

July 26, 2012

To: Orange County Planning Commission

From: Brad Gross, Director

Subject: Dana Point Harbor - Marina Improvement Project
Proposed Final SEIR 613 / IP 12-248

Attached, you will find the following documentation related to the Dana Point Harbor - Marina Improvement Project – Proposed Final SEIR 613 / IP 12-248:

- OC Dana Point Harbor Staff Report
- Project Exhibits (Staff Report Attachment 1)
- Addendum to FEIR No. 591 (Staff Report Attachment 2)
- Alternative Project Exhibits (Staff Report Attachment 3)
- Listing of Public Outreach Presentations (Staff Report Attachment 4)
- Draft Statement of Facts, Findings in Support of the Facts (Staff Report Attachment 5)
- Draft Statement of Overriding Considerations (Staff Report Attachment 6)
- Draft Mitigation Monitoring and Reporting Program (Staff Report Attachment 7)
- Draft Final Subsequent Environmental Impact Report 613 for the Marina Improvement Project and Appendices (Volumes I, II and II – Staff Report Attachment 8)

The following summarizes some of the relevant background information associated with the proposed project.

PROJECT ENVIRONMENTAL REVIEW PROCESS

The Dana Point Harbor Marina Improvement Project Proposed Final SEIR No. 613 / IP 12-248 (SEIR 613) has been prepared to analyze and disclose the potential environmental effects associated with the construction and future operation of the proposed Dana Point Harbor Marina Improvement Project. This SEIR is intended to tier off the Dana Point Harbor Revitalization Program Environmental Impact Report (EIR) No. 591 (State Clearinghouse Number 2003101142) that was certified by the Orange County Board of Supervisors on January 31, 2006 and is hereafter referred to as Final EIR No. 591 (FEIR No. 591) throughout the documentation provided. The Marina Improvement Project is legally and functionally separate from and independent of the Revitalization Project but was analyzed in FEIR No. 591 to be sure that the overall impacts from development, including cumulative and related projects, were addressed.

As required by CEQA, a Notice of Completion (NOC) for Draft SEIR 613 was filed with the State Clearinghouse on September 20, 2011 and the Notice of Availability (NOA) was filed with

the County Clerk on the same day. Copies of Draft SEIR 613 were distributed to all Responsible Agencies and the State Clearinghouse in addition to various public agencies, citizen groups, Harbor merchants and interested individuals. Copies of Draft SEIR 613 were also made available for public review at OC Dana Point Harbor offices, the County Hall of Administration, Dana Point City Hall, four local area libraries and on the Internet (OC Dana Point Harbor website).

Draft SEIR 613 was circulated for public review for a period of 45 days, from September 20, 2011 to November 4, 2011. Due to a request from concerned stakeholders to have additional time to review the Draft SEIR 613, OC Dana Point Harbor extended the public review period to November 21, 2011 for a total of 62 days. The NOA advising of the extended review period was re-issued and filed with the County Clerk on October 22, 2011.

PROJECT DESCRIPTION

The project addressed in the Dana Point Harbor Marina Improvement Project SEIR 613 includes replacement of waterside facilities in the West and East Basins, connection of dock gangways with the quay wall and bulkheads within those basins and replacement of gangways and security gates to both marina areas. Additionally, new Embarcadero/Dry Boat Storage Staging docks and dinghy docks, along with renovations to the marine services docks, OC Sailing and Events Center docks, guest slips, Harbor Patrol docks, commercial fishing docks and sport fishing docks are included as part of the proposed project.

The project described in SEIR 613 also includes public access improvements to gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines. In order to accommodate displaced boats during project implementation, a temporary dock near the east breakwater next to Doheny State Beach may be included as part of the project. Once renovations are complete, the temporary dock may be converted for use on a permanent basis; however, any permanent use within this federal anchorage area would require subsequent approvals by the U.S. Army Corps of Engineers (Corps) and would be subject to approval of a Coastal Development Permit by the California Coastal Commission.

ISSUES RAISED IN PUBLIC COMMENTS AND SCOPING

The Dana Point Harbor Marina Improvement Project SEIR 613 acknowledges the areas of concern and issues to be resolved which are known to OC Dana Point Harbor or were raised during the scoping process. Major issues and concerns raised at the scoping meeting held on December 8, 2007 and comments submitted in writing during the NOP process included:

- Concerns regarding the reduction of the overall number of slips within the harbor;
- Water quality concerns related to construction and operations;
- Navigation safety concerns related to boater traffic;
- Construction impacts related to traffic congestion and parking;
- Marine habitat concerns;
- Concerns related to the project's relationship to the Harbor Revitalization Project;
- Concerns related to the existing live-aboards within the marinas; and
- Noise and air quality impacts.

SEIR 613 addresses each of these areas in detail, examines project-related and cumulative environmental impacts, identifies significant adverse environmental impacts and proposes

mitigation measures designed to reduce or eliminate potentially significant impacts of the proposed project.

Additionally, as a result of the public review of Draft SEIR 613, a total of 88 comment letters were received; including comments from five (5) State agencies, two (2) local agencies and 81 private individuals/interested parties. It should also be noted that the Save Baby Beach Coalition submitted over 600 form letters expressing concerns related to the potential expansion of docks located adjacent to the OC Sailing and Events Center near Baby Beach. Common concerns included potential impacts associated with overcrowding in the area of Baby Beach by combining too many mixed uses, result in potential conflicts between boaters and individuals using human powered crafts (kayakers, standup paddlers, etc.), possible limitations on the maneuverability of vessels in this area due to the direction of prevailing winds and water depth.

As a result of the comments received in response to the Draft SEIR 613, OC Dana Point Harbor has made modifications to the proposed project design as further described in the Staff Report by proposing to eliminate the docks proposed adjacent to Baby Beach, with the exception of the new dock on the southernmost side of the OC Sailing and Events Center, near the inner channel of the Harbor to be utilized by boaters to access two new pump-out stations and provide an ADA-accessible ramp for commercial charter passengers. This improvement directly implements policies adopted by the California Coastal Commission to provide additional public access, recreational enhancements and boater services as part of the Marina Improvement Project. The Revised Project Alternative will also eliminate the proposed channel narrowing in the East and West Basins with the exception of this limited new dock area located at the southernmost side of the OC Sailing and Events Center in the West Basin.

The Revised Project Alternative will include replacement of waterside facilities in the West and East Marinas (but without the realignment of the West Basin as analyzed and proposed in the SEIR), connection of dock gangways with the quay wall and bulkheads within those basins, upgrading of pump-out stations and replacement of gangways and security gates to both Marina areas (including ADA-compliant gangways and dock facilities). Additionally, new Embarcadero/Dry Boat Storage Staging docks and dinghy docks, along with renovations to the marine services docks, guest docks, Harbor Patrol docks, commercial fishing docks and sport fishing docks are included in the Revised Project Alternative. In order to accommodate displaced boats during project implementation, a temporary dock near the eastern breakwater is included as part of the Revised Project Alternative.

The Revised Project Alternative would result in a net loss of no more than 155 slips, consistent with the Dana Point Harbor Revitalization Plan and District Regulations (LCPA) approved by the City of Dana Point and subsequently certified by the California Coastal Commission.

STAFF REQUESTED RECOMMENDATION

Under the Revised Project Alternative, the deteriorating dock and slip facilities throughout the Harbor would be replaced or renovated. Commercial fishing facilities would be updated and guest docks relocated to better serve boater needs. In addition, the Revised Project Alternative would upgrade the utility infrastructure and provide facilities for access by individuals with disabilities (ADA compliance). The Revised Project Alternative addresses the public comments while still maintaining many of the original goals and objectives identified by the Harbor Task Force, and is consistent with the Land Use Policies and Development Standards of the Dana

Point Harbor Revitalization Plan and District Regulations.

Based on the information and analysis contained in the OC Dana Point Harbor Staff Report (see Staff Report Attachment 5) as well as the Comments and Responses to Comments and other documentation provided with the staff report for this project, OC Dana Point Harbor respectfully requests that the Planning Commission recommend that the Orange County Board of Supervisors certify Dana Point Marina Improvement Project SEIR 613.

**OC DANA POINT HARBOR
STAFF REPORT
MARINA IMPROVEMENT PROJECT
SUBSEQUENT EIR No. 613 (SCH No. 2003101142)**

DATE: August 8, 2012

TO: Orange County Planning Commission

FROM: OC Dana Point Harbor

SUBJECT: Subsequent Environmental Impact Report (SEIR) No. 613/IP No. 12-248 for the proposed Dana Point Harbor Marina Improvement Project

PROPOSAL: This environmental analysis has been prepared to review and analyze the potential environmental impacts related to the adoption and implementation of the proposed Dana Point Harbor Marina Improvement Project as required by the California Environmental Quality Act (CEQA). Proposed SEIR No. 613/IP No. 12-248 (SEIR No. 613) provides impact analysis for the project and identifies appropriate and feasible mitigation measures or project alternatives that would reduce or eliminate environmental impacts of the proposed project.

Proposed Final SEIR No. 613 has been prepared to analyze and disclose the potential environmental effects associated with the construction and future operation of the proposed Dana Point Harbor Marina Improvement Project. This Final SEIR is intended to tier off the Dana Point Harbor Revitalization Program Final Environmental Impact Report No. 591 (FEIR No. 591) (State Clearinghouse Number 2003101142) that was certified by the Orange County Board of Supervisors on January 31, 2006. The Marina Improvement Project is legally and functionally separate from and independent of the Revitalization Project, but was analyzed at a programmatic level of detail in FEIR No. 591 to insure that the overall impacts from development, including cumulative and related projects were addressed.

ZONING: Dana Point Harbor Planned Community, Harbor Marine Waterside Areas

LOCATION: Dana Point Harbor, City of Dana Point, within the Fifth Supervisorial District

APPLICANT: OC Dana Point Harbor

STAFF CONTACT: Brad Gross, Director, bgross@ocdph.com, 949-923-3798
Lisa Smith, Deputy Director, lsmith@ocdph.com, 949-923-3796

SYNOPSIS: OC Dana Point Harbor requests that the Planning Commission recommend certification of Final SEIR No. 613 by the Orange County Board of Supervisors as complete and adequate CEQA documentation and incorporate refinements to the Dana Point Harbor Marina Improvement Project description as described in this staff report.

PLANNING COMMISSION'S ROLE

The Orange County Planning Commission has several roles regarding CEQA compliance. These roles are defined in the Board-adopted Local CEQA Procedures Manual, including:

“A statement regarding the adequacy of the EIR will be made by the Planning Commission along with the appropriate findings, which will be forwarded to the Orange County Board of Supervisors, the decision-making body for the proposed project.”

The Planning Commission's role in the Dana Point Harbor Marina Improvement Project is to consider the adequacy of the environmental analysis presented in Final SEIR No. 613 and recommend whether the Orange County Board of Supervisors, which is the governing body of OC Dana Point Harbor (OC DPH) should certify Final SEIR No. 613 prior to project approval and submitting an application to the California Coastal Commission (CCC) for action on a Coastal Development Permit for the project. CEQA defines a “Lead Agency” as the public agency that has the principal responsibility for carrying out or approving a project that may have a significant adverse effect upon the environment. For the purposes of CEQA, the County of Orange is the lead agency for the implementation of both the Dana Point Harbor Revitalization Plan and Marina Improvement Project.

PROJECT BACKGROUND/EXISTING SITE CONDITIONS

Project Background

The construction of Dana Point Harbor (Harbor) began in the late 1960s with the Harbor officially being dedicated on July 31, 1971. Since its creation nearly four decades ago, many parts of the Harbor's infrastructure, including docks, piles and landside facilities such as storm drains, sewers, parking lots and some of the structures have deteriorated and are now in need of modernization and/or replacement. Recognizing the physical conditions in the Harbor required comprehensive intervention; in 1997 a Task Force was created by the Orange County Board of Supervisors to assist with the development of a comprehensive plan for the future Harbor. The Dana Point Harbor Revitalization Plan (Revitalization Plan) was developed over the next several years and officially adopted by the Orange County Board of Supervisors and Dana Point City Council in 2006.

A Program Environmental Impact Report (Program EIR) was prepared for the overall Harbor Revitalization Project (landside and waterside areas) and certified by the Orange County Board of Supervisors on January 31, 2006 (County of Orange Dana Point Harbor Revitalization Plan Program FEIR No. 591). FEIR No. 591 evaluated the entire Harbor Revitalization Plan at a programmatic or conceptual level of detail and provided project or construction-level EIR analysis for the Commercial Core area of the Harbor (a portion of Planning Area 1 and all of Planning Area 2), consistent with CEQA Guidelines Sections 15146 and 15168. (see Staff Report Attachment 1, *Project Exhibits*) Following certification of EIR No. 591, the Board of Supervisors approved the project and authorized the County to proceed with the next steps toward implementation of the Revitalization Plan.

Implementation of the Dana Point Harbor Revitalization Plan also required a series of subsequent approvals by the City of Dana Point and the CCC to modify the previously adopted regulatory documents, including the City of Dana Point's Local Coastal Program (LCP), which covers the Harbor. The Revitalization Plan and District Regulations therefore required a Local Coastal Program Amendment (LCPA). Pursuant to the requirements of the California Coastal Act, an LCP includes a Land Use Plan (LUP) component and an Implementation Plan (IP) component, which together establishes policies, zoning regulations and other implementing actions required for implementation of improvements and ongoing management of the facilities.

Changes to the Land Use Plan as recommended by the Dana Point Planning Commission and adopted by the Dana Point City Council subsequent to the Orange County Board of Supervisors certification of FEIR No. 591 and action on the Revitalization Plan included:

- Elimination of 1 dry stack boat storage building and a reduction of the maximum building height of the structure from 70 to 65 feet
- Revisions to plan development regulations to remove allowances for elevators, mechanical units, etc. to exceed the maximum building height on all buildings over 35 feet in height and reduce allowances for architectural building projections to not exceed 10% of the total roof area or a maximum of 5 additional feet
- Addition of parking management plan requirements to optimize on-site parking opportunities for the public and employees
- Revitalization Plan design requirements to maintain the character, nature and vision of the Harbor as a "in water" small boat harbor
- Incorporation of requirements to provide a trail connection between the Harbor and Doheny State Beach

Following review of the LCP Amendment application submitted by the City of Dana Point, the California Coastal Commission approved the LUP component of the LCPA for the Dana Point Harbor Revitalization Project with suggested modifications on October 8, 2009. The suggested modifications added a number of new Land Use Plan policies, including but not limited to:

- Prohibiting any new boating/yacht clubs or associations to be established in the Harbor
- Removal of the lighthouse land use designation and elimination of a freestanding marine retail store in Dana Point Harbor Marine Services Commercial Planning Area 1 (PA 1)
- Restriction of building heights to 35 feet maximum with exceptions for Planning Areas 1, 2 and 3
- Addition of an overall goal for renovation of the Harbor Marinas of "no net loss" of slips harbor-wide or a maximum of 155 slip loss for boat slips
- Added a policy requirement to maintain a minimum 1.6 acre full-service shipyard facility

- Added a policy requirement to provide dry boat storage capacity of 493 spaces
- Added a policy requirement to provide a minimum of 334 parking spaces for vehicles with trailers in the launch ramp area
- Established parking standards to provide a minimum of 0.6 spaces per boat slip and 1 space per 3 passengers for sport fishing, charter boat and passenger ferry commercial operations
- Included policy provisions for the protection of bird nesting and foraging habitat
- Included policy provisions for tsunamis and rogue waves, storm surges and sea level rise

The Coastal Commission approved the City's LCPA IP component with suggested modifications on January 12, 2011. The suggested modifications added a number of new regulations and development standards to the Implementation Plan, including but not limited to the following:

- Established general regulatory provisions for building design to maintain consistency with the character of the community
- Included requirements for preparation of a number of management plans to aid in the revitalization design, facility management and discretionary review process
- Provided standards for the maintenance and trimming of trees
- Designated areas containing existing park areas for continued recreation purposes
- Required an area be provided in the Marine Services Commercial PA 1 for boat owner DIY maintenance and repair
- Established requirements for the size and scope of the boat launch ramp and dry boat storage areas
- Established discretionary review/approval standards for allowing exceptions to the maximum building height requirements of 35 feet harbor-wide for Planning Areas 1, 2 and 3
- Augmented provisions for the protection of public access to land and waterside areas, including expansion of recreational boating opportunities
- Added restrictions for the replacement of hotel units
- Provided restrictions on the continued operation of existing yacht clubs and boating associations
- Added environmental protection standards for the replacement of docks and piles
- Added standards for the design and replacement of slips and pump-out facilities
- Modified procedures for the adjustment of Planning Area boundaries

On October 6, 2011, the CCC concurred with the Executive Director's determination that actions of the City of Dana Point accepting certification of the Local Coastal Program Amendment No. 1-10 with suggested modifications was legally adequate, thereby certifying the Dana Point Harbor Revitalization Plan and District Regulations as being fully effective.

Due to the incorporation of additional policies, regulations and development standards by the CCC, resulting in refinements to the LUP and IP components of the Dana Point Harbor Revitalization Plan & District Regulations in the form of various suggested modifications, the County prepared an Addendum to FEIR No. 591 to provide a record and explanation of the changes resulting from the certification of the City's LCPA and an assessment whether those changes resulted in any of the conditions described in Guidelines Section 15162 in relation to the analysis and conclusions of FEIR No. 591, as provided for in CEQA Guidelines Section 15164 to provide a record of the changes resulting from the LCPA discretionary approval process that occurred subsequent to the certification of FEIR No. 591 by the Orange County Board of Supervisors. No Subsequent or Supplemental EIR is required.

The Addendum reviewed changes in the project that have occurred since FEIR No. 591 was certified and compares environmental effects of development of the project as revised with those of the original project previously disclosed (see Staff Report Attachment 2, page 2-11 through 2-14 - Table 2.A, *Comparison between the Land Use Summary Analyzed in FEIR No. 591 and the Project Analyzed in the Addendum to FEIR No. 591 for a complete summary of physical changes to the project*). The Addendum also assesses whether new information of substantial importance that was not known and could not have been known with exercise of reasonable diligence at the time FEIR No. 591 was certified has become available and evaluates whether there are new or more severe significant environmental effects associated with changes in circumstances under which project development is now being undertaken.

Jurisdictional Considerations

The project site is located entirely within the Coastal Zone and is subject to regulation under the California Coastal Act of 1976 (Coastal Act). The Harbor is under the land use planning and regulatory jurisdiction of the City of Dana Point¹ (landside areas) and the California Coastal Commission (waterside areas) and is included in the certified Dana Point Specific Plan/Local Coastal Program (LCP; Dana Point LCP). In 1981, the County approved the LCP for Dana Point known as the South Coast Planning Unit Dana Point LCP and in 1985 the California Coastal Commission certified the LCP. In 1991, when the City of Dana Point was formed, LCP authority for the entire City including the Harbor was transferred to the City. Landside areas remain under the oversight of the Coastal Commission as an appealable jurisdiction while the Coastal Commission exercises full discretionary authority over all waterside areas, including all aspects of the Marina Improvement Project.

Environmental Setting and Existing Conditions

¹ Orange County Board of Supervisors adopted Resolution No. 88-316 approving incorporation of the City of Dana Point on March 8, 1988. In 1991 LCP authority for the entire City, including the Harbor was transferred from the County to the City and the LCP became part of the City's General Plan and Zoning Ordinance. Although the Harbor is owned and operated by the County, it is subject to the City's LCP.

Dana Point Harbor (Harbor) is located in Capistrano Bay on the Southern Orange County coastline. The Harbor is a County of Orange (County) facility located within the City of Dana Point (City) and offers recreational boaters, County residents, tourists and others a number of recreational activities, retail shopping and dining opportunities. The facility is operated by OC Dana Point Harbor, a County agency and is owned by the County of Orange. Over 40 years ago the State of California, through a Tidelands Grant, designated the County as the trustee of the Harbor for the benefit of the people of the State of California.

The Pacific Ocean to the south; Dana Headlands and Old Cove Marine Preserve to the west border the Harbor; Doheny State Beach to the east; and a variety of commercial, hotel, residential and park uses to the north. Interstate 5 (I-5), located approximately two miles east of the Harbor, runs north/south through the City and provides regional access to the Harbor. The Harbor is primarily accessible from Pacific Coast Highway and the Street of the Golden Lantern via Dana Point Harbor Drive. Cove Road and the Pacific Ocean provide secondary access.

Land uses surrounding the Dana Point Marina Improvement Project within the Harbor boundaries include marine services, commercial retail, restaurants, public parking, public waterways, yacht clubs, Harbor Patrol facilities, a hotel, harbor-related public recreational areas, the Ocean Institute and public parks. Residential, commercial and hotel uses are located to the north and west along the coastal bluffs, outside of the Harbor boundaries.

The proposed Marina Improvement Project addressed in Proposed Final SEIR No. 613 is comprised of the marina (waterside) portions of the Harbor, Planning Areas (PAs) 8 through 12. The West Marina (PA 9) channel connects the marina to the West Turning Basin, which contains docks for the Sea Explorer and two tall ships, the Spirit of Dana Point and the Pilgrim. In addition, a public beach area, commonly known as Baby Beach is located adjacent to the West Turning Basin.

The East Marina (PA 10) contains the Orange County Sheriff Harbor Patrol docks, which are located near the entrance to the East Marina. Commercial fishing slips are located adjacent to the Sheriff Harbor Patrol docks. The East Marina channel connects the East Marina to the East Turning Basin, which contains a full-service fuel dock and a bait receiver.

Embarcadero Marina is located in PA 11, northeast of the East Turning Basin. PA 11 also contains the sport fishing docks, charter boat docks, the Catalina Express dock, boat rental facilities, the public boat launch ramp and docks utilized by Marine Service operators, including the shipyard.

See Staff Report Attachment 1 for the Regional Vicinity, Harbor Planning Area and Harbor Layout Maps.

PROJECT OBJECTIVES

The primary goals of the project are to revitalize Dana Point Harbor so it can continue to operate as a popular destination for boaters, local residents and tourists while maintaining the unique character of the Harbor. The project goals include implementation of Coastal Act Policies in

conformance with the approved Dana Point Harbor Revitalization Plan Land Use Plan, including:

- Maintain the Harbor's current character and family atmosphere
- Renovate and replace the deteriorating docks and slips
- Satisfy ADA requirements for dock areas of the Harbor
- Maintain a full-service Harbor
- Enhance the level of services for boaters
- Update commercial fishing facilities
- Maximize the number of slips available in the East and West Marinas for public rental by relocating many of the yacht broker slips to another area of the Harbor.
- Relocate guest dock facilities and provide new dinghy docks convenient to Day-Use Commercial uses
- Upgrade utility infrastructure to all areas of the Marinas
- Maintain a safe environment for all levels of the boating community, Harbor users and merchants
- Provide improvements in accordance with California Department of Boating and Waterways (DBW) guidelines, including the placement of boats in correctly sized slips
- Update the sport fishing dock

PROJECT DESCRIPTION

The Dana Point Harbor Marina Improvement Project addressed in this Proposed Final SEIR No. 613 includes replacement of waterside facilities in the West and East Basins in Dana Point Harbor, connection of dock gangways with the quay wall and bulkheads within those basins and replacement of gangways and security gates to both marina areas. Additionally, new Embarcadero/Dry Boat Storage Staging docks and dinghy docks, along with renovations to the marine services docks, OC Sailing and Events Center docks, guest slips, Harbor Patrol docks, commercial fishing docks and sport fishing docks are included in the proposed project.

The also includes public access improvements to gangways and docks in compliance with the ADA guidelines. In order to accommodate displaced boats during project implementation, a temporary dock near the east breakwater next to Doheny State Beach is included as part of the project proposal. Once renovations are complete, the temporary dock may be converted for use on a permanent basis; however, any permanent use within this federal anchorage area would require approval by the United States Army Corps of Engineers (Corps) and would also be subject to approval of a Coastal Development Permit by the California Coastal Commission.

See Staff Report Attachment 1 for the Proposed Harbor Layout. A detailed description of the project characteristics addressed in SEIR No. 613 is also provided in Section 3.6, Project Characteristics, pages 3-8 through 3-14. The Project Components Table on the following page

summarizes the existing and proposed Marina Improvement Project improvements:

Proposed Project Components

| Element | Existing Conditions | Marina Improvement Project |
|---|---|---|
| Floating Docks (East/West Marinas and Satellite Areas) | Floating docks supported by 1,306 concrete filled steel pipe piles 2,409 boat slips Average slip length of 29.85 feet (ft.). Majority of West Marina slips oriented west-east. East Marina slips oriented north-south Approximately 492,530 square feet (s.f.) of area covered by floating docks | Remove existing piles and replace with 969 piles 2,293 ¹ boat slips (loss of 116 slips) Average slip length not to exceed 32 ft. West Marina slips to be reoriented to a north-south direction. East Marina slips to remain oriented north-south Approximately 459,540 s.f. ² of area covered by floating docks |
| Access | 52 gangways | 59 gangways plus 9 Americans with Disabilities Act (ADA) gangways, for a total of 68 gangways |
| Boat Services | 3 sewage pump-outs | 4 upgraded sewage pumpouts ³ |
| Utilities | electrical service, water service, telephone and cable service Dock Boxes | Upgraded electrical service, water service, telephone and cable service New Dock Boxes |
| Embarcadero/Boat Storage Staging Docks | 766 linear feet (lf) | 1,300 lf |
| Marine Services Docks | 1,190 lf | 896 lf |
| Sport Fishing Docks | 1,350 lf | 1,350 lf |
| Guest Slips | 42 slips | 46 slips |
| Dinghy Dock | No dinghy dock | 374 lf |
| Harbor Patrol Slips | 8 slips plus 2 emergency side-ties | 8 slips plus 2 emergency side-ties |
| Commercial Fishing Slips | 15 slips plus 1 end-tie for California Department of Fish and Game boat | 15 slips plus 1 end-tie for California Department of Fish and Game boat |
| OC Sailing and Events Center Docks | 890 lf | 893 lf |
| Temporary Docks | No existing temporary docks | 1 dock located along the eastern breakwater – approx. 2,590 lf ⁴ |

Notes:

- 1 Includes the following: 4 slips at the guest docks, 3 slips at the Harbor Patrol docks and 62 slips at the temporary docks
- 2 Includes Temporary Docks during estimated 8 years of construction that may become permanent after completion of construction subject to approval of separate permits
- 3 Pump-out facilities for individual vessels will be in accordance with CCC requirements and determined at the time CDPs are processed for Marina improvements
- 4 Subject to discretionary approvals for conversion to a permanent use to be obtained with completion of the Marina Improvement Project as required

CEQA'S ROLE IN THE REVIEW PROCESS

Pursuant to CEQA, the County of Orange is the Lead Agency responsible for preparing a Environmental Impact Report (EIR), in this case a Subsequent EIR (SEIR), to address, analyze and consider potential environmental impacts associated with the Dana Point Harbor Marina Improvement Project, the project alternatives and mitigation measures designed to avoid or minimize impacts to a level of less than significant. The intent of CEQA is to ensure that the decision makers and the public are provided with information about environmental effects of proposed project activities. The CEQA process provides for the full disclosure to the public of the reasons that decision makers approve project having unavoidable significant environmental impacts. The process also enables a lead agency to prevent significant avoidable environmental damage by making changes in a project through the recommendation of project alternatives and/or imposition of appropriate mitigation measures. All of this must be reviewed and considered by the Lead Agency prior to taking action on the project.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

Proposed Final SEIR No. 613 identified the following unavoidable adverse impacts of the proposed project: that were determined to be significant and no mitigation is available that would reduce impacts to less-than-significant levels.

Liquefaction and Lateral Spreading – Existing Environmental Condition. There is the potential for liquefaction to occur with the fill and alluvial soils that comprise the Island as well as the small peninsula adjacent to the Sport Fishing Docks in the eastern region of the Harbor and in the peninsula area of the OC Sailing and Events Center in the western region of the Harbor. Liquefaction potential was determined to exist in either relatively thin layers or significantly thicker zones, typically on the order of 10 to 15 ft. in thickness.

Construction equipment used in demolition or to construct the proposed project has the potential to impact the stability of the seawall if the load is not properly set back from the wall. Implementation of MM 4.2-2, which requires appropriate setbacks from the wall will reduce the load impacts on the seawall to less than significant levels.

The guide piles that will be installed within the marina will be primarily subjected to lateral loading conditions associated with minor wave action, wind and more significantly by the impact loads associated with boats that dock at the platforms. In addition, the slope movements that may occur as a result of liquefaction could impart significant additional lateral load on the guide piles within the zone of slide movement. Implementation of MM 4.2-1 will ensure that lateral load impacts associated with the piles will be less than significant.

Because liquefaction is an existing condition on site the potential impact to the seawall and gangway platforms in select locations in the event of an earthquake capable of producing liquefied conditions will continue to exist. Therefore, although MMs 4.2-1 and 4.2-2 will reduce potential seismic ground shaking impacts and potential lateral and surcharge load impacts from construction equipment near the seawall, impacts associated with liquefaction are significant unavoidable adverse impacts of the proposed project related to geology and soils.

Construction Air Quality (Short-Term and Cumulative). Construction of the proposed project is planned to occur in multiple phases over approximately eight or more years. Construction equipment/vehicle emissions during slip and pile removal and installation periods for the construction of the proposed project would result in NO_x and reactive organic compound (ROC) emissions that would exceed the SCAQMD established daily emissions threshold for those pollutants. The proposed project would also contribute to adverse cumulative air quality impacts because construction activity would result in additional emissions of pollutants, which may exacerbate ambient levels currently in excess of applicable NAAQS or CAAQS for PM₁₀ and O₃ (because NO_x and ROC are precursors to O₃). The proposed project, in conjunction with other planned projects would contribute to the existing nonattainment status.

While the adherence to SCAQMD rules and regulations would reduce these impacts, it would remain significant and adverse because the SCAQMD daily threshold would be exceeded. No feasible mitigation measures beyond compliance with SCAQMD rules and regulations are available to offset these significant impacts. Therefore, the project-level and cumulative short-term construction air quality impacts of the proposed project would remain significant and unavoidable.

Noise Construction Impacts (Short-Term and Cumulative). Construction activities associated with the proposed project would subject the nearest sensitive receptors (the Dana Point Marina Inn, located approximately 200 ft. from the project construction area and the live-aboards in various locations throughout the Marinas) to short-term noise reaching 87 A-weighted decibels (dBA). Due to the length of construction for the proposed project, construction-related noise impacts are deemed to be significant and unavoidable.

The Commercial Core Project associated with the Dana Point Harbor Revitalization Project could potentially be under construction at the same time as the Marina Improvement Project. That project has the potential to generate construction-related noise in the immediate area, which was considered cumulatively significant in the Program Final EIR. Because construction noise for the Marina Improvement Project is also considered a significant adverse impact, the cumulative construction-related noise and vibration impacts for the proposed project in conjunction with the Commercial Core Project are considered cumulatively adverse and significant in Program FEIR No. 591. Implementation of Mitigation Measures would help reduce project-related construction noise impacts; however, because construction noise for the Marina Improvement Project is also considered a significant adverse impact, the cumulative construction-related noise and vibration impacts for the proposed project, in conjunction with the Commercial Core Project are considered cumulatively adverse and significant.

Biological Resources Shading Impacts (Construction, Long-Term and Cumulative). The installation of docks would create a long-term adverse shading effect on water column habitat and a combination of hard-bottom quarry stone/natural reef habitat and soft-bottom habitat. Shading over kelp areas would be considered a significant and adverse impact for the duration of the temporary dock. The length of time that habitats and organisms would be affected by shading is potentially up to eight years. Therefore, due to the length of time that these habitats will have been subjected to reduction in light conditions and because there is no feasible mitigation to reduce shading impacts with the current project design, impacts to these habitats are considered significant and adverse.

The proposed configuration of the new head walk at the Sport Fishing Docks creates an additional dock surface area that would shade riprap habitat, also resulting in a long-term adverse shading impact. Because the shading impacts in the Sport Fishing Dock areas would be permanent during the life of the project and because there is no feasible mitigation to reduce shading impacts with the current project design, shading impacts for this area is considered significant and adverse.

EFFECTS DETERMINED TO BE MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE

Proposed Final SEIR No. 613 indicates that potentially significant impacts on the following environmental resources would occur if the project were implemented. These potentially significant impacts can be reduced to less-than-significant levels with the incorporation of mitigation measures (MMs). Where mitigation measures are proposed, these mitigation measures are included in a Mitigation Monitoring and Reporting Plan that is included in the Proposed Final SEIR No. 613 (see Staff Report Attachment 7).

- Geology and Soils
- Hydrology and Water Quality
- Transportation and Circulation
- Noise
- Biological Resources
- Aesthetics
- Hazards and Hazardous Materials
- Greenhouse Gases (GHG)

EFFECTS DETERMINED NOT TO BE SIGNIFICANT

The project was found to have either no impact or a less-than-significant impact on the following environmental issue areas.

- Agricultural Resources
- Population and Housing
- Cultural Resources
- Mineral Resources
- Public Services and Utilities

CUMULATIVE IMPACTS FOUND TO BE SIGNIFICANT

As discussed in Proposed Final SEIR No. 613, certain significant effects on Air Quality, Noise and Biological Resources (Final SEIR Chapters 4.5, 4.6 and 4.7) cannot be mitigated below a level of insignificance. If the Board of Supervisors determines that overriding economic, legal, social, technological and other considerations outweigh the impacts, it may adopt a Statement of Overriding Considerations.

CUMULATIVE IMPACTS FOUND NOT TO BE SIGNIFICANT

Cumulative Effects Determined to be less than significant by the SEIR No. 613 included:

- Chapter 4.1 – Land Use and Planning
- Chapter 4.2 – Geology and Soils
- Chapter 4.3 – Hydrology and Water Quality
- Chapter 4.4 – Transportation and Circulation
- Chapter 4.8 – Aesthetics
- Chapter 4.9 – Recreation
- Chapter 4.10 – Hazards and Hazardous Materials
- Chapter 4.11 – Greenhouse Gases

GROWTH-INDUCING EFFECTS

The project site is a fully developed marina facility; the proposed Marina Improvement Project would implement improvements and/or replacement of existing Harbor Marina facilities. The proposed project would not expand the capacity of the existing marinas, but rather, decrease the capacity due to an anticipated reduction in boat slips overall to accommodate ADA compliance-related improvements. The proposed project site is currently served by a variety of utilities providers (including water, sewer, electrical, telephone and cable) and public services (Harbor operations, law enforcement, fire, etc.) required for existing and proposed uses; it is anticipated that the utilities would be brought up to current code requirements and sized to meet the future needs of boaters and the public. The project will not remove obstacles to growth in a previously undeveloped area because the uses within the Harbor marinas will not change.

The potential for the project to generate additional growth outside of the marina itself is unlikely because the proposed project includes the replacement and improvement of the existing Marina facilities and is intended to continue to serve the existing population of Orange County. The project does not result in the creation of a significant number of new permanent jobs and would therefore not create a need for any additional housing. Based on these considerations, the proposed Marina Improvement Project would not induce population growth in the community or result in significant new economic growth in and surrounding the Harbor.

Based on the evaluation of all the alternatives, implementation of the project as modified to

reflect public comments in the Responses to Comments in Proposed Final SEIR No. 613 is considered the most feasible. It fulfills the project objectives to the greatest extent as well as responding to the comments and concerns of Harbor users.

PROJECT ALTERNATIVES EXAMINED IN FINAL SEIR No. 613

Section 21100 of the Public Resources Code (PRC) and Section 15126 of the CEQA Guidelines require an EIR/SEIR to identify and discuss a No Project/No Development Alternative as well as a reasonable range of alternatives to the proposed project that would feasibly attain most of the basic objectives of the project and would avoid or substantially lessen any of the significant environmental impacts.

Alternatives to the proposed Harbor Marina Improvement Project considered for analysis in Proposed Final SEIR No. 613 should not be confused with several design alternatives considered by OC Dana Point Harbor that presented differing mixes of boat slip sizes and layouts for the East and West Marinas. These design alternatives were publicly represented as Alternatives 1 through 5; further, up to 15 variations of the designs were presented to and considered by a Boater Focus Group. It should be noted that these design alternatives are different from Alternatives 1 through 3 analyzed in Final SEIR No. 613 as CEQA identified alternatives to the proposed project and includes:

Alternative 1: No Project/No Development. Consistent with Section 15126.6(e) of the CEQA Guidelines, the No Project/No Development Alternative is the existing condition of the project site at the time the NOP was published, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved. This alternative evaluates circumstances under which the project does not proceed. Alternative 1 does not include any improvements or changes to the dock and slip facilities within the Harbor. Although the Marina Improvement Project is not included in this alternative, it is assumed that the overall Revitalization Plan would continue to proceed through to implementation. Therefore, because some docks would be required to service the Dry Boat Storage building proposed as part of the overall Revitalization Plan, the Embarcadero/Dry Boat Storage Staging docks are presumed to be implemented with the adjacent landside projects and the Marine Services dock will need to be modified (northern portion removed) in order to construct the Dry Boat Storage Staging docks and Dry Boat Storage building. Under the No Project Alternative it is assumed that the Embarcadero/Dry Boat Storage Staging docks would proceed through a separate environmental review and approval process.

Alternative 2: Reduced Project Alternative. This alternative is a result of the input received during the public scoping process and was developed as a version of an alternative layout design (Design Alternative 1) intended to reduce the number of slips lost at project completion while updating the Marinas to be in compliance with the ADA and California Department of Boating and Waterways (DBW) standards. Alternative 2 includes an average slip size of 29.51 ft. and would result in 2,254 slips (a net loss of 155 slips) when compared to the existing layout. Alternative 2 replaces the docks in their current configuration and does not include channel narrowing or a realignment of the West Basin.

This design alternative was originally rejected because it did not meet the demand for slips larger than 30 ft. and because it did not help resolve the issue of placing boats in the appropriately sized

slips. However, in light of the CCC's suggested modifications to the Land Use Plan Policies that the project result in a loss of no more than 155 slips, with an average slip length not to exceed 32 ft., this alternative is now consistent with the Coastal Commission's objectives as modified by the LCPA suggested modifications. This alternative includes the construction of 6 ADA gangways (including two within each Marina). Alternative 2 would include the Embarcadero/Dry Boat Storage Staging docks, guest docks, dinghy docks, Harbor Patrol docks, sport fishing docks and commercial fishing docks but would not include renovations to the Marine Services docks or OC Sailing and Events Center docks. The Marine Services dock will however, need to be modified (northern portion removed) in order to construct the Dry Boat Storage Staging docks and the Dry Boat Storage building (the landside building is part of the overall Revitalization Plan). In addition, this alternative would not include any temporary docks.

Alternative 3: Reduced Project Alternative - Americans with Disability Act Improvements.

Alternative 3 includes only improvements in the East and West Marinas to meet ADA standards (four ADA gangways) and does not include any renovations to the existing dock and slip facilities in those basins. There may be a few locations in the East and West Basins where portions of the existing 3 ft. and 4 ft. wide fingers would need to be upgraded to satisfy the ADA 5 ft. width requirement and there may be a loss of a few slips in order to accommodate the installation of the ADA gangways, which are 80 ft. long. However, the layout, configuration and number of slips in the two Basins would remain essentially unchanged. Alternative 3 would also include the construction of the Embarcadero/Dry Boat Storage Staging docks, sport fishing docks (including ADA gangways for each of those two dock areas), guest docks and the dinghy docks, but would not include renovations to the Marine Services docks, OC Sailing and Events Center docks, Harbor Patrol docks or commercial fishing docks. Similar to Alternative 1, the Marine Services dock will need to be modified (northern portion removed) in order to construct the Dry Boat Storage Staging docks. In addition, this alternative would not include any temporary docks.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The No Project/No Development Alternative would be environmentally superior to the proposed project on the basis of the physical impacts that would not occur with implementation of Alternative 1. If there were no changes to the existing conditions within the Harbor, there would not be physical environmental effects and the significant project-related impacts to construction, including cumulative air quality effects, cumulative construction noise and significant biological resource impacts due to shading would be avoided. Geology and soils impacts related to the existing liquefaction conditions would continue to exist, similar to the proposed project. However, none of the identified project objectives would be achieved with Alternative 1.

The Environmentally Superior Alternative in terms of avoiding, reducing and/or minimizing direct physical effects on the environment under short-term conditions is Alternative 3; the Reduced Project with ADA Improvements. Besides construction of the Embarcadero/Dry Boat Storage Staging docks, sport fishing docks and guest docks, Alternative 3 does not include any renovations to the existing dock and slip facilities in the Harbor. By eliminating the replacement of docks throughout the Harbor, construction impacts under Alternative 3 would be significantly reduced in both scope and duration.

Alternative 3 meets only a few of the project objectives, such as satisfying ADA requirements for some dock areas. Other project objectives attained to a lesser extent include enhancing the level of services for boaters and maintaining a safe environment for the boating community. Although several ADA gangways would be installed with this alternative, the benefits of renovating the dock facilities and bringing the Harbor into compliance with all DBW standards would not be achieved with Alternative 3.

PUBLIC PARTICIPATION PROCESS

The Dana Point Harbor Revitalization Plan has been the subject of an extensive public participation process, including public hearings before the Orange County Planning Commission, Orange County Board of Supervisors, City of Dana Point Planning Commission, Dana Point City Council and numerous hearings before the California Coastal Commission. The discretionary review process for the overall Harbor Revitalization Plan has included the following public hearings (to date):

| No. | Date | Before | Subject | Location | Speakers | Result |
|--|----------|--------------------------------------|--|--------------------------|--|--|
| Dana Point Harbor Revitalization Plan Approvals (Original Plan) | | | | | | |
| 1. | 01/10/06 | County of Orange Planning Commission | DPH EIR Recommendation | Dana Point City Hall | 8 Public Speakers | PC recommended certification of EIR |
| 2. | 01/31/06 | Orange County Board of Supervisors | DPH EIR Certification | Santa Ana Hall of Admin. | 5 Public Speakers | EIR certification & approval of DPH Revitalization Plan |
| 3. | 06/07/06 | Dana Point Planning Commission | Local Coastal Program Amendment No. 06-03 Recommendation | Dana Point City Hall | 25 Public Speakers | Continued hearing to allow staff to incorporate several modifications to the plan |
| 4. | 06/21/06 | Dana Point Planning Commission | Local Coastal Program Amendment No. 06-03 Recommendation | Dana Point City Hall | No New Public Testimony | Recommended City Council approval of modified plan & submittal to Coastal Commission for approval |
| 5. | 09/13/06 | Dana Point City Council | Local Coastal Program Amendment No. 06-03 | Dana Point City Hall | 31 Public Speakers | Approval of DPH Revitalization Plan & District Regulations and LCP Amendment No. 06-03 for Coastal submittal |
| 6. | 09/27/06 | Dana Point City Council | Local Coastal Program Amendment No. 06-03 – 2 nd Reading of Ordinance | Dana Point City Hall | 1 Public Speaker | Final approval of LCP Amendment No. 06-03 and authorization to submit LCPA to Coastal Commission |
| Dana Point Harbor LCPA - Land Use Plan Component Approvals (Modified Land Use Plan) | | | | | | |
| 7. | 10/08/09 | California Coastal Commission | Dana Point Major LCP Amendment – Land Use Plan Component | Oceanside City Hall | 65 Public Speakers (+/- 5 hrs. of testimony) | Approval of LCPA with Suggested Modifications |

| | | | | | | |
|-----|----------|-------------------------------|---|------------------|--------------------|--|
| 18. | 10/06/11 | California Coastal Commission | Executive Directors Determination – Final Certification of LCPA inclusive of the IP Component | Huntington Beach | No Public Speakers | Final Certification of the LCP Amendment |
|-----|----------|-------------------------------|---|------------------|--------------------|--|

In addition to the noticed public hearings summarized in the previous table, OC Dana Point Harbor has continued to involve Harbor user groups, merchants and the general public in the planning process for the creation of the Dana Point Harbor Revitalization Plan since the inception of the Harbor Task Force in 1997. As indicated on the Public Outreach Presentations list (see Staff Report Attachment 4) OC Dana Point Harbor has been involved in over 150 public meetings and group presentations to date to discuss the project and approach for addressing the variety of goals, objectives and regulatory requirements for Revitalization of Dana Point Harbor.

NOTICE OF PREPARATION AND KEY FINAL SEIR NO. 613 DATES

In compliance with CEQA and the State CEQA Guidelines, The County of Orange conducted an extensive environmental review of the proposed Marina Improvement Project.

- The County determined that an EIR would be required for the proposed project and originally issued a Notice of Preparation (NOP) and Initial Study on November 27, 2007. Due to the length of time that passed prior to release of the Draft SEIR, the NOP and Initial Study were reissued on December 21, 2009. Chapter 2.0 of Draft SEIR No. 613 describes the issues identified for analysis in the Draft SEIR through the Initial Study, NOP and public scoping process.
- Based upon the Initial Study Checklist Form, County staff determined that a Draft SEIR should be prepared for the proposed project. The scope of Draft SEIR No. 613 was determined based on the County's Initial Study No. 12-248, comments received in response to the NOP and comments received at the scoping meeting held on December 8, 2007 conducted by OC Dana Point Harbor.
- The County prepared Draft SEIR No. 613, which was made available for a 45-day public review period, beginning September 20, 2011 and ending November 4, 2011. Subsequently, due to stakeholder requests, the public review period was extended to November 21, 2011.
- The County has prepared Proposed Final SEIR No. 613, including the Responses to Comments Comments/Errata, revisions to the Proposed SEIR No. 613, the Findings of Fact and the Statement of Overriding Considerations. and appended documents.
- Orange County Planning Commission considers recommending certification of Proposed Final SEIR No. 613 to the Board of Supervisors
- Orange County Board of Supervisors will consider certification of Proposed Final SEIR No. 613 and approval of the Dana Point Harbor Marina Improvement Project.

FUTURE DISCRETIONARY ACTIONS FOR WATERSIDE AREAS

Future discretionary actions required to implement the Dana Point Harbor Marine Improvement

| | |
|--|---|
| SEIR Certification | County of Orange: Planning Commission – Recommendation Board of Supervisors – Certification |
| Project Plan Approval | County of Orange Board of Supervisors California Coastal Commission (CCC) State Lands Commission (consultation) |
| Coastal Development Permit(s) | California Coastal Commission |
| Section 404 Permit Navigable waters (dock renovations and pile placement, temporary/proposed yacht broker docks) | United States Army Corps of Engineers (ACE) United States Fish and Wildlife Service (USFWS) (consultation) National Marine Fisheries Service (NMFS) California Department of Fish and Game (CDFG) California Regional Water Quality Control Board, San Diego Region (RWQCB) |
| Section 10 Permit Navigable waters (docks) | ACOE United States Coast Guard (consultation) |
| Section 401 Certification Water Quality Permits | San Diego RWQCB |
| Improvement Plans (infrastructure) Water Quality Management Plans Building Plans/Permits Certificates of Occupancy Dewatering Permit (WDR) | OC Public Works (OC PW) San Diego RWQCB |

Project include, but are not limited to:

COMMENT LETTERS ON THE DRAFT SEIR

As required by CEQA Guidelines Section 15087, a NOC of Draft SIER No. 613 for the Dana Point Harbor Marina Improvement Project was filed with the State Clearinghouse on September 20, 2011 and a Notice of Availability filed with the County Clerk. Draft SEIR No. 613 was then circulated for public review for a period of 45 days from September 20, 2011 to November 4, 2011. Copies of the Draft SEIR were distributed to all Responsible Agencies, the State Clearinghouse, public agencies, citizen groups and interested individuals. Copies of the Draft SEIR were also made available for public review at OC Dana Point Harbor, County Hall of Administration, the City of Dana Point and four local area libraries as well as providing a internet link on the OC Dana Point Harbor website.

Due to a request from stakeholder group representatives to have additional time to review the Draft SEIR, OC Dana Point Harbor extended the public review period to November 21, 2011 for a total of 62 days. The NOA advertising the extended review period for SEIR No. 613 was re-issued and filed with the County Clerk on October 22, 2011.

A total of 88 comment letters were received during the public review period. Comments received were from 5 State agencies, 2 local agencies and 81 private individuals/interested

parties. It should also be noted that the Save Baby Beach Coalition submitted over 600 form letters all expressing the same concerns and were treated as one comment.

In response to comments received during public review of Draft SEIR No.613 and as allowed under CEQA², OC Dana Point Harbor has made modifications to the proposed project design and is proposing to eliminate the docks proposed adjacent to Baby Beach, with the exception of the new dock on the southernmost side of the OC Sailing and Events Center, near the inner channel of the Harbor to be utilized by boaters to access the two new pump-out stations and provide an ADA-accessible ramp for commercial charter passengers (see the Alternative Project Exhibits in Staff Report Attachment 3). The design refinements address comments received stating that the proposed docks near Baby Beach would result in an overcrowding condition, limit the maneuverability of vessels in this area of the Harbor, result in mixture of too many uses creating conditions that would cause collisions between human-powered craft and boats due to congestion as well as prevailing winds. The proposed dock revisions will not replace any existing docks or slips and will not significantly alter the existing uses and activities associated with this area of the West Basin. With the exception of the new ADA access dock, the Revised Project Alternative will also eliminate the proposed channel narrowing in the East and West Basins with the exception of this limited new dock area located at the southernmost side of the Orange County Sailing and Events Center in the West Basin.

In addition, a Revised Project Alternative is being proposed that will include replacement of waterside facilities in the West and East Marinas in the Harbor (but without the realignment of the West Basin as analyzed and proposed in the SEIR), connection of dock gangways with the quay wall and bulkheads within those basins, upgrading of pump-out stations and replacement of gangways and security gates to both Marina areas (including ADA-compliant gangways and dock facilities). New Embarcadero/Dry Boat Storage Staging docks and dingy docks, along with renovations to the marine services docks, guest docks, Harbor Patrol docks, commercial fishing docks and sport fishing docks are also included in this Revised Project Alternative. In order to accommodate displaced boats during project implementation, a temporary dock near the eastern breakwater is included in the project.

The Revised Project Alternative would result in a net loss of no more than 155 slips and has been designed to be with all applicable policies and requirements of the certified Dana Point Harbor Revitalization Plan and District Regulations.

CONCLUSION

Based on the evaluation of all the alternatives, implementation of the project as modified to reflect public comments in the Responses to Comments in the Proposed Final SEIR No. 613 is considered the most feasible. It fulfills many of the project objectives while responding to the comments and concerns of Harbor users. Whereas the other alternatives considered would not be as responsive to concerns of Harbor users. Although extensive mitigation measures are identified in Final SEIR No. 613, not all of the potentially adverse impacts associated with the project can be mitigated to a less-than-significant level. Implementation of the project would result in

² Public Resources Code Sections 21002, 21002.1, 21004, CEQA Guidelines Sections 15002(a), 15002(h), 15021(a), 15088(d)

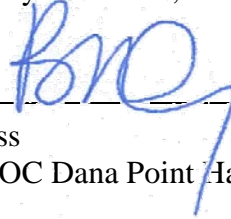
significant impacts as a result of liquefaction and lateral spreading as well as Air Quality, Noise and Biological Resources.

The County of Orange, may balance the specific economic, legal, social, technical and other benefits, including regional or statewide economic benefits of the proposed Dana Point Harbor Marina Improvement Project may determine that the unavoidable adverse environmental impacts identified in the Proposed Final SEIR No. 613 are considered acceptable due to the specific considerations included in the Statement of Overriding Considerations. OC Dana Point Harbor believes that Proposed Final SEIR No. 613 adequately addresses the potential environmental impacts of the proposed Marina Improvement Project.

RECOMMENDED ACTIONS

1. Receive Staff Report and Public Testimony
2. Recommend that the Orange County Board of Supervisors certify Proposed Final SEIR 613 for the Dana Point Harbor Marina Improvement Project and approve the Dana Point Harbor Marina Improvement Project.

Respectfully submitted,



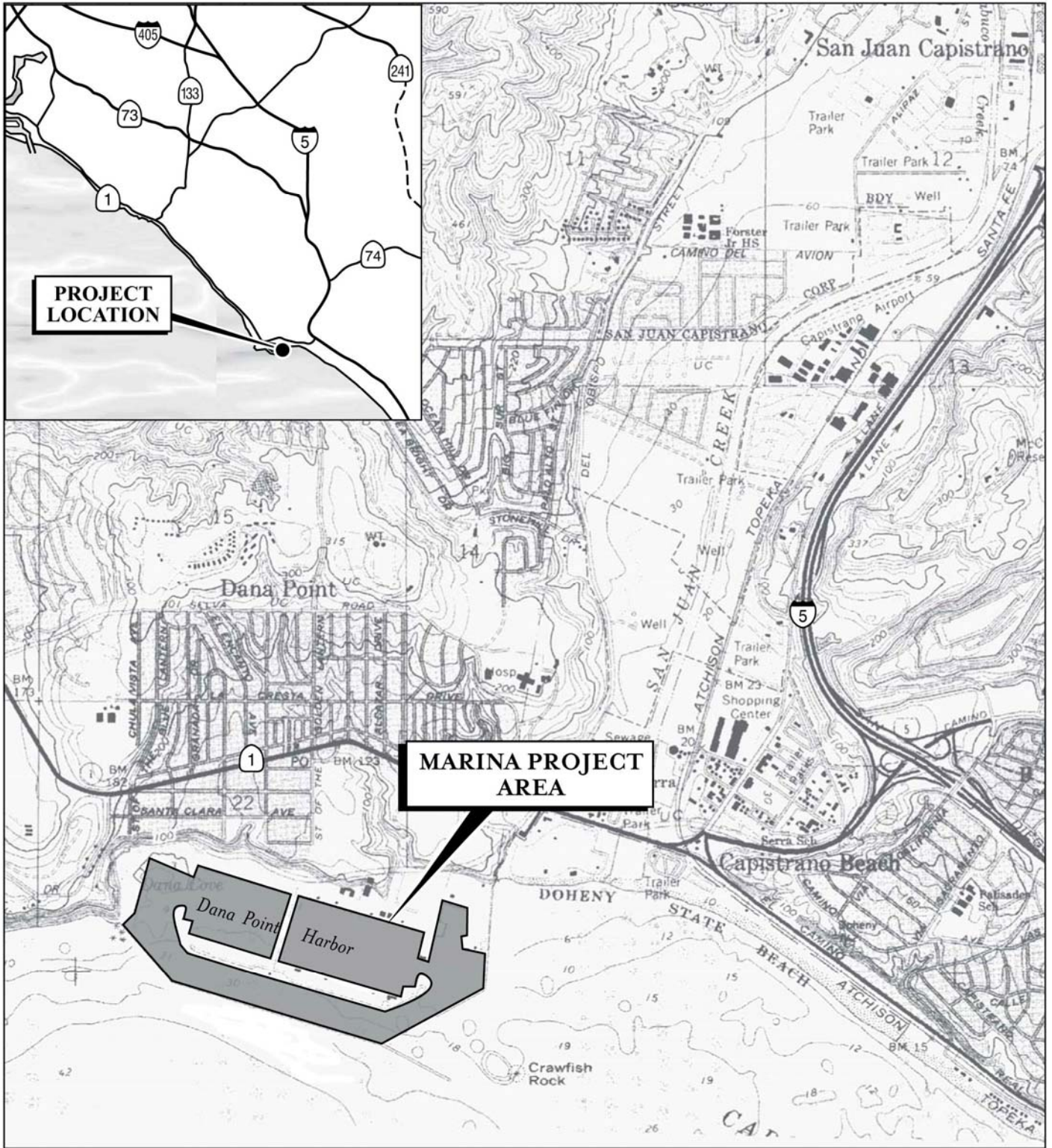
Brad Gross
Director, OC Dana Point Harbor

Exhibits and Attachments:

1. Project Exhibits
2. Addendum to Final EIR No. 591
3. Alternative Project Exhibits
4. Listing of Public Outreach Presentations
5. Draft Statement of Facts, Findings in Support of the Facts
6. Draft Statement of Overriding Considerations
7. Draft Mitigation Monitoring and Reporting Program
8. Proposed Final Subsequent Environmental Impact Report No. 613 for the Marina Improvement Project and Appendices

ATTACHMENT 1

STAFF REPORT PROJECT EXHIBITS
OC DANA POINT HARBOR MARINA IMPROVEMENT PROJECT



LSA

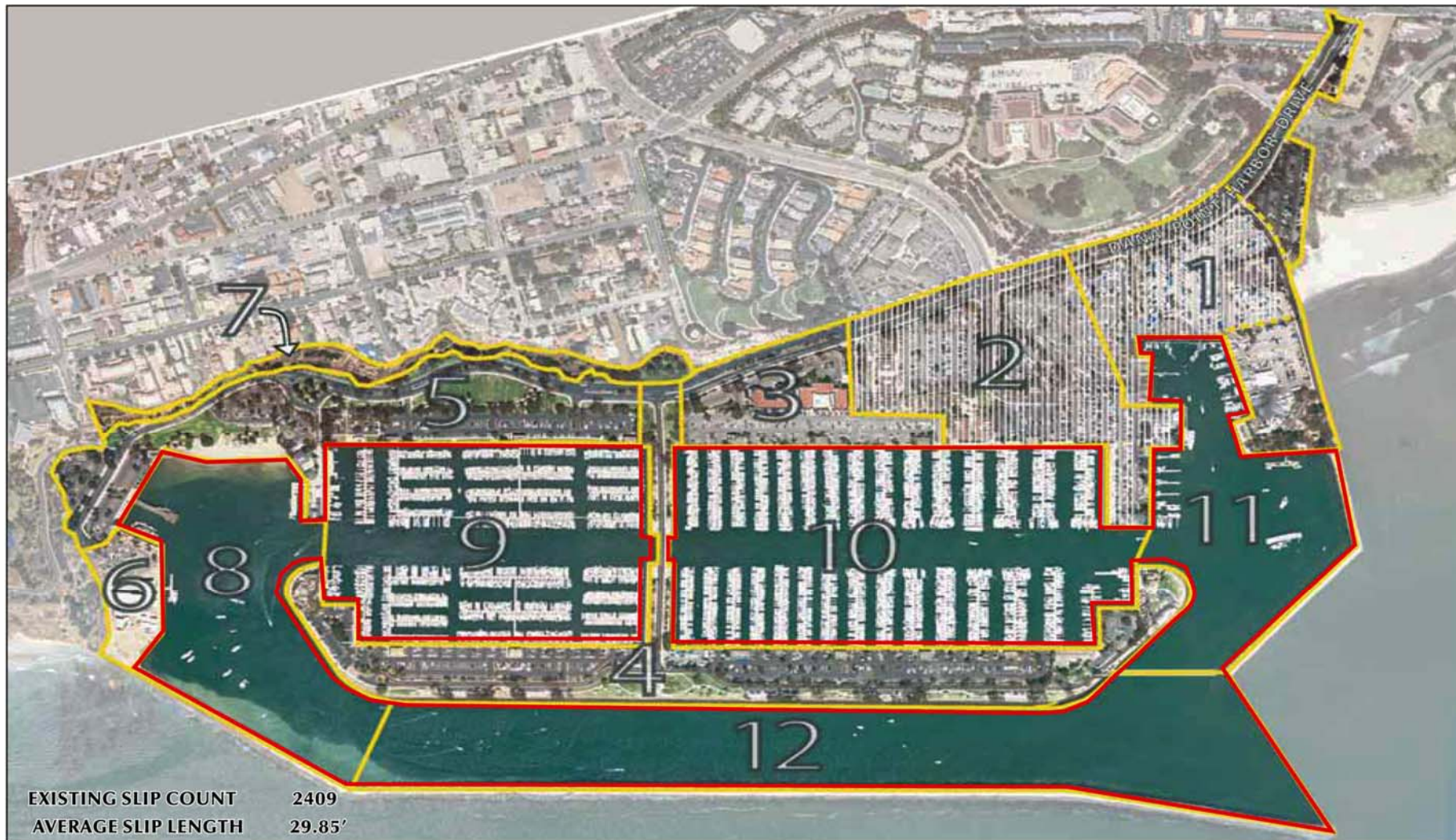


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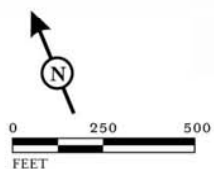
SOURCE: USGS 7.5' Quadrangle, "Dana Point, Calif."

Dana Point Harbor Marina Improvement Project

Project Location



LSA



LEGEND

Boundary

Planning Areas

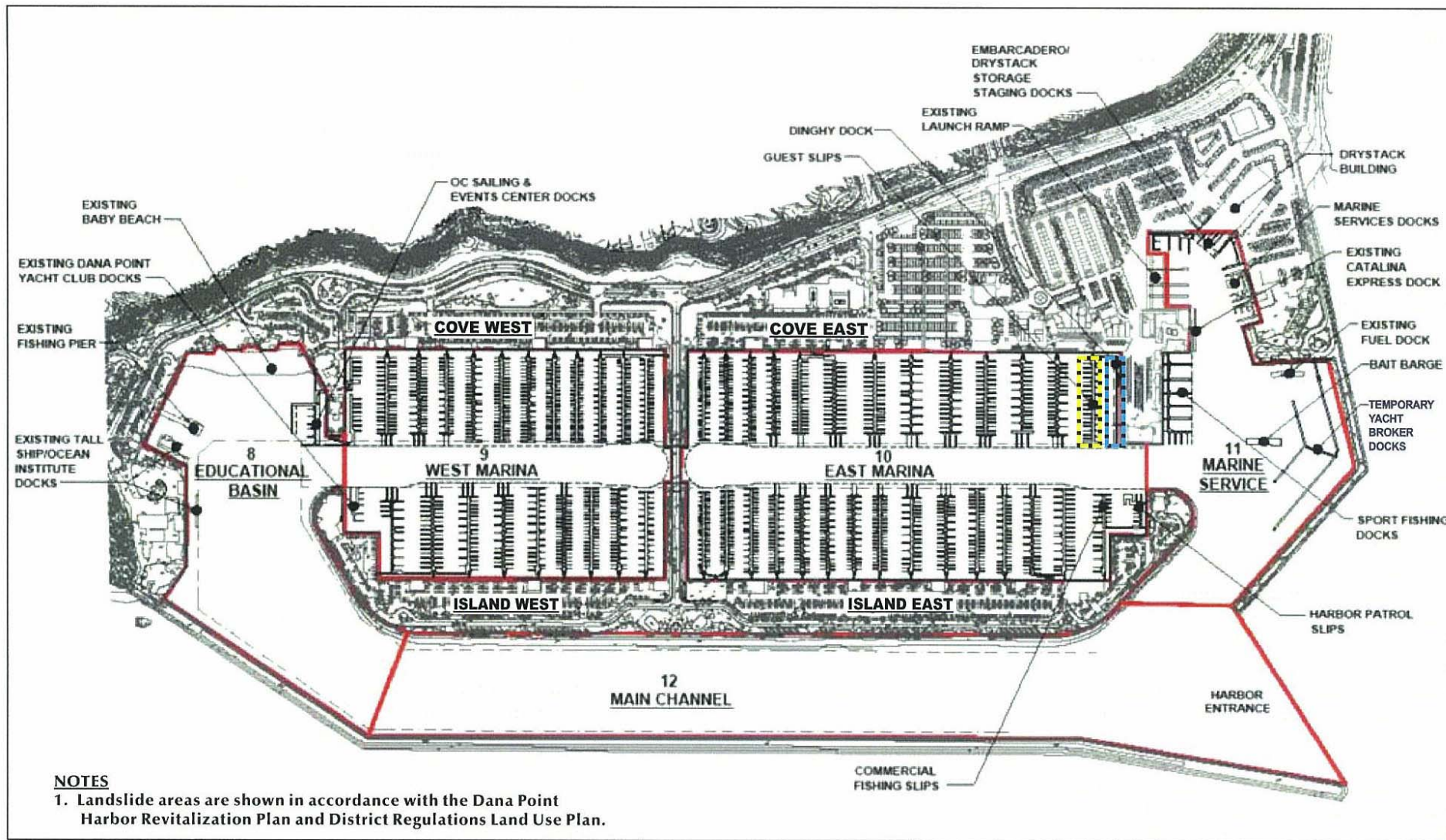
Commercial Core Project Area
(Construction-Level Analysis
Analyzed in Certified Final EIR 591)

Marina Improvement Project Area
(Proposed Project Construction-Level Analysis)

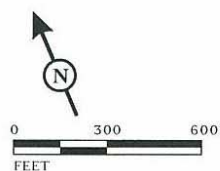
SOURCE: URS/Cash & Associates

Dana Point Harbor Marina Improvement Project

Existing Harbor Layout



LSA



LEGEND

- Marina Improvement Project Area
- - - Dinghy Docks
- - - Guest Dock

SOURCE: URS Corp.

Dana Point Harbor Marina Improvement Project

Proposed Harbor Layout

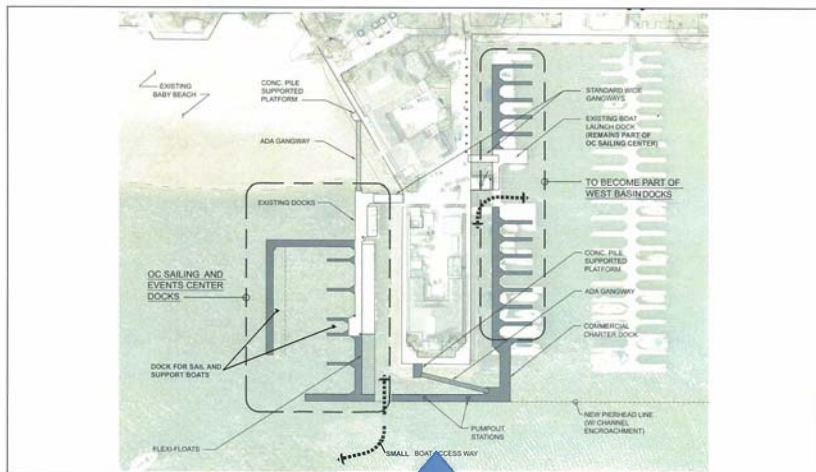
ATTACHMENT 2

ADDENDUM TO FINAL EIR NO. 591
DANA POINT HARBOR REVITALIZATION PROJECT
(State Clearinghouse No. 2003101142)

September 2011

ATTACHMENT 3

STAFF REPORT – ALTERNATIVE PROJECT EXHIBITS
OC DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

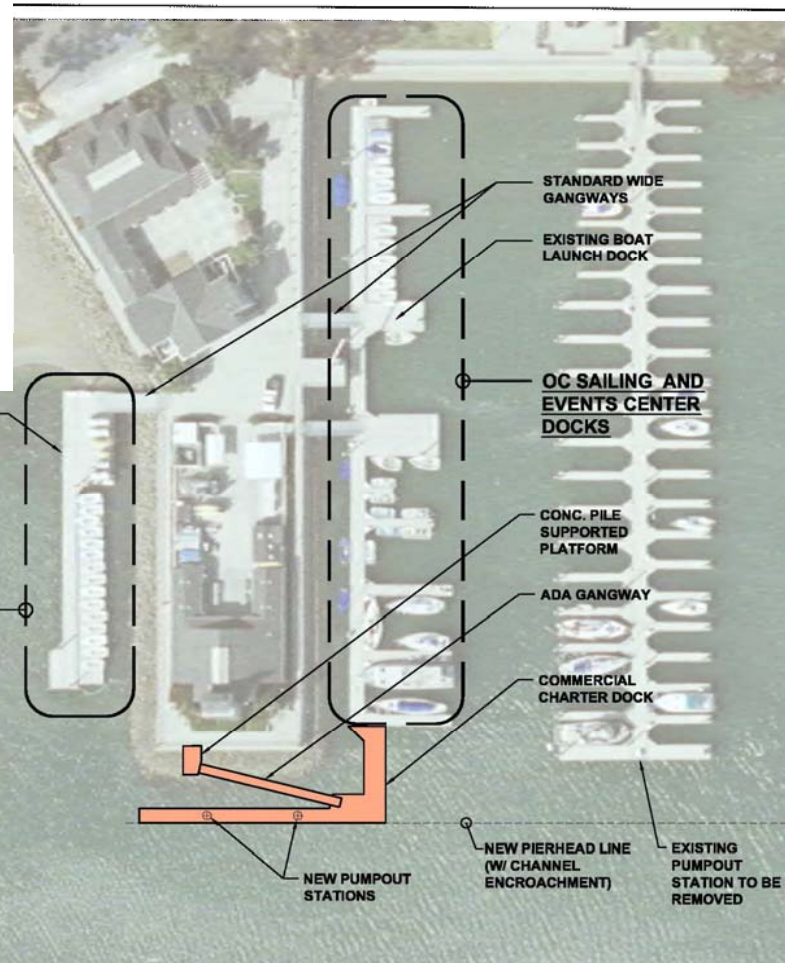
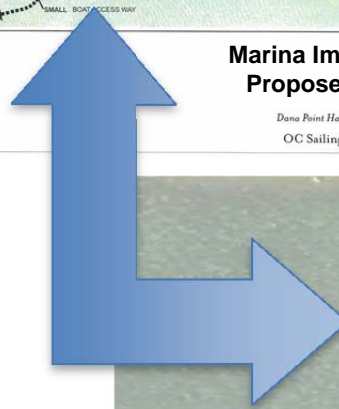


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Marina Improvement SEIR Proposed Dock Design

Dana Point Harbor Marina Improvement Project
OC Sailing and Events Center Docks

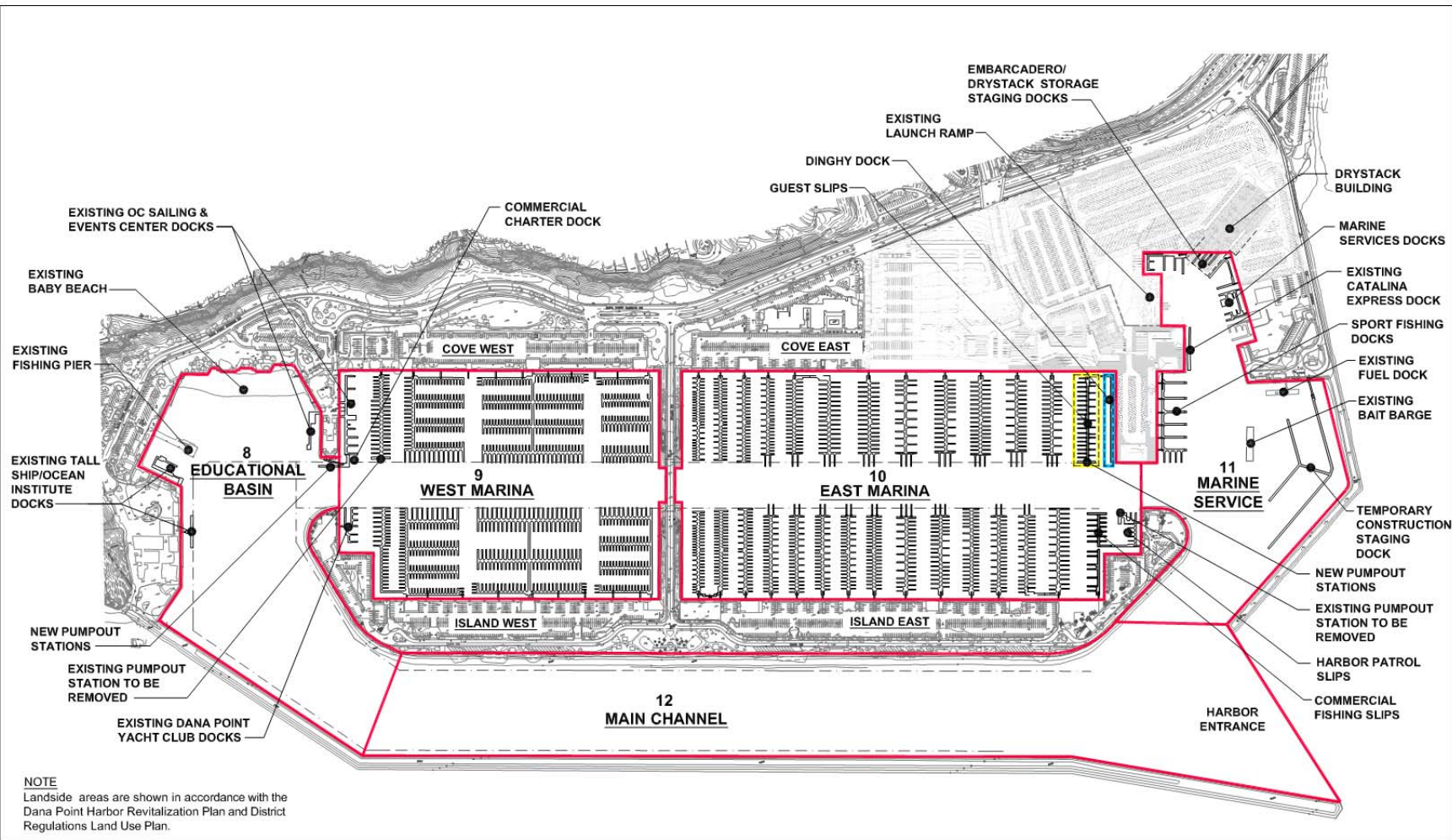


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SOURCE: URS, 2012

Dana Point Harbor Marina Improvement Project
Project Revisions - OC Sailing and Events Center Docks



Alternative July 2012

Dana Point Harbor Marina Improvement Project
Proposed Harbor Layout

ATTACHMENT 4

LISTING OF PUBLIC OUTREACH PRESENTATIONS
OC DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

COMMUNITY OUTREACH PRESENTATIONS

Date Description **2002**

10/04/02 Merchants
10/05/02 Boat Owners
10/24/02 Community Open House

2003

03/18/03 Community Open House
09/18/03 Merchants
09/18/03 Boat Owners
09/22/03 Community Open House
11/06/03 Notice of Preparation Scoping Meeting

2004

02/23/04 Community Open House

2005

02/17/05 Laguna Niguel Kiwanis Club
03/03/05 Dana Point Women's Club
03/14/05 Yacht Clubs Commodores
03/24/05 Dana Point Chamber of Commerce
04/14/05 Niguel Shores Women's Club
05/10/05 Dana Point Lighthouse Society
05/24/05 Dana Point Yacht Club
06/07/05 Community Open House
06/21/05 Niguel Shores Men's Club

2006

01/10/06 County of Orange Planning Commission Meeting
01/31/06 County of Orange Board of Supervisors Meeting
06/07/06 City of Dana Point Planning Commission Meeting
06/21/06 Lantern Bay Estates HOA Full Membership Meeting
06/21/06 Dana Point Planning Commission Meeting
08/24/06 Community Open House
09/13/06 Dana Point City Council Meeting
09/26/06 Boater Meeting
10/24/06 Boater Workshop #1
11/28/06 Boater Workshop #2
12/19/06 Boater Workshop #3

Date Description **2007**

01/09/07 Boater Workshop #4
01/25/07 Meeting with DPBA Director
01/30/07 Boater Workshop #5
02/13/07 Meeting with DPBA Director
02/13/07 Boater Focus Group Meeting
02/20/07 Boater Workshop #6
04/02/07 Meeting with DPBA Director
04/06/07 DPBA/Merchant Assoc. reps
04/23/07 Boater Focus Group Meeting
09/12/07 Community Open House
12/08/07 NOP Scoping Meeting

2008

01/22/08 Meeting with Boating Interest
01/23/08 Dana West Yacht Club Meeting
02/12/08 Sport Fishing Club Meeting
02/27/08 Meeting with Boating Interest
03/12/09 Community Open House
03/25/08 Dana Point Yacht Club Meeting
04/17/08 Meeting with Boating Interest
05/21/08 Rotary Club meeting
05/27/08 Meeting with DPBA Directors
06/30/08 Feet Fleet Meeting
07/10/08 OC DP Chambers Meeting
07/10/08 Meeting with Boating Interest
07/10/08 Meeting with Boating Interest
07/17/08 Chamber Mixer – Harbor Salon
08/11/08 Boater Focus Group Meeting
08/19/08 DP City Council Presentation
08/19/08 SC City Council Presentation
09/03/08 Boater Focus Group Meeting
09/11/08 Meeting w/Crystal Cove Org
09/18/08 Dana Point Chamber Mixer
09/19/08 Coast Keeper Meeting
09/24/08 Boater Focus Group Meeting
09/30/08 Talega Galleries Homeowners
10/22/08 Boater Focus Group Meeting
10/24/08 Dana Point Historical Society
10/30/08 Surfrider and Sierra Club Meeting
11/13/08 Dana Point Lighthouse Society
11/18/08 Fountains Community Center
11/19/08 Boater Focus Group Meeting
12/03/08 Dana Point Historical Society
12/03/08 Monarch Beach Rotary Meeting
12/08/08 Dana Point Senior Center

Date Description**2009**

02/02/09 Meeting with Harbor user group
02/02/09 Meeting with Harbor user group
02/06/09 Laguna Niguel Govt Affairs
02/11/09 Boater Focus Group Meeting
02/12/09 Laguna Hills Board of Realtors
02/13/09 Meeting with DPBA
02/17/09 Presentation to Fountains
02/18/09 Meeting with DPBA
02/20/09 Dana Point Civic Association
02/26/09 OC Coastal Coalition Meeting
03/04/09 San Clemente Rotary
03/05/09 Meeting with Yacht Club
03/16/09 Conference call with DPBA
03/18/09 Boater Focus Group Meeting
03/19/09 Conf. call w/ DPBA
03/19/09 DP Boaters Association Meeting
03/25/09 Community Informational Meeting
03/26/09 OC Coastal Coalition Meeting
03/26/09 Parking Area 1 Task Force Meeting
03/26/09 Dana Point Harbor Lunch and Learn
04/01/09 Meeting with Harbor user group
04/02/09 San Clemente Exchange Club
04/22/09 Meeting with Mi Ocean
04/23/09 OC Coastal Coalition Meeting
04/29/09 Boater Focus Group Meeting
05/20/09 Meeting with Harbor user group
05/22/09 South OC Reg. Chamber of Comm.
05/28/09 OC Coastal Coalition Meeting
05/29/09 Meeting with Harbor Merchants
06/04/09 Harbor interested party - dry storage
06/04/09 Parking Task Force Meeting
06/04/09 DPBA Meeting
06/11/09 Dana Point Harbor Association
06/15/09 Meeting with Dana Outrigger Canoe Club
06/17/09 Meeting with Harbor Merchants
06/18/09 Dana Point Harbor Merchants Association
06/19/09 Meeting with User Group
06/22/09 Recreational Boaters of California
06/22/09 Meeting with DPBA
06/22/09 Meeting with Harbor Merchant
06/24/09 Boater Focus Group Meeting

Date Description

07/09/09 Dana Point Harbor Association
07/14/09 Laguna Niguel Rotary Club
07/15/09 Meeting with DPBA
07/22/09 Meeting with DPBA
07/22/09 Boater Focus Group Meeting
07/28/09 San Clemente Rotary Club
07/31/09 League of California Cities
08/05/09 Meeting with DPBA
08/07/09 Meeting with DPBA
08/13/09 Dana Point Harbor Association
08/19/09 Meeting with DPBA
08/21/09 Meeting with User Group
08/26/09 Boater Focus Group Meeting
09/10/09 Dana Point Harbor Association
09/15/09 Meeting with DPBA
09/17/09 Parking Task Force Meeting
09/18/09 Meeting with User Group
09/22/09 Meeting with Interested Party
09/24/09 Meeting with Interested Party
09/30/09 Meeting with DPBA
10/08/09 Coastal Commission Hearing

2010

01/15/10 Public Coffee Chat
02/08/10 City of Dana Point City Council Meeting
02/19/10 Public Coffee Chat
02/24/10 Parking Task Force Meeting
03/19/10 Public Coffee Chat
03/31/10 Boater Focus Group Meeting
05/21/10 Public Coffee Chat
06/09/10 Coastal Commission Hearing
06/18/10 Public Coffee Chat
07/16/10 Public Coffee Chat
07/26/10 City of Dana Point City Council Meeting
07/28/10 Parking Task Force Meeting
09/17/10 Public Coffee Chat
10/13/10 Coastal Commission Hearing
12/17/10 Public Coffee Chat

2011

01/08/11 Lantern Bay Villas presentation to residents
03/30/11 Community Open House @ OC Sailing & Events Center
05/07/11 Beach Rd & Capistrano Beach Residents presentation

ATTACHMENT 5

**DRAFT STATEMENT OF FACTS, FINDINGS IN SUPPORT OF THE
FACTS**

OC DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

**FINDINGS OF FACT IN SUPPORT OF FINDINGS FOR THE
FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT
NO. 613 FOR THE
DANA POINT HARBOR MARINA IMPROVEMENT PROJECT
ORANGE COUNTY, CALIFORNIA**

STATE CLEARINGHOUSE NO. 2003101142

I. INTRODUCTION

The California Environmental Quality Act (CEQA) requires decision makers to balance the benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse effects, those effects may be considered "acceptable" (State CEQA Guidelines Section 15093[a]). CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are infeasible to mitigate. Such reasons must be based on substantial evidence in the Final Environmental Impact Report (EIR) or elsewhere in the administrative record (State CEQA Guidelines Section 15093 [b]). The agency's statement is referred to as a "Statement of Overriding Considerations." The following sections provide a description of each of the project's significant and unavoidable adverse impacts and the justification for adopting a statement of overriding considerations.

On January 31, 2006, the Orange County Board of Supervisors and the Dana Point City Council adopted the Dana Point Harbor Revitalization Project (Revitalization Plan) and Program Environmental Impact Report (Program EIR 591, State Clearinghouse Number 2003101142). Program EIR No. 591 evaluated the entire Harbor Revitalization Plan at a program or conceptual level of detail and provided project- or construction-level EIR analysis where possible, consistent with CEQA Guidelines Sections 15146 and 15168.

Implementation of the Revitalization Plan required a series of subsequent approvals by the City of Dana Point and the California Coastal Commission (CCC) to modify existing regulatory documents, including the City's Local Coastal Program (LCP). The Revitalization Plan and District Regulations therefore required an LCP Amendment (LCPA). The LCPA includes a Land Use Plan (LUP) component and an Implementation Plan (IP) component, which together establish zoning regulations and other implementing actions required for ongoing implementation of improvements and management of Dana Point Harbor pursuant to procedures set forth in the Coastal Act. The LUP component of the LCPA for the proposed Dana Point Harbor Revitalization Project was approved with suggested modifications by the CCC on October 8, 2009. The IP component was approved with suggested modifications by the CCC on January 12, 2011. An Addendum to Program EIR No. 591 was prepared to provide a record of the changes resulting from the LCPA approval process that occurred subsequent to the certification of Program EIR No. 591.

At the time Program EIR No. 591 was prepared for the Revitalization Plan, specific construction-level detail was not available for the Dana Point Harbor Marina Improvement Project. CEQA

Guidelines (Section 15162) state that a Subsequent EIR should be prepared for a project under certain circumstances where major additions or changes to the previous EIR are required, and when new information of substantial importance not known at the time of the previous EIR shows that the project will have significant effects not discussed in the previous EIR. Schematic level plans have been developed for the Dana Point Harbor Marina Improvement Project, and these improvements and changes in marina operations could potentially cause environmental impacts that can now be analyzed with greater detail. Consistent with the concept of tiering and requirements in CEQA Guidelines Section 15168 regarding program EIRs and Section 15162 requiring a SEIR, the Dana Point Harbor Marina Improvement Project is not dependent on and is a complete and independently functioning project that can proceed as a separate project distinct from the Commercial Core Project and other landside projects. As such, these findings relate solely to Final SEIR No. 613, but Program EIR No. 591 is included in the project record and all findings and conclusions are incorporated by reference.

A. PROJECT SUMMARY

The project addressed in the Dana Point Harbor Marina Improvement Project Final Subsequent EIR (Final SEIR) No. 613 includes removal of nearly all floating docks and piles in the West and East Marinas; potential repair and/or reconstruction as necessary of portions of the quay wall; and installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, improved lighting on the docks and supporting utilities within both marina areas. Additionally, new Dry Boat Storage Staging docks, and dinghy docks, along with potential renovations to the OC Sailing and Event Center docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed project. The project also includes public access improvements to gangways and docks in compliance with the ADA guidelines and construction of new docks along the eastern breakwater. Based on the California Coastal Commission's (CCC) suggested recommendation that the Marina Project result in the loss of no more than 155 slips, the project addressed in the Final SEIR included installation of 2,293 slips for a net loss of 116 slips.

The following objectives have been established for the Dana Point Harbor Marina Improvement project and will aid decision-makers in their review of the project and associated environmental impacts:

1. Maintain the Harbor's current character and family atmosphere
2. Renovate and replace the deteriorating docks and slips
3. Satisfy ADA requirements for dock areas of the Harbor
4. Maintain a full-service Harbor
5. Enhance the level of services for boaters
6. Update commercial fishing facilities
7. Maximize the number of slips available in the East and West Marinas for public rental by relocating many of the yacht broker slips to another area of the Harbor
8. Relocate guest dock facilities and provide new dinghy docks convenient to Day-Use Commercial uses

9. Upgrade utility infrastructure to all areas of the marinas
10. Maintain a safe environment for all levels of the boating community, Harbor users, and merchants
11. Provide improvements in accordance with California Department of Boating and Waterways (DBW) guidelines, including the placement of boats in correctly sized slips
12. Update sport fishing dock

B. ENVIRONMENTAL REVIEW PROCESS

In conformance with CEQA and the State CEQA Guidelines, OC Dana Point Harbor conducted an extensive environmental review of the proposed project.

- The County determined that an EIR would be required for the proposed project and originally issued a Notice of Preparation (NOP) and Initial Study on November 27, 2007. Due to the length of time that passed prior to release of the Draft SEIR, the NOP and Initial Study were reissued on December 21, 2009. Chapter 2.0 of the Draft SEIR describes the issues identified for analysis in the Draft SEIR through the Initial Study, NOP, and public scoping process.
- Based upon the Initial Study Checklist Form, OC Dana Point Harbor staff determined that a Draft SEIR should be prepared for the proposed project. The scope of the Draft SEIR was determined based on OC Dana Point Harbor's Initial Study, comments received in response to the NOP, and comments received at the scoping meeting conducted by OC Dana Point Harbor.
- OC Dana Point Harbor prepared a Draft SEIR, which was made available for a 45-day public review period, beginning September 20, 2011 and ending November 4, 2011. Subsequently, due to stakeholder requests, the public review period was extended to November 21, 2011.
- OC Dana Point Harbor prepared Final SEIR No. 613, including the Responses to Comments to the Draft SEIR, the Findings of Fact, and the Statement of Overriding Considerations. The Final SEIR/Response to Comments/Errata contains comments on the Draft SEIR, responses to those comments, revisions to the Draft SEIR, and appended documents.
- The County of Orange held public hearings on the proposed project on August 8, 2012 and _____, 2012.

C. RECORD OF PROCEEDINGS

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The two NOPs and all other public notices issued by OC Dana Point Harbor in conjunction with the proposed project;
- The Final SEIR for the proposed project;
- The Draft SEIR;

- All written comments submitted by agencies or members of the public during the public review comment period on Draft SEIR No. 613;
- All responses to written comments submitted by agencies or members of the public during the public review comment period on the Draft SEIR;
- All written and verbal public testimony presented during a noticed public hearing for the proposed project;
- The Mitigation Monitoring and Reporting Program (MMRP);
- The reports and technical memoranda included or referenced in the Response to Comments;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft SEIR and Final SEIR No. 613;
- The Resolutions adopted by the County of Orange in connection with the proposed project, and all documents incorporated by reference therein, including comments received after the close of the comment period and responses thereto;
- Matters of common knowledge to the County of Orange, including but not limited to federal, state, and local laws and regulations;
- Any documents expressly cited in these Findings; and
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

D. CUSTODIAN AND LOCATION OF RECORDS

The documents and other materials that constitute the administrative record for the County's actions related to the project are located at OC Dana Point Harbor, 24650 Dana Point Harbor Drive, Dana Point, CA 92629. OC Dana Point Harbor is the custodian of the administrative record for the project. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request at the offices of OC Dana Point Harbor. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and Guidelines Section 15091(e).

II. FINDINGS OF FACT

A. ENVIRONMENTAL EFFECTS WHICH WERE DETERMINED NOT TO BE POTENTIALLY AFFECTED BY THE PROPOSED PROJECT

A NOP was circulated from November 27, 2007, to January 2, 2008, to inform Responsible and Trustee Agencies and the interested public that a SEIR was being prepared for the Marina Improvement Project. Due to the length of time that passed prior to release of the Draft SEIR, the NOP was reissued on December 21, 2009. As a result of the Initial Study that was circulated with the NOP on December 21, 2009, OC Dana Point Harbor determined, based upon the threshold criteria for significance, that the project would not result in significant potential environmental impacts in several areas; therefore, OC Dana Point Harbor determined that these

potential environmental effects would not be addressed in the Draft SEIR. Based upon the environmental analysis presented in the Final SEIR, and the comments received by the public on the Draft SEIR, no substantial evidence has been submitted to or identified by OC Dana Point Harbor that indicates that the project would have an impact on the following environmental areas:

Agricultural Resources. The project site is located in Dana Point Harbor in an urbanized area surrounded by commercial and residential development. The project site is located entirely in saltwater where there is no historical agricultural use. Based on the City's and County's General Plan, no farmland, agricultural zoning, or Williamson Act contracts exist within or adjacent to the project site. Therefore, implementation of the proposed project would not convert farmland to nonagricultural use. No impact to farmland or agriculture would occur. Therefore, this issue was not evaluated further in the Draft SEIR.

Population and Housing. The proposed Marina Improvement Project does not propose the construction of any new homes or businesses. In addition, the proposed Marina Improvement Project does not create additional employment that could increase the County's or City's population. There would be no displacement or loss of residential units as a result of the project, and no replacement housing would be necessary.

Construction of the Marina Improvement Project may result in temporary displacement or relocation of persons living on their boats ("live-aboards"). At the time the Draft SEIR was prepared, there were 12 permitted live-aboards in the East Basin Marina and 29 permitted live-aboards in the West Basin Marina, for a total of 41. The number of live-aboards is relatively small due to the County's policy that allows only up to 10 percent of the total number of slips on any one dock and up to 3 percent of the total slips in the Harbor overall to be permitted for live-aboards (approximately 72 live-aboards could be permitted based on 2,409 existing slips). The live-aboards would be relocated as necessary within the Harbor. Because the displacement of the live-aboards would be temporary, and would be accommodated within the existing marinas, impacts are considered less than significant. Therefore, this issue was not evaluated further in the Draft SEIR.

Cultural Resources. There are no historic buildings or resources located on site that would be impacted by the proposed project. In addition, the presence of prehistoric cultural material is unlikely because the waterside improvements are in a location that has historically been covered by water, and no cultural resources are likely to be discovered in the Harbor waters. In addition, the area was dredged to create the original Harbor and has been regularly dredged for maintenance purposes since its inception. Additionally, implementation of the proposed waterside project would not require significant earthmoving or earth-disturbing activities on land and is therefore not anticipated to result in significant impacts to fossil remains. Hence, impacts to cultural resources are not anticipated. Therefore, this issue was not evaluated further in the Draft SEIR.

Mineral Resources. There are no known mineral resources within the Dana Point Harbor. The project does not involve the extraction of minerals and would not impact any known mineral resource recovery sites. Therefore, no impacts are anticipated, and this issue was not evaluated further in the Draft SEIR.

Public Services and Utilities. The Marina Improvement Project would not create additional demand for police staff, police services, Harbor Patrol facilities or fire protection personnel or services because the overall capacity of the marina will not be increased. In addition, implementation of the project would not change response times. Further, the proposed project would not impact existing educational facilities and would not result in additional roadway maintenance, library service, or public transportation needs that would exceed the existing capacity and levels of service. Similarly, because capacity is not increased, the Marina Improvement Project would not increase the demand for natural gas, or cause an increased demand for water service or sewer facilities.

The facilities providing electrical service to the docks will be upgraded to current standards. Due to the age of the existing facilities, it is anticipated that upgraded electrical facilities would provide up to an 85 percent increase in capacity. Although there would be an increased capacity, the upgrade of such facilities is not considered growth inducing because the proposed project would not expand the existing facilities; rather, the project results in a reduction in the number of boat slips. The upgraded electrical facilities will not remove obstacles to growth because the uses on site will not change or be expanded. The Program EIR (FEIR No. 591) stated that although upgrades to the electrical facilities would be required, service was anticipated to be available to the project. The Program EIR concluded that impacts related to electrical facilities would be less than significant with implementation of standard conditions, project design features, and Mitigation Measures. Therefore, these issues were not evaluated further in the Draft SEIR. Likewise, the Program EIR (FEIR No. 591) did not identify any unavoidable significant impacts related to public services and utilities. However, Program EIR (FEIR No. 591) did include Standard Conditions (SCs), Project Design Features (PDFs), and Mitigation Measures (MMs) related to public services and utilities. The PDFs and MMs that are included in the Program EIR (FEIR No. 591) and are applicable to the Marina Improvement Project are restated verbatim below.

Police Protection:

- MM 4.10-7** Construction shall not block the main navigational channels of Planning Areas 8 through 12.
- MM 4.10-8** The emergency alley behind the Harbor Patrol office shall not be blocked during construction activities.

Utilities:

- PDF 4.10-2** New utilities will be located underground to the extent feasible as part of the Project development. Utility undergrounding activities will be coordinated with the utility providers to ensure that service to adjoining utility customers is not interrupted.
- MM 4.10-9** The County of Orange shall continue to comply with the Building Code and Title 24 of the California Administrative Code relating to energy conservation.
- MM 4.10-10** Electrical, natural gas, and cable television services and equipment locations shall be coordinated with the applicable utility providers. Electrical, natural gas, and cable television services and equipment locations shall be coordinated with the applicable utility providers.

B. ENVIRONMENTAL EFFECTS WHICH WERE DETERMINED TO BE LESS THAN SIGNIFICANT

Land Use

Impact: Divide an Established Community. The proposed project would not change the existing uses within or adjacent to the project site. Therefore, the proposed project would not divide an established community or disrupt the existing physical arrangement of the surrounding area.

Impact: Conflict with Land Use Plan, Policy, or Regulation. The proposed project would make long-term improvements to the existing land uses on the project site. These improvements would enhance the value of the site's existing uses, and no conflict with any applicable land use plan, policy, or regulation would occur.

Impact: Conflict with Habitat Conservation Plans (HCPs) or Natural Communities Conservation Plans (NCCPs). There are no adopted HCPs or Natural Communities Conservation Plans NCCPs applicable to the project site. Therefore, the proposed project would not result in effects to an adopted HCP or NCCP.

Impact: Cumulative Land Use Impacts. Proposed project improvements are intended to be fully consistent with all applicable California Coastal Act (CCA) policies and with the City and County General Plans. There are no incompatibilities between the proposed project and planned

future projects. Therefore, the contribution of the proposed project to potential cumulative land use compatibility impacts in the project area is considered less than significant.

Geology and Soils

Impact: Rupture of a Known Earthquake Fault. The project site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone, nor is it currently identified by the regulatory community as being located within zones of either primary or secondary co-seismic surface deformation (e.g., pressure ridges, escarpments, fissures). Thus, the site is not expected to experience primary surface fault rupture or related ground deformation. However, since the site is 3.4 miles (mi) from the Newport-Inglewood Fault Zone, significant ground shaking or secondary seismic ground deformation effects would occur at the site should a major seismic event occur along this fault zone.

Impact: Soil Erosion. Because the majority of construction operations related to the Marina Improvement Project will be conducted on or under water, no soil erosion or loss of topsoil is anticipated. Soil disturbance could occur for the following purposes: lighting improvements; utility connections; and gangway/landside connections. However, the project would also be subject to an Erosion and Sediment Control Plan (ESCP) for erosion and sedimentation control during construction. Best Management practices (BMPs) would be undertaken to control runoff and erosion from earth-moving activities such as excavation. The project would be required to adhere to all applicable construction standards with regard to erosion control. Additionally, Mitigation Measures are required to reduce fugitive dust and transport of soil (refer to Section 4.5, Air Quality, and Section 4.3, Hydrology and Water Quality, respectively). With implementation of these standard control measures, soil erosion potential will be reduced to less than significant levels.

Impact: Septic Tanks. The proposed project would utilize the existing sewer system. The project does not include the use of septic tanks or alternative methods for disposal of wastewater into the subsurface soils.

Impact: Cumulative Geology and Soils Impacts. Mitigation Measures have been proposed to ensure that recommendations contained in the Geotechnical Evaluation prepared for the proposed project are incorporated into final project plans, and adequate setbacks will be implemented to ensure no project construction activities contribute to seawall failure. Incorporation of these Mitigation Measures will minimize or avoid potential hazards due to on-site and off-site geologic factors and ensure that the project's geological impacts are considered less than cumulatively considerable. Section 4.2 of the Final SEIR determined that the project would not contribute to any regional or localized geologic or soil-related risks. Impacts on geology and soils are generally localized or site specific and generally do not result in or from regionally cumulative impacts. The proposed project which is the replacement of marina docks and slips, in combination with other planned projects such as construction of the Commercial Core, would not compound or increase geological impacts. Therefore, the proposed project would not contribute to potential cumulative geology and soils impacts in the project area.

Hydrology and Water Quality

Impact: Groundwater Supplies. The project site is not located within a groundwater recharge basin, and there are no production wells within the vicinity. Therefore, there would be no impact to groundwater supply with implementation of the proposed project. Based on the proposed project, groundwater withdrawal would not be required during operation of the project. Therefore, impacts to groundwater would be less than significant.

Impact: Degrade Groundwater Quality. The project site is not located within a groundwater recharge basin, and there are no production wells within the vicinity. Therefore, there would be no impact to groundwater quality with implementation of the proposed project. Therefore, impacts to groundwater quality would be less than significant.

Impact: Alter Drainage Pattern. The OC Dana Point Harbor (Harbor) drainage pattern (off-site and on-site drainage facilities) would not be altered as part of the proposed project. The reconfiguration of the boat slips would result in a net decrease in impervious area of approximately 3,262 square feet. However, the docks are not considered an impervious area, as typically defined, because of the gaps in the docks that are over open marina waters. Therefore, the project would not increase storm water flows. As a result, the drainage pattern and runoff volumes would remain essentially the same as in the existing condition. Therefore, potential drainage impacts as they relate to drainage pattern and runoff volumes are considered less than significant.

Impact: Levee or Dam Failure. The proposed project is not within an inundation area for the failure of a levee or dam. Therefore, flooding as a result of the failure of a levee or dam is considered less than significant.

Impact: Seiche and tsunami or mudflow. The proposed project is within a seiche and tsunami influence area. The proposed project would not change or worsen this existing condition, and there is an established warning system in place that would provide early notification of an advancing tsunami that would allow for evacuation. Because the site is not located in a hilly area, it is not considered to be at a high risk for inundation by mudflow. In addition, the project site is a coastal harbor comprised of a body of water. Therefore, the impacts of the proposed project related to a potential mudflow are considered less than significant.

Transportation and Circulation

Impact: Marina Vehicle Trip Generation. Because the proposed project results in a reduction in the overall number of slips through the Harbor, no increase in traffic due to boater usage is anticipated, and impacts related to vehicle trip generation are considered less than significant.

Impact: Boater Vessel Traffic – Harborwide. Based on the navigable width of the proposed channel and the amount of boater traffic, project implementation would result in a slight decrease in the level of service for both marina basins. However, the Boat Traffic Study concluded that

the amount of change is considered to be so small that it would not result in any perceptible change in operations.

Impact: Boater Vessel Traffic - Embarcadero/Dry Boat Storage Docks, Marine Services Docks, Sport Fishing Docks. The redesign of these areas would allow operations to continue to operate under similar conditions as currently exist, and it is anticipated that the intensity of boating operations in this area will remain consistent with existing and historic levels. Boats will be staged at the docks by professional boat handlers as part of the dry dock storage service, which will help eliminate potential boater loading/conflicts and congestion in the staging area. A 294-linear-foot portion of the Marine Services docks will be redesigned with project implementation for use by the Dry Boat Storage facility, which is a part of the Harbor Revitalization Project. However, this is not expected to affect operations for Marine Service operators such as the Marine Services docks because this existing dock space is currently subleased to other independent businesses. Operational impacts related to boat traffic in these areas are expected to remain similar to existing conditions and are therefore considered to be less than significant.

Impact: Boater Vessel Traffic - Temporary Dock. In order to accommodate boaters during the dock and slip renovations, the project includes a temporary dock. Once renovations are complete, the temporary dock may be used on a permanent basis as a yacht broker dock; however, any permanent use within this federal anchorage area would require approval by the United States Army Corps of Engineers (Corps). The temporary dock is located in an area that is not currently used for slips and would not result in any perceptible change in operations and would not significantly impact boat traffic.

Impact: Boater Vessel Traffic – Construction. During each phase of construction, boats in the affected areas will be relocated to the temporary dock or open slips throughout the marina away from construction areas. The construction phasing of the proposed project will ensure that boater traffic impacts during construction are localized and short-term. The number of slips vacated each year is anticipated to, over the life of the construction, absorb the loss of slips due to project implementation. Therefore, boat traffic will be dispersed away from construction areas, reducing congestion. The construction equipment required for the proposed project will generally be localized within the dock areas where construction activities are being conducted. Therefore, impacts to boater traffic during construction are anticipated to be less than significant.

Air Quality

Impact: Fugitive Dust. Because the majority of construction operations related to the Marina Improvement Project will be conducted on or underwater, little fugitive dust is expected to be generated by these operations. However, small amounts of fugitive dust could be generated as construction equipment or trucks travel into, out of, and on the Harbor property, or from the excavation and pile installation for the Americans with Disabilities Act (ADA) gangways foundations. The amount of particulate matter (particulate matter less than 10 microns in diameter [PM₁₀] and particulate matter less than 2.5 microns in diameter [PM_{2.5}]) generated during construction will be relatively small and will not exceed the South Coast Air Quality Management District (SCAQMD) thresholds of significance for particulate matter (refer to Table

4.5.C, Section 4.5, Air Quality in the Final SEIR). Therefore, construction of the project will result in less than significant adverse impacts related to fugitive dust.

Impact: Odors. The heavy-duty construction equipment used in the project area during construction would potentially emit odors, primarily from diesel engine sources. However, the odors would cease to occur after construction is completed. In addition, on-shore wind conditions at the Harbor are fairly consistent and will function to quickly disperse and dilute any odorous emissions. No other sources of objectionable odors during the construction and/or operation of the project have been identified. Therefore, the construction and operation of the project would result in less than significant adverse impacts related to odors (Final SEIR, Section 4.5, page 4.5-12).

Impact: Stationary and Mobile Sources. The proposed project would not result in any substantive changes in long-term on-site stationary sources. Due to a decrease in the number of slips, the project would likely result in either no change or only a minor change in off-site vehicle trips. Therefore, the operation of the proposed project would result in a less than significant impact related to stationary and mobile source emissions (Final SEIR, Section 4.5, page 4.5-12).

Impact: CO Hotspots. Because the proposed project does not increase or expand capacity, it would likely result in either no change or only a minor change in off-site vehicle trips, no substantial increase in carbon monoxide (CO) contributions would occur in the project vicinity as a result of the proposed project. Therefore, no CO hot spots are expected as a result of the project and the proposed project would result in less than significant impacts related to CO hotspots (Final SEIR, Section 4.5, page 4.5-13).

Impact: Localized Significance of Construction Emissions. The calculated emissions rates for the project construction activities will be below the localized significance thresholds (LSTs) for nitrogen oxides (NO_x), CO, PM₁₀, and PM_{2.5} at 50 meters (m) from sensitive receptors. Therefore, the construction activities for the proposed project would result in less than significant short-term, localized, air quality impacts (Final SEIR, Table 4.5.D, page 4.5-13).

Impact: Consistency with the Air Quality Management Plan (AQMP). The proposed project would not result in any population growth and is consistent with the Orange County (County) General Plan designation for the site. In addition, the proposed project is not expected to result in any increase in long-term regional air quality emissions. Therefore, the project will not conflict with the AQMP (Final SEIR, Section 4.5, page 4.5-14).

Impact: Cumulative Air Quality Impacts. Construction of the project would contribute cumulatively to the local and regional air pollutants, together with other projects under construction. The proposed project would also contribute to adverse cumulative air quality impacts because construction activity would result in additional emissions of pollutants, which may exacerbate ambient levels currently in excess of applicable NAAQS or CAAQS for PM₁₀ and O₃ (because NO_x and ROC are precursors to O₃). Although the short-term construction impacts of the proposed project would remain significant and unavoidable, no long-term operational cumulative air quality impacts would occur