

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-25-0020

Applicant: Orange County Public Works

Agent: Kim Garvey, Moffatt & Nichol

Project Location: Ocean outlets at Talbert Channel (City of Huntington Beach), Santa Ana River (City of Huntington Beach, City of Newport Beach), Salt Creek (City of Dana Point), Estrella Storm Channel (City of Dana Point), Segunda Deschecha Cañada (City of San Clemente), Orange County (APNs: 114-160-64, 114-200-07, 114-200-12, 670-151-55, 691-151-32, 058-240-02)

Project Description: 10-year Maintenance Plan for five ocean outlets in Orange County: Talbert Channel Outlet in Huntington Beach, Santa Ana River Outlet at the border of City of Huntington Beach and City of Newport Beach, Salt Creek Outlet in Dana Point, Estrella Storm Channel Outlet in Dana Point, and Segunda Deschecha Cañada outlet in San Clemente consisting primarily of removal of sand within all of the outlets and placement of the sand on nearby beaches, flap gate maintenance at Estrella Storm Channel, and repair/maintenance of rock slope at the Santa Ana River Outlet.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Orange County Public Works is proposing to continue its maintenance dredging and beach replenishment program at five ocean outlets within Orange County: Talbert Outlet in Huntington Beach, Santa Ana River (SAR) Outlet in Newport Beach, Salt Creek Outlet in Dana Point, Estrella Storm Channel Outlet in Dana Point, and Segunda Deshecha Cañada Outlet in San Clemente. The proposed programmatic CDP is a consolidated CDP for maintenance activities that generally consist of replacement of dislodged rock, excavation of accumulated sediment at the seaward end of the outlets, water quality monitoring, and placement of the sand on nearby beaches, i.e. beneficial reuse of the excavated material and is largely a reauthorization of a program approved by the Commission that has taken place over the past twenty years through Coastal Development Permit No. 5-02-031 and subsequent Amendments A1 through A7. Most recently, the Commission authorized CDP 5-02-031-A8 to extend the program's expiration date to November 8, 2025, or until a new CDP is issued.

The most significant proposed changes to the maintenance program would: 1) increase the number of maintenance events in the Santa Ana River from five times per year to unlimited maintenance events per year but would continue to limit excavations to a total of 200,000 cu. yds. annually and increase the number of maintenance events in Talbert Channel from two times per year to unlimited maintenance events in an amount not to exceed 35,000 cu. yds. annually; 2) revise the scope of water quality monitoring with refined parameters; 3) modify previously imposed calendar-based timing restrictions on maintenance activities for California grunion spawning season (March through September) to the seasonally predicted run schedule as identified by the California Department of Fish and Wildlife (CDFW); 4) remove previously imposed timing restrictions on and related emergency exceptions for maintenance activities in the Talbert and Santa Ana River outlets with approved bird nesting monitoring/management protocols, a grunion monitoring/management plan, and a sandy beach monitoring plan; 5) extend the maintenance program from five to ten years consistent with other resource agencies' (e.g., USFWS, RWQCB, and ACOE) approvals/permits; and 6) add The Wedge as a new sand deposition/receiver site.

Allowance for maintenance of the Talbert outlet and Santa Ana River outlets during the months of March and April will reduce the likelihood of sediment buildup in the outlets and closure of the mouth of the Santa Ana River and the Talbert channel. Flood control channels can flood when they become blocked with sediment as storms carry sediment from upstream to the ocean outlet and/or as seasonal sand accretion occurs seaward of the outlets which tends to occur during this period of combined spring tides and short period ocean swell out of the northern hemisphere. Extended periods of outlet closure can lead to significant adverse impacts to water quality, wetland habitats, and wildlife in the connected Huntington Beach Wetlands system, as was the case in 2022 when Talbert outlet clearing during March and April did not occur as it was not consistent with the terms of the previous permit.

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The key Coastal Act issues of concern are the project's potential to adversely affect marine biological resources, water quality, and coastal access. Coastal access would be affected through construction and use of heavy equipment on the beach, as well as use of staging and construction areas on the beach in the various outlet locations. Marine biological resources would potentially be affected by project activities within and adjacent to coastal waters. Water quality may be affected through dredging and accidental spills or discharges from project equipment and machinery.

Due to the sensitive coastal resources within and adjacent to the areas subject to the proposed Ocean Outlet Maintenance Plan, including dune habitat, wrack piles, state and federal listed threatened and endangered species and populations and their respective sensitive and protected habitat areas, and popular beaches and surf breaks, special conditions are imposed. **Special Conditions 2, 5, 7 and 10** are imposed to protect sensitive habitat and species through incorporating County-proposed protection measures developed in consultation with state and federal wildlife agencies and adding measures to protect beach wrack, limit sand discharge near sensitive habitat, restrict the routes and speed at which maintenance vehicles can drive along the beach, and avoiding maintenance operations during California least tern (CLT) and western snowy plover (WSP) nesting and California grunion spawning seasons to the greatest extent possible. **Special Condition 6** requires a new monitoring plan designed to identify trends and to detect significant changes in the presence, location, and total amount of wrack and intertidal infaunal macroinvertebrate community where at least 50,000 cu. yds. of dredged sand is placed to monitor possible foraging impacts to CLT and WSP. Furthermore, **Special Conditions 2, 3 and 4** require the implementation of Best Management Practices (BMPs), a Water Quality Monitoring Plan, and the permit requirements and mitigation measures imposed on the project by other resource agencies to further protect coastal resources. **Special Condition 9** also requires the County to coordinate beach maintenance efforts with public and private entities that manage programs or projects with duplicative development to minimize cumulative impacts of development near the five ocean outlets.

Staff is recommending **approval** of the coastal development permit with **eleven (11)** special conditions. The special conditions include: **1) Expiration of Permit; 2) Conformance with the Requirements of the Resource Agencies; 3) Conformance with Best Management Practices; 4) Conformance with the Water Quality Monitoring Plan; 5) Public Access Program; 6) Sandy Beach Monitoring Plan; 7) California Grunion Protection Plan; 8) Submittal of Revised Final Plans; 9) Coordination with Other Beach Maintenance Efforts; 10) California Least Tern and Western Snowy Plover Monitoring and Avoidance Plan; and 11) Archaeological, Paleontological and Tribal Cultural Resources Mitigation.**

Staff recommends that the Commission **APPROVE** coastal development permit application 5-25-0020, as conditioned. The motion is on page 5. The standard of review is Chapter 3 of the Coastal Act with the multiple local jurisdiction LCPs used as guidance.

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EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Ocean Outlet Site Plans

Exhibit 3 – Staging Areas/Access and Sand Transportation Haul Routes

Exhibit 4 – Ocean Outlet Maintenance Water Quality Monitoring Plan

Exhibit 5 – Revised Grunion Protection Plan

Exhibit 6 – U.S. Fish & Wildlife Conservation Measures, Biological Opinion
dated March 14, 2025

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. 5-25-0020 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS

- 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.

III. SPECIAL CONDITIONS

1. **Expiration of Permit.** Coastal Development Permit No. 5-20-0020 shall expire ten (10) years from the date of permit approval. Except as provided in Public Resources Code Section 30610 and applicable regulations, and as specifically provided in this condition, any future development as defined in PRC section 30106, specifically, maintenance activities beyond the expiration date of this permit, shall require an amendment to CDP No. 5-25-0020 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission.
2. **Conformance with the Requirements of the Resource Agencies.** The permittee shall comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, California State Water Quality Control Board, Regional Water Quality Control Boards (Santa Ana and San Diego), 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, which is 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.
3. **Conformance with Construction Best Management Practices.** Construction taking place in, over, or adjacent to coastal waters and habitat shall protect the coastal waters and habitat by implementing additional BMPs, including:
 - A. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activities shall be implemented prior to the on-set of such activity. BMPs and GHPs, which shall be implemented include, but are not limited to: solid waste management, off-site vehicle and equipment cleaning, off-site vehicle and equipment maintenance, and a employee/subcontractor training. BMPs shall be maintained in a functional condition throughout the duration of the project.
 - B. Construction vehicles and activity shall not be conducted below the mean high tide line outside of the authorized work area, and only as required for the specific maintenance event.
 - C. Wildlife shall be allowed to escape the work area/s.

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- D. When transiting on the beach, all construction vehicles shall remain as high on the upper beach as possible, and shall avoid contact with sand dunes, sand hummocks, and ocean waters and intertidal areas.
 - E. All work shall take place during daylight hours, and lighting of the beach and ocean area is prohibited.
 - F. All construction equipment and materials placed on the beach shall be stored beyond the reach of tidal waters within construction area boundary fencing, where such controls and/or fencing are placed as close to the street or to the base of the coastal bluff as possible, and are minimized in their extent.
 - G. No equipment or materials shall be stored, staged, or fueled in waters of the state, including wetlands or in any area where waters of the state might be adversely affected by the equipment or materials. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall be conducted in designated upland areas outside of waters of the state and shall not result in a discharge or a threatened discharge to waters of the state.
 - H. No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;
 - I. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
 - J. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum this shall include spill kits onsite and drip pans under stationary equipment. All heavy equipment arriving to the site must be properly cleaned first, with no oil or sediment build ups that could pollute the beach and/or contaminate the beach with invasive species. Assure any sand tracking outside of the sandy beach is a minimum and does not affect safety of pedestrians, bikers, skaters, and all other trail users, and other public areas.
 - K. All debris resulting from construction activities shall be removed from the beach immediately at the end of the work day.
 - L. Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- 4. Conformance with Water Quality Monitoring Plan.** The applicant shall monitor the effects of the proposed maintenance activities during each maintenance event in accordance with the Ocean Outlet Maintenance Water Quality Monitoring Plan prepared by OC Public Works/OC Environmental Resources/Green Infrastructure Unit, revised February 2023, **Exhibit 4** of this staff report and including sensory observations for the entire project work area(s) that are subject to water run-on and run-off.

- 5. Public Access Program.** By acceptance of this permit, the applicant agrees to, and shall ensure, the following:
- A. Maintenance activities during peak beach use season (Memorial Day weekend through Labor Day weekend) shall be avoided and where avoidance is not possible, minimized to the greatest extent feasible.
 - B. Safe public access to or around areas where maintenance activities will occur shall be maintained during all project operations.
 - C. Use of public beach and parking areas for storage of maintenance materials shall be minimized to the greatest extent feasible.
 - D. The permittee shall post the sites with a notice, in English and Spanish, indicating expected dates of maintenance activities and/or beach closures.
- 6. Sandy Beach Monitoring Plan** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval, a five year Sandy Beach Monitoring Plan (hereafter "Plan") designed to identify trends and to detect significant changes in the presence, location, and total amount (sq. ft.) of wrack and intertidal infaunal macroinvertebrate community structure on a minimum of two impact beaches where at least 50,000 cu. yds. of dredged channel sand may be placed and a minimum of two comparable reference beaches that are not subject to dredge material placement. The Plan shall provide background information, outline the sampling design and survey methods, statistical approaches used to evaluate the data, and the skills and qualifications for all personnel. The Plan shall include but is not limited to the following:
- A. A background section that provides a historical review (as far back in time as reports/surveys/data are available) of the Talbert Channel and Santa Ana River dredging program including the dates, volumes (cu. yds.) dredged, and dredge material placement locations. Background information shall also include a historical review of available reports/surveys/data for the presence/absence of wrack, average beach width, intertidal infaunal macroinvertebrate community structure, and Western Snowy Plover (WSP) nesting attempts, fledging success, and foraging patterns near and within the sand placement locations, for comparison with the sandy beach monitoring findings.
 - B. Monitoring for the presence and amount of wrack and the intertidal infaunal macroinvertebrate community structure at a minimum of two impact beaches where Talbert Channel or Santa Ana River dredge material is periodically placed and at a minimum of two upcoast reference beaches that are not subject to dredge material placement (or grooming if possible). Wrack monitoring may be accomplished using drone footage. The wrack and intertidal infaunal macroinvertebrate monitoring shall employ the following methods:
 - 1. Beach monitoring shall take place once annually in the Fall (September, October, or November) or as approved by the resource agencies to document the presence and amount of wrack and characterize the intertidal infaunal macroinvertebrate community structure preferably during the season of

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maximal abundance at beach impact locations and upcoast reference beaches not subject to dredge material placement, regardless of whether or not Talbert Channel and/or Santa Ana River dredging has occurred.

