

CALIFORNIA COASTAL COMMISSION

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Th10b

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-21-0475

Applicants: Orange County Water District

Agents: Shawn Nevill

Project Location: Parking lot of Gum Grove Park near Heron Pointe, Seal Beach, Orange County (APN No.: 199-201-87)

Project Description: Boring and installation of two single-point monitoring wells to facilitate investigation of saltwater intrusion into coastal freshwater aquifers. Drill rig, pipe trailer with drill pipe, mud tank, and shaker unit will be used to advance 12" to 14"-diameter boreholes to respective depths of 160 feet and 250 feet below ground surface at two chosen locations within an existing asphalt parking lot for Gum Grove Park. Disturbance will be limited to the areas of the boreholes, and no drilling activities will disturb soils designated as wetlands. After construction, boreholes will be backfilled with concrete and sanitary sealant and restored to existing conditions.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval with conditions for the installation of two monitoring wells in the parking lot of Gum Grove Park in Seal Beach, Orange County, for the investigation of seawater intrusion into coastal freshwater aquifers that serve the Orange County Water District. Staff recommends that Special Conditions be imposed to address known and potential archaeological and cultural resources that may be uncovered during

construction, to maintain parking availability and public access to Gum Grove Park, and to avoid wildlife disturbance resulting from the proposed development.

The proposed project is intended to better understand the hydrogeological conditions within the Orange County Groundwater Basin, which is the main water source for millions of people across Orange County. Within the coastal zone, the Orange County Water District seeks to install two monitoring wells as part of a wider data collection effort. The goal of this project is to study seawater intrusion processes and effects on coastal freshwater aquifers, thereby potentially helping to enhance community water supply security, while also providing valuable regional data on sea-level rise impacts and increases in groundwater elevations for a variety of locations throughout coastal and inland Orange County.

The project, as proposed, must be consistent with Coastal Act policies including preservation of water quality, biological resources, and protection of archaeological and tribal cultural resources. Thus, staff is recommending a series of conditions to ensure that such resources are appropriately protected, especially during construction. Given the long history of human habitation on this site and the potential to encounter archaeological and cultural resource deposits, **Special Condition 1** requires the applicant submit final revised plans to assure that the proposed project remains occurs outside of known tribal cultural resources and does not impact areas of archaeological deposits. **Special Condition 2** would require the applicant to conform to an Archaeological Monitoring Plan. To account for the temporary closure of the parking lot and to mitigate for the loss of public parking at a dedicated coastal-dependent recreational visitor-serving site, staff recommends **Special Condition 3**, which would require the applicant to submit a Construction Staging and Parking Plan and identify alternative public parking. Staff also recommends **Special Condition 4**, which outlines construction-related requirements to provide for the safe storage of construction materials, drainage controls, and safe removal of potentially contaminated soils. **Special Condition 5** would require the applicant to submit a Biological Monitoring Report, prepared by a biologist, who will survey existing nesting bird populations in the vicinity of the construction area, and utilize a necessary buffer area and noise abatement measures to lessen potential disturbance. **Special Condition 6** would require the applicant to share the findings of this project with the Commission in order to elucidate ongoing issues of seawater intrusion into freshwater aquifers of coastal California.

As conditioned, the proposed project conforms with Chapter 3 of the Coastal Act, which is the standard of review because the City of Seal Beach does not have a certified Local Coastal Program. Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-21-0475, as conditioned. The motion is on page 4.

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[Exhibit 2](#) – Project Plans

[Exhibit 3](#) – Summary Mitigation Measures – Tribal Cultural Resources

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-21-0475 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves 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 applicants 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 applicants to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Final Revised Plans. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, two full-size sets of revised final plans, that substantially conform with the plans submitted to the Commission and received on August 28, 2021, except that they shall be modified to reflect the following:

A. An exhibit overlaying the chosen locations for the two proposed boreholes in relation to all known archaeological and cultural deposit sites, including interment sites, midden, relocated or destroyed tribal cultural resources, significant and not significant cultural resources, on the project site and within the vicinity. This exhibit shall be marked "Confidential." The final proposed drilling and boring locations must be located outside of the mapped archaeological and tribal cultural deposit areas. This permit does not authorize any excavation of said deposits or archaeological sites.

