are frequently used by beachgoers for park recreation purposes. The 2020 Report states that the urban/disturbed land cover is characterized as having been constructed upon or otherwise physically altered to an extent that native vegetation communities are not supported. At the project site, the urban/disturbed areas refer to existing paved and unpaved trails, bare, unvegetated ground, building/structures associated with the campground, and associated ornamental landscaping. The 2020 Report further states that the urban/disturbed area supports only limited natural ecological processes, native vegetation, and/or habitat for wildlife species and thus is not considered sensitive by local, state, and/or federal agencies. The 2020 Report documents wildlife observed on the site during the 2007, 2014, and 2020 wildlife surveys conducted by Dudek in conjunction with the proposed project. No wildlife species were observed on the beach in the actual work area during any of the surveys. Brush rabbit and California ground squirrel were observed in the campground and

various, non-special status birds were observed in flight or foraging on the grounds of the campground.

There is existing park vegetation along the roadways, in the parking lots, in the street medians, and surrounding recreation areas. According to California Department of Parks and Recreation (CSP) records (per CDP 5-19-0225), the applicant's Biological Resources Letter Report and Impact Analysis (2020 Report), and the California Natural Diversity Database, no sensitive plants are known to be present in Doheny State Beach. In reviewing the project approved via CDP 5-19-0225, the Commission found that 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 habitat information submitted with the current CDP also concludes that no ESHA is present in the project area. In any case, no vegetation removal or trimming is included in the proposed project. No work effecting existing vegetation will occur with the proposed development.

Disturbed mulefat scrub was previously documented along the west bank of San Juan Creek during a 2014 biological assessment conducted by Dudek for a previous iteration of the proposed project. Although the 2020 Report did not include the creek or creek bank, the applicant contends that since the 2014 assessment, the creek bank has colonized considerably with non-native vegetation and that it no longer supports expansive mulefat scrub vegetation. This is consistent with the Commission's earlier finding (5-19-0225) that no ESHA is present in the project area. In addition, the western boundary of the Doheny State Beach Campground is currently fenced to delineate the extent of the campground facilities and to prevent access to the creek from the campground. No work will occur beyond this existing fence and so no work will occur within whatever vegetation may be present on the creek bank, whether disturbed mulefat scrub or vegetation comprised predominately of myoporum with only scattered individual stands of mulefat and disturbed sage scrub vegetation. No work will occur within the streambed or banks. The proposed project will not have any impact on San Juan Creek vegetation, because the project is limited to the developed campground and the sandy beach area only.

Implementation of the proposed project would result in direct, temporary impacts to 0.38 acres of beach habitat. This impact is due to construction-related access that needs to occur to facilitate rehabilitation of the junction structure. The temporary placement of barriers needed to secure the work area as well as frequent access to the junction structure to support the rehabilitation activities will incur temporary impacts to the beach during construction only. As part of the proposed project, all temporarily disturbed areas will be restored to pre-construction contours and conditions following work completion. With the restoration of the site, the impacts are considered temporary and minimal.

Doheny State Beach is one of California's most popular state beaches and attracts almost one million visitors per year to its 62 acres of scenic oceanfront. The state beach

is divided in two halves by San Juan Creek. The northern end has a day use surfing beach as well as a five-acre lawn with recreational facilities. The southern end, where the Junction Structure is located, has a campground with 122 developed family campsites. Open year round, the state beach's peak season falls between Memorial Day and Labor Day, though the Campground is nearly fully occupied throughout the year. Given the heavy use of Doheny State Beach park, the proposed work on the beach and staging in the campground is not expected to impact sensitive vegetation communities or habitat. Consequently, the proposed project is not expected to result in significant disruption of habitat values and would not degrade the park and recreation area, and so can be found to be consistent with Section 30240 of the Coastal Act.

