

CALIFORNIA COASTAL COMMISSION

South Coast District Office
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W7b

Staff: C. Seifert – LB
Date: April 18, 2024

ADMINISTRATIVE PERMIT

Application No.: 5-23-0729

Applicant: Troy Herbst

Agent: APEX Diving and Marine Services (attn: Dwain Duran)

Location: 1310 E. Balboa Blvd, Newport Beach, Orange County (APN: 423-166-04)

Project Description: Remove an existing, 457 sq. ft. U-shaped dock float and install a new, 413 sq. ft. I-shaped dock float; relocate three existing, 14-in. wide square piles; and install one new, 14-in. wide square pile.

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: Public Resources Code (PRC) Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. The South Coast District office will notify the applicant if such removal occurs.

This permit will be reported to the Commission on May 8, 2024. PLEASE NOTE THAT THIS WILL BE A VIRTUAL AND IN-PERSON MEETING. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call (415) 904-5202.

The in-person hearing will be held at:

**Sovereign Nation of the Elk Valley Rancheria
2332 Howland Hill Road
Crescent City, CA 95531**

The Commission strongly encourages continued participation virtually through video and teleconferencing due to changing Covid-19 conditions.

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

**BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH
DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE
PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.**

Dr. Kate Huckelbridge
Executive Director

Chloe Seifert
Coastal Program Analyst

TABLE OF CONTENTS

STANDARD CONDITIONS.....	4
FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION.....	4
A. PROJECT DESCRIPTION.....	4
B. MARINE RESOURCES	8
C. PUBLIC ACCESS.....	8
D. WATER QUALITY	8
E. LOCAL COASTAL PROGRAM (LCP).....	9
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	9
SPECIAL CONDITIONS	9

EXHIBITS

- [Exhibit 1 – Location Map](#)
- [Exhibit 2 – Project Plans](#)
- [Exhibit 3 – Eelgrass Overlay](#)

STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date 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 term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS: See pages eight through thirteen.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to the Standard and Special Conditions attached, the development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT DESCRIPTION

The project site is located in and over the waters of Newport Harbor adjacent to a single-family residence on the Balboa Peninsula at 1310 E. Balboa Boulevard in the City of Newport Beach, Orange County ([Exhibit 1](#)). Beach-fronting single-family residences and associated private dock systems characterize the project site and surrounding peninsula. In 1994, the Commission approved De Minimis Waiver No. 5-94-

012-W for replacement of an existing dock float and gangway with a new, 457 sq. ft. U-shaped dock float and 66 sq. ft. gangway. The existing dock system is consistent with the plans approved by the Commission. No other Commission actions are on record for the subject site.

The project site is currently developed with a single, 691 sq. ft. U-shaped dock system and nine square, concrete piles. Each of the three piles supporting the dock float are 14-in. wide. Each of the six piles supporting the pier platform and gangway are 12-in. wide. The applicant's recreational vessel currently extends beyond the dock float fingers by a distance greater than the beam (i.e. the width) of the boat. This is prohibited by the City of Newport Beach Harbor Resources Division's dock development standards: the "Harbor Design Criteria, Commercial & Residential Facilities". The subject criteria have not been certified by the Coastal Commission, but provide useful guidance in designing dock systems to minimize overwater coverage while still allowing recreational use. The applicant has received multiple notices from the City of Newport Beach Harbor Resources Division requiring resolution of the vessel's extension beyond the dock float.

To resolve this issue, the applicant proposes removal of the existing, 457 sq. ft. U-shaped dock float and installation of a new, 413 sq. ft. I-shaped dock float ([Exhibit 2](#)). The existing dock float would be 50-ft. long, thus resolving the applicant's nonconformance with the uncertified Harbor Design Criteria. Additionally, the new dock float would be installed at a slanted angle to ensure both the applicant's vessel and the dock float will not encroach bayward of the pierhead line. The applicant proposes relocation of the three dock float piles and addition of a new square, 18-in. wide concrete pile. The proposal would decrease total overwater coverage onsite by 44 sq. ft. and increase total fill onsite by 2.25 sq. ft. No work is proposed to the existing pier platform, gangway, or the six associated piles.

