CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802-4325
VOICE (562) 590-5071

W13b

Filed:	9/09/2024
180th Day:	5/23/2025
Staff:	LR-LB
Staff Report:	9/26/2024
Hearing Date:	10/09/2024

STAFF REPORT: MATERIAL AMENDMENT

Application No.:	**5-15-2056-A1**
Applicants:	**City of San Clemente**
Location:	North Beach and Linda Lane Beach, San Clemente, Orange County
Approved Project:	Five-year opportunistic beach sand replenishment program with a 200,000 cu. yds. maximum annual beach fill placement volume at two potential beach receiver sites
Proposed Amendment:	Revise program term from a 5-year term to a 10-year term, revise the current two potential beach sand receiver sites to re-instate the previously approved T-Street North and T-Street South sand receiver sites, and revise the maximum annual total sand volume from 200,000 to 300,000 cu. yds. of beach quality material per year at four receiver sites
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The City of San Clemente is requesting an amendment to CDP 5-15-2056 to revise three aspects of the permit, including: 1) Revise Special Condition 3 – Scope and Term of Permit Approval which authorizes continuing development pursuant to this permit for an additional ten-year term from the date of Commission approval of this amendment; 2) Revise the maximum combined total amount of sand from 200,000 cu. yds. to 300,000 cu. yds; and 3) Revise the sand receiver sites to re-instate the previously approved T-Street North and T-Street South sand receiver sites.

The City of San Clemente first obtained coastal development permit (CDP) #5-02-142 in 2004 to implement an opportunistic beach replenishment program. The City developed a detailed program and set of criteria for placement of a maximum combined total of 300,000 cubic yards (cu. yds.) of sand annually for a five-year period along the city shoreline at four (4) beach receiver sites (North Beach, Linda Lane, T-Street South and T-Street North). The program was designed to capitalize on opportunities to obtain surplus sand from upland construction, development, maintenance dredging projects and retention basins as they arose, and to place the sand along the shoreline instead of losing the material to an inland disposal site. As approved, projects falling within the program parameters, which included maximum amounts of sand, deposition methods, seasonal placement restrictions, and grain size criteria, that could be found by the Executive Director to be consistent with the subject permit and allowed to proceed without additional approval from the Commission. During the original five-year period of the beach replenishment program, only one 5,000 cu. yd. opportunistic sand placement at North Beach was carried out in 2005 per the permit requirements. In 2009, the Commission issued another five-year extension to the program with no changes. No suitable sand opportunities arose between 2009 and 2015.

In 2015, the City re-applied for an opportunistic sand program or Sand Compatibility and Opportunistic Use Program (SCOUP) with all the same program parameters as those under CDP 5-02-142 but scaled down to a combined 200,000 cu. yds instead of 300,000 cu. yds. and just two sand receiver sites of North Beach and Linda Lane. The Commission approved CDP 5-15-2056 utilizing the same originally approved program parameters approved by CDP 5-02-142. One opportunistic sand placement event of 12,000 cu. yds. in the fall of 2016 at North Beach occurred under CDP 5-15-2056.

The current proposed amendment would increase the total potential annual maximum sand placement by 100,000 cu. yds. (from 200,000 cu. yds. to 300,000 cu. yds.) and increase the number of beach receiver sites for the potential sand from two to four sites (North Beach, Linda Lane, T-Street North and T-Street South) with no change to all other SCOUP paraments detailed in the preliminary Project Notification Report and the SCOUP Monitoring Plan (**Exhibit 1**). The Project Notification Report must be submitted for review by the Executive Director of the Commission prior to implementation of each beach replenishment project; it includes parameters for: maximum sand placement volumes, sand placement methods, seasonal restrictions on sand placement, physical

and chemical sand parameters, trash and debris management, transport and traffic management, water quality best management practices, public notification, a summary of past and foreseeable beach replenishment projects in the City, and an assumption of risk statement for each beach replenishment project. The Project Notification Report further details the pre-, during, and post-construction monitoring requirements for each beach replenishment project. Additionally, the required Monitoring Plan provides details regarding proposed surfing, turbidity, sand grain size and sand contaminants, traffic, and trash and debris monitoring. The analysis provided in the post-construction reports will serve as the basis for any modifications to the program that may include more intensive monitoring requirements for future sand replenishment projects.

Additionally, the City is requesting to modify **Special Condition 3** to authorize the continuation of development pursuant to this permit amendment to expire ten years instead of five years from the date of Commission approval of this amendment request.

The beach nourishment program is consistent with and implements many of the recommendations of the Commission's recently approved Sea Level Rise Policy Guidance document (SLR Guidelines). Sea level rise will result in changes to sediment availability on California beaches. Higher water levels and changing precipitation patterns could change erosion and deposition patterns. Loss of sediment could worsen beach erosion and possibly increase the need for beach nourishment and decrease the effectiveness of beach nourishment if sand is quickly washed away after being placed. Beach nourishment is a "soft" armoring solution which can help to protect a coastline from coastal hazards without the need for a permanent shoreline protective device. The Commission's SLR Guidelines recommend that local jurisdictions establish beach nourishment programs and protocols. The subject beach nourishment program includes many of the suggested protocols, including criteria for design, construction and management of the nourishment area, sand compatibility specifications, seasonal restrictions, and identification of environmentally preferred locations for deposits. The SLR Guidance suggests that the Commission produce additional guidance documents related to beach nourishment. The monitoring results of the proposed program will further the Commission's understanding of beach nourishment projects and be useful in refining future beach nourishment programs throughout the state.

The subject SCOUP permit amendment is designed and conditioned to avoid impacts to sensitive habitat, public access and recreation, and as conditioned, no adverse impacts to coastal resources are anticipated.

The standard of review is Chapter 3 policies of the Coastal Act. As conditioned, the project can be found consistent with Chapter 3 policies of the Coastal Act, and staff recommends **APPROVAL** of the proposed coastal development permit amendment application 5-15-2056-A1 as conditioned.

The motion to carry out the staff recommendation is on page 6 of this report.

PROCEDURAL NOTE

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

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

2) Objection is made to the Executive Director's determination of immateriality, or

3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regs. Section 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

TABLE OF CONTENTS

EXHIBITS

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. 5-15-2056 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in conditional approval of the permit amendment 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 Amendment on the grounds that the development as amended and subject to conditions will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because 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. CHANGES TO SPECIAL CONDITIONS

NOTE: Appendix B, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by this Amendment 5-15-2056-A1. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this action continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on Amendment 5-15-2056-A1 are shown in the following section. Language to be added is shown in <u>underlined</u> format. Language to be removed is shown in ~~strikethrough~~. Within Appendix B, changes to the previously approved special conditions are also shown in strikeout/underline format. This will result in one set of adopted special conditions.

1. [Special Condition 1 (Revised Monitoring Plan) of CDP 5-15-2056 remains unchanged and in effect]

2. [Special Condition 2 (Approval of Excavation/Dredging Site) of CDP 5-15-2056 remains unchanged and in effect]

3. Special Condition 3 (Scope and Term of Permit Approval) of CDP 5-15-2056 shall be amended as follows:

Scope and Term of Permit Approval. The development authorized by this CDP is limited to beach nourishment that is consistent with the project limits identified in the preliminary Project Notification Report including, but not limited to, the placement sites, maximum quantities of beach nourishment, seasonal limitations on placement, and methods of delivery.

B. The authorization for continuing development pursuant to this permit amendment shall expire ~~five~~ ten years from the date of Commission approval of CDP No. 5-15-2056-A1. Five (5) years from the date of Commission approval, the applicant shall submit one printed copy and one digital copy of a changed conditions report to the Executive Director for review and written approval. The changed conditions report shall include a summary of all placement activities conducted under the program, and a summary of monitoring results, as informed by monitoring reports required by CDP 5-15-2056. The report shall summarize the effectiveness of the CDP in meeting project objectives, including in terms of maintaining public coastal access, habitat values, and coastal resource protection, and include any changes needed to better meet these objectives or protect coastal resources. If the Executive Director determines that there are changed circumstances and that an amendment to this CDP or a separate CDP is legally required to continue this program, within 90 days the permittee shall submit and complete the required application.

4. New Special Condition 4 as follows:

Biological Mitigation. Any inadvertent impacts to sensitive habitat areas by the proposed development shall be reported to the Executive Director within 2 weeks of occurrence and shall be mitigated. Such mitigation shall require an amendment to this permit or a new permit unless the Executive Director determines that no permit is legally required.

5. New Special Condition 5 as follows:

Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that the project site(s) may be subject to hazards, including but not limited to waves, storms, flooding, and erosion, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

III. FINDINGS AND DECLARATIONS

A. Proposed Amendment Description

The City of San Clemente is requesting an amendment to CDP 5-15-2056 approved March 10, 2016 for an opportunistic beach sand replenishment program or Sand Compatibility and Opportunistic Use Program (SCOUP) which allowed for the potential processing of multiple beach replenishment projects with a maximum combined total of 200,000 cubic yards of beach quality material per year for a five-year period at two City beaches, North Beach, just south of the San Clemente Metrolink train station and at the terminus of Avenida Pico, extending a distance of 1,500 feet; and Linda Lane Beach, located south of Mariposa Point and north of the City pier, extending a distance of 1,500 feet. The proposed amendment would revise three aspects of the permit, including: 1) Revise Special Condition 3 – Scope and Term of Permit Approval which authorizes continuing development pursuant to this permit for an additional ten-year term from the date of Commission approval of this amendment; 2) Revise the maximum combined total amount of sand from 200,000 cu. yds. to 300,000 cu. yds; and 3) Revise the sand receiver sites to allow use of the T-Street North and T-Street South sand receiver sites, which were included in the original 2004 opportunistic sand program CDP, for a total of four receiver sites.

Per the CDP 5-15-2056 approved program parameters, the City submits a Project Notification Report (**Exhibit 1**) for each proposed opportunistic sand project to the Executive Director for review and written approval before commencement of an individual sand placement project. The program is intended to expedite the implementation of beach sand replenishment projects by establishing a set of detailed and rigorous criteria and parameters under which future potential sand sources could be evaluated. If a particular sand source becomes available and meets the program's criteria, placement of that sand will be able to be approved by the Executive Director under the subject permit without further Commission action. If any particular sand source falls outside the criteria outlined herein, or any other potential risks to coastal resources not identified and discussed in this report were identified by Commission staff, a separate CDP or amendment to this CDP would be required. The program is designed to capitalize on opportunities to obtain surplus sand from upland construction, development, or dredging projects, as they arise, and to place the sand along the shoreline through a streamlined process, instead of losing the material to an inland disposal site due to the sometimes lengthy processing time for necessary permits from the various agencies.

The current proposed amendment would increase the total potential annual maximum sand placement by 100,000 cu. yds. (from 200,000 cu. yds. to 300,000 cu. yds.) and increase the number of beach receiver sites for the potential sand from two to four sites as follow:

- A maximum of 125,000 cu. yds. per year on North Beach, just south of the San Clemente Metrolink train station and the terminus of Avenida Pico, extending a distance of 1,500 linear feet.
- A maximum of 75,000 cu. yds. per year on Linda Lane Beach, south of Mariposa Point and north of the San Clemente Pier, extending a distance of 1,500 linear feet.
- A maximum of 45,000 cu. yds. per year on T-Street Beach North extending from the San Clemente Pier a distance of 1,000 linear feet south.
- A maximum of 55,000 cu. yds. per year on T-Street Beach South extending south a distance of 1,200 linear feet south.

The City is also requesting to increase the authorization for continuing development pursuant to this permit amendment from five years to ten years from the date of Commission approval of the subject amendment. The City has historically requested five-year extensions to its original opportunistic sand placement permits, consistent with previous Commission approvals for other SCOUP programs in Southern California. However, to lessen its administrative burden of applying for CDP amendments every five years to increase the permit term, the City is now requesting a ten-year term, per the Commission's most recent SCOUP permit renewal for the City of Solana Beach. While the Commission supports sand replenishment, it is possible that conditions may change over time and additional monitoring or placement parameters may be necessary to ensure that coastal resources are adequately protected. Therefore, **Special Condition 3**, as revised by this permit amendment, establishes a ten-year permit term with a requirement that the City submit a changed conditions report after five years to the Executive Director (E.D.). This interim report shall include a summary of the effectiveness of the CDP in meeting project objectives, including in terms of maintaining public coastal access, habitat values, and coastal resource protection, and include any changes needed to better meet these objectives or protect coastal resources. The changed conditions report shall be based on the results of any Project Notification Reports completed pursuant to this CDP and the associated monitoring. If there are no changed conditions or unanticipated significant adverse impacts on coastal resources or public access, then the program may continue for the additional five years with no further Commission action; however, if the E.D. determines that there are changed conditions or adverse impacts, a new CDP or CDP amendment may be required.

Current Program Parameters – No Change

No changes to the approved program parameters described below are proposed. The City will continue to implement all projects constructed under this beach replenishment program consistent with the parameters as detailed in the preliminary Project Notification Report and Monitoring Plan (**Exhibit 1**). The Project Notification Report includes a framework that will be submitted for review by the Executive Director of the Commission prior to implementation of each beach replenishment project, such as: parameters for maximum sand placement volumes, sand placement methods, seasonal restrictions on sand placement, physical and chemical sand parameters, trash and debris management, transport and traffic management, water quality best management

practices, and public notification. The Project Notification Report further details the pre-, during, and post-construction monitoring requirements for each beach replenishment project. Additionally, the Monitoring Plan provides details regarding proposed surfing, turbidity, sand grain size and sand contaminants, traffic, and trash and debris monitoring. The analysis provided in the post-construction reports will serve as the basis for any modifications to the program that may include more intensive monitoring requirements for future sand replenishment projects.

The sand criteria previously approved would remain unchanged, sand review includes an assessment of possible pollutants, contaminants, grain size, color, and particle shape. The max portion of fine-grained particles to be placed on the beach would also remain the same as the previously approved beach replenishment program, 25% fine grained particles and 75% sand. Beach sand would be placed either below the mean high tide line, as a layer over the beach surface as a berm, or as a dike along the toe of the existing revetment that protects the railway in this area, depending on the particular site and time of placement. Transport to the fill site would be by truck or rail. Conventional earth moving equipment would be used to spread the sand on the beach. In the event that suitable sand was available but site or timing constraints precluded immediate placement on the beach, sand would be stored at a stockpile site until an appropriate time and approval had been obtained for placement at a beach site. Since the program may involve placing sand below the mean ordinary high water mark line, a lease from the California State Lands Commission may be required.

The opportunistic beach sand replenishment program is set up so that the bulk of the testing and review of potential sand sources would be conducted by the City of San Clemente prior to the project even being submitted to Commission staff for E.D. review and approval. All potential sand projects would have to undergo three stages of project review at the City outlined below.

Stage 1 – Minimum Sand Criteria Acceptability
Review of the potential sand source material against a detailed Minimum Criteria Acceptability checklist (see Exhibit 1, Item 2). The review includes an assessment of possible pollutants, contaminants, grain size, color, and particle shape. The maximum proportion of fine-grained particles (or fines, defined as silts and clays passing through the number 200 sieve) to total volume that could be placed on the beach under any circumstances is 25%, with the remainder being 75% larger-grained sand. The material must be free of trash and debris, must reasonably match the color of natural beach sand after exposure to the marine environment, must be less than 10% manufactured sand, and must not form a hardpan after placement. Any sample not meeting these pre-determined standards would be rejected.

Stage 2 - Sampling & Analysis Plan (SAP)
Preparation of a detailed SAP for approval by the U.S. Army Corps of Engineers (ACOE). Sand must be free of contaminants and chemical hazards based on Tier I testing protocol as specified by the ACOE and US EPA. Sand must be chemically inert

and not possess characteristics that would adversely affect water quality, including temperature, dissolved oxygen, or pH. The results of these analyses would be distributed to the ACOE and EPA for review and approval.

Stage 3 – Review of CDP Requirements
City (applicant) evaluation of sand material in the context of the subject permit limits for project size, location, disposal method, timing, etc. The proposed timing of sand placement on the beach has been designed to replicate nature as closely as possible. Natural sediment delivery to the coast occurs during the wet season (fall and winter); therefore, to the extent feasible, sand placement projects will occur during that time. No more than 1/3 of the total allowed material could be placed on the beach outside the wet season. Per the Project Notification Report (Exhibit 1, Item 3) parameters for the time, placement method, and amount of suitable sand that could be placed at the two receiver sites. For example, at North Beach, no more than a total of 125,000 cubic yards of sand could be placed on the beach within any one year. The lineal extent of replenishment could not exceed 1,500 feet. Placement could be either as a berm or at the Mean High Tide Line. Sand could be placed either in the Fall/Winter (Sept. 21 – March 21) or in the Spring/Summer (March 21 – Sept 21), but different criteria apply depending on the season. Up to 25% fine material can be included in the sand only if it were placed in the winter. No more than 4 weeks of work could be done at North Beach during the summer. Only projects that comply with these specific criteria for each receiver beach could be considered under the proposed permit.

Stage 4 – Submittal of Project Notification Report
City submittal of a particular project for the approval by the Executive Director including all of the detailed information involved in performing the above analyses, such that the Executive Director could make a determination of whether the project conforms with the project limits. This information would also outline public notification requirements, and pre-, during, and post-construction monitoring plan for the project. As proposed, this monitoring must include biological monitoring (grunion, nearshore reefs and surfgrass, shorebirds), physical monitoring (turbidity, beach profiling), and recreational monitoring (surfing impacts). Exhibit 1, Item 4 is the detailed monitoring program which would occur for each individual project, as well as annual summary reports. The City will also be responsible for keeping track of the cumulative beach replenishments which have occurred under the subject permit and providing this information to the Executive Director. The City proposes to provide the Commission updated reports as a part of each Project Notification Report and an additional post-project report within the year following the implementation of a subject project.

Thus, at the time any particular project is submitted for the Executive Director's approval, there will be site-specific information on the composition, chemistry, and grain size of the sand source material, the receiver beach, the timing and size of the project, the deposition method, a monitoring program, and a public notification program. Executive Director discretion to approve a project at this point would be highly constrained, as only projects which met the specific standards for each of these items,

as contained in the attached Exhibit 1 and as conditioned herein, could be approved under the subject permit. As previously noted, the Executive Director could only approve projects that fall within the parameters outlined in this permit and if the project does not meet these criteria, the applicant would be required to seek a separate CDP for the project.

The proposed permit amendment is based on very similar opportunistic sand replenishment permits approved by the Commission for the Cities of Carlsbad (CDP #6-06-48 and #6-06-048-A1), Solana Beach (CDP #6-08-38, -A1, A2, and A3), Encinitas (CDP #6-08-110, -A1 and -A2) and Oceanside (CDP #6-07-27 and #6-15-0986).

Prior Permit History
In 2004, the City of San Clemente obtained coastal development permit (CDP) #5-02-142 to implement an opportunistic beach replenishment program. The beach replenishment program allowed for placement of 300,000 cubic yards (cu. yds.) of sand annually for a five-year period along the city shoreline at four (4) different beach receiver sites. A maximum of 125,000 cu. yds. per year on North Beach, just south of the San Clemente Metrolink train station and the terminus of Avenida Pico, extending a distance of 1,500 linear feet. A maximum of 75,000 cu. yds. per year on Linda Lane Beach, south of Mariposa Point and north of the San Clemente Pier, extending a distance of 1,500 linear feet. A maximum of 45,000 cu. yds. per year on T-Street Beach North extending from the San Clemente Pier a distance of 1,000 linear feet south. A maximum of 55,000 cu. yds. per year on T-Street Beach South extending south a distance of 1,200 linear feet south.

During the original five-year period of the beach replenishment program, one project at North Beach was executed per the permit requirements. In 2009, the Commission issued another five-year extension to the program with no changes. However, no suitable sand opportunities arose between 2009 and 2015, and the CDP expired.

In 2015, the City re-applied for an opportunistic sand program with all the same program parameters as those under CDP 5-02-142 but scaled down to a combined 200,000 cu. yds instead of 300,000 cu. yds. and just two sand receiver sites of North Beach and Linda Lane. The Commission conditionally approved CDP 5-15-2056 at its March 10, 2016 meeting utilizing the same originally approved program parameters as the original CDP 5-02-142, but for a scaled down program. One opportunistic sand placement event of 12,000 cu. yds. in the fall of 2016 at North Beach occurred under CDP 5-15-2056.

B. Other Agency Approvals

The SCOUP Project Notification Report, Section 8 – Special Requirements includes a provision for submittal of copies of all current permits and approvals from the Resource Agencies as an attachment to the Project Notification Report. Other resource agency approvals include USACE Section 10 of the River and Harbor Act of 1899 (33 U.S.C.

403) Permit; State Water Resources Control Board San Diego Region extended the previous Section 404 of the Clean Water Act (33 U.S.C. 1344) certification; and CA State Lands Commission lease.

C. Public Access

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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

Coastal Act Section 30212 states, in part:

> *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
>
> *(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
>
> *(2) adequate access exists nearby...*

Coastal Act Section 30231 states, in part:

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

Coastal Act Section 30214(a) states:

> *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*
>
> *(1) Topographic and geologic site characteristics.*

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

Coastal Act Section 30233(b) states:

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

Recreation – General

The above policies establish the shoreline as a valuable asset to the environment and economy of the Southern California region and the State, worthy of protection and enhancement. The shoreline is also considered a resource of national significance. Beach erosion has been an increasing problem in the Southern California region, and in many past projects the Commission has identified beach replenishment as a means to preserve and enhance the environmental quality, recreational capacity, and property protection for the region's shoreline. Additional sand on beaches increases the amount of recreational area available for public uses, decreases the rate of beach erosion, and provides a buffer (a wider beach) between waves and adjacent public development, thereby reducing pressure to construct shoreline protective devices which can adversely affect both the visual quality of scenic coastal areas and shoreline sand supply.

Information submitted by the applicant documents that, like other beaches in Orange and San Diego counties, natural sediment deposition along the City's coastal beaches is much lower than historic production rates. It is estimated that historically, San Clemente beaches received an annual sediment yield of 39,000 cu. yds. from local river sources within the Oceanside Cell, and the present yield is half of that historical amount. As a result of this net loss of sediment deposition over the project area, the local beach profiles reflect these conditions and show severe signs of erosion, which is why the local beach widths are now much narrower than historic widths. For example, North beach is currently approximately 60 feet in width, while historically (1981), it was approximately 110 feet wide.

Thus, the subject opportunistic sand program streamlines and expedites beach replenishment at four beach receiver sites in the City of San Clemente. It is impossible

to say how long any particular fill sand project would remain on the beach, given the possible variations in amount of material and disposal location. However, during the time the sand remains on the beach the public will have the benefit of wider sandy beaches, and any sand deposited on the beach will become part of the littoral cell system. Nevertheless, implementation of a sand replenishment project may have some temporary adverse impacts on public access and recreation. All of the project beaches are currently used for various recreational activities including fishing, swimming, surfing and sunbathing. During a sand placement project, the beach area of undergoing sand deposition would have to be closed, creating a temporary adverse impact on recreation. The impact will be particularly significant during higher tides and at work areas where the entire beach area would be closed to the water line, and people cannot get past the work area to the rest of the beach except by traveling inland around the project area. Therefore, the program includes limits on the season and amount of time that any particular beach could be closed (see the table under the **Introduction** of the Project Notification Report, **Exhibit 1).** The closures would not extend over the entire length of the beach, but only at the portions of the beach where earthmoving equipment are actively working. One-half of a particular beach may be closed while the other half remains open during work. In general, the water area is expected to remain open during construction activities, although the City would retain the ability to restrict access to the water if safety conflicts arose at a particular site. Due to City noise regulations, construction activities would be limited to normal weekday working hours and Saturdays from 7 AM to 6 PM.

Typically, the Commission has prohibited construction on beaches or in recreational areas from occurring during the summer months, or, if summer construction is unavoidable, prohibited construction on weekends and holidays. However, an adequate sand supply is essential to satisfying the access and recreation policies listed above as well. Consequently, in order to allow for the greatest flexibility in getting available sand to the beach such that public access and recreation can be improved consistent with the policies listed above, the SCOUP includes allowances for work during the summer and on the weekends except for the holiday weekends of Memorial Day and Labor Day and weekends adjacent to Independence Day when Independence Day falls on a Friday or Monday. Should suitable sand material become available during the peak summer season (Memorial Day weekend through Labor Day weekend), work is permitted for a maximum of 4 weeks, 6 days a week at North Beach and no more than a total of 4 weeks of construction (4 days a week) at Linda Lane, both sites which tend to be less impacted than the beaches closer to the pier. No sand placement is allowed during the peak summer seasons at T-Street North and T-Street South.

The periods identified are the maximum annual total potential replenishment timeframes; individual replenishment projects would likely be much smaller and require much shorter construction periods than the maximum. Additionally, the maximum allowed amount of sand might not be placed each year, which would also mean fewer construction impacts.

Since North Beach is upcoast of all other City beaches in San Clemente, sand placed at this beach may eventually benefit all of the other beaches downcoast. Thus, allowing

the maximum flexibility for sand delivery at this site is likely to have the greatest long-term benefit to all of San Clemente's beaches. Furthermore, the applicant has stated that most sand replenishment is expected to occur during the rainy season, because placing sand at that time most closely mimics the pattern of natural sand movement.

To further limit adverse impacts on public access, the SCOUP includes diverse public notification procedures including posting notifications at the receiver beach site indicating dates of construction and/or beach closures, public notifications to the City's Coastal Advisory Committee Workshops, at City Council Meetings, Chamber of Commerce/Downtown Business Association articles, City Website, City Publications, notices in local newspapers or direct mailings, notices in utility bills, or cable TV local announcements. Thus, providing the public with adequate public notification opportunities.

Traffic and Parking

As proposed, at the North Beach Fill Site, trucks would utilize the controlled railroad at-grade crossing and public street. The trucks would then pass through a gated fence at the end of the public street, and over a box-channel bridge at the flood control channel. The trucks would then drive onto a temporary construction road onto the beach, dump their loads, and drive back onto the construction road and back through the same route (see **Exhibit 4**). Earthmovers will push the sand from the truck drop site onto the beach and/or into the water. The Linda Lane Beach fill site would also be serviced by trucks and scrapers. The trucks would dump the sand onto North Beach, and scrapers would then pick up the sand and proceed south to Linda Lane around Mariposa Point during low tides. A temporary construction road over the sand seaward of the railroad tracks may be developed depending on the access around Mariposa Point, which periodically changes.

A SCOUP authorized sand placement project could have an adverse impact on public access and recreation if construction vehicles significantly increase traffic flows. In order to minimize traffic disruptions, the project includes limits on the number and frequency of truck trips (see **Exhibit 5**). A project-specific traffic route plan must also be created for each nourishment project. The timing of sand delivery is estimated to be approximately 40% longer at Linda Lane than at North Beach site because of a lower delivery rate, which depends on existence of low tides, exposed rock that may limit access, and use of four-wheel drive trucks requiring double handling of the material. Therefore, less sand will be delivered to Linda Lane over a specified time period, as compared to the North Beach site.

Smaller amounts of material could also be trucked to the Linda Lane Beach fill site via access over the pier at-grade crossing. To access the beach, trucks would travel from Avenida Palizada to Calle Sevilla to Avenida Del Mar to the at-grade crossing. Because this route passes through a more congested residential and commercial community, the total volume to be trucked will be limited to 2,400 cubic yards per week to minimize adverse impacts. Project limits on hauling trips and frequencies ensure that no individual project generates traffic volumes that would decrease the Level of Service on

El Camino Real, Avenida Pico, or Avenida Del Mar during potential sand placement projects.

With regard to adverse impacts to parking, the North Beach parking lot will remain open and available to the public. Some limited, temporary use of street parking may be necessary during a future potential sand placement project. However, the use of public parking spaces during sand placement activities will only be allowed as last resort when/if unforeseeable and unavoidable circumstance arise. If that occurs, only the minimum number of spaces necessary to park or store equipment for the minimum amount of time to deal with the unavoidable situation may be allowed. Given the proposed limits on work during the summer season and the restraints on number of truck trips, public access and recreation is not expected to be significantly restricted by sand replenishment activities.

Recreation – Surfing

City beaches are considered relatively high-quality surfing locations. Surfing could potentially be impacted not only by restriction of access to the water during a sand placement project, but through the modification of existing sand bars and reefs by sand placement and deposition, and poor water quality caused either by turbidity generated during and after sand deposition or contaminants being released into the surfzone by the fill material.

As previously noted, the water area is expected to remain open during beach sand placement activities and limits are in place on the season and on the amount of time/number of days construction/sand placement activities can occur. The SCOUP includes testing parameters for all potential sand sources to verify that the sand is free of contaminants prior to placement on any beach fill site. Including background research of the potential for the material to possess contaminants based on Tier I testing protocol as specified by the ACOE and the U.S. EPA. Therefore, there should not be any health threats to surfers from contamination. Additionally, turbidity will be minimized by restricting the amount of fines in the placement sand to no more than 25% in the Fall/Winter period, and 20% during the Spring and Summer season (see detailed discussion Fines below under Biological Resources). In addition, the SCOUP requires monitoring of turbidity by lifeguards during construction. If turbidity levels reach higher than ambient levels and extend beyond the end of the pier for more than three days, the operation must be curtailed, or cease, to decrease turbidity to below this criterion. In addition, turbidity monitoring and reporting will be done daily during nourishment. Although no significant recreational impacts are expected from turbidity, proposed turbidity monitoring will provide information that will allow future projects to more accurately assess and avoid turbidity.

With regard to the potential modification of sand bars due to beach nourishment, changes in the formation of offshore sand bars are a naturally occurring event, and there are seasonal periodic changes to surfing localities. For example, a project involving a large volume of sand placement could potentially result in the creation of a relatively large sand “slug” to the system over a short time frame thereby changing

bottom conditions at the sites. This impact could be adverse and significant if sand deposition caused waves to close-out over a long period of time (months) rather than peak or resulted in a perpetual shorebreak at the beach rather than a nearshore bar for waves to break over. However, any such occurrence is most likely to be a short-term condition while the sand is naturally redistributed over the bottom. The project may cause potentially beneficial impacts to surfing by contributing sand to the nearshore that will be deposited in bars throughout the City. More sand in the system provides material for enhanced sand bar formation and may result in larger or longer-lasting bars, and improved surfing conditions. The report indicates that informal observations of the 2000 SANDAG beach replenishment project showed surfing conditions improved at each sand placement site after construction because of sand bar formation.

Surfing conditions will be monitored visually three times a week for eight weeks prior to, and eight weeks following sand placement to determine if project impacts occurred, per the Monitoring Plan (see **Exhibit 1**). If so, the program proposes to incorporate more restrictions to either avoid surf sites or reduce sand quantities placed near surf sites.

Sand will also be monitored to identify if the sand is becoming hard packed and to assess the appropriateness of additional grading to push the sand into the surfzone to remediate the problem. This or other remedies must be submitted to the Executive Director as a new project and the Executive Director will determine whether the proposed remediation may be authorized under this CDP amendment or whether the work shall require an additional amendment to this permit or a new permit.

In summary, the proposed project will have short-term and temporary impacts on public access and recreation, which have been minimized by restrictions and conditions on the amount of work than can occur during the summer. The project overall will have a positive impact on San Clemente's beaches. The proposed monitoring plan and reporting will provide information regarding the short and long-term effects of beach replenishment, including how long the sand remains on the beach at different sites in different conditions. The surfing and recreational monitoring will provide similarly detailed information. Therefore, as conditioned, the proposed project can be found consistent with the public access and recreation policies of the Coastal Act.

D. Biological Resources and Water Quality

Coastal Act Section 30230 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.*

Coastal Act Section 30231 states in part:

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...

Coastal Act Section 30233 states, in part:

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

6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

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

Coastal Act Section 30240 states:

(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 Coastal Act policies identified above require the Commission to address impacts on marine resources by considering the timing of deposition of the material on the beach, the composition of the material, the location of the receiver beach, and the presence of environmentally sensitive resources. Development in areas adjacent to sensitive marine habitat areas, marine parks, federal and state Marine Protected Areas and recreation areas, such as beaches, must be sited and designed to prevent impacts which would significantly degrade those areas, and must be compatible with the continuance of those habitat and recreation areas. The restoration of beaches is a

permitted use in open coastal waters under Section 30233; however, the project must be the least environmentally damaging alternative, and any impacts must be mitigated.

While the Commission has viewed beach replenishment as a means to address loss of public access and recreation and to protect property, the Commission is becoming increasingly aware of the potential adverse ecological consequences of this practice. Beach replenishment is often considered the most environmentally sound method of maintaining eroding shorelines. However, fill activities may cause disturbance and mortality of marine life and have the potential to alter the diversity, abundance, and distribution of intertidal macroinvertebrates for months to years. Deposition of material onto the beach can affect marine life through the direct burial of organisms on the beach and in the nearshore environment, by the secondary movement of beach fill material within the littoral drift zone that could bury reefs and organisms, and by increasing turbidity in adjacent waters, which could adversely affect the growth of kelp and impact the ability of shorebirds to find food in offshore waters. Ecological recovery following fill activities depends on successful recolonization and recruitment of the entire sandy intertidal community. With this new understanding the Commission is reviewing beach replenishment projects in terms of potential ecological impacts and as the understanding of impacts from nourishment projects increase, additional special conditions to limit both physical and biological impacts to the sandy beach ecosystems may be warranted in the future.

A biological resource concern is the potential for direct burial of organisms on the beach and in the nearshore environment by the placement of sand. If persistent over a long temporal scale, these impacts could potentially shift population dynamics of these infaunal communities as well as affect available prey sources for nearshore fish and avian populations. Additionally, significant shifts in grain size conditions could also alter the physical beach environment and result in shifts in ecosystem species composition. The Project Notification Report parameters for maximum sand placement volumes during the proposed ten-year permit term, sand grain size, timing of sand placement, and post project monitoring will reduce impacts to beach and nearshore organisms to the greatest extent feasible. Due to the dynamic nature of the intertidal and beach environment, small-scale beach nourishment projects such as those proposed by the City, may result in short term impacts to the sandy beach environment; however, over the long term, impacts are expected to be less than significant.

Another concern with beach nourishment projects is the indirect impacts due to sand material transported by waves through the littoral system, and the resultant potential to temporarily or permanently affect sensitive marine habitats. In addition, increasing turbidity in adjacent waters could adversely affect the growth of kelp and surfgrass and the foraging ability of many marine animals, including shore and seabirds.

Biological Resources

The predominant intertidal habitat along San Clemente's shoreline is sandy beach with some rocky outcrops present at Mariposa Point, upcoast of San Clemente Pier where relic exposures extend from mid beach to the low intertidal. Beyond the surf zone, the

seafloor is a mosaic of sand and low-to-high relief patch reef. Some pinnacles of the reef are visible in the nearshore zone at low tide, while two prominent offshore pinnacles break the surface offshore of Mariposa Point and further downcoast of San Clemente Pier outside the project area. Other reef habitats are also located south of the pier. Sensitive biological resources found within the region between San Clemente and Oceanside that have a potential to be affected by beach fill include intertidal and nearshore reefs that support surfgrass and giant kelp, and State and Federally listed species including the California least tern, western snowy plover, the California brown pelican and the endangered tidewater goby. Intertidal and subtidal reconnaissance surveys were conducted at and in the vicinity of each of the proposed fill sites to assess the presence of reefs, surfgrass and the other above-listed sensitive biological resources, as well as for California grunion.

The previous biological surveys determined that rocky intertidal habitat is present at Mariposa Point, between the North Beach fill site and the Linda Lane Beach fill site. It extends for a distance of approximately 1,400 feet along the shoreline and approximately 250 feet into the wave zone. Offshore, patchy reef habitat is present along the entire shoreline northwest and southeast of the program area. Surfgrass is typically abundant on the intertidal and shallow subtidal reefs. **Exhibit 6** shows a map of the biological resources in the project vicinity. **Exhibit 7** contains a summary of biological information for each beach fill site.

Because of the ecological importance of surfgrass and reefs to the intertidal and nearshore environment, various configurations and volumes of beach fill material were analyzed by the City to develop configurations that would not result in impacts to these resources. The proposed placement locations and quantities are a result of these analyses. Modeling of sand dispersion was used to determine the proposed placement footprint and quality so, as a worst case, sand would not bury more than 2/3 of surfgrass blade lengths for more than six months, which was determined to be a less than significant impact. The Monitoring Plan (**Exhibit 1**) includes surfgrass monitoring prior to and post fill placement. A series of nearshore reef monitoring sites will be established offshore of each beach fill site to measure sand levels. At each site, random surfgrass percent-cover measurements and surfgrass blade length measurements will be collected. In addition, the amount of any sand deposition over plants will be estimated. Surveys are proposed to be conducted after the completion of beach fill at days 30, 90, 180, and 360 after a sand placement project and reported to the appropriate regulatory agencies. In the event that it is determined that nearshore reefs and surfgrass meadows are being negatively affected by beach fill operations, the project will either be curtailed or stopped.

Sand Placement Methodology

Replenishment sand is proposed to be placed in three ways:

1) below mean high tide line, or

2) beach berm; or

3) a sand dike along the rock revetment.

The City will coordinate with the resource agencies, and the public for each individual project to determine whether to allocate sand to both receiver sites or to place sand at only one receiver site. Factors that will be considered include the current beach profile and need for sand at each receiver site, adjacent potential sand placement project activities that would complicate sand delivery, and any other environmental or public access and recreation concerns identified at that time. Receiver site selection and the methodology used to determine sand allocation will be detailed in the Project Notification Report for each replenishment project.

Sediment Analysis

All potential sand projects would have to undergo several stages of future project review at the City level. The bulk of the testing and review of potential sand sources would take place at the City level prior to the project being submitted to the Executive Director for review and approval. When a beach fill opportunity is identified (e.g. a developer notifies the City when excess fill material from a construction project is available, or City staff identifies it as part of reviewing development project submittals), the City would first either review existing data about the available fill material, or conduct an initial screening test of the fill material to determine if it has the potential to meet the criteria to be placed on the beach. The review includes an assessment of possible pollutants, contaminants, grain size, and color, and compares it against existing condition at the subject receiver site.

A sand source must first meet the criteria required by the Project Notification Report (**Exhibit 1**), as identified in the preceding paragraphs. Then, more stringent testing would be conducted through development of a Sampling & Analysis Plan (SAP) prepared for and approved by the USACE. Sand must be free of contaminants and chemical hazards based on Tier I testing protocol as specified by the USACE and EPA. Sand must be chemically inert and not possess characteristics that would adversely affect water quality, including temperature, dissolved oxygen, or pH. The results of these analyses would be distributed to the USACE and EPA for review and approval and the Executive Director would be copied on these submittals as a part of the Project Notification Report for each replenishment project.

Sand Grain Composition

The composition of the sand replenishment material can also affect the environment. The applicant proposes to test and analyze potential beach nourishment sand sources that have up to 25% fines (fine-grained particles, defined as silts and clays passing through the number 200 sieve). This is the upper limit of what would be considered for placement on the beaches, and not a standard for all material that would be placed. The 25% cut-off for fines would enable the applicant to consider a fairly large range of potential source materials. According to the applicant, if up to 25% fines are used as an initial screen for possible nourishment material, almost all the potentially available nourishment material that the City expects to review could be considered within this effort. If the fines content were reduced to be up to 20%, this would decrease the

material that could be considered for nourishment to only 75% of that which would be considered with 25% fines. A limit of 15% fines would reduce to potentially available material to only 30% and a 10% limit on fines would reduce the potentially available material to only 15%. The inclusion of up to 25% fines in the opportunistic sand program will maximize the amount of potentially beneficial material that could be tested and analyzed for consideration as beach nourishment material.

A 25% fines content is higher than most beach nourishment projects the Commission has considered in the past. In most cases, the Commission has required that beach nourishment materials have an 80 percent or more sand content[1]. One concern relating to the amount of fines in nourishment sediment is that the nourishment effort can introduce a grain size that is not already part of the receiver environment. The other concern is turbidity associated with fines.

According to the information submitted by the applicant, the proposed 25% maximum fines content is well below the natural quantity of fines delivered annually from local streams and rivers during the winter season. Since the sites are near to and under the influence of discharges from San Juan Creek, they are accustomed to the fluxes of sedimentation and turbidity from fines during the wet winter season. The applicant took sediment samples along profiles at both Linda Lane and North Beach. The composite sample for Linda Lane had only 5% fines and the composite sample for North Beach had only 8% fines. However, both profiles show an offshore zone where there are high concentrations of fine material. The sample for Linda Lane, from –24' MLLW (Mean Lower Low Water), had 16% fines; the sample for North Beach, from –30' MLLW had 34% fines. These sample results show that fine sediments are now found in the nearshore areas of both Linda Lane and North Beach. Thus, the addition of fine sediments as part of a beach nourishment effort, would not be introducing a physical sediment type that is not already part of the littoral system.

In addition, placement of material with more than 20% fines is restricted to only the fall/winter season. As noted previously, most of the sand replenishment is anticipated to occur during the rainy season, when turbidity is naturally higher. The seasonal limits are designed to mimic the natural sediment delivery to the coast by rivers and streams. Up to 100% placement is proposed during the winter season, and no more than 33% proposed during the summer season when natural sediment delivery is very low.

As noted above, the program requires monitoring of turbidity by lifeguards during construction. If turbidity levels reach higher than ambient levels and extend beyond the end of the pier for more than three days, the operation must be curtailed or cease to decrease turbidity to below this criterion. Thus, bird foraging should be able to continue during a sand placement project. The turbidity monitoring and reporting includes the

[1] The Commission has approved use of materials containing less than 80% sand for beach nourishment purposes in at least one other case. Coastal Development Permit 5-99-282 for beach nourishment within Newport Bay allowed use of materials containing less than 80% sand when the content of sand/fines is within 10% of the sand/fines content of the receiver beach.

length of the turbidity plume estimated and recorded on a map, documentation of project information such as replenishment site, placement method (below the mean high tide line, over existing sand, as sand dike), timing of the operation (start date, stop date, hours of operation), quantity of material, physical and chemical characteristics, and the source of the material. Although no significant environmental impacts are expected from turbidity, the monitoring will provide information to allow future projects to more accurately assess and avoid turbidity.

The biological assessment concluded that any sedimentation on the reefs and increase in turbidity would be very limited and within the late summer to winter oceanographic season sedimentation rates. However, to be conservative, measures are incorporated into the program to minimize impacts including maintaining a 1,000-ft. buffer distance between the North Beach Fill site and Mariposa Point. Sediment monitoring will occur to document habitat effects, and a surfgrass health inventory will be performed before and after construction to verify that no impacts to resources will take place. As proposed, a preliminary surfgrass survey will be performed at the receiver site prior to, and submitted as part of, the Project Notification Report. Thus, the Executive Director will have site-specific, recent information on the presence and location of surfgrass prior to approving or rejecting any particular replenishment project.

Grunion
California grunion spawn on sandy beaches in the San Clemente region between March and August and have the potential to be affected by beach fill projects. In order to avoid any possible adverse impacts to grunion, the City proposes biological monitoring at fill site(s) during predicted grunion spawning periods throughout the spawning season immediately prior to a sand placement project to identify any potential for eggs to be present, with construction stopping if grunion are present. If grunion spawning is confirmed, beach deposition shall be limited to areas above mean high tide, or buffer zones will be created excluding fill activities from spawning sites.

Western Snowy Plover
A qualified biologist must also examine the beach area prior to any fill activities to check for western snowy plovers. If the birds are present, any planned beach activity will be temporarily halted until the monitor determines that the birds have moved away from the fill area. If pre-project monitoring identifies any potential impacts to coastal resources not identified and addressed in this permit, the replenishment project shall be suspended and the monitoring results reported to the Executive Director. In that case, no work on the project shall occur without a new permit or an amendment to the subject permit.

The project has been designed and sited to avoid impacts to sensitive habitat, and no impacts to any biological resources are anticipated. However, should a sand placement project authorized under this SCOUP result in any inadvertent impacts to sensitive habitat areas, **Special Condition 4** requires those impacts be reported to the Executive Director within 2 weeks of occurrence and requires mitigation for said impacts. Such

mitigation shall require an amendment to this permit or a new permit unless the Executive Director determines that no permit is legally required.

Water Quality
Construction equipment used for the project has the potential to contaminate the sand from minor spills and leaks from equipment. As proposed, storage of construction material in the surfzone, and washing vehicles on the beach is prohibited. Any debris resulting from sand placement activities must be removed from the project site within 24 hours of completion of construction and on-site debris monitoring be present during beach replenishment. If any debris or non-sand material is detected, the project must be halted, until new information on the composition of the sand material is approved by the Executive Director. As conditioned, no significant impacts to water quality are expected. The program has received a water quality certification from the California Regional Water Quality Control Board (RWQCB), which determined that the project was consistent with the applicable requirements of the RWQCB Water Quality Control Plan (Basin Plan). Furthermore, prior to any sand placement project, the Project Notification Report requires the applicant provide a copy of all current permits and approvals including the RWQCB, USACE, and State Lands Commission.

Special Condition 2 of the underlying CDP notifies the applicant that the subject permit does not cover the development that provides the sand source for beach replenishment, such as dredging or new construction. Those projects must receive separate coastal development permits when the source is obtained in the coastal zone.

Conclusion
In summary, although the program would allow for a higher percentage of fines than has been typically approved in past projects, and the very nature of the project raises the potential for negative impacts to the benthic tidal environment, the subject program has been designed to minimize potential environmental impacts and, as conditioned, is not anticipated to have any impacts inconsistent with 30230, 30231, 30233, or 30240. Restrictions on placement locations, timing and quantities have been designed to avoid or limit impacts to sensitive habitat. Biological surveys have not identified any long-term significant impacts to sensitive resources. Initial testing has determined that the proposed receiver beaches have a similar percentage of fines to the proposed placement material. All impacts will be closely monitored, and any unanticipated impacts will be reviewed prior to approval of future projects. As conditioned, the Commission finds that the proposed project will ensure that all environmental impacts are minimized, and if significant impacts do occur despite all precautions, they will be identified and adequately mitigated. Therefore, the proposed project can be found consistent with the resource protection policies of the Coastal Act.

E. Hazards

Coastal Act Section 30253 states, in part:

> *New development shall:*

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed development is located in an area subject to tidal action. The tidal environment is dynamic and there are risks associated with development in such areas. For instance, erosion has occurred at the subject beaches where beach nourishment is proposed, and erosion is one form of potential geologic hazard. The fact that the applicant is proposing beach nourishment to restore pre-existing beaches indicates that erosion does occur. However, the applicant will not increase erosion hazards by increasing the size of beaches beyond pre-existing conditions and increasing the beach size may decrease risks to property. As described above, testing and monitoring the replenishment material will ensure risks to life and health are minimized. Therefore, the proposed project minimizes this hazard consistent with Section 30253.

Because there remains an inherent risk to development along the shoreline, The beach replenishment program currently includes in the Project Notification Report Section 9.4 an "Assumption of Risk, Waiver of Liability and Indemnity" in which the City acknowledges risks associated with development along the shoreline and agrees to indemnify and hold harmless the California Coastal Commission against any and all liability, arising from the permitted project. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. Furthermore, the Commission requires **Special Condition 5** requiring the applicant to acknowledge and agree that the coastal hazards at the project site(s) will only worsen with future sea level rise and thus assume the risks to the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.

F. Local Coastal Program (LCP)

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit for development in an area with no certified Local Coastal Program ("LCP") only if the project will not prejudice the ability of the local government having jurisdiction to prepare an LCP that conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan (LUP) for the City of San Clemente on May 11, 1988, certified an amendment in October 1995, and a Comprehensive LUP Update in August 2018. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. Therefore, the City has no certified LCP.

As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding public access, recreation, and environmental protection and the policies in Chapter 3 of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 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 City of San Clemente is the lead agency for purposes of CEQA compliance. The City prepared a Mitigated Negative Declaration in 2002 pursuant to CEQA Guidelines. In order to ensure compliance with Coastal Act requirements, the Commission adopts additional mitigation measures including conditions addressing monitoring of biological, physical, and recreational impacts, will minimize all adverse environmental impacts. As conditioned, the proposed project is consistent with the public access, water quality, biological and visual resource protection policies of the Coastal Act and 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 is consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Final Mitigated Negative Declaration San Clemente Beach Replenishment Project, 12/30/03
- Technical Report, San Clemente Beach Replenishment Program, Criteria and Concept Design, by Moffat & Nichol, January 2002
- Coastal Development Permit Application Number 5-15-2056 and associated file documents

APPENDIX B – CDP Conditions of Approval

CDP 5-15-2056

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 of interpretation of any condition will be resolved by the Executive Director or the Commission.

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

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

SPECIAL CONDITIONS

1. **Revised Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the City shall submit for review and approval by the Executive Director, a final Monitoring Plan in substantial conformance with the preliminary Monitoring Report Template (attached as **Exhibit 1, Item 4**) but shall be revised to include the following:

    1. Modify monitoring methods in Section 2.3 Surfing/Recreation to document morning surf conditions three times per week for 2 months (8 weeks) prior to beach fill instead of the proposed surf monitoring of once weekly for 2 weeks; and continue to monitor for 8 weeks following beach replenishment activities;

    2. Include a provision for large notification sign(s) (minimum 2’ x 3’) on the beach receiver site beginning two weeks prior to start of a replenishment project with a description of the project and contact information for any questions or comments. The sign(s) will be maintained in place during all placement activities.

2. **Approval of Excavation/Dredging Site.** The subject permit is only for sand replenishment projects. All other development proposals that may be involved in obtaining the sand source, including but not limited to non-exempt grading, new construction or dredging, if located within the Coastal Zone, shall require the approval of the Coastal Commission or the applicable local government through a coastal development permit or an amendment to this permit, unless such

development is exempt from permit requirements under the Coastal Act and its implementing regulations.

3. **Scope and Term of Permit Approval.** The development authorized by this CDP is limited to beach nourishment that is consistent with the project limits identified in the preliminary Project Notification Report including, but not limited to, the placement sites, maximum quantities of beach nourishment, seasonal limitations on placement, and methods of delivery. The authorization for continuing development pursuant to this permit amendment shall expire five years from the date of Commission approval of CDP No. 5-15-2056.

CDP 5-15-2056-A1

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 of interpretation of any condition will be resolved by the Executive Director or the Commission.

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

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

SPECIAL CONDITIONS

1. **Revised Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the City shall submit for review and approval by the Executive Director, a final Monitoring Plan in substantial conformance with the preliminary Monitoring Report Template (attached as **Exhibit 1, Item 4**) but shall be revised to include the following:

    1. Modify monitoring methods in Section 2.3 Surfing/Recreation to document morning surf conditions three times per week for 2 months (8 weeks) prior to beach fill instead of the proposed surf monitoring of

once weekly for 2 weeks; and continue to monitor for 8 weeks following beach replenishment activities;

2. Include a provision for large notification sign(s) (minimum 2' x 3') on the beach receiver site beginning two weeks prior to start of a replenishment project with a description of the project and contact information for any questions or comments. The sign(s) will be maintained in place during all placement activities.

2. **Approval of Excavation/Dredging Site.** The subject permit is only for sand replenishment projects. All other development proposals that may be involved in obtaining the sand source, including but not limited to non-exempt grading, new construction or dredging, if located within the Coastal Zone, shall require the approval of the Coastal Commission or the applicable local government through a coastal development permit or an amendment to this permit, unless such development is exempt from permit requirements under the Coastal Act and its implementing regulations.

3. **Scope and Term of Permit Approval.** The development authorized by this CDP is limited to beach nourishment that is consistent with the project limits identified in the preliminary Project Notification Report including, but not limited to, the placement sites, maximum quantities of beach nourishment, seasonal limitations on placement, and methods of delivery.

B. The authorization for continuing development pursuant to this permit amendment shall expire ~~five~~ ten years from the date of Commission approval of CDP No. 5-15-2056-A1. Five (5) years from the date of Commission approval, the applicant shall submit one printed copy and one digital copy of a changed conditions report to the Executive Director for review and written approval. The changed conditions report shall include a summary of all placement activities conducted under the program, and a summary of monitoring results, as informed by monitoring reports required by CDP 5-15-2056. The report shall summarize the effectiveness of the CDP in meeting project objectives, including in terms of maintaining public coastal access, habitat values, and coastal resource protection, and include any changes needed to better meet these objectives or protect coastal resources. If the Executive Director determines that there are changed circumstances and that an amendment to this CDP or a separate CDP is legally required to continue this program, within 90 days the permittee shall submit and complete the required application.

4. **Biological Mitigation.** Any inadvertent impacts to sensitive habitat areas by the proposed development shall be reported to the Executive Director within 2 weeks of occurrence and shall be mitigated. Such mitigation shall require an amendment to this permit or a new permit unless the Executive Director determines that no permit is legally required.

5. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the project site(s) may be subject to hazards, including but not limited to waves, storms, flooding, and erosion, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.