Wildlife

The 2020 Report identifies potential impacts to three wildlife species of interest that may occur in the project vicinity, one of which is considered a special status species. The western snowy plover (Charadrius alexandrinus) is federally listed as threatened and state listed as a species of special concern. Two other species of interest have the potential to occur in the project vicinity: monarch butterfly and California grunion.

Western Snowy Plover

The 2020 Report indicates that the western snowy plover has a high potential to roost within 500 feet of the project site, but a low potential for nesting in the vicinity. There are only 10 recorded nesting sites in Southern California. Nesting potential is low due to extensive human activity in the area. Western snowy plovers have been documented in small roost numbers on Doheny State Beach in the general project vicinity. This species was not documented in the California Natural Diversity Database in the project vicinity or region. However, CSP staff have anecdotally recorded this species in Doheny State Park. The Sea & Sage Audubon Society conducts annual winter window surveys annually for western snowy plovers in Los Angeles and Orange Counties. In 2015 and 2017, Sea & Sage Audubon's surveys detected 11 western snowy plovers roosting at Doheny State Beach, and detected one plover in 2016.[4] The closest location of previously observed roosting plovers in the project vicinity was at the San Juan Creek trailhead, located across the creek from the subject site, approximately 600 feet to the northwest of the work area. No western snowy plover nesting has been observed at Doheny State Beach.

Regarding western snowy plovers, the 2020 Report states:

> "Western snowy plover's preferred habitat consists of sandy coastal sand spits above the high tide line, dune-backed beaches, bayshore sand flats, salt evaporation ponds, salt flats, alkaline flats, and the shores of alkaline sink lakes. Western snowy plover forage for invertebrates in sand, low foredune vegetation,

[4] https://www.seaandsageaudubon.org/Conservation/SNPLsurvey/FinalReport2014_2017.pdf

> and washed up kelp. Seasonal movements bring western snowy plovers from the north and northeast and possibly the California interior to coastal beaches beginning in October. The nesting season for this species is between March 1 and September 30. Currently there are only 10 active nesting sites in Southern California. In Orange County, western snowy plovers nest at Anaheim Landing, Sunset Beach Bay Fill, Sunset Beach, Bolsa Chica Beach, Bolsa Chica Salt Flats, Newport Beach, and Balboa Beach prior to 1940 (Page and Stenzel 1981). During their 1979-78 survey, Page and Stenzel (1981) found that Orange County supported 2% of the pairs on the mainland coast, all at the Bolsa Chica Oil Fields (previously Bolsa Chica Salt Flats) (CDFW 2017). There are no records of nesting western snowy plovers at Doheny State Beach."

The 2020 Report indicates that the primary factors contributing to degradation of winter roosting habitat include daily beach grooming, heavy recreational use, vehicular traffic, domestic animals, and predators attracted to human refuse. In addition, high noise levels can adversely affect plover roosting. Of these negative factors, noise, vehicular traffic, and human refuse may arise due to the proposed project. The proposed project incorporates measures to minimize these effects. Three pre-construction surveys will be conducted by a designated project biologist at the work area, covering the area within 500 feet of the work area. Weekly surveys will be conducted during the plover nesting season (March 1 – September 30), if work is occurring. If surveys are negative for western snowy plovers, work may proceed during the roosting period and a biologist will be present to monitor construction on the beach to ensure that no western snowy plovers are injured or killed, should they arrive in the area as work continues. If roosting western snowy plovers are found within 500 feet of the work area and noise levels exceed 60 A-weighted decibels (dBA) at the roost site, or ambient noise levels, whichever is greater (as determined by an acoustician), the designated biologist will confer with the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to determine a suitable avoidance/minimization approach, which may involve the installation of noise barriers and the implementation of a noise monitoring program depending on the location of the sensitive resource in relation to the noise source and noise levels. In addition, biological monitoring will occur during the course of construction. Monitoring will be provided, and monitors will be on site daily during mobilization and establishment of the work area and establishment of access into the junction structure, and once per week during the physical rehabilitation of the junction structure. The biological monitor will have the ability to halt work. Additionally, wildlife proof trash receptacles will be employed at the site and all trash and debris removed daily. A full list of the project mitigation measures is included in **Exhibit 3**. These proposed Mitigation Measures are also incorporated into the subject permit through the imposition of **Special Condition No. 1**.