The subject site is within the Coastal Commission's retained permit jurisdiction. However, the City is the local permit issuing authority for development (i.e., a floating dock system) located in the waters of Newport Beach and as such, issues Approval-In-Concepts for developments located in these waters. The applicant received an Approval-in-Concept from the City of Newport Beach Department of Public Works on August 16, 2023. The existing and proposed project is located on submerged area that is managed by the City of Newport Beach, and as such, the City also issues permits entitled "City of Newport Beach Harbor Permits" to require a fee for temporary private use of public tidelands. In this case, the applicant has provided evidence of an active "City of Newport Beach Harbor Permit."

The applicant submitted a survey for eelgrass conducted on July 18, 2023 by Marine Taxonomic Serviced, Ltd. The survey shows a 463 sq. ft. eelgrass patch located roughly 18 ft. from the existing U-shaped dock float ([Exhibit 3](#)). The applicant would install a new dock float roughly 22 ft. from the eelgrass bed, effectively increasing the buffer by up to four feet. Commission staff requested analysis of alternatives to the proposed project to minimize overwater coverage, minimize fill, and maximize the distance between the dock system and eelgrass bed.

The applicant analyzed four alternatives to the proposed project: 1) replacing the existing dock system like-for-like; 2) reducing the proposed dock float width; 3) reducing the proposed dock float length; and 4) re-locating the proposed dock float closer to the north-east property-line and further from the existing eelgrass bed. Alternative 1 would require a lesser amount of fill compared to the applicant's proposed design, but would maintain greater overwater coverage than the proposed design. Alternative 1 also fails to resolve the applicant's nonconformance with the City's uncertified dock standards. Alternatives 2 and 3 would reduce overwater coverage to a greater extent than the proposed project, but they would also require a greater volume of fill than the proposed design. Both also pose navigational safety hazards and inconsistency with local dock development standards. Alternative 4 would result in the same fill and overwater coverage as currently proposed, with a greater distance between the existing eelgrass bed and the proposed dock float. But Alternative 4 also poses technical challenges, like the ineffectiveness of attempting to dredge adjacent to the high tide line. In summary, Alternatives 1 through 4 are not feasible.

Overall, the proposed project minimizes overwater coverage and fill to the maximum extent feasible while maintaining an approximately 22-ft. wide buffer between the dock system and eelgrass bed. The proposed dock system is consistent with the City's uncertified "Harbor Design Criteria, Commercial & Residential Facilities" and would not extend beyond the pierhead line.

There is potential for the discharge of demolition or construction debris into coastal waters at the project site. This could result in adverse effects on the marine environment. Sections 30230 and 30231 of the Coastal Act require protection of marine resources, including water quality. The proposed development includes protective measures to ensure that coastal waters and marine resources will not be adversely affected before, during or after construction. To ensure that all impacts (pre- and post-construction) to water quality are minimized, and to reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition 1**, which requires, but is not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters; and the continued use and maintenance of post-construction BMPs. As conditioned, the proposed project minimizes impacts to biological resources consistent with Sections 30230 and 30231 of the Coastal Act.

Eelgrass surveys completed between August through October are valid until the resumption of active growth (i.e., March 1). Multiple growth periods have passed since the date of survey and thus the subject eelgrass survey is no longer valid for project construction. Therefore, the Commission imposes **Special Condition 2**, which requires a new eelgrass survey and identifies the procedures necessary to be completed prior to beginning construction. If the pre-construction eelgrass survey required by **Special Condition 2** identifies new eelgrass beds that would be impacted by the proposed dock construction, the applicant must apply for a CDP amendment or new CDP to re-design and/or relocate the new dock to avoid eelgrass impacts consistent with Sections 30230 and 30231 of the Coastal Act, which protect biological resources.