The permittees shall undertake development in conformance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

2. Cultural Resource Treatment and Monitoring Plan. PRIOR TO THE ISSUANCE OF THIS PERMIT, the Permittee shall submit a Cultural Resource Treatment and Monitoring Plan, which shall comply with the following:

A. Incorporate the following into the Archaeological Monitoring Plan:

(1) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of one Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, excavation work, site preparation or landscaping activities associated with the approved development. Prior to the commencement and/or re-commencement of any monitoring, the Permittee shall notify each archaeological and Native American monitor of the requirements and procedures, and shall provide a copy of this Special Condition, any archaeological monitoring or research plans, past archaeological reports, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor;

(2) The Permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and any other

subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;

B. If an area of tribal cultural deposits is discovered during the course of the project, the subject condition language shall prevail:

(1) All construction and subsurface activities that have the potential to uncover or otherwise disturb tribal cultural deposits in the area of the discovery shall cease within 50 feet of the deposit immediately;

(2) The Permittee shall report all discovered resources as soon as possible, by phone or by email to the Executive Director;

(3) The professional archaeological monitor onsite must contact the affected Native American Tribe(s) and notify them of the discovery in order to determine the results of (4) and (5) below;

(4) Significance testing may be carried out only if acceptable to the affected Native American Tribes and in consultation with the Tribes. The Executive Director shall, in writing, determine the adequacy of the Significance Testing Plan and if it can be implemented without further Commission action, provide written authorization to proceed. The Significance Testing Plan results, if applicable, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittee shall submit to the Executive Director a Supplementary Archaeological Plan;

(5) The treatment method or mitigation measure for the discovery shall be prepared in consultation with the Native American monitor(s), and the MLD when State Law mandates the identification of a MLD. The Permittee shall inform the Executive Director of the treatment method in writing. Data recovery and excavation is not authorized by this permit. Data recovery shall not be approved in any supplemental plans if the affected Native American tribes disagree with that treatment method. Because this is a drilling project within an existing open space area and there is flexibility for alternative locations, if remains or other tribal cultural resources are discovered, the applicant shall abandon the site and find an alternative location for drilling, which shall require an amendment to this CDP. In-situ preservation is the preferred treatment and can be achieved through such methods such as, but not limited to, project redesign and capping. The range of

treatment and mitigation measures considered shall not be constrained by the approved development plan.

C. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict with the approved development plan, the Permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

3. Construction Staging and Parking Plan. PRIOR TO ISSUANCE OF THIS PERMIT, the Applicant shall prepare for Executive Director review and approval a Construction Staging and Parking Plan, which shall:

A. Designate a staging area onsite for construction equipment and supplies to be stored during construction.

B. In the case that the existing 10 parking spaces of the parking lot would be temporarily removed, unavailable, or inaccessible, the Plan shall identify temporary public parking alternatives for visitors to Gum Grove Park, including parking along nearby roadways, and include directional signage identifying the temporary public parking.

C. Upon completion of the investigation, all boreholes shall be sealed or backfilled, and the project site shall be restored to the existing conditions to the extent possible.

D. The plan shall include but is not limited to construction perimeter and area, construction equipment, final construction BMPs, and hazardous waste disposal procedures (including removal of contaminated soils from site). Mechanized equipment should be limited to existing roads onsite and shall be restricted from storage, placement or operation in the wetland areas, to the greatest extent feasible.

E. Additional restrictions on public use of Gum Grove Park and its trails during construction shall be prohibited. The extent of public trails and amenities shall not be reduced during or after construction. The public access trails shall be maintained in a manner that promotes public use of these public trails, and clear and visible signage shall establish the perimeter of the construction staging area, which shall be limited to the parking lot only.

The permittees shall undertake development in conformance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a

Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

4. Construction Responsibilities and Best Management Practices (BMPs).

BY ACCEPTANCE OF THIS PERMIT, the applicant agrees to the following:

- A. No demolition or construction material, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- J. The discharge of any hazardous materials into any receiving waters shall be prohibited;

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

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

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

5. Biological Monitoring and Protection During Construction. BY ACCEPTANCE OF THIS PERMIT, the Permittee agrees to submit a Biological Monitoring Report prepared by a qualified biologist approved by the Executive Director in consultation with other appropriate resource agencies with demonstrated success restoring and monitoring native Southern California coastal habitats. The Biological Monitoring Report, which shall be reported in written form to the Executive Director within 30 days of permit issuance, shall ensure the following:

A. Pre-construction surveys conducted within (7) days before the start of construction to determine the presence of any sensitive wildlife species with the potential to occur near the project site.

B. At minimum, monitoring shall occur once a week during any week in which construction occurs. Daily monitoring shall occur during development which could significantly impact biological resources such as excavation, grading, or other ground disturbing activity with potential to perturb any sensitive species identified. Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts that could occur upon nearby sensitive species or habitat areas.

C. No geotechnical borings are permitted that would result in damage or degradation of environmentally sensitive habitat area (ESHA) in nearby Gum Grove Park or similarly designated areas within the wetlands complex. Under no circumstances are the bore sites or other ground disturbance permitted within vernal pools or the littoral zone.

D. If construction activities are to occur between February 1 and September 15, a pre-construction nesting bird survey shall be conducted to determine the presence of active nests within 500 feet of the construction activities. The nesting bird surveys shall be completed no more than 72 hours prior to any construction activities. All ground disturbance activities within 500 feet of raptor nests or 300 feet of other active bird nests or as otherwise specified shall be halted until the nesting effort is complete.

E. Appropriate noise-abatement measures (e.g., sound walls) shall be implemented to ensure that noise levels are less than 60 A-weighted decibels (dBA) at the active nest of a listed species, as determined by the biological monitor. This shall be verified by weekly noise monitoring at an equivalent location conducted by a qualified Acoustical Engineer during the breeding season (February 1 to September 15) or as otherwise determined by a qualified biological monitor based on nesting activity.

F. The biological monitor shall review and verify compliance with these nesting boundaries and shall verify when the nests have been naturally vacated for the season, with no human interference. Work may resume when no other active nests are found. Upon completion of the survey and any follow-up construction avoidance management, a report shall be prepared and submitted to the Executive Director.

6. Annual Data Reports. BY ACCEPTANCE OF THIS PERMIT, the applicant agrees to submit a report each year to the Executive Director for the first five years after completion of construction, or for an adjusted time period dependent on the nature of the investigation, which includes a presentation of seawater intrusion monitoring results, assessment of data trends and analysis, and any adaptive management recommendations. The report shall also be concurrently provided to all groups of the Tongva, Gabrielino, and Kizh Native American tribes, as well as regional and state agencies of interest.

IV. FINDINGS AND DECLARATIONS

A. Project Location and Description

The applicant, the Orange County Water District, provides public water service to 2.5 million residents across 19 cities in north and central Orange County, and relies on the 270 sq. mi. Coastal Plain of Orange County Groundwater Basin for at least 77 percent of its water supply. This Basin is designated by the State of California as “Critically Overdrafted” (due to historical over-pumping and extraction of groundwater exceeding what could naturally be replenished by rainfall) and has active seawater intrusion occurring. Seawater intrusion has been detected onshore in some of the existing monitoring wells in the basin and along the entire coastline of the District’s service area, which has been confirmed by water quality sampling and geophysical mapping. There

are four subterranean geologic erosional gaps along coastal Orange County that can provide a conduit for seawater to flow inland in response to freshwater aquifer pumping by inland and coastal cities, thereby potentially contaminating groundwater supplies.

In an effort to better understand the hydrogeological conditions within the project location and surrounding area and to determine best corrective actions to control seawater intrusion, the applicant is proposing to install and operate five monitoring well clusters within the City of Huntington beach and the City of Seal Beach. The two monitoring wells located within the coastal zone are the subject of this permit application. These two wells would be installed in the existing parking lot for Gum Grove Park, located southwest of the intersection of Seal Beach Boulevard and Heron Pointe in Seal Beach ([Exhibit 1](#)). The boreholes will be drilled through the paved asphalt surface at two select pinpoint locations proposed by the applicant ([Exhibit 2](#)). Adjacent Gum Grove Park is a popular recreational area, contains environmentally sensitive habitat, and is listed as sacred land with the Native American Heritage Commission. The park is a part of the Los Cerritos Wetlands complex, with native plants providing a buffer between the wetlands and the developed areas of the upper park. Gum Grove Park is designated Open Space Natural (OS-N) in the City of Seal Beach Zoning Code. The subject site is also located adjacent to single-family residences within the Heron Pointe community abutting the Los Cerritos Wetlands complex. The Commission has not certified an LCP for the City of Seal Beach.

Boring and installation of the two single-point monitoring wells will take approximately two to three weeks. The construction equipment, which will include a truck-mounted drill rig, pipe trailer with drill pipe, mud tank, and shaker unit, will be sited within an approximately 12-foot-wide by 220-foot-long construction area on the asphalt surface of the Gum Grove Park parking lot. The drilling locations proposed by the applicant are final, except as subject to tribal cultural resource protection required by **Special Condition 2**, and no exploratory borings will be conducted as part of this project. Disturbance will be limited to the areas of the boreholes, and no drilling activities will disturb soils designated as wetlands. The applicant proposes to make all existing ten parking spaces temporarily unavailable during the construction phase, but will ensure alternative parking areas are available for visitors of the park.

The proposed monitoring wells would be installed by two drilling methods: 1) direct mud rotary; and 2) rotary sonic. Each monitoring well would have a single 4-inch diameter schedule 80 PVC casing installed inside a 12- to 14-inch diameter borehole to estimated respective target depths of 160 and 250 feet below ground surface ([Exhibit 2](#)). Once the borehole drilling is completed, the wells would be constructed. The depth of the boreholes and depth of each of the three well casings and associated screened intervals would be determined based on the lithology (general physical characteristics of the soil) observed during drilling and the acquired borehole geophysical logs. The wells would have a 3-foot diameter concrete apron with a 12-inch diameter traffic-rated subgrade protective vault.

Upon initial well development, the boreholes will be backfilled with concrete and silicone-based sanitary sealant and restored to existing conditions. After completion of

all construction, monitoring well operation includes the periodic measuring of groundwater elevations and the collection of groundwater samples for laboratory analysis. During a groundwater sampling event, a portable submersible pump would be lowered into each of the two wells. Operation of the submersible pump to lift water from the wells will require the use of a small portable generator, operated by District staff. Groundwater samples will be collected on a semiannual basis and water levels recorded on a monthly basis. The applicant anticipates that the two monitoring well structures will last at least 50 years after initial installation and has proposed ongoing maintenance of the wells every three to five years. This permit does not authorize the ongoing maintenance of the proposed wells, and an amendment to this CDP or a new CDP may be needed in the future.

B. Cultural Resources

Section 30244 of the Coastal Act states:

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

The California coastal zone has been home to native populations for thousands of years. The largest Native American tribe close to the project site was the Gabrielino/Tongva settlement of Puvunga. The neighboring Hellman Ranch property contains at least eleven cultural resource sites identified by the State of California, including six that may have been previously disturbed.¹

On the eastern and southern flanks of the property, closer to Heron Pointe and Gum Grove Park, the project area encompasses a portion of a prehistoric ancestral village of Motuuchevngna. Both Puvunga and Motuuchevngna are listed as Sacred Lands with the Native American Heritage Commission. The subject area, known as Landing Hill, has been subject to past archaeological investigations. The California State Historic Preservation Office (SHPO) in 1999 confirmed that the subject site is eligible for listing in the National Register of Historic Places under Criterion D for its retention of integrity and its potential to provide data that can address important research questions about the prehistory of the area. Given the very sensitive nature of this portion of the site, the applicant proposes to avoid all known areas of archaeological deposits. The two drilling locations will take place on the tribal sacred land, but are not expected to impact archaeological deposits.

The various tribal cultural sites have been documented during the course of previous archaeological investigations of the Hellman Ranch property. The Commission imposes **Special Condition 1**, which requires final revised plans to ensure that the drilling locations do not impact known archeological sites.

¹ [5-97-367](#).

In addition, while portions of the project area have sustained substantial ground disturbance related to prior oil operations and filling of the wetlands, even a disturbed archaeological deposit has the potential to contain displaced human remains and artifacts. To address the possibility that significant archaeological deposits or materials may be encountered during ground-disturbing activities related to the geotechnical investigation project, given the archaeological sensitivity of the area, the applicant has proposed Summary Mitigation Measures ([Exhibit 3](#)). The Measures include having both an archaeological monitor and Native American monitor present during ground disturbing activities. The OCWD Project Manager shall ensure that a qualified archaeological monitor is present to monitor construction activities, and Native American monitoring will be provided independently by each interested Native American tribe identified to be the Most Likely Descendent (MLD) per the Native American Heritage Commission (NAHC). However, to ensure that tribal cultural resources are protected to the maximum extent feasible, the Commission imposes **Special Condition 2** which requires that the applicant conform to the monitoring plan, and the preferred treatment of resources, if applicable.

Tribal Consultation

Ahead of filing for a coastal development permit application, the applicant had conducted AB 52 consultations with affected Native American tribes by letter and/or phone. The applicant received feedback from the Gabrieleno Band of Mission Indians - Kizh Nation regarding the Summary Mitigation Measures on July 20, 2020 ([Exhibit 3](#)).

Once the application was filed with the South Coast District Office, Commission staff contacted the Native American Heritage Commission (NAHC) on August 31, 2021 to conduct a search of the Sacred Lands File, in accordance with the Commission's Tribal Consultation procedures. The NAHC provided Commission staff with a list of potential affected tribes in the area for consultation. Staff initiated consultation via letter on October 19, 2021, along with a copy of the proposed plans, narrative description of the proposed project, and maps depicting the described site. After following up once again on November 23, 2021, staff received consultation requests and written comments from the Gabrieleno Band of Mission Indians - Kizh Nation, Gabrieleno Tongva San Gabriel Band of Mission Indians, and Gabrielino Tongva Indians of California Tribal Council.

The consultations occurred on November 30, 2021, December 1, 2021, and January 27, 2022. During the consultation process, tribal representatives described the sensitive nature of the area and made suggestions for conditions of approval, which staff has incorporated into the recommendation.

The area is documented as a sacred land, and therefore the potential impacts of the project not only include accidental discovery of tribal resources, but also include potential impacts to the status of the land as sacred. To ensure that the project protects prehistoric archaeological resources and the tribal cultural resources that are present on the site and is consistent with past Commission action, **Special Condition 2** also requires that if cultural resources are discovered during construction, the applicant is

required to apply for an amendment in order to avoid the resources, as preservation in-situ is the preferred treatment method, and an alternative location for drilling can be selected.

Therefore, as conditioned, the proposed project is consistent with Coastal Act Section 30244, as the development will include reasonable mitigation measures to ensure that the development will not result in adverse impacts to archaeological resources.

C. Public Access

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 30252 of the Coastal Act 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.

Special Condition 17 of coastal development application 5-97-367-A1, which was required by the Commission for the original construction of the Gum Grove Park parking lot, states, in relevant part:

(2) [Gum Grove Park] shall be reserved for a public trail and parking lot, which are visible, and directly accessible to the public from Seal Beach Boulevard, and which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot area shall be large enough for a minimum of ten (10) parking spaces. Where it is not feasible to reserve enough public parking area on this portion of proposed Lot 3, public parking directly accessible from Seal Beach Boulevard shall be provided for on proposed Lot 2 of Tentative Tract Map No. 15381 adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 18.B. of this permit.

Section 30210 of the Coastal Act requires that the public be provided maximum access to the coast. The Coastal Act prioritizes the protection of public access to the coast and, in Section 30252, identifies adequate parking as an important component of new development. Adequate onsite parking is necessary to continue providing direct access to the public for recreation at Gum Grove Park, as it is especially important for development in visitor-serving areas to prevent conflict between residents and visitors for limited street parking spaces.

The Gum Grove Park parking lot was required by the Commission pursuant to Special Condition 17 of coastal development permit 5-97-367-A1. At the time, Hellman Properties, LLC agreed to dedicate Lot 3 of proposed Tentative Tract Map No. 15381 as a public parking lot for the purposes of conveying Gum Grove Park to the City of Seal Beach. Lot 3 was configured to include a finger that extends from Gum Grove Park eastward to Seal Beach Boulevard. The Commission found that this finger provided a second public access entrance to Gum Grove Park, since prior, the only entrance to Gum Grove Park was at the far western end of the park. Given that Lot 3 was tucked away near residential subdivisions with otherwise limited public access, CDP 5-97-367-A1 ensured that signage on major public thoroughfares such as Pacific Coast Highway and Seal Beach Boulevard clearly indicated the park entrance. Since parking is prohibited on both sides of Seal Beach Boulevard for at least a half mile in either direction of the subject site, the Commission found that there was a need for public parking to make the trail from Seal Beach Boulevard accessible by the public. Ultimately, if a large-scale wetland restoration is undertaken over much of the Los Cerritos Wetlands complex, the public trail from Seal Beach Boulevard could be part of a larger trail that connects this public parking on Seal Beach Boulevard with the proposed parking and visitor-serving uses at the State Lands parcel.

During the temporary construction phase of the subject project, it will not be feasible to provide all of the required parking onsite, and therefore, the applicant has proposed to provide alternative parking to ensure continued public access to Gum Grove Park. To account for the temporary closure of the parking lot and to mitigate for the loss of public parking at a dedicated coastal-dependent recreational visitor-serving site, the Commission imposes **Special Condition 3**, which requires the applicant to submit a Construction Staging and Parking Plan detailing alternative temporary replacement parking that will be suitable for park visitors, and signage for the temporary parking.

Therefore, the Commission finds that, as proposed and conditioned, the project is in conformity with the coastal access and recreation sections (30210 and 30252) of the Coastal Act.

D. Biological Resources and Environmentally Sensitive Habitat Area

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat or ESHA as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature

or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240(b) of the Coastal Act states, in relevant part:

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

According to the Mitigated Negative Declaration (MND) prepared by the applicant pursuant to CEQA, no biological resources are present in the parking lot. However, the adjacent Gum Grove Park, which is in the immediate vicinity of the construction area, hosts an impressive variety of plant, bird, and invertebrate species, some of which are rare and/or sensitive. In the Los Cerritos Wetlands, six plant communities have been identified and constitute ESHA: southern coastal salt marsh, southern coastal brackish marsh, southern willow scrub, mule fat scrub, alkali meadow, and eelgrass beds. For example, southern tarplant (*Centromadia parryi* ssp. *australis*) is a rare annual plant that has been found in non-tidal wetlands and upland areas of the site. Two other annual plant species, Lewis' evening primrose (*Camissoniopsis lewisii*) and Coulter's goldfields (*Lasthenia glabrata* ssp. *coulteri*) occur in limited locations in the Gum Grove Park area. Plant species that have been identified in the area in previous Commission actions include slender wild oat, ripgut grass, Italian ryegrass, telegraph weed, bristly ox-tongue, Australian saltbush, five-hooked bassia, and white sweet clover.

The park and surrounding wetlands complex contain ESHA, as they support a large array of avian and invertebrate species. In the last several years, a thriving riparian forest has established in a bioswale just to the north and west of Gum Grove Park. Riparian forests, historically present along the San Gabriel River, are now extremely rare in the area. The bioswale site, specifically, is supporting rare nesting birds and intercepting stormwater runoff before it gets to saline wetlands.

There are various bird species which nest and/or forage at the Hellman Ranch and within Gum Grove Park. In addition, Gum Grove Park provides potential habitat for the monarch butterfly (*Danaus plexippus*).

The proposed project will drill two monitoring wells in a paved parking lot using mechanical equipment, which will not directly occur within designated ESHA. Nonetheless, the project must be designed to prevent impacts to the nearby ESHA, and the ground disturbing activities may impact sensitive nesting bird species which may be found in nearby Gum Grove Park. The Commission finds that in order to assure the continuance of sensitive habitat in the immediate vicinity of the subject site, the applicant must take special care during construction, especially if it occurs during the nesting season (February 1 – September 15 of any year). Therefore, the Commission imposes **Special Condition 5**, which requires the applicant to submit a Biological Monitoring Report and to adhere to a necessary buffer area, as well as noise abatement measures, to lessen potential disturbance to wildlife.

As conditioned, the Commission finds that the proposed project will not impact on the site's sensitive biological resources and is therefore consistent with Section 30240 of the Coastal Act.

E. Marine Resources, Water Quality, and Flood Hazards

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Section 30270 of the Coastal Act states:

The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

The proposed project has the potential to adversely impact the water quality of nearby Gum Grove Park, the wetlands, and Pacific Ocean. Many of the pollutants entering the ocean come from land-based development. During construction, sediment, including construction materials (e.g., concrete and sanitary sealants), discharged into groundwater may cause contamination of coastal freshwater aquifers or contaminate the surrounding sensitive habitat. Thus, to protect water quality and biological productivity of the nearby groundwater aquifers, wetlands, and coastal waters, the Commission imposes **Special Condition 4**, which outlines construction-related requirements to provide for the safe storage of construction materials, minimization of runoff, and safe disposal of construction debris.

Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of

water quality to promote the biological productivity of coastal waters and to protect human health.

Section 30270 requires the Commission to consider effects of sea-level rise in coastal resources planning and management policies to avoid and mitigate the adverse effects of sea-level rise. The proposed project, and the Water District's larger seawater intrusion monitoring project, is consistent with the intent of Section 30270. Given that the site is located in an area where dynamic and unpredictable coastal hazards occur, and the investigation studies the effects of sea level rise, the Commission also imposes **Special Condition 6**, which requires the applicant to share the findings of this investigation with the Commission to elucidate ongoing issues of seawater intrusion in freshwater aquifers within the Orange County Groundwater Basin.

F. Local Coastal Program

Section 30604(a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

G. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit (CDP) applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. The Commission's regulatory program

for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA (14 CCR § 15251(c)).

The applicant, Orange County Water District, is the lead agency, and the Commission is a responsible agency for the purposes of CEQA. The Water District prepared a Mitigated Negative Declaration on August 26, 2020 and found the proposed development to be consistent with CEQA on October 21, 2020.

The preceding findings in this staff report have discussed the relevant coastal resource issues, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. The Commission incorporates these findings as if set forth here in full. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact, individual or cumulative, which the proposed project would have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – Substantive File Documents

Coastal Development Permit Application No. 5-97-0367 and associated file documents.

Orange County Water District Sunset Gap Monitoring Wells Project Draft Initial Study/Mitigated Negative Declaration, prepared by Orange County Water District, August 2020.