Western snowy plover nesting season runs March 1 through September 30. Under the preferred project timeline (November 2020 – March 2021), the snowy plover nesting season would be avoided, except for the final month of potential construction work, March 2021. If the preferred project timing is not feasible, the project timing may overlap with the nesting season. The project biologist will monitor for nesting plovers if

construction activities occur within the nesting season and implement protection measures described above if any nests are discovered (**Exhibit 3**). With incorporation of the proposed mitigation measures into the project, no significant disruption or degradation of potential snowy plover habitat is expected with the proposed project, and so can be found to be consistent with Section 30240 of the Coastal Act.

Other Nesting Birds

The 2020 Report indicates that the potential for California least tern nesting in the area is low and that it is not expected to roost in the area. There are no records of breeding terns in the area. Nesting of the least tern is not expected to occur due to the heightened human activity in the area. This species is a seasonal resident of California and is only present during the breeding season from April through September. This species may be observed foraging offshore, within San Juan Creek, or may be observed flying by.

Moreover, generally regarding potential bird nesting in the project area, the applicant proposes, for construction activities occurring between February 15 and September 1, to retain the services of a qualified biologist to conduct weekly nesting bird species surveys in order to determine the presence of active bird nests that could be directly impacted on site and within 500 feet of the work area. The first survey will occur on February 15, and surveys will occur weekly during weeks of active construction during the breeding season as work conditions dictate. If construction activities cease for 5 or more consecutive days during the breeding season, repeat nest surveys will be required to determine whether new nesting locations have been established within the project site and immediate vicinity. A full list of the project mitigation measures is included in **Exhibit 3**. These proposed Mitigation Measures are also incorporated into the subject permit through the imposition of **Special Condition No. 1**. With incorporation of the proposed mitigation measures into the project, no significant disruption or degradation of potential nesting bird habitat is expected with the proposed project, and so it can be found to be consistent with Section 30240 of the Coastal Act.

Grunion

California grunion is a species of marine fish found only along the coast of Southern California and northern Baja California. This marine fish species is a restricted resource, as determined by the CDFW, and a recreational fishery due to its unique spawning events known as grunion runs. Orange County beaches are prime areas for California grunion spawning. The grunion spawning period is March 1 – August 31. The California grunion exhibits unique reproductive behaviors that make it particularly susceptible to adverse anthropogenic influences. During the spawning period (grunion runs), fish beach themselves to lay their eggs and are easily taken by anglers during this time. Although the species itself is not considered special-status, some spawning locations have been adversely affected by beach development or overharvesting. California grunion are known to spawn at Doheny State Beach.

To the extent feasible, no project activity that entails sand disturbance seaward of the semilunar high tide line will be conducted during the 4-day period of predicted grunion runs that are posted by CDFW. The applicant has indicated that, given the fluctuating sand levels, the project may or may not interfere with grunion runs. Grunion runs are only proximal to the project area if the junction structure is exposed (i.e. not buried by sand). Work is expected to occur mostly out of the grunion spawning season; nevertheless, the applicant is proposing to monitor for grunion and to coordinate with CSP staff regarding additional measures to avoid impacts to spawning grunion.

If the preferred project timing is employed (November 2020 – March 2021), the grunion spawning period would be avoided, except for the final month of potential construction work, March 2021. If that schedule is not feasible, the project timing may overlap with the grunion spawning period. Although the proposed project includes grunion monitoring during construction and consultation with CSP staff, no specific measures are proposed to protect spawning grunion. Such measures would include: obtaining grunion run schedules, avoiding or rescheduling work if spawning is to occur during construction activities, and maintaining a qualified resource specialist onsite if work must be performed during spawning season. **Special Condition No. 2** requires that grunion impact avoidance measures be incorporated into the proposed project. In addition, proposed Mitigation Measures are also incorporated into the subject permit through the imposition of **Special Condition No. 1**. The project is proposed and conditioned to protect grunion consistent with Section 30230 regarding protection of healthy marine populations.

Monarch Butterfly

The 2020 Report states:

> Doheny State Beach supports a small, extant overwintering population of monarch butterflies that once supported hundreds to thousands of monarch butterflies. However, current records report a pronounced decline to approximately 15 or less individuals per year since 1999 (IELP and Xerces Society 2012). This extant population does not intersect the proposed work boundary but rather is located off site and west of San Juan Creek. There were no eucalyptus trees documented on the project site. Although there is a moderate potential for monarch butterflies to fly through the site, there is no potential for them to overwinter due to the lack of suitable overwintering trees.

Regarding monarch butterflies the 2020 Report further states:

> Moderate potential to fly through the site; not expected to overwinter. There are no eucalyptus trees on site. There is a known overwintering site on Doheny State Beach. The colony used to be located on a direct line between the entrance kiosk and the public restroom near the beach in eucalyptus trees. They cluster in the trees just to the ocean side of the parking area. In 1995-96, the colony was found at

the north end of the same parking lot over a bike path and by the creek. The clusters typically disappear by January in most years.

Because no vegetation will be impacted by the proposed project and because the past colony locations have been more than 500 feet from the work area, no impacts to the monarch butterfly are anticipated. However, the proposed project will be monitored by a qualified biologist during all construction activities. If monarch butterflies are present and the biologist identifies impacts that may occur, such as due to noise, **Special Condition No. 1** requires that protection measures be implemented. With incorporation of the proposed mitigation measures into the project, no significant disruption or degradation of potential monarch butterfly habitat is expected with the proposed project, and so, can be found to be consistent with Section 30240 of the Coastal Act.

Noise

Short-term, construction-related noise can disturb over-wintering wildlife species by introducing noise at nighttime when animals are at rest and when ambient noise levels are typically low. This in turn can increase stress causing over-wintering individuals to abandon the roost site in favor of a quieter location with less anthropogenic disturbances. Construction noise with respect to the proposed project is temporary, with levels that can vary from hour to hour and day to day, depending on the equipment in use, the operations performed, and the distance between the source and receptor. At the San Juan Creek trailhead, which is over 600 feet northwest of the work area and is closest to previously observed roosting plovers in the area, predicted noise levels during construction are expected to range from 52 dBA to 58 dBA (with the noisiest days occurring during weeks 2 and 7 of construction). These noise levels are not expected to adversely affect wildlife using the adjacent beach and San Juan Creek, including roosting western snowy plovers or other special-status wildlife that may rest in the project vicinity. However, if roosting plovers are found within 500 feet of the work area and predicted noise levels are expected to exceed 60 dBA from the center of the roost site, plovers could abandon the roost site resulting in significant, indirect impacts to this species.

Predicted noise levels during construction are expected to range from 52 dBA to 58 dBA (with the noisiest days occurring during Weeks 2 and 7 of construction). These noise levels are not expected to adversely affect wildlife using the adjacent beach and San Juan Creek, including roosting western snowy plovers or other wildlife that may rest in the project vicinity. However, the applicant is proposing that if breeding or roosting wildlife are observed within 500 feet of the work area based on survey data, the designated biologist will confer with the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to determine a suitable avoidance/minimization approach which may involve the installation of noise barriers and the implementation of a noise monitoring program depending on the location of the sensitive resource in relation to the noise source and noise levels. A possible proposal will entail having an acoustician take a noise measurement within the center of the roost and/or nest site to determine noise levels. If noise exceeds a peak level of 60 dB Leq (1

hour) at the roost and/or nest site(s), or ambient noise levels, whichever is greater, sound attenuation devices such as sound shields, sound walls, mounted vinyl sound blankets, and the use of mufflers may be employed as directed and approved by the USFWS and CDFW.