The applicant also submitted a Caulerpa survey conducted in conjunction with the eelgrass survey on July 18, 2023. The bathymetric surveys did not find evidence of Caulerpa onsite; however, Caulerpa surveys only remain valid for 90 days. Given the potential for the Caulerpa species to take over eelgrass and other marine habitat in the project vicinity, the Commission imposes **Special Condition 3**. This condition requires the applicant to twice survey the project area for the presence of Caulerpa (an invasive, nonnative aquatic species), prior to commencement of construction activities, consistent with the requirements for bay bottom-disturbing activities in infected systems specified in the Caulerpa Control Protocol developed in consultation with the United States Army Corps of Engineers, National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), and the relevant Water Board offices. If any Caulerpa is detected within the project area, **Special Condition 3** identifies the procedures necessary to be completed prior to beginning any construction consistent with Sections 30230 and 30231 of the Coastal Act which protect biological resources.

The nearest public access to Newport Harbor is E Street, located roughly 150 ft. north of the project site. Pedestrians can access a sandy beach and beach-fronting paved path independent from the private dock systems located across the street. The proposed project does not result in adverse impacts to public access or recreation at this location. It is important to preserve coastal access in the event that development patterns change in the future or if there is an effort to expand public access within the harbor. **Special Condition 4** therefore states that approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the property.

To ensure that the proposed project adheres to the requirements from other resource agencies, and to account for changes to other resource agency permits that may be necessary given the design alternative required by the Commission, **Special Condition 5** requires the applicant to comply with all requirements, requests and mitigation measures from the CDFW, RWQCB, U.S. Army Corp of Engineers, and the United States Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment consistent with Section 30231, 30232 and 30233 of the Coastal Act.

Any potential addition/expansion to the floating dock system, whether temporary or permanent, even if not required to be attached to the bulkhead or a pile in the bay, would constitute development as defined in Section 30106 of the Coastal Act, would be located in Newport Bay within the Commission's retained jurisdiction and would necessitate review and approval by the Coastal Commission, including issuance of an amendment to this permit or a new CDP.¹ This review would also give the Commission

¹ Section 30106 of the Coastal Act defines "Development" as follows: "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with [Section 66410 of the Government Code](#)), and any other division of land, including lot splits, except where the land division is brought about

an opportunity to review and analyze any potential adverse impacts of an increase of water coverage in an area where such coverage is already a concern. **Special Condition 6** further clarifies that any improvement or repair or maintenance of the subject proposed development will require an amendment to this CDP or a new CDP.

B. MARINE RESOURCES

The proposed private recreational boat dock development and its associated structures are an allowable, encouraged, marine-related use. As conditioned, the project will not adversely impact eelgrass beds, nor contribute to the dispersal of invasive Caulerpa algae. Further, as proposed and conditioned, the project, which is to be used solely for recreational boating purposes, conforms to Sections 30224 and 30233 of the Coastal Act.

C. PUBLIC ACCESS

The proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Therefore, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. WATER QUALITY

The proposed work will be occurring on, within, or adjacent to coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters could result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the special conditions are imposed requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. To reduce the potential for post-construction impacts to water quality the permit requires the continued use and maintenance of post-construction BMPs. As conditioned, the development conforms to Sections 30230 and 30231 of the Coastal Act.

in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the [Zberg-Nejedly Forest Practice Act of 1973](#) (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

E. LOCAL COASTAL PROGRAM (LCP)

The proposed development is located seaward of the mean high tide line and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City of Newport Beach certified LCP was certified on January 13, 2017 and may provide guidance for development. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

SPECIAL CONDITIONS

The permit is granted subject to the following special conditions:

1. Water Quality.

- A. **Construction Responsibilities and Debris Removal.** By acceptance of this permit, the permittee agrees to comply with the following construction related requirements:
 - 1) No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
 - 2) Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
 - 3) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
 - 4) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
 - 5) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;

- 6) Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;
- 7) Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- 8) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- 9) The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- 10) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- 11) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- 12) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- 13) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- 14) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- 15) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- 16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Best Management Practices (BMPs) Program. By acceptance of this permit, the permittee agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

1) Boat Cleaning and Maintenance Measures:

- i. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;
- ii. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized; and

2) Solid and Liquid Waste Management Measures:

- i. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall not at any time be disposed of in the water or gutter but, rather be disposed of in a manner consistent with state and/or federal regulations.