2. Drones may be employed to monitor the presence and abundance of wrack provided that drone use permits are acquired. The timing, altitude, and imagery characteristics must be included in the methods for surveying the presence, location, and total amount (sq. ft.) of wrack.
 3. The Plan must include an exhibit showing the locations of the impact and reference beaches once these are identified.
 4. A minimum of three transects, perpendicular to the ocean and randomly spaced across an approximately 600' stretch of beach must be sampled to characterize the infaunal macroinvertebrate community using 10 cm diameter-by-20 cm deep cores in the low, mid, and high intertidal (swash) zone. Each vertical transect must be divided into three uniformly spaced levels (low, middle, and high tidal levels) to allow potential analysis of intertidal zonation. Samples must be filtered through a 1.0 mm sieve using clean ocean water. A 1.5 mm sieve may be used if 1.0 mm proves not feasible due to sample submission size or extensive amount of time to screen, and approved by resource agencies.
 5. Samples from the respective zones (e.g. low, mid, high) at each location can be combined and preserved in enough 95 percent denatured ethanol to cover the sample (e.g. for a total of three composite samples from each location – low, mid, and high). The preserved samples must be labeled and submitted to a qualified laboratory for processing, sorting and identification to the lowest practical taxonomic level.
 6. The following metrics will be calculated for analyzing the status of the infaunal macroinvertebrate communities at the impact and reference beaches:
 - Biomass
 - Species (Taxa) Richness
 - Diversity (e.g. Shannon Weiner Index)
 - Percent Dominance (%). Percent dominant taxon as a measure of the dominance of the single most abundant taxon.
- C. Quantitative (statistical) methods shall be described for identifying any trends and to detect if any significant changes have occurred to the presence, location, and amount of wrack and to the intertidal infaunal macroinvertebrate community structure at the impact beaches compared to the reference beaches. If results indicate adverse impacts are occurring, strategies for adaptively managing sand deposition approaches (including but not limited to sand placement timing, sand placement methods, areas, thickness, and usage of construction equipment) shall be identified.

- D. The Plan must include measures to avoid and/or minimize impacts WSP and California Least Tern (CLT) including conducting sampling activities outside of plover protection zones, symbolically fenced areas, and the CLT Preserve during the breeding season. Drone wrack habitat sampling during the breeding season may also only occur when no WSP and/or CLT chicks are present because the adult birds are known to flush in the presence of drones.
- E. Annual monitoring reports shall describe any channel dredging and sand placement events that occurred during the monitoring period, statistical analysis results, adverse impacts measured and/or observed, and if any adaptive management actions are proposed. Prior to implementation of any adaptive management actions, these shall be subject to the review and written approval of the Executive Director. A final report documenting whether or not negative trends or significant changes between the impact and reference beaches have been measured or observed must be completed at the end of five years of monitoring. If no negative trends or significant changes are measured or observed, no further action is necessary. If negative trends or significant changes are measured or observed, the applicant must consult with the Executive Director and the USFWS regarding potential adaptive management or mitigation measures.
- F. The County will coordinate with California State Parks Biologists to confirm representative locations for sampling and secure any necessary Right of Entry authorizations required.

7. Grunion Protection Plan. By acceptance of this permit, the Permittee agrees to conform with the Orange County Public Works Ocean Outlets Maintenance Revised Grunion Protection Plan prepared by Merkel & Associates, Inc., dated January 2023, included as **Exhibit 5** of this staff report.

8. Submittal of Revised Plans Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director the following revised plans:

A. Revised Staging and Access Plan that conforms with the plans submitted to the Commission February 4, 2019, except that it shall be modified as required below:

- 1) Provide a complete Staging and Access Plan that includes a revised figure for proposed staging and access at Talbert Channel to include access to the Talbert Channel site from the northwest side of the SAR Outlet; and
- 2) Vehicle Access Routes from the Santa Ana River Outlet to The Wedge for sediment discharge/sand deposition
- 3) Staging areas and accessways to maintenance areas shall be limited to upland beach areas that are regularly groomed and shall not cross or disturb sand dunes. The applicant shall maintain a fifty (50) foot buffer between sand dunes and staging areas, maintenance areas, and access routes.

B. Revised Sediment Discharge Plan that conforms with the plans submitted to the Commission February 4, 2019, except that it shall be modified as required below:

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- 1) Indicate that SAR sand deposition/placement at all Newport Beach public beaches shall not occur during the peak beach use season of Memorial Day weekend to Labor Day weekend
- 2) Revise the SAR sand deposition/placement footprint for The Wedge to limit sand placement to the area above the Highest Astronomical Tide at this site.
- 3) Include the following Habitat Protection Measures:
 - i) 50 ft. buffer between sand dunes and staging areas, maintenance areas, and access routes
 - ii) 50 ft. buffer between designated WSP protection areas and staging areas, maintenance areas, and access routes Equipment will only be authorized to be staged between Talbert Ocean Outlet and the CLT Preserve when CLT are absent, or in specific situations where California State Parks authorize staging to facilitate erosion repairs associated with coastal erosion on the Preserve.
 - iii) Staging areas, maintenance areas, and access routes shall minimize crossings or disturbance of the wrack zone. Wrack shall be separated and retained, to the maximum extent feasible, in areas where discharge operations will result in the loss or disturbance of wrack. Wrack shall be moved to the side during excavation and discharge operations and other project activities, and replaced in its original location/configuration, to the maximum extent feasible, at the completion of project operations where possible.
 - iv) Vehicle speeds shall not exceed 5 MPH in potential sensitive habitat areas and 15 MPH in all other beach areas
 - v) Provide a qualified biological monitor to oversee every vehicle that may cross through potential sensitive habitat areas.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

9. Coordination with Other Beach Maintenance Efforts

- A. The applicant shall coordinate with the permittee of Coastal Development Permit No. 5-14-1604 regarding wrack protection and mechanical alteration of the sand within and surrounding Salt Creek to minimize air quality and water quality impacts and impacts to public access and recreation and biological resources.
- B. The applicant shall coordinate with the Cities of Huntington Beach, Newport Beach, Dana Point, and San Clemente and any other relevant parties regarding beach maintenance operations and projects located at or near the Orange County Ocean Outlet Maintenance Program sites to avoid cumulative impacts on coastal resources. The applicant shall notify the Executive Director of other ongoing beach maintenance efforts in the vicinity of the subject maintenance

activities. The Executive Director shall determine whether a permit amendment is required to avoid cumulative impacts.

10. California Least Tern and Western Snowy Plover Monitoring and Avoidance.

The permittee shall undertake the development in accordance with the special conditions of this permit, U.S. Fish and Wildlife Service conservation measures included as **Exhibit 6** to this staff report, recommended Best Management Practices for Construction and Maintenance Activities within Special Protection Zones or near Roosting Plovers, and California least tern and western snowy plover impact avoidance measures proposed by the County and summarized below:

- (a) A qualified biological monitor will be provided by OC Public Works during excavation in the Santa Ana River channel February through October, during transport of excavated material along the beach in Newport Beach February through October, and during any sand discharge adjacent to the least tern Preserve and near the plover roosting area on Balboa Peninsula in Newport Beach. The monitor will observe the maintenance operations to ensure that protected wildlife is not threatened or disturbed and, in general, will observe the behavior of California least terns and western snowy plovers if present during the sediment removal and deposition operations. This will include monitoring both excavation in the Santa Ana River and Talbert Channels and any sand discharge adjacent to the least tern preserve. The monitor will note whether either species exhibits nesting behavior within 500 feet of heavy equipment and will immediately notify the resource agencies.
- (b) Foraging areas for western snowy plovers will be identified in the field by proper signage and avoided to the maximum extent feasible.
- (c) The onsite biological monitor will provide education opportunities about the operations and the species protection measures if engaged by the public.
- (d) From spring to mid-summer, volunteer docents will monitor least tern nests within the Least Tern Preserve daily on behalf of the local Sea and Sage Audubon Society; it is recommended that the biological monitor share observations and sightings with the on-site volunteer(s) as necessary to adequately ensure protection of least terns and snowy plovers that may be in the vicinity.
- (e) Upon the completion of each maintenance activity, the Permittee will submit a final report documenting the length of time of the maintenance activities, the general nature of the activities, the number and location of least terns and/or snowy plovers that were present within the monitoring area, and any observed maintenance-related effects on the birds; this report will be also be incorporated into the annual report.

11. Archaeological, Paleontological, and Tribal Cultural Resources Mitigation. If paleontological, archaeological, and/or tribal cultural resources are discovered during the course of the project, project activities with the potential to impact those

resources shall cease and shall not recommence until a qualified resource specialist/s (paleontologist for paleontological resources, archaeologist for archaeological resources, and Gabrieleño-affiliated tribal representatives for Huntington Beach and Newport Beach, Juaneño/Acjachemen-affiliated representative(s) for Dana Point and San Clemente, and Luiseño/Rincon Band of Mission Indians-affiliated representative(s) for the entire Orange County coastline for found tribal cultural resources), analyzes the significance of the find and prepares a supplementary paleontological, archaeological, and/or tribal cultural resource plan for the review and approval of the Executive Director. If human remains are encountered, the permittee shall comply with applicable State and Federal laws. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission-approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required. Upon approval of the supplementary paleontological, archaeological, and/or tribal cultural resource plan, the permittee shall implement the development in compliance with the approved final plans.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

Orange County Public Works (OCPW) proposes an Ocean Outlets Maintenance Program for five ocean outlets in Orange County, California: (1) Talbert Channel outlet in Huntington Beach, (2) Santa Ana River (SAR) outlet at the border of Huntington Beach and Newport Beach, (3) Salt Creek outlet in Dana Point, (4) Estrella storm channel outlet in Dana Point, and (5) Segunda Deschecha Cañada outlet in San Clemente, see **Exhibit 1**.

The main purposes of the proposed maintenance program are flood control at these ocean outlets but also with resulting benefits to water quality, beach access, recreational beach use and, at the Talbert and SAR outlets, prevention of water stagnation/maintenance of tidal exchange necessary for the ecological health of Talbert Marsh and the Santa Ana River Marsh. The proposed recurring maintenance activities consist of excavation of accumulated sediment from the seaward end of the outlet and placement of sediment within dry sandy beach areas, below the high tide line and within the swash zone, floatable trash and debris removal, repairing existing structures (i.e., rock revetment slopes and jetties, ungrouted rock riprap aprons, and a flap gate at the Estrella Storm Channel), and regular visual inspections of the ocean outlets to determine when maintenance activities are necessary.

The proposed Ocean Outlets Maintenance Plan is largely a reauthorization of the program approved by the Commission that has taken place over the past twenty years through Coastal Development Permit No. 5-02-031 and subsequent amendments (CDP 5-02-031-A1 through - A8. The amendments generally removed and added outlets from

the program over the years¹, extended the time period of the permit, and in most cases, increased allowable sediment excavation and deposition volumes and areas and expanded the number of allowed maintenance events per year and the portion of the year in which maintenance operations could be carried out. This CDP currently applies to maintenance activities and expires on November 8, 2025 or upon Commission approval of another (the subject) CDP.

OCPW is currently proposing numerous changes to all of these elements of the Ocean Outlets Maintenance Plan; thus, instead of an amendment to the previous CDP, a new CDP application for the updated/revised Maintenance Plan was deemed appropriate. As compared to the previously permitted program, this CDP application proposal includes the following Plan revisions:

- Increase the CDP term from a 5-year term to a 10-year term.
- Increase the SAR Outlet sand excavation area from a 6.36 acre area to a 9.87 acre area to include an additional 3.51 area inland of the Pacific Coast Hwy (PCH) bridge, expanding the excavation footprint 300 feet upstream in order to maintain a tidal gate located inland of the PCH bridge connecting SAR to the SAR Marsh Complex clear of sediment buildup.
- Increase the approximate excavation volume at Talbert Channel from 30,000 cu. yds. annually to 35,000 cu. yds. annually to allow additional sand to be removed from the sediment trap at the back (east end) of the outlet.
- Installation of a wooden lath fence, with stainless steel (or similar) supporting posts on the south/downcoast side of the SAR outlet.
- Remove restrictions that limited the number of maintenance events per year at Talbert and SAR outlets while maintaining the existing limit on the sand excavation volumes (35,000 c.y./year at Talbert and 200,000 c.y./year at SAR). Continue biannual maintenance events (Spring and Fall) at the same excavation and deposition volumes at Segunda Deshecha Cañada, Estrella Storm Channel and Salt Creek.
- Add a new SAR Outlet sand deposition/receiver site in Newport Beach at the end of Balboa Peninsula at The Wedge (**Exhibit 2**).
- Allow maintenance activities year-round at all locations. The current CDP does not allow routine maintenance during peak beach use season and the California least tern and western snowy plover nesting season (April 15 - September 15) or the grunion spawning season (March – September), unless it is determined to be an emergency with written approval from CDFW is provided, to avoid possible adverse impacts to these biological resources.

¹ There were originally seven outlets in the maintenance program.

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- Orange County Public Works Ocean Outlets Maintenance Revised Grunion Protection Plan dated January 2023 (**Exhibit 5**).
- Revised Ocean Outlet Maintenance Water Quality Monitoring Plan dated March 2014 and revised February 2023 (**Exhibit 4**).
- Implementation of USFWS Formal Biological Opinion required Conservation Measures (**Exhibit 6**).

The proposed changes to the excavation and discharge volumes and areas per maintenance event at each of the five outlets are shown in **bold** in the following table.

Outlet (from south to north)	Maintenance Areas)	Maintenance Events Per Year		Excavation Area, Acres		Approximate Maximum Excavation Volume, Cubic Yards		Discharge Area, Acres	
		Current CDP	Proposed	Current CDP	Proposed	Current CDP	Proposed	Current CDP	Proposed
Segunda Deshecha Cañada	Exhibit 2, page 1	2	2	0.08	0.08	1,000 (per event)	1,000 (per event)	0.20	0.20
Estrella Storm Channel	Exhibit 2, page 2	2	2	0.06	0.06	500 (per event)	500 (per event)	0.12	0.12
Salt Creek	Exhibit 2, page 3	2	2	0.23	0.23	1,000 (per event)	1,000 (per event)	0.20	0.20
Santa Ana River	Exhibit 2, page 4	5	No limit on # of events per year	6.36	9.87	70,000 (per event)	200,000 (annually)	11.22	11.22
Talbert Channel	Exhibit 2, page 5	2	No limit on # of events per year	3.51	3.51	15,000 (per event)	35,000 (annually)	3.12	3.12
Total				10.24	13.75	Up to 175,000 (annually)	Up to 240,000 (annually)	14.86	14.86

Talbert Channel Outlet Description

The Talbert Channel is a soft-bottomed, vertical walled channel with a sediment trap² at the back (east end) of the outlet and rock levees extending to the end of the outlet. The

² a defined area within the outlet that is excavated to a deeper depth than the rest of the channel that traps sediment and materials within the channel

outlet is about 1,000 feet long and 150 feet wide and captures flows from surrounding urban areas feeding into the Talbert Marsh, the most southern component of the Huntington Beach Wetlands, where flows spread out through the wetland areas. The outlet is the terminus of the Talbert Marsh and allows for flows to drain out of the marsh and tidal exchange with the Pacific Ocean. Sediment is carried along with urban flows with the majority remaining within the upstream channel, some reaches the Talbert Marsh, and a minor proportion may be carried or moved into the outlet during storm flows. The majority of sediment deposition within the channel's ocean outlet comes from tidal action, ocean current deposition, and through winter storm events. Natural tidal events and ocean currents move beach sand from outside of the outlet into the outlet, creating shoals or sand berms within or across the mouth of the outlet and restricting tidal flow between Talbert Marsh and the Pacific Ocean. Significant volumes of sand can be deposited into the outlet during tidal events, especially when ocean currents are annually switching from north to south, typically in March. Sediment within the outlet and the sediment trap needs to be removed to ensure the outlet remains open to allow for proper flood control, prevent unsafe water quality for beachgoers in standing/ponding water, and to ensure tidal exchange into and out of Talbert Marsh, which is necessary to maintain a healthy ecosystem. In addition to sediment removal, rocks from the jetties occasionally become displaced after a storm event requiring relocation back to the jetty.

South of the Talbert Channel Outlet is the Least Tern Preserve ("The Preserve") on Huntington State Beach property, sandwiched between Talbert Channel Outlet and the SAR Outlet. North of the Talbert Channel Outlet is the continuation of Huntington State Beach, a wide sandy recreational beach in the City of Huntington Beach.

Talbert Channel Outlet Proposed Maintenance

OCPW proposes to excavate up to 35,000 cubic yards, cumulatively, from the Talbert outlet during each 1-year period, which is an annual increase of 5,000 cubic yards per year from the previous CDP approval. This increased volume would allow additional sand to be removed from the sediment trap at the back (east end) of the outlet, which was not previously approved as part of the Maintenance Plan. An approximate maximum annual excavation volume is provided because the actual required excavation volumes will likely vary from event to event and year to year based on coastal and storm flow conditions. In addition, because sedimentation of the outlet is subject to tidal and weather patterns, OCPW cannot predict with certainty how frequently the sediment will need to be excavated from the outlet to prevent flooding and water quality and ecological impacts.

Currently, construction equipment staging and access to the Talbert Channel outlet is from the Huntington Beach State Park parking lot. OCPW proposes to also allow for access to the Talbert channel site from the northwest side of the SAR for additional flexibility during maintenance activities, which moves construction equipment staging farther away from the Least Tern Preserve. Coordination with State Parks would occur prior to each maintenance event to specify the exact location of the staging area within the agreed staging site limits. A Right of Entry Permit is required by State Parks prior to

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OCPW mobilizing equipment for maintenance of the Talbert Outlet. As proposed, no maintenance activities would occur at the adjacent SAR outlet at the same time of maintenance at Talbert outlet.

The applicant proposes two large maintenance events: one prior to the rainy season (Fall/Winter event between September 16 and February 14) and one during or following the rainy season (Winter/Spring event between February 15 and March 15) each over an estimated 2-week to 3-week period. The Fall/Winter event may also be up to 6 weeks in length depending on tidal conditions, ocean currents, and winter storm events which can all deposit additional sand during outlet maintenance operations. Each maintenance event includes excavation of up to approximately 15,000 cubic yards of sediment from within the outlet to an approximate 5-foot cut depth. Periodically, the sediment trap within Talbert outlet, which holds an additional approximate 5,000 cubic yards, will also be excavated to an additional 7-foot cut depth, to a total 12-foot depth, during one or both of these two maintenance events. Each maintenance event includes excavation of sediment within an up to 3.51-acre area (**Exhibit 2**) using heavy machinery (e.g., an excavator, two bulldozers, and two articulating dump trucks). When smaller amounts of sediment are to be excavated, the excavation footprint will be proportionally smaller in size. In addition, during each maintenance event, boulders and rock riprap that may have been dislodged from the rock jetties because of high flows or tides may be retrieved and replaced as necessary. The type of and timing of each maintenance event will determine the location where excavated sediment will be placed within the much larger maximum potential fill placement area footprints (**Exhibit 2**). Placement of sediment within the maximum potential fill placement footprints will be coordinated with State Parks. The sediment will be placed within a 4-acre footprint for each maintenance event. When smaller amounts of sediment are excavated, the placement site will be proportionally smaller. An excavator and bulldozers will excavate the sediment, dump trucks will relocate the sediment to within the sand placement area footprint on Huntington State Beach, and bulldozers will grade the sand to create a uniform beach surface that matches the existing top of the slope. Excavated sediment will predominantly be placed within dry sand areas above the high tide line but can be placed below the high tide line in the sediment placement footprints. When sediment is to be placed below the high tide line, it will not be placed lower than 0 Mean Lower Low Water (MLLW). When placed below the high tide line, sediment will be transported with a dump truck/s and deposited, and bulldozer/s will push the sediment into the swash zone. Placement of the sediment into the swash zone will be timed to coincide with the receding wave to the greatest extent practicable, which allows the bulldozer to push the sediment farther away while minimizing the potential for equipment to enter the water.

Outside of these two large maintenance events, OCPW proposes to conduct as-needed maintenance events to ensure that Talbert outlet remains open to tidal exchange with the Talbert Marsh. OCPW is proposing up to two fall/winter as-needed events between September 16 and February 14 within any single year. OCPW anticipates no more than four fall/winter as-needed events could occur over the entire 10-year span of the CDP. The fall/winter as-needed events would occur when OCPW determines that sediment build up is significantly large for the time of year, if the outlet is identified as being

excessively constrained, or if the Talbert outlet has completely closed due to sediment buildup. The fall/winter as-needed events will occur over an estimated 2-day to 2-week period. Additionally, a maximum of up to one summer as-needed maintenance event would be allowed to possibly occur between March 16 and September 15. OCPW anticipates no more than five summer as-needed events would be necessary over the 10-year CDP approval period. The summer as-needed maintenance event would occur within 7 days of the Talbert outlet closing or being identified as becoming excessively constrained where closure of the outlet is imminent and would occur for up to 7 contiguous workdays. As proposed, all maintenance activities will be implemented in accordance with USFWS Conservation Measures included as **Exhibit 6**.

Santa Ana River (SAR) Outlet Description

The SAR outlet is the terminus of the Santa Ana River, one of the longest rivers in Southern California. The Santa Ana River includes natural flows and also captures flows from surrounding urban areas within Orange County. The Santa Ana River is a combination of concrete trapezoidal channel, soft-bottom trapezoidal channel, and restricted but natural channel. Water controlled gates (tidal gates) are located along the southern wall of the Santa Ana River channel to allow flows and tidal exchange from the Pacific Ocean to move into the 92-acre Santa Ana River Marsh Complex. The Outlet itself is 1,000 feet long and 500 feet wide and is soft-bottomed with two rock jetties and a stabilization dike extending out into the ocean. Sediment is carried along with urban and natural flows but drop out within the upper reaches of the channel as flow velocities decrease with only some sediment carried into the outlet during strong storm flows. Sediment deposits at the outlet primarily from natural tidal events and ocean currents that move sand from adjacent areas outside of the outlet into the outlet that over time create shoals within the outlet or sand berms across the mouth of the outlet restricting tidal exchange between the outlet and the Pacific Ocean. To ensure tidal exchange into and out of the outlet, which allows for proper flood control, maintains the ecological health of the SAR Marsh Complex, and prevents unsafe pooling of water in the outlet, the outlet must be maintained by removing sediment deposits.

South of the SAR Outlet is a wide sandy West Newport Beach recreation beaches and single family ocean fronting residences with established sand dune ESHA. North of the SAR Outlet is the Preserve, sandwiched between the SAR Outlet and the Talbert Channel Outlet.

Santa Ana River (SAR) Outlet Maintenance

OCPW proposes to excavate up to approximately 200,000 cubic yards, cumulatively, from the SAR outlet during each 1-year period (same cumulative amount as the current CDP approval). The project also includes retrieval and re-placement of rip rap rock boulders that may have become dislodged due to storm or erosion from the jetties. A maximum annual excavation volume is provided as the actual required excavation volumes will likely vary during each maintenance event based on coastal and storm flow conditions. Furthermore, since sedimentation of the outlet is subject to tidal and weather patterns, the frequency of the number of sediment removal events is hard to predict.

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Therefore, to allow for greater flexibility to address this uncertainty, the number of semi-annual maintenance events is proposed to be restricted to twice per year, with no limit to the as-needed maintenance events per year. Based on previous years, OCPW anticipates typical maintenance events will not exceed more than 70,000 cu. yds. per event.

The proposed outlet excavation area is depicted on **Exhibit 2**. Each maintenance event includes excavating up to approximately 70,000 cubic yards of sediment from within the outlet to an approximate 6-foot cut depth from within a 9.87-acre area excavation footprint, a 6.36 acre increase from the previous CDP approval in order to include a portion of the river channel above PCH. To ensure the ecological health of the SAR Marsh Complex, OCPW proposes to expand the excavation footprint 300 feet upstream in order to clear sediment in front of a tidal gate above the Pacific Coast Hwy (PCH) bridge to address possible sediment buildup associated with increased sediment releases due to flood control releases from upstream dams. The current CDP approval only allows for maintenance activities below/seaward of the PCH bridge. When smaller amounts of sediment are to be excavated, the excavation footprint will be proportionally smaller. In addition to sediment removal, during each event, boulders and rock riprap that have been dislodged from the rock jetties during high flows or tides will be retrieved and replaced if necessary.

Excavated sediment from the outlet is proposed to be deposited downcoast along City of Newport Beach shoreline or directly upcoast seaward of the Least Tern Preserve in Huntington Beach State Park (**Exhibit 2**). Placement of sediment within the proposed sand deposition footprints will be conducted by OCPW north of the Newport Pier and placement of sediment within the southern section of the project footprints south of the Newport Pier will be done by OCPW's contractor, the City of Newport Beach.

OCPW proposes to conduct fall/winter maintenance activities at the SAR outlet for up to 16 weeks between September 16 and the end of February each year. OCPW anticipates maintenance activities to conclude by February 1 and some years would require fewer than 16 weeks. OCPW requests flexibility to target sediment removal through a combination of small and larger maintenance events, depending on the needs of the site for that specific season within a longer work window with no cap on how many maintenance events could occur; however, maintenance activities would not require more than 16 weeks cumulatively in a single year.

During the summer, one as-needed maintenance event is proposed to ensure the outlet remains open between March 1 and September 15. OCPW anticipates no more than three summer as-needed events will occur at the SAR outlet over the 10-year CDP period. The summer as-needed maintenance event would occur within 7 days of the SAR Outlet closing or being identified as becoming excessively constrained where closure is imminent. The summer as-needed event would occur over an estimated 1-week to 2-week period. Heavy machinery (e.g., an excavator, two bulldozers, and one to three articulating dump trucks, or a combination of fewer pieces of this equipment) will be used to conduct each maintenance event.

Heavy machinery (e.g., an excavator, two bulldozers, and three articulating dump trucks) would be used to conduct each maintenance event. An excavator and bulldozer/s will excavate the sediment and dump trucks will relocate the sediment by two different methods depending on where the sediment will be placed within the receiver beach sediment placement footprints. Sediment proposed to be placed within the beach receiver site footprints north of the Newport Pier will be transported via dump trucks along a beach haul route to the receiver site. The dump trucks will deposit the sediment and bulldozers will grade the sand to create a uniform beach surface that matches the existing beach profile. Sediment proposed to be placed farther distances south of the Newport Pier, will be temporarily staged by dump trucks from the outlet to a temporary staging area on the south side of the Santa Ana River then loaded from the staging area onto road legal dump trucks and transported along surface streets (**Exhibit 3**) to the beach entry points for the beach receiver site footprints south of the Newport Pier. The sediment will then be deposited within the sediment placement footprints on the city beaches. For some sections south of the Newport Pier, beach haul routes will be used between the beach entry points and where sand is offloaded.

Excavated sediment will predominantly be placed above the high tide line but can be placed below the high tide line in the sediment placement footprints when the conservation measures imposed by USFW for sand placement allow it. When allowed, sediment will not be placed lower than 0 MLLW. When sediment is placed below the high tide line in the placement footprint, sediment will be transported and deposited with a dump truck/s, and bulldozer/s will push the sediment into the swash zone. Placement of sediment into the swash zone will be timed to coincide with the receding wave to the greatest extent practicable, which allows the bulldozer to push the sediment farther away while minimizing the potential for equipment to enter the water. As proposed, all maintenance activities will be implemented in accordance with USFWS Conservation Measures included as **Exhibit 6**.

Additional development at the SAR Outlet includes installation of a wooden lath fence, with stainless steel (or similar) supporting posts, along the length of the top of the riprap on the Newport Beach side of the Santa Ana River (see **Exhibit 2**). The fence would be approximately 450 feet long and would extend from the end of Seashore Drive to near the end of the riprap jetty on the south-east side of the river mouth for a 3-year trial period. As proposed, if the trial is successful with notable reduction in trespass in the river mouth, facilitates an increase in the effectiveness of law enforcement activities policing trespass, and if fence damage/repair costs does not exceed \$30,000 over the 3-year trial, the fence would remain in place permanently and be maintained by the County as needed. However, if the trial is unsuccessful during the three-year trial period the County proposes to remove the fence and return the area to its original condition.

Salt Creek Outlet Description

Salt Creek is a relatively small watershed, approximately 4 miles long and entirely encompassed in a 6-square mile area. Salt Creek receives freshwater from natural and urban sources including from two larger tributaries, Arroyo Salada Creek and San Juan Canyon Creek. Overall, Salt Creek is a natural channel with sections entering and

exiting box culverts within more developed areas, it enters a box culvert east of the PCH and is conveyed under a golf course before surfacing through a reinforced concrete box culvert immediately adjacent to the beach. The outlet consists of a concrete apron and rock revetment and is approximately 100 feet long by 20 feet wide. Some sediment may be carried along with urban and natural flows within Salt Creek, which then drop out as flows decrease or slow down. Some of this sediment may be carried into the outlet during storm flows. The amount of freshwater flow within Salt Creek is very low for most of the year and is inadequate to maintain an open outlet to the Pacific Ocean. This creates a ponded, brackish area immediately downstream of the box culvert; during the winter rainy season, larger storm flows may create an outlet to the ocean. Tide heights do not regularly reach the ponded area, preventing tidal action from regularly flushing the ponded water. In addition, natural tide actions move sand, creating a sand berm blocking the outlet, restricting tidal exchange between the ponded area and the Pacific Ocean. Sediment within the outlet needs to be removed periodically to prevent unsafe pooling of water. In addition, rock material from the outlet apron occasionally becomes displaced due to heavy storm flows.

Salt Creek Beach is about 0.75 mile in length consisting of sandy beach habitat with adjacent developed areas including the Monarch Bay Beach Club, the Ritz Carlton Hotel, Monarch Beach Golf Links, and Orange County-owned Salt Creek Beach Bluff Park located between the beach and the PCH for the entire length of the beach. Recreational facilities include campfire rings, beach volleyball courts, and publicly accessible bathrooms, trash cans, and parking areas for the Monarch Bay Beach Club located adjacent to beach access points. Salt Creek Beach is not groomed; therefore, the natural wrack line is present along the high tide line providing suitable snowy plover feeding and roosting habitat. In addition, some windblown hummocks build seasonally around native and non-native vegetation during times of the year when the beach is wide enough. Although Salt Creek supports a large wintering roost, it is primarily a narrow beach that does not provide enough dry sandy beach area or for long enough to support breeding snowy plovers. No snowy plovers have been documented to breed at Salt Creek Beach over the past 10 years. The closest CLT califonesting sites are located at Newport Bay, over 13 miles north, and Camp Pendleton, over 10 miles south of the subject site.

Salt Creek Outlet Maintenance

OCPW proposes two maintenance events at the Salt Creek Outlet per year, once prior to the rainy season (fall event) and once following the late winter season (spring event). Each maintenance event includes excavating approximately 1,000 cubic yards of sediment within an approximately 0.23-acre area between the outlet apron and the ocean utilizing heavy machinery to excavate and relocate the sediment. The sand would be placed over an approximately 0.20-acre area of the adjacent beach above and/or below the high tide line and then graded to create a uniform beach surface that matches the existing top of the slope (**Exhibit 2**). During each event, boulders that have been dislodged from the rock apron during high flows will be retrieved and replaced and any scour holes will be restored with rock protection, if necessary. Each maintenance event would require a 3-day to 2-week period utilizing land-based construction equipment

(e.g., excavators and bulldozers). Equipment staging is proposed within a small portion of the adjacent beach parking lot or as necessary, on sandy beach areas above the high tide line southeast of the outlet (**Exhibit 3**). All maintenance work is proposed to be conducted during daylight hours. No maintenance activities are proposed to occur at this location from March 1 through September 15. As proposed, all maintenance activities will be implemented in accordance with USFWS Conservation Measures included as **Exhibit 6**.

Estrella Storm Channel Outlet

Estrella Storm Channel ocean outlet is the end point of the Estrella Storm Channel, which conveys freshwater storm flows from primarily urban sources through an underground reinforced concrete box culvert with a 10-foot-wide metal flap gate at the end of the structure. The concrete box storm channel is generally located above the high tide line. Natural tidal events can inundate the Estrella outlet and move sand, blocking the flap gate and limiting or preventing freshwater flows from draining out of the storm channel and outlet and into the ocean. Recently, shoreline processes have also caused scouring around the terminus of the storm channel, resulting in undermining of the flap gate and surrounding structure. To ensure unimpeded outflow and to prevent damage to the storm channel, maintenance is needed to excavate sediment from around the flap gate and to excavate adjacent sands and place them around the storm channel when scouring has occurred.

At Capistrano Beach where the Estrella outlet is located, the sandy beach area is very narrow, often with less than 25 feet of dry sand at high tide or with the entire beach covered at high tide. Because CLT and WSP use Orange County beaches as roosting, foraging, and migration habitat, terns and plovers may be moving along the beaches and between established roosting sites through much of the year. Therefore, small flocks or individual CLT and WSP could be present within the OCPW project areas or adjacent habitat at any one time. However, because the beaches are so narrow, it is unlikely they use sandy the Estrella except maybe at low tide for foraging offshore during migration. Additionally, no suitable breeding habitat is present at this beach, therefore it is not regularly surveyed for CLT and WSP during the breeding or non-breeding season.

Estrella Storm Channel Outlet Maintenance

OCPW proposes up to two maintenance events each year, once prior to the rainy season (fall event) and once following the rainy season (spring event), if needed. Each maintenance event includes excavating approximately 500 cubic yards of sediment to unblock the flap gate and to re-establish channel flow in an approximately 0.06-acre area between the outlet and the ocean. Heavy machinery will be used to excavate and relocate the sediment over an approximately 0.12-acre area of the adjacent beach (**Exhibit 2**) above and/or below the high tide line and then grade the placed sediment to create a uniform beach surface that matches the existing beach profile. During each event, boulders and rock riprap that have been dislodged from the rock slope protection section during high flows or tides will be retrieved and replaced, if necessary. During the

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spring maintenance event, the channel will be inspected to determine if the flow discharge has meandered outside of its direct path between the concrete box and the ocean. If the channel has meandered, then a direct path between the concrete box and the ocean will be reestablished. To maintain the structural integrity of the outlet, the storm drain flap gate, its associated concrete box storm drain, and rip rap foundation will be repaired or replaced, as necessary, during one or both of the semi-annual maintenance events. Cumulative replacement of 50% or more of the storm channel outlet components is not considered repair and maintenance and would require a separate CDP application.

Routine maintenance typically may be completed in one day; however, in unusual circumstances where rock needs to be repositioned, a maintenance event will occur over an estimated 4-day to 2-week period and will use conventional land-based construction equipment (e.g., excavators, bulldozers, articulating dump truck, and backhoe). Project equipment will be staged within a small portion of the adjacent beach parking lot (Figure 13). All maintenance work is proposed to be conducted during daylight hours. As proposed, all maintenance activities will be implemented in accordance with USFWS Conservation Measures included as **Exhibit 6**.

Segunda Deshecha Cañada Ocean Outlet

Segunda Deshecha Cañada Creek is a small creek, approximately 5 miles long and entirely encompassed in an 18-square mile watershed, which it shares with the Prima Deshecha Cañada Creek. Segunda Deshecha Cañada Creek receives freshwater from natural and urban sources, including from a few small, unnamed tributaries. The Segunda Deshecha Cañada Ocean Outlet is the terminus of this creek, which conveys freshwater storm flows through a large reinforced winged concrete box culvert, and an incorporated drivable overpass to allow beach access for maintenance and emergency services vehicles over the culvert. It is approximately 2,300 square feet in area.

Segunda Deshecha Cañada Outlet is located at North Beach (part of the larger San Clemente City Beach) in the City of San Clemente approximately 300 feet upcoast from the North Beach public beach accessway, beach restrooms and playground. At North Beach where the Outlet is located, the beach is very narrow with the majority of the beach often covered at high tide. San Clemente City Beaches are somewhat regularly surveyed for snowy plovers during the breeding and non-breeding season. During 11 years of rangewide wintering snowy plover surveys (2013 through 2023), three snowy plovers were documented using San Clemente City beach in 2016 but none during the breeding season.

Natural tidal actions move sand, creating a sand berm that blocks the outlet, restricting tidal exchange between the outlet and the Pacific Ocean. To ensure tidal exchange into and out of the concrete box culvert, sediment within the outlet needs to be removed to prevent unsafe pooling of water.

Segunda Deshecha Cañada Outlet Maintenance

OCPW proposes up to two maintenance events each year, once prior to the rainy season (fall event) and once following the rainy season (spring event). Each maintenance event would excavate approximately 1,000 cubic yards of sediment from an approximately 0.08-acre area between the box culvert outlet and the ocean to reestablish channel flow. Heavy machinery will be used to excavate and relocate the sediment over an approximately 0.20-acre area of the adjacent beach (**Exhibit 2**) above the high tide line and then graded to create a uniform beach surface that matches the existing beach profile. During the spring maintenance event, the channel will be inspected to determine if the flow discharge has meandered outside of its direct path between the concrete box culvert and the ocean. If the channel has meandered, then a direct path between the box culvert and the ocean will be reestablished.

Each maintenance event would be over an estimated 1-2 week period using conventional land-based construction equipment (e.g., excavators, bulldozers, and backhoe). Project equipment will be staged within a small portion of the adjacent beach parking lot (**Exhibit 3**). All maintenance work will be conducted during daylight hours. As proposed, all maintenance activities will be implemented in accordance with USFWS Conservation Measures included as **Exhibit 6**.

B. Standard of Review

The City of Huntington Beach, the City of Newport Beach, and the City of Dana Point all have certified Local Coastal Plans (LCPs). The City of San Clemente has a certified Land Use Plan (LUP) but is not yet fully certified. As such, the Commission retains permit issuance jurisdiction over development occurring in San Clemente's coastal zone. In addition, the Commission retains permit issuance jurisdiction in the portions of the City of Newport Beach subject to this permit amendment because they are located on filled public tidelands. Consequently, for the purposes of this coastal development permit, the Commission has jurisdiction over all work occurring on public tidelands, including the proposed maintenance areas in Newport Beach, and all work at the Segunda Deschecha Cañada Outlet in San Clemente. For development proposed in these two cities, the certified LUP (San Clemente) and the certified LCP (Newport Beach) may provide guidance, and relevant policies are included in Appendix B of the staff report; however, the standard of review is the Chapter 3 policies of the Coastal Act. For development occurring above the mean high tide line in the certified areas of Huntington Beach and Dana Point, the applicable local government has permit issuance jurisdiction and local approvals are appealable to the Commission. Work occurring on public tidelands in these cities (below the mean high tide line) falls within the Commission's original jurisdiction.

Section 30601.3 of the Coastal Act provides that the Commission may process and act upon a consolidated permit application where a proposed project requires a CDP from both a local government and the Commission, and where the applicant(s), the local government, and the Commission consent to consolidation of the permit application, provided that public participation is not substantially impaired by consolidation, and that Chapter 3 of the Coastal Act is the standard of review for a consolidated permit application. The applicant, local governments, and Commission all agreed to a

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consolidated permit application for the underlying permit and consolidation will not substantially impair public participation, the Coastal Commission is the permit issuing authority for the entire proposed project and the standard of review is Chapter 3 of the Coastal Act, with the local governments certified LCPs, or in the case of San Clemente, certified LUP used as guidance.

C. Previous CDP History

On July 9, 2003, the Commission approved Coastal Development Permit (CDP) No. 5-02-031 authorizing portions of an ongoing ocean outlet maintenance program at seven ocean outlet locations in Orange County, including Segunda Deschecha (San Clemente), Poche Beach, Capistrano Beach 1 and 2, North Doheny, and Salt Creek (Dana Point), and Santa Ana and Talbert Channel (Huntington Beach). The Commission-approved permit only applies to the Commission's retained permit jurisdiction areas which included the maintenance work at Segunda Deschecha Cañada and below the mean high tide line in certified local jurisdictions. An "Ocean Outlet Maintenance Manual" was prepared to serve as a guide for maintenance activities and to provide baseline data for the permits required to perform the maintenance activities included in the original proposal. The maintenance activities included, as needed, semi-annual (once in late summer or fall and once in early spring) removal of sand deposits at the seaward end of the outlet structures, distribution of the sand on the beach above the mean high tide line (MHTL) and outfall discharge water quality monitoring. Additionally, the Commission approved retrieval of rip rap at the Salt Creek and Santa Ana River locations and low flow diversion at North Doheny Creek. The maintenance program was approved pursuant to six special conditions which required: 1) expiration of the permit five years from issuance; 2) conformance with the requirements of the Resource Agencies; 3) conformance with proposed Best Management Practices (BMPs); 4) conformance with Water Quality Monitoring Plan and submittal of an annual monitoring report; 5) timing of maintenance activities to avoid biological resources; and 6) timing of maintenance activities to avoid public access impacts. These special conditions continue to apply.

On March 17, 2006, the County applied for an amendment to CDP No. 5-02-031 (-A1) to add a Grunion Protection Plan, add trigger mechanisms for additional maintenance events at Talbert Channel and Santa Ana River (outside approved timing), and add an on-site biological monitor requirement during maintenance operations and a five-year time extension. This application was withdrawn by the County on October 25, 2006, in order to allow more time for the review of comments raised by the State Water Resources Control Board. The application was resubmitted with slight modifications on November 29, 2006, CDP No. 5-02-031-A2.

A third amendment application, CDP No. 5-02-031-A3 was submitted and approved by the Executive Director on October 23, 2008 as an immaterial amendment, authorizing an extension of the permit term by two years (through August 2010) to allow maintenance at the original seven outlet locations. No changes to the maintenance activities were proposed or approved. Another permit amendment (CDP Amendment

No. 5-02-031-A4), also immaterial, was issued on March 17, 2011 and included a five year time extension until July 2016 and the removal of the Poche Beach (also known as Prima Deschecha) and Capistrano Beach #1 outlets from the maintenance program. Capistrano Beach #2, also known as Estrella Storm Channel, remained in the program. CDP Amendment No. 5 extended the permit term for an additional five year term. Amendment No. 6 removed North Doheny Creek outlet from the program, modified the sediment excavation and deposition areas and volumes, increased the number of maintenance events allowed at the Santa Ana River and Salt Creek outlets, and incorporated several new special conditions to protect coastal resources. Finally, CDP Amendments No. 7 & 8 extended the permit term for two years (one year each) through the current expiration date of November 8, 2025 and did not include any changes to the maintenance program.

Per Permit Streamlining Act requirements, the Commission must act upon this permit amendment application at the July 2025 Commission meeting.

D. Marine Environment and Land Resources

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

Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30121 of the Coastal Act defines Wetlands as:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine

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organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30233 of the Coastal Act states:

(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:

(1) new or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

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

(6) Restoration purposes.

(7) 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 these purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Wildlife, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area

Section 30240 of the Coastal Act 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.

Environmentally Sensitive Habitat (ESHA)

The definition of ESHA invokes a three-part test (1a, 1b, and 2):

- 1a. Is the habitat rare or does the habitat support rare plants or animals? OR,
- 1b. Is the habitat, or the plant or animal species in the habitat, especially valuable because of their "special nature" or because they play an "especially valuable" role in a habitat or ecosystem? And,
2. Is the habitat, or the rare plant or animal species in the habitat, easily disturbed or degraded?

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Coastal dunes are among the rarest habitats in California occurring only in the limited zone between the ocean and land where intense development has resulted in a 98%³ estimated loss of coastal dunes in Southern California. In the 2010 update to the status of the state's natural communities, CDFW assigned southern foredune habitat the "imperiled" rarity ranking of G2 S2.1^{4,5}. Southern foredune habitat occurs on the upper beach area near the Talbert Channel and the Santa Ana River where not only is the dune habitat itself rare but it also supports rare plants and animals including Western snowy plover. And these dunes are easily degraded and disturbed by human development and activities such as grooming and sand deposition and thus are considered ESHA.

Habitat that meets the definition of ESHA is subject to Coastal Act Section 30240. Section 30240(a) only allows resource dependent uses to occur within ESHA (such as habitat restoration, nature study and scientific education and research, and low-impact public access and recreation such as hiking trails and primitive and interpretive camping) and requires those resource dependent uses to protect against any significant disruption of ESHA habitat values.

Per Section 30240 of the Coastal Act, any area that supports ESHA must be protected from disruption. The sediment excavation, sand disposal, and maintenance equipment storage areas were drawn by the County using aerial imagery to intentionally avoid any areas supporting dune habitat. Proposed construction staging areas also avoid coastal dune areas. The applicant proposes to clearly demarcate sand dunes during maintenance events to clearly avoid any disruption to those areas. To ensure impacts to coastal dunes are avoided, **Special Condition 8** further prohibits the County from driving through dune areas during transport of sediments to beach areas between SAR Outlet and Newport Pier. As conditioned, the Maintenance Plan is consistent with Section 30240 of the Coastal Act.

Wetlands

River or creek ocean interfaces often support permanent or ephemeral lagoons or estuaries where freshwater meets seawater of the ocean. This mixing zone creates an area of brackish water that is a mixture of fresh and salt water. Estuaries and lagoons are dynamic and biologically rich areas that support important physical and biological services and functions such as nutrient exchange, water filtration, sediment transport, primary productivity, and diverse habitat including nursery habitat. Estuaries and Lagoons are identified as wetlands and are protected under Coastal Act section 30233.

³ <https://uckeepresearching.org/studying-the-climate-potential-of-californias-dunes/>

⁴ California Department of Fish and Wildlife. 2010. California Natural Community List by Hierarchy. September 2010.

⁵ Global (G) and State (S) Level 1 communities or species are identified as "critically imperiled = at very high risk of extinction due to extreme rarity (often <5 populations), very steep declines, or other factors". Global (G) and State (S) Level 2 communities and species are identified as "imperiled = at high risk of extinction or elimination due to restricted range, few populations or occurrences (often < 20), steep declines, severe threats, or other factors.

Marine Resources

While estuary and lagoon habitats are identified as wetlands by the Commission, where creeks and rivers enter the sea, such as the Talbert Channel Outlet and SAR Outlet, and beaches in general, are protected under Coastal Act marine resource sections 30230 and 30231 that allow for development such as proposed dredging and dredge material placement.

Talbert Marsh and Santa Ana River Marsh Complex

The health and natural functioning of the Talbert Marsh and 92-acre Santa Ana River (SAR) Marsh Complex are dependent on adequate tidal exchange through the Talbert Channel Outlet and the SAR Outlet. Therefore, maintaining tidal exchange at these outlets is critical and requires periodic maintenance dredging throughout the year at both outlets. To ensure adequate tidal exchange which allows for proper flood control, maintains the ecological health of these wetlands, and prevents unsafe pooling of water in the outlets, sediment deposits that block the outlets must be mechanically removed. OCPW proposes to respond to accumulation of sediments or shoaling on an as-needed basis with the goal of ensuring adequate tidal exchange with the Talbert Marsh and SAR Marsh complex. The current CDP (5-02-031, as amended) allows emergency maintenance to occur during the California least tern (CLT) nesting season or the seasonally predicted grunion run period with written Executive Director and CDFW authorization. OCPW is now requesting this access on a non-emergency basis to more quickly address shoaling and avoid the creation of adverse conditions in the two marsh areas.

CDP 5-02-031, as amended, prohibits routine maintenance activities on the beach during California grunion spawning season (March through September) and CLT nesting season (April 15 - September 15) but does allow for “emergency” outlet maintenance activities during these restricted times under special circumstances if the permittee submits a declaration from the Department of Fish and Wildlife stating that construction on the specific dates proposed will not cause adverse impacts to any sensitive or endangered species. However, the applicant has cited recent instances when such emergency authorizations were not provided or not provided in a timely manner due to the amount of analysis needed for CDFW staff to make a determination regarding the impacts of such work. For example, when the Talbert outlet maintenance was not allowed in March or April 2022 because of agency concerns regarding potential take of endangered CLT, extended periods of outlet closure at Talbert Channel led to significant adverse impacts to wetland habitat in the Huntington Beach Wetlands complex. The applicant’s consultant estimates the closure resulted in a 95% decline in eelgrass in the Talbert Marsh, while Santa Ana River eelgrass flourished, increasing by 105%. Further, the prolonged Talbert outlet closure and resulting poor water quality impacted the native Olympia oyster (*Ostrea lurida*) population, as well as other benthic invertebrates evidenced by the large number of dead oysters and other marsh invertebrates. An investigation is ongoing as to the ecological extent of the impact of the prolonged outlet closure on the Talbert Marsh mollusk and crustacean populations; it is also likely that the prolonged outlet closure in 2022 led to the local extinction of native

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oysters. The County's primary objective for outlet clearing is flood control, which is generally only required during the storm season. However, outlet maintenance at Talbert Channel and SAR also benefits and safeguards the upstream wetlands owned/maintained by other public agencies.

California Least Tern (CLT) and Western Snowy Plover (WSP)

Located between the Talbert and SAR outlets is the Least Tern Preserve that is 12.4 acres in size with approximately 12-acres enclosed within a chain link fenced area located at the southern end of Huntington State Beach managed by State Parks as suitable breeding and sheltering habitat for the federally and state endangered California least tern ("CLT", *Sternula antillarum browni*) and supports breeding and sheltering habitat for the federally threatened western snowy plover ("WSP", *Charadrius nivosus nivosus*). The applicant, OCPW, requests maintenance activities be allowed year-round at Talbert and SAR outlets with bird nesting monitoring/management protocols. The current CDP does not allow routine maintenance activities to occur during the CLT nesting season (April 15-September 15).

Allowance for maintenance of the Talbert and SAR outlets during the months of March and April will reduce sediment buildup in the outlets and closure which tends to occur during this period of combined neap tides and short period ocean swell out of the northern hemisphere. However, outlet maintenance activities during these critical months could result in negative impacts to CLT and WSP. To address these impacts and numerous others, the County proposes additional protective measures developed in consultation with U.S. Fish and Wildlife Service (USFWS). **Exhibit 6** is a list of the eighty-four (84) Conservation Measures (CMs) included in the USFWS "Biological Opinion for the Issuance of a Standard Individual Permit for the Orange County Public Works Ocean Outlets Maintenance Program, Orange County, California" dated March 14, 2025, which incorporates and addresses ACOE and OCPW's comments and suggested changes. It also requires implementation of the 84 CMs to avoid, minimize, and offset project-related adverse effects to WSP and CLT. Commission staff closely collaborated with USFWS staff to ensure both regulatory agencies agree that the CMs would minimize impacts and protect against any significant disruption of habitat values consistent with Coastal Act policies. The applicant proposes to comply with the USFWS Biological Opinion and CMs 1-84.

USFWS CMs 13-32 are all specific to CLT and WSP protection and monitoring during sand excavation/maintenance events at Talbert, SAR, and Salt Creek outlets. USFWS is also requiring mitigation for long-term temporary impacts to CLT and WSP resulting from loss of habitat, degradation of foraging habitat, and impacts to CLT and WSP productivity resulting from maintenance activities each year of the 10-year permit term through the establishment of a California Least Tern and Western Snowy Plover Recovery Fund. OCPW shall provide \$300,000 (either as a lump sum or as an annual \$30,000 deposit for 10 years) into a fund at the Orange County Community Foundation or similar mutually agreed upon financial manager. Use of the funds will be limited to implementation of WSP and CLT management and recovery actions within State Parks Orange Coast District, including activities such as: predator control, purchase of

equipment and supplies for species and habitat management [including but not limited to fence materials, signs, rope, cordage (metal or natural materials), posts for symbolic fencing, shovels, sledge hammers, safety equipment], purchase of educational materials, purchase of materials for predator ex-closures and chick shelters, purchase of equipment and supplies for vegetation management within the CLT Preserve and year-round WSP protection zones or other year-round symbolically-fenced habitat areas, and purchase of native dune species seeds for conducting habitat enhancement activities inside and outside of year-round protected habitat areas. **Special Condition 2** requires the applicant to conform to all the requirements and conditions of the Resource Agencies. Furthermore, the applicant proposes and **Special Condition 10** requires, additional BMPs for construction and maintenance activities within Special WSP Protection Zones or near roosting WSP, and CLT and WSP impact avoidance measures.

Predator control at the SAR outlet is necessary for overall CLT and WSP protection and recovery. Off leash dogs can negatively impact nesting or roosting shorebirds and their habitat, including in this specific area, which is why the City of Newport Beach conducts limited and/or intermittent enforcement of their leashed dog regulation. However, because the City has not and does not consistently enforce dog regulations, the SAR channel and outlet has become a de facto unpermitted dog beach. Off leash dogs may chase adult CLT and WSP, separate WSP adults from chicks, and crush and/or eat WSP chicks or fledglings that have moved onto Newport Beach from more protected areas in Huntington State Beach. Off leash dogs swimming and playing within the Santa Ana River may scare the small forage fish that terns feed on away from the shallow river mouth into deeper shoreline habitat that CLT cannot access with their foraging dives. In addition, off leash dogs and their owners may disturb foraging CLT to the point of temporarily excluding them from the area. Off leash dogs also cross the Santa Ana River onto State Park lands to the area between the outlets where the Preserve is located. When breeding CLT and/or WSP are present, off leash dogs may run through occupied habitat including the symbolically fenced portion of the Preserve crushing and/or eating eggs and chicks and chasing chicks and adults potentially resulting in injury or death. Adults, chicks, and eggs within the fully fenced Preserve will not be directly crushed, injured, or killed by off leash dogs, but adults may be flushed off eggs and chicks as off-leash dogs move around the perimeter. Repeated flushing events expose eggs to the environment, which increase their risk of mortality from nest abandonment and potentially lower hatch rates due to inconsistent incubation. Chicks with less parental attendance are more exposed to heat or cold, which may lower survival rates and/or delay fledging. Both eggs and chicks with less parental attendance are more susceptible to predation. Allowing leashed or unleashed dogs to access occupied breeding, feeding, and sheltering habitat degrades and temporarily excludes CLT and WSP from otherwise appropriate breeding, foraging, and roosting habitat.

In an effort to address off-leash dog concerns, OCPW proposes installation and maintenance of a wood lathe fence with stainless steel posts on the south/downcoast bank of the SAR outlet (**Exhibit 2**). The fence would be approximately 450 feet long and would extend from the City of Newport Beach's fenced staging area, located at the end

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of Seashore Drive to near the end of the riprap jetty on the south-east side of the river mouth for a proposed 3-year trial period. If the trial is successful with notable reduction in trespass in the river mouth, facilitates an increase in the effectiveness of law enforcement activities policing trespass, and if fence damage/repair costs does not exceed \$30,000 over the three-year trial, the fence would remain in place permanently and be maintained by the County as needed. However, if the trial is unsuccessful during the three-year trial period, OCPW proposes to remove the fence and return the area to its original condition. Furthermore, CM 24 requires OCPW to exclude the public and dogs/pets within the project footprint and within 100 feet of the project footprint during maintenance activities and inform the public of the current City of Newport Beach and Huntington State Beach dog regulations. A portion of mitigation funds from the Western Snowy Plover and California Least Tern Recovery Fund would be used for the fence installation and maintenance.

Sandy Beach Habitat

Periodic sand deposition activities associated with the Talbert Channel and SAR dredging operations has the potential for adverse impacts to wrack habitat and intertidal infaunal macroinvertebrate community structure where dredge material is placed. Invertebrates inhabiting wrack habitat (e.g. amphipods and isopods) and intertidal infaunal macroinvertebrates (e.g. sand crabs (*Emerita sp.*), blood worms (*Glycera sp.*), other polychaete worms) are primary food sources for shorebirds like plovers, and nearby sources of invertebrates are critical for mobile plover chicks which cannot fly to forage on other food sources. **Special Condition 6** requires submittal of a Sandy Beach Monitoring Plan designed to identify trends and to detect significant changes in the presence and amount of wrack and the infaunal macroinvertebrate community structure by comparing a minimum of two impact beaches where dredged Talbert Channel and Santa Ana River sand is periodically placed to a minimum of two upcoast reference (control) beaches that are not subject to dredge material placement (or grooming if possible). Wrack habitat will be evaluated by examining the presence, location, and amount of wrack at impact beaches compared to reference beaches. The infaunal macroinvertebrate community structure will be examined by collecting core samples in the low, mid, and high beach intertidal zone (swash zone). The core samples will be preserved and subsequently submitted to a qualified laboratory for processing, sorting and identification to the lowest practical taxonomic level. Biomass, species richness, and diversity metrics will be calculated for analyzing the status of the infaunal macroinvertebrate community structure at the impact beaches compared to the reference beaches.

The wrack habitat and infaunal macroinvertebrate community monitoring plan includes measures to avoid and/or minimize impacts to WSP and CLT including conducting monitoring activities outside of plover protection zones, symbolically fenced areas, and the Least Tern Preserve during the breeding season. Drone wrack habitat sampling during the breeding season may also only occur when no plover and/or tern chicks are

present because adult WSP and CLT are disturbed and flushed by drones. A final report documenting whether or not negative trends or significant changes have been measured or observed between the impact and reference beaches will be completed at the end of five years of monitoring. If no negative trends or significant changes are measured or observed no further action is necessary. If negative trends or significant changes are measured or observed the applicant will consult with the Executive Director and the USFWS regarding potential adaptive management or mitigation measures.

California Grunion

Orange County beaches are prime areas for California grunion spawning. This marine fish species is a restricted resource, as determined by the California Department of Fish and Wildlife, and a recreational fishery due to its unique spawning events known as grunion runs⁶. The areas in and around the ocean outlets covered by the CDP all have or have the potential for beach habitat suitable for grunion spawning. The current CDP does not allow routine maintenance activities to occur during the grunion spawning season (March through September).

The applicant proposes outlet maintenance events year-round. Although grunion spawning does not typically occur after August 30th, OCPW proposes to monitor the grunion spawning schedule as posted by CDFW and implement grunion monitoring per a Revised Grunion Protection Plan dated January 2023 (**Exhibit 5**). As proposed, should outlet maintenance be required to protect coastal resources within two weeks of a CDFW predicted grunion run, a preconstruction survey is proposed to determine the suitability of that site for grunion spawning. Suitability is based primarily on base material (e.g., sandstone, bluffs, armoring, cobble, or sand) above the mean hightide line (+4.6 ft MLLW).

Grunion require sandy habitat during periods of relatively high tide to successfully spawn. Outlets consisting predominantly of cobble or rip rap above the mean high tide line (greater than +4.6 ft MLLW) would not be considered suitable habitat. As proposed, if the outlet is determined to be unsuitable for grunion, the Coastal Commission, CDFW and other resource agencies will be notified. The data that supports the justification will be provided to the agencies including the date of the pre-construction survey, and description of the physical conditions at the outlet beach operational area. At these sites, no monitoring for grunion will occur during maintenance operations. In addition, no monitoring (pre-construction and construction) would occur at the sand deposition location/ receiver site since sand is placed above the high tide line and therefore would have no effect on grunion.

⁶ Grunion spawning occurs between the spring and summer months, starting as early as March and ending as late as September, with peak spawning periods between the months of April, May, and June. Grunion spawning occurs during full and new moon periods throughout this time when tides are at their most extreme, creating the high tides necessary for successful grunion spawning.

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If the outlet area appears suitable for grunion spawning and should maintenance operations occur within two weeks or overlap a CDFW predicted grunion run, a qualified monitor will be present is proposed to be present every night of the forecasted run. If grunion are observed, location of spawning activity and a Walker Scale estimate of the density of spawning will be recorded. Commencement of maintenance operations would be seasonally dependent and based on based on specific criteria outlined in the Revised Grunion Protection Plan with the preferred mitigation approach of avoidance.

In the event that the SAR or Talbert Channel Outlets are completely blocked and the ecological function of the marshes are in jeopardy, the applicant may conduct maintenance operations at these sites during a grunion run following coordination with the resource agencies. A qualified monitor would be present every night of the forecasted run for three hours, commencing before predicted runs and extending to after the end of predicted runs. If grunion are observed spawning, location of spawning activity and a Walker Scale estimate of the density of spawning will be recorded. The preferred mitigation approach is avoidance; however, in the event that avoidance and/or minimization measures are not feasible, maintenance operations can still take place to avoid greater impacts to the ecological function of the marshes dependent on the outlet for tidal exchange. **Special Condition 7** requires conformance with the proposed Revised Grunion Protection Plan which contains agency coordination and reporting requirements in addition to monitoring and protection procedures.

Sand Deposition Areas/Sand Receiving Sites

Coastal Act Section 30233(b) states that dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation and that dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems The applicant proposes to excavate sand within five ocean outlets and place the sand on nearby beach areas for a maximum of up to 240,000 cu. yds. annually. The majority of the sediment would be excavated at Talbert Channel (a maximum of 35,000 cu. yds./annually) and SAR Outlet (a maximum of 200,000 cu. yds./annually). While estuary and lagoon habitat such as those at Talbert Outlet and SAR Outlet are identified as wetlands by the Commission and protected under Coastal Act section 30233, beaches in general, are protected under Coastal Act marine resource Sections 30230 "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" and 30231 "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."

Suitable sand sediments from the SAR Outlet are proposed to be placed along City of Newport Beach public beaches. Multiple sediment sampling in the outlets has found that the sediment in the outlets is clean sand from alongshore littoral transport. Samples were taken at all five outlet locations in June 2023 and both grain size sieve analysis

and SandSnap analyses indicate outlet sediment is 95% or greater sand content. Samples were most recently taken from SAR and Talbert outlets in February 2023 and all samples were found to be 100% sand (grain size test results with 0% finer than #200 sieve). Core samples were taken from the SAR outlet in 2015 as part of the Lower Santa Ana River Sand Management Project and tested for both grain size and chemistry; the percent fines average was 1.9%, i.e., 98.1% sand and there were no exceedances of any NOAA ERL (Effects Range Low) thresholds for contaminants. The USACE Inland Test Manual allows for a “Tier 1” exclusion if the material contains less than 10% fines (and thus chemical testing is not required). In the case of the five OC ocean outlets, the excavated sediment has less than 10% fines as demonstrated by sediment sampling at all five outlet locations. Thus, no chemistry sediment testing is warranted.

Exhibit 2 depicts the proposed maximum potential fill areas over multiple maintenance events and depicts representative fill areas for single maintenance events. The timing of the maintenance event and the status of the receiver beaches will determine the location where excavated sediment will be placed within the much larger maximum potential fill placement area footprint depicted on the exhibits. The sediment placement footprint for the fall maintenance activities occurring from September 16 through February 28/29 is proposed to be an 11-acre sized area. When smaller amounts of sediment are to be excavated, the excavation footprint will be proportionally smaller. Vehicle routes for placement of sediment within the project footprints along Balboa Peninsula beaches will be done via beach route by OCPW north of the Newport Pier and placement of sediment within the southern section of the project footprints south of the Newport Pier will be done via street route by OCPW’s contractor, the City of Newport Beach.

Coastal Act Section 30233(d) allows sand to be placed at appropriate sites where feasible mitigation measures have been implemented. **Special Condition 8** requires submittal of a Sand Discharge Plan that incorporates habitat protection measures that ensure the transport of sand to the receiver sites avoid, to the maximum extent feasible, impacts to marine resources. Such measures include only driving on areas of the beach that are already groomed, 50 ft. buffer between sand dunes and staging areas, maintenance areas, and access routes that minimize crossings or disturbance of the wrack zone and separating and retaining wrack on the beach in areas where discharge operations will result in the loss or disturbance of wrack, vehicle speeds not exceeding 5 MPH in potential sensitive habitat areas and 15 MPH in all other beach areas; and presence of a qualified biological monitor on vehicles that traverse through potential sensitive habitat areas.

The deposition of excavated materials above the mean high tide line (MHTL) is not expected to adversely impact water quality or biological productivity in the project sites. The tidal lines used by the County in drawing the proposed sand excavation and deposition areas were sourced from 2016 survey data from the National Oceanic and

Atmospheric Administration (NOAA) represent the applicant's prediction for the purposes of sand placement. As proposed, excavated sediment will predominantly be placed above the high tide line along all of the Newport Beach sand receiver sites but can be placed below the high tide line in the sediment placement footprints when the conservation measures (**Exhibit 6**) for placement allow it. When allowed, sediment will not be placed lower than 0 MLLW. When sediment is allowed below the high tide line in the placement footprint, sediment will be transported and deposited with a dump truck/s, and bulldozer/s will push the sediment into the swash zone. Placement of sediment into the swash zone will be timed to coincide with the receding wave to the greatest extent practicable, which allows the bulldozer to push the sediment farther away while minimizing the potential for equipment to enter the water. However, the deposition of large amounts of sand by various methods (including heavy equipment) may adversely impact the swash zone infaunal macroinvertebrate community via direct burial, grading disturbance, sand compaction, and crushing causing injury and mortality. **Special Condition 6** requires the applicant to develop a Sandy Beach Monitoring Plan because the dredged sand placement locations include areas within the swash zone. As conditioned, any impacts to marine organisms that exist in the sandy intertidal zone, such as sand crabs and beach hoppers, will be minimized.

At the request of the City of Newport Beach, OCPW is proposing to include an 11-acre beach area to receive a maximum of 20,000 cu. yds. of sand during one sand placement event at the end of the Balboa Peninsula in an area known as The Wedge adjacent to the west jetty of the Newport Harbor entrance. Sand placement at The Wedge would have an additional benefit of nourishing the nearby CDFW snowy plover protection zone as sand naturally moves from east to west along the shoreline with south swells.

Construction/Maintenance Event Impacts to Water Quality

Another function of the Maintenance Plan is to improve water quality by clearing out sediment that may be preventing the discharge of fresh waters to the sea. When an outlet is blocked, the inland waters stagnate, collect trash and debris, and become anoxic and warm. These conditions support bacterial growth that can lead to fishkills and adversely affect coastal resources and public health. Thus, through the excavation of sediment and removal of trash from the outlets, the proposed development would prevent such conditions from persisting by restoring proper flow and tidal influence thereby reducing the adverse impacts to water quality caused by the blockage of the outlets.

The proposed Maintenance Plan requires the use of heavy machinery on sandy beaches or in tidal inlets. Machinery may have oils, greases, heavy metals, and other vehicular fluids on the body of the machine. Section 30232 requires protection of the coast from spillage of hazardous substances. The proposed Maintenance Plan includes Best Management Practices (BMPs) includes measures designed to minimize the release of vehicular or other contaminants to coastal waters during maintenance events (e.g., off-site cleaning and maintenance of equipment, trash collection and employee education) and compliance with regulatory standards and requirements

specified from the State Water Resource Control Board, the San Diego Regional Water Board, the U.S. Army Corps of Engineers, and the California Coastal Commission. The Board's 401 Water Quality Certification contain details regarding the thresholds for adequate water quality and procedures to implement if water quality thresholds are surpassed. The California Beach Water Quality Standards (AB411) govern the thresholds for bacteria-related constituents; thresholds for other monitored constituents' are set per the Regional Water Quality Control Board Basin Plan Water Quality Objectives. Additionally, **Special Condition 2** requires conformance with other resource agency requirements, including State and Regional (Santa Ana and San Diego) Water Quality Control Boards.

Construction taking place in, over, or adjacent to coastal waters and habitat require special BMPs to ensure the protection of coastal waters and habitat. **Special Condition 3** requires conformance with construction BMPs to prevent the storage of materials where they may enter water bodies, remove debris within 24 hours of completion of construction, and implement BMPs and Good Housekeeping Practices. The proposed Water Quality Monitoring Plan (**Exhibit 4**) no longer includes lengthy lab testing processes involved with sampling water, as such results would not reach OCPW in time to address issues before tidal flushing dissipates potential existing concentrations of contaminants. Sampling would still occur 24 hours before and after any maintenance activities, as well as daily visual water quality monitoring for observable contaminants including but not limited to oil sheen, excessive algae, foam, turbidity, and odors. **Special Condition 4** requires compliance with the proposed Water Quality Monitoring Plan. In any case, past water quality monitoring with a full suite of parameters has indicated that outlet maintenance activities do not result in adverse impacts to coastal waters, as reported in the County's annual report submittals. Thus, the County revised the Water Quality Monitoring Plan's set of water quality monitoring parameters to enable immediate action to be taken to minimize and prevent harm to the environment.

As conditioned, the maintenance program is consistent with Sections 30230, 30231, 30232, 30233, and 30240 of the Coastal Act and the resource protection policies of the certified San Clemente LUP and Newport Beach LCP. As conditioned, it is appropriate for the maintenance activities to be authorized for a period of ten years by which time (or soon thereafter), there may be changed circumstances with regard to biological resources and climate change effects that would warrant a renewed look at the program (**Special Condition 1**).

E. Public Access and Recreation

Relevant Coastal Act Policies

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with

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public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30220 of the Coastal Act states:

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

The Orange County Ocean Outlet Maintenance Program (Maintenance Program) consists of ocean outlet maintenance that provides essential public services for the benefit of visitors and residents, including flood control and beach nourishment. To encourage public access to the beaches and protect public and environmental health, the outlets will be cleared of floatable trash (which comprises the majority of debris in the discharged waters) prior to excavation and placement of the excavated sand onto the adjacent beach area which are popular beach recreation areas. At the SAR Outlet, the Maintenance Plan includes sand compatibility analysis and overall screening to filter excavated sediments in order to remove non-beach compatible materials, including cobble from the sand. The beach sand is then deposited along the Newport beaches. The Plan also includes necessary repairs to the degraded flap gate (visually unpleasing and potentially unsafe) at the Estrella Storm Channel outlet, which will improve the visual and recreational quality of the site. The main concern with the proposed maintenance and repair work are possible public access impacts. For example, obstruction of lateral or vertical access to the shoreline with trucks and/or equipment can temporarily affect the public's ability to access the beach and recreate.

Impacts of Maintenance Activities

Construction related impacts to public access and recreation can be partially alleviated by limiting construction work during the peak beach use season (between Memorial Day and Labor Day) with the bulk of the work occurring in the off season when beach use by the public is typically low. For this reason, **Special Condition 8**, prohibits routine maintenance activities to be carried out between Memorial Day and Labor Day at Salt Creek, Estrella Storm Channel, and Segunda Deshecha Cañada while allowing maintenance at Talbert Channel Outlet and SAR Outlet during the peak summer use season only when critically required to avoid adverse impacts to the health of upland wetlands. Additionally, **Special Condition 5** also requires public access to or around areas where maintenance activities will occur shall be maintained during all project operations, minimization of use of public beach and parking areas for storage of maintenance materials to the greatest extent feasible, and the posting of expected dates of maintenance activities and/or areas of beach closures with a notice, in English and Spanish to inform a greater public audience.

Impacts of Staging in Public Areas

Proposed staging areas, shown in **Exhibit 3**, are proposed in areas that avoid sensitive habitat such as dune ESHA adjacent to the SAR Outlet, avoids CLT and SP areas adjacent to the Talbert Channel Outlet, and vegetated areas of Salt Creek Outlet and minimize equipment staging footprints to prevent adverse impacts on public access. The staging area and access point for the Talbert Channel is located at the far end of the Huntington State Beach parking lot seaward of the Huntington Beach Santa Ana River Trail and Huntington Beach Bike Trail. According to the applicant, maintenance operations will not impede access along these pedestrian and bike trails. At the Santa Ana River outlet, staging and access is proposed from the end of Seashore Drive (off of public roadways). The County proposes access to Salt Creek from the private resort and golf course. If necessary, maintenance equipment would be stored in the parking lot or above the mean high tide line just southeast of the outlet (not on the main stretch of beach). Access and staging at Estrella Storm Channel are proposed to be located at the Capistrano Beach County Park parking lot. No overnight storage of maintenance equipment is proposed at Segunda Deschecha Cañada. The site is accessed by a gate adjacent to the outlet. As currently conditioned, the outlet maintenance is temporary—with duration of work ranging from one day to approximately nine weeks—and will not significantly impact public beach parking availability because routine maintenance events are all proposed outside peak beach use periods at most locations and in most circumstances. However, since some necessary maintenance could be allowed during peak beach use season, **Special Condition 5** is imposed to require avoidance of this season to the maximum extent feasible and minimization of use of public beach and parking lots. Thus, as currently conditioned, the proposed equipment storage and staging areas will not significantly impact public access.

Impacts to Coastal Recreation

Southern California is well known for its sandy beaches and surf. The cities affected by this maintenance program contain a number of popular surf breaks that are frequently visited by the public including recreational and competitive surfers, body boarders, skim boarders, and spectators. Some of the ocean outlets in the maintenance program are associated with surf breaks like River Jetties (SAR Outlet) and Salt Creek. Most of the proposed sediment discharge areas do not extend seaward of the high tide line or the mean high water line and, thus, newly placed sands at these locations would not likely be moved into the surf zone by normal tides.

Newport Beach, which is proposed to receive beach suitable sand material excavated from the SAR Outlet, has a number of popular surf breaks including Blackies and the Newport Jetties. In addition, Newport Beach is home to the iconic surf spot, The Wedge, which is known worldwide for its unique wave that is influenced by wave reflection off the jetty and sand bars. As input of large quantities of sand along Newport Beach has the potential to impact the surf zone and related recreation opportunities, Special Condition 7, imposed under CDP Amendment No. 5-02-031-A6, required surf monitoring at each of the sediment discharge sites. The County completed five cycles of surf monitoring for sand placement along west Newport Beach; the reporting found that

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changes in surf condition in the locations of sand placement were not discernible from changes in surf condition associated with changes in seasonal swell conditions according to the surf monitoring report submittals. Due to limited County budget, the City of Newport Beach lifeguards currently perform this monitoring. The County request includes the removal of the surf monitoring requirement in order to free up lifeguards to focus on public safety. Based on the results of the surf monitoring reports, recreation at the areas previously monitored was not significantly impacted. The surf breaks along west Newport Beach are likely dominated by the natural movement of sand around the surf zone which is highly dynamic process. The results of the previously conducted surf monitoring suggest that the effects of sand placed are likely not significant within the natural dynamic range of conditions affecting surf quality. Therefore, this CDP would not require additional surf monitoring.

At the request of the City of Newport Beach, OCPW is requesting to include an 11-acre beach area to receive a maximum of 20,000 cu. yds. of sand during one sand placement event at the end of the Balboa Peninsula adjacent to the west jetty of the Newport Harbor entrance as a new sand deposition site. This area regularly experiences seasonal episodes of sand erosion and accretion, and the City would like to include it as a possible sand receiver site, either to increase the beach berm width by placing sand out to 0 MLLW or as a sand dike along the back beach. The Wedge is a world-renowned and very popular surf spot; however, due to the Wedge's unique conditions, waves typically break farther out (~ -10' MLLW) and thus the applicant believes that sand placement at 0 MLLW is unlikely to impact wave conditions. However, placement of sand in the swash zone can affect beach face slope, both as beach fill equilibrates as it is transported deeper into the surf zone and through changing the dominant grain size in the swash zone which can steepen (with coarser grain sizes) or flatten (with finer grain sizes) the beach face. Changing the beach face slope changes the reflectivity of waves which can in turn impact surf quality. Given the importance of the Wedge as a popular surf spot, the Commission finds that a precautionary approach is warranted. To minimize any potential impacts of direct sand placement on surf quality, **Special Condition 8** requires that placement at the Wedge only occur above the Highest Astronomical Tide (in Newport Beach, approximately +7 feet above NAVD88) in an effort to slow the rate that sand enters the swash zone , therefore minimizing any effects on surf quality.

Additionally, in order to avoid construction phase disruption of public recreational and use of sandy beach areas, public access to beach areas, **Special Condition 8** requires that SAR sand deposition/placement at all Newport Beach public beaches to not take place during the peak summer beach use season of Memorial Day weekend to Labor Day weekend. However, maintenance at both Talbert Channel Outlet and SAR Outlet if deemed necessary to avoid adverse impacts to biological resources at the marshes is permitted, if minimized, during the peak summer use. Thus, impacts to lateral access will be minimized and remain temporary during construction phase/maintenance events.

Additionally, at the opposite western end of Balboa Peninsula at the SAR Outlet, the shoals at this location are used as an unofficial off-leash dog beach. This use results in

adverse impacts to coastal resources including the adjacent CLT Preserve and shorebirds and thus has never been endorsed by the Commission. Regardless of the unofficial use, the proposed Maintenance Program aims to discourage the use through new fencing to prevent dogs from entering the SAR Outlet, this action would not significantly impact public recreational use of the beach.

Additionally, some of the long-term public access benefits of the Maintenance Program include flood control and beach nourishment. Recent studies from the area have indicated that as sea levels rise, Orange County beaches will become narrower and would adversely impact public access by restricting the area on which the public can recreate and potentially inhibiting lateral access. One strategy to adapt to sea level rise is to move sand from other locations (such as the sediment from nearby channels) to narrowing beaches in order to maintain sufficient beach width for public use. This is also consistent with Coastal Act section 30233(d), which states that beach-compatible dredge spoils should be placed on appropriate beaches and into longshore current systems to replenish beaches. The proposed development increases the amount of local sand used to nourish the beaches, which is consistent with the Commission's adopted Sea Level Rise guidance.

Therefore, as conditioned, the proposed development is consistent with the public access and recreation policies of the Coastal Act.

F. Coastal Hazards

Section 30253 of the Coastal Act states in pertinent part that new development shall:

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

Section 30253 of the Coastal Act mandates that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard. The project sites are located in areas 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. However, the applicant will not increase erosion hazards by increasing the size of beaches beyond pre-existing conditions, and maintaining 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.

In addition to beach nourishment and sediment disposal, the project involves dredging of ocean outlets. Nearby creeks and longshore currents transport sediment to these

areas, filling in portions of outlets. Maintenance dredging proposed by this project removes this accumulated sediment to ideal contours. Surf monitoring of these locations have demonstrated that offshore contours have not changed since the program was last modified in 2018 (CDP 5-02-031-A6). It is unlikely, therefore, that dredging activities would significantly contribute to erosion, geologic instability, or substantially alter natural landforms.

However, the proposed Maintenance Plan activities are proposed within and adjacent to coastal waters and staging areas are planned in proximity to the shoreline, which is an inherently dynamic and hazardous location. In addition, the subject permit term is proposed to be ten years, during which time more extreme high tides and storms may occur. Thus, **Special Condition 3**, Construction Best Management Practices, includes BMPs that require all maintenance equipment to be sited beyond reach of tidal waters and wave erosion coastal hazards. For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

G. Archaeological, Paleontological, and Tribal Cultural Resources

Section 30244 of the Coastal Act states:

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

The California coastal zone and the subject watersheds have been home to native populations since time immemorial. The project sites are located within the ancestral settlements and use areas of the Gabrieleño (including Huntington Beach and Newport Beach), Juaneño/Acjachemen (including Dana Point and San Clemente), and Luiseño/Rincon Band of Mission Indians (including the entire Orange County coastline) peoples.

Cultural resources were analyzed in the original 2012 MND and the 2018 Addendum to the MND. The analysis determined that outlets maintenance actions would cause no impact or less than significant impact to cultural resources. The basis of this conclusion was that the maintenance would involve disturbance of sand in the outlets which has been previously disturbed by construction of the outlets and past maintenance work. In addition, significant sediment movement (disturbance) in the ocean outlets occurs naturally as a result of storms, tides and other natural fluvial and coastal processes. The County indicated that AB-52 tribal consultations were not conducted because the MND pre-dated the State's AB-52 legislation. In any case, in accordance with the Commission's Tribal Consultation procedures, on January 22, 2023, via email, Commission staff initiated consultation with representatives of tribal entities listed on the California Native American Heritage Commission contact list with known or potential interest in these areas. No requests for tribal consultation regarding this project were received in response.

However, given the potential for resources to be carried downstream from inland locations where natural erosion is occurring and the importance of rivers and other waterways to indigenous people, **Special Condition 11** is imposed to outline proper procedures should any archaeological, tribal cultural, or paleontological resources be encountered during maintenance activities. As conditioned, the project minimizes potential impacts to such resources consistent with Coastal Act section 30244.

H. Local Coastal Program (LCP)

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP), which conforms with Chapter 3 policies of the Coastal Act.

The ocean outlets that are the subject of this permit are located within multiple jurisdictions, including the cities of Huntington Beach, Newport Beach, Dana Point, and San Clemente. The Commission certified the LCP for the City of Huntington Beach in 1985, and significant amendments in 1996 and 2001. The City of Newport Beach's LCP was certified by the Commission on January 13, 2017. The Commission retains permit jurisdiction over specified areas including the sandy beach areas that contain the proposed sand excavation and deposition sites. The Commission certified the LCP for the City of Dana Point in 1989. The Commission certified the Land Use Plan for the City of San Clemente in 1988, certified an amendment in 1995, and certified a comprehensive LUP update in 2018. The San Clemente does not have a certified IP; therefore, the Commission retains permit issuance authority for the City of San Clemente.

As discussed herein, the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the ability of the City of San Clemente to prepare a Local Coastal Program that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a). The other cities already have certified Local Coastal Programs.

I. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act ("CEQA"). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

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In this case, the County of Orange is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The County issued a Mitigated Negative Declaration (MND) on May 21, 2012, and an Addendum to the MND on August 29, 2018. The Commission finds that the project, as conditioned, is consistent with Coastal Act requirements and will not cause new adverse impacts to the environment. Feasible mitigation measures which will minimize all adverse environmental impacts have been required. Therefore, the Commission finds that the proposed project, as conditioned, complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-25-0020 and associated file documents.

Orange County Ocean Outlet Maintenance Manual

Ocean Outlet Maintenance Program Addendum to Mitigated Negative Declaration IP 11-424 by Moffatt & Nichol for County of Orange dated August 2018

Coastal Development Permit No. 5-02-031 and subsequent amendments and associated file documents

Coastal Development Permit No. 5-15-0234

Coastal Development Permit No. 5-14-1604

Coastal Development Permit No. 5-89-283