The applicant is proposing installation of sound barriers along the north and east sides of the work area to limit noise impacts at the nearby DoubleTree Hotel, in compliance with the City of Dana Point's nighttime noise ordinance. In addition, one of the mitigation measures proposed by the applicant is that if roosting western snowy plovers are found within 500 feet of the work area and noise levels exceed 60 A-weighted decibels (dBA) at the roost site, or ambient noise levels, whichever is greater (as determined by an acoustician), the designated biologist will confer with the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to determine a suitable avoidance/minimization approach, which may involve the installation of noise barriers and the implementation of a noise monitoring program

If the preferred project timeline is met (November 2020 – March 2021), most of the bird nesting season would be avoided, along with potential noise impacts to nesting birds. If the preferred project timeline is not feasible, the project may overlap with portions of the nesting season.

Project Effects

The nature of the ocean outfall precludes proposed work from being relocated off the beach. The pipeline alignment and location were approved in 1976 via CDP P-76-6902. Consideration of alternative locations is not an option for this ocean outfall project. However, the proposed project will eliminate the upper five feet of the junction structure, which means it will be exposed less and less in the future, allowing the beach around it to be returned to a more natural state more frequently.

Without the proposed repairs to the ocean outfall junction structure, the potential for effluent leakage onto the beach increases significantly. Because of the project location, effluent leakage could enter the creek or the ocean. In addition, it would impact recreational opportunities at the beach park. The installation of the proposed flow-through stainless steel pipe liner within the junction structure is intended to address existing structural deficiencies and avoid effluent leakage onto the public beach. The proposed junction structure repair is intended to make the outfall structurally sound and prevent leakage of effluent onto the beach and potentially into the stream. The prevention of effluent leaking onto the beach would be a positive result for surrounding habitat, wildlife, water quality of the creek and ocean, and recreation in the park. The proposed project will improve the outfall structure to prevent adverse impacts to water quality and marine resources, habitat, as well as to recreation, consistent with Sections 30230, 30231, and 30240.

Proposed Project Mitigation Measures (Summary)

The proposed project includes all of the mitigation measures recommended by the project Mitigated Negative Declaration, the nine mitigation measures to address potential impacts to biological resources. These include 1) environmental awareness training for all project workers; 2) project monitoring by a qualified biologist during all construction activities; 3) employees, construction equipment and activities are limited to within the demarcated project footprint, and animal and weatherproof trash receptacles will be installed and used, littering will be prohibited, and trash will be collected daily to avoid attracting predators of western snowy plovers and other wildlife; 4) pits trenches, holes, etc. shall not be left open or unattended, and any such areas shall be covered at the end of each work day in a manner that prevents entrapment of wildlife; 5) pre-construction western snowy plover surveys will be conducted by a qualified biologist. If work occurs during the western snowy plover nesting season (March 1 – September 30), surveys will occur weekly; if any western snowy plovers are located within 500 feet of the work area, the project biologist will notify the U.S. Fish & Wildlife Service; if surveys are negative for western snowy plovers work may proceed during the roosting season; a qualified biologist will monitor all project work and prepare monthly compliance reports for SOCWA, Coastal Commission, and CSP; 6) roosting western snowy plover avoidance and minimization measures will be implemented during construction; 7) lighting impacts will be minimized; 8) A Section 401 Water Quality Certification, Section 404 Nationwide Permit, and Coastal Commission-issued CDP shall be obtained prior to commencement of construction; 9) weekly nesting bird surveys will be conducted if any work occurs between February 15 and September 1 by a qualified biologist; if any nests are discovered, appropriate buffer zones will be established around the nest, buffer distance may be adjusted (either expanded or reduced) by the designated biologist based on existing conditions around the nest, planned construction activities, tolerance of the species, and other pertinent factors; if SOCWA (the applicant) chooses to proceed with a reduced nest buffer, the biologist shall monitor bird behavior and construction noise levels during all significant construction activities (those with potential noise impacts). **Exhibit 3** includes a complete list of the proposed MND mitigation measures.

In addition, special conditions are imposed to assure the mitigation measures are implemented as proposed and to impose additional measures to protect the resources. **Special Condition No. 1** requires all proposed biological resources mitigation measures be carried out as proposed; **Special Condition No. 2** requires implementation of a Grunion Impact Avoidance Plan if work will occur during the grunion spawning period. As conditioned, the no significant disruption of potential habitat or degradation of recreation areas or parks. The proposed project will restore the work area to its previous state and so is compatible with continuance of existing habitat in the area and with the existing park and recreational uses. In addition, as conditioned the proposed project will protect marine populations of grunion. The project will also prevent effluent from leaking onto the beach, which will benefit both habitat and recreation. With incorporation of the proposed mitigation measures into the project, the Commission finds that the project, as conditioned, conforms with Sections 30230, 30231, and 30240(b) of the Coastal Act.

C. Public Access

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 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.

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. The junction structure and the proposed project work area is located on Doheny State Beach. The staging area will be located within the Doheny State Beach Campground. With the intention of minimizing temporary public access impacts, the applicant (SOCWA) has coordinated with both California Department of Parks and Recreation (CSP) staff and California Coastal Commission (CCC) staff to revise the proposed project's timeline so that it will coincide with the temporary campground closure approved via CDP No. 5-19-0225 for a CSP project at Doheny State Beach. This timeframe is preferred by both CSP and CCC staffs as it minimize public access and recreation impacts due to campground closure.

The applicant has proposed the preferred project timing to coincide with the temporary campground closure allowed for a CSP sewer rehabilitation project within Doheny State

Beach (CDP 5-19-0225) that is to occur between from November 15, 2020 through April 1, 2021. During the campground closure, only the junction structure work area on the beach will interfere with public use of Doheny State Beach. During the campground closure the only impacts to public recreational use will be to the beach itself. No other public amenities will be impacted. Under the preferred project timing when the campground is closed, the proposed project will not interfere with any other public use areas of Doheny State Beach, including day use areas and parking (unless staging is required to move to the south day parking area).

Under the preferred project timeframe, there are effectively seventeen weeks between November 2020 and March 2021 to complete the proposed project. The applicant has indicated that there will be a maximum of two weeks of daytime work in the beginning to prepare the site. There will then be six non-consecutive working nights (one per week) on the junction structure. There will be a maximum of one week of daytime work at the end of the project in order to restore the site to pre-work conditions. The 17-week window allows for float weeks due to rain events.

The preferred time frame avoids work during the peak use summer season. The CSP's approved CDP 5-19-0225 recognizes that 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, including both the northern and southern segments of the State Beach. The proposed project will have no effect on day use parking during the proposed construction work. Under the preferred project timeframe, no day use public parking would be occupied by the proposed project, unless construction staging must be relocated to the south day use parking. However, even if that is the case, a minimum of 634 public parking spaces must still be provided (50% of the total number of parking spaces). However, if timing delays make the preferred timeframe infeasible, the alternate construction timeframe would be implemented. Even if the alternate construction timing is implemented, all work is proposed to occur outside the peak use summer season. If the alternate project schedule is implemented, the project fencing and related staging on the beach will be removed from the site in the six-month time gap between project phases and public beach access will be open and available.

However, the proposed project would still result in a portion of the public beach being occupied for the duration of the project. Because higher tides are expected to extend up to the junction structure work area, and because the work area and construction access from the campground to the work area will be fenced for safety purposes, lateral public access along the sandy beach at higher tides will be prevented. As proposed, the work area would limit public beach access from the east and west (laterally across the beach) during high tide. At low tide, lateral access will remain available along the ocean's edge. The applicant has proposed to post signage to notify the public of the limited access, and of the anticipated duration of construction, as well as a web address where the public can learn more about the project.

However, most of the time, the equipment and personnel would either be at the work area or the staging area, not in transit between the two. Because heavy equipment will be used to transport sand around the Work Area during site preparation and site restoration, public access through the Work Area will be limited when active construction is occurring during the 2 weeks maximum of site preparation and 1 week maximum of site restoration, for public safety reasons. During the interim weeks, project construction activities will occur at night. Impacts to public access due to the project could be significantly reduced by including gates on the east and west construction fencing. These gates could be closed (limiting lateral public access during high tide) when active construction is occurring, including when equipment and personnel are traversing the area, and opened at all other times. **Special Condition No. 3** requires the applicant to accommodate lateral access across the site at all times whenever active construction is not occurring.

Thanksgiving

CDP 5-19-0225 requires that California State Park's (CSP) closure of the campground avoid, if feasible, closure during Thanksgiving Nov 26 – 29, 2020 weekend to minimize the impacts of the development on public use of the unique beach camping facilities. If CSP opens the campground over the long Thanksgiving weekend (Thursday – Sunday), the project applicant (SOCWA) will need to coordinate with CSP to accommodate the campground opening, including relocating or reducing the construction staging and staging footprint in the campground. However, it is recognized this may not be feasible. The goal is to complete the work in as timely a manner as possible (while recognizing various timing constraints) in order to restore the beach and campground to public use. **Special Condition No. 4** requires that if CSP reopens the campground over the Thanksgiving weekend, SOCWA will coordinate with CSP to facilitate maximum availability of camp sites, to the extent feasible.

The proposed project includes measures to minimize impacts to public access and recreation. These include: no work will occur during peak summer months; the preferred project timing would coincide with the already approved temporary closure of the public campground; and if the project occurs in two phases, public access will be restored in the six month time gap between phases. However, if the project provided public lateral beach access at all times whenever active construction is not occurring, then public access would be maximized as required by Section 30210 of the Coastal Act. **Special Condition No. 3** requires lateral public access be provided at all times whenever active construction is not occurring. In addition, to preserve and maintain access to the public tidelands, **Special Condition No. 6** makes clear that the approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the property. As conditioned, the proposed project would be consistent with the Coastal Act Sections cited above regarding provision of public access and recreation.

D. Visual Resources

Section 30251 of the Coastal Act 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project will cause temporary visual impacts to Doheny State Beach. However, these impacts will be temporary and no long term impacts would result once construction ceases and the site is restored to its original condition. The majority of the existing junction structure is underground, and visible only intermittently. The proposed project includes removing the upper five feet of the junction structure, meaning it will be exposed far less frequently than it currently is, which will improve public views in the area. The proposed project will not result in any permanent negative visual impacts. Thus, the proposed development 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.

E. 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.

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications 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.

The South Orange County Wastewater Authority (SOCWA) is the lead agency responsible for purposes of determining conformance with CEQA. SOCWA determined that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent, which adopted a Mitigated Negative Declaration for the proposed project (September 2015). However, Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) all mitigation measures to be carried out as proposed; 2) grunion avoidance measures; 3) public access shoreline management; 4) coordination with California Department of Parks and Recreation if the campground re-opens for the Thanksgiving weekend; 5) construction responsibilities; and, 6) no waiver of public rights.

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

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. Coastal Development Permit Amendment Application No. 5-20-0183 and associated file documents.
2. Coastal Development Permit No. P-76-6902.
3. Mitigated Negative Declaration San Juan Creek Ocean Outfall Junction Structure Rehabilitation (SOCWA, Sept. 2015).
4. Biological Resources Letter Report and Impact Analysis for the San Juan Creek Ocean Outfall Rehabilitation Project (Dudek, May 2020).
5. Coastal Development Permit No. 5-19-0225 and associated file documents.