3) Petroleum Control Management Measures:

- ii. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited;
- iii. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids; and
- iv. Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

2. Eelgrass Survey(s).

- A. **Pre-Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "California Eelgrass Mitigation Policy" dated October 2014 (except as modified by this special condition) adopted by the NMFS and shall be prepared in consultation with the CDFW. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the applicant shall undertake mitigation pursuant to the Final Eelgrass Mitigation and Monitoring Plan approved by the Executive Director.
- B. **Post-Construction Eelgrass Survey** If any eelgrass is identified in the project area or the 10 meter buffer area by the pre-construction survey required by Subsection A of this condition, within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site and the 10 meter buffer area to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the CEMP adopted by the NMFS (except as modified by this special condition), and in consultation with the CDFW. If side-scan sonar methods are to be used, evidence of a valid permit from CSLC must also be provided prior to the commencement of each survey period. The applicant shall submit the postconstruction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any additional eelgrass has been adversely impacted beyond the area of impacted identified in the pre-construction eelgrass survey, the applicant shall replace the impacted eelgrass at a minimum final 1.38:1 ratio on-site (mitigation: impact), or at another location, in accordance with the CEMP. Any exceptions to the required 1.38:1 minimum final mitigation ratio found within the CEMP shall not apply. Based on past performance of eelgrass mitigation efforts, in order to achieve this minimum, the appropriate regional initial planting ratio provided in the CEMP should be used. Implementation of mitigation to ensure success in achieving the minimum final mitigation ratio (1.38:1) shall require an amendment to this permit or a new coastal development permit unless the Executive Director provides a written determination that no amendment or new permit is required.

3. **Pre-construction Caulerpa Sp. Survey.**

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

presence of the invasive alga Caulerpa sp. The survey shall include a visual examination of the substrate.

- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, CDFW, and NMFS.
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 - 1) for the review and approval of the Executive Director; and
 - 2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through CDFW at (858) 467-4218 or NMFS at (562) 980-4043.
- D. Prior to initiation of any authorized Bottom Disturbing Activity within an Infected System, two surveys, initiated not less than 60 days apart, shall be conducted within the project APE. The first survey shall be conducted using High Intensity Level techniques and the second survey shall be conducted using Eradication Area Level techniques. Both surveys shall be conducted within the same High Growth Period. Deviations from this condition may be considered on a case-by-case basis by the appropriate regulatory agency in consultation with NMFS and CDFW.
- E. At least one survey shall be conducted within 45 days of initiation of an authorized Bottom Disturbing Activity (a "Pre-Act Survey"). This survey could be the second (Eradication Area Level) survey conducted during the High Growth Period. However, project delays may require that a third survey be conducted prior to initiation of the Bottom Disturbing Activity in order to meet this 45-day requirement. If a third survey is required, this survey shall be conducted at either a High Intensity Level or Eradication Area Level as determined by NMFS/CDFW Contacts based upon site circumstances and proximity to infestations. To determine the appropriate survey level, please contact the NMFS/CDFW Contacts with project specific information.
- F. If Caulerpa species is found within the project or buffer areas, the applicant shall not proceed with the project until:
 - 1) The applicant provides evidence to the Executive Director, subject to concurrence by the Executive Director, that all Caulerpa sp. discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or
 - 2) The applicant has revised the project to avoid any contact with Caulerpa species. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit

unless the Executive Director determines that no amendment is legally required.

4. **Public Rights and Public Trust.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property now or in the future.
5. **Resource Agencies.** The permittee shall comply with all requirements, requests and mitigation measures from the CDFW, the Regional Water Quality Control Board; the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
6. **Future Development.** This permit is only for the development described in CDP No. 5-23-0729. Pursuant to Title 14 of the California Code of Regulations, Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by CDP No. 5-23-0729, including the proposed private dock float system. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 of the California Code of Regulations, Sections 13252(a)-(b), shall require an amendment to CDP No. 5-23-0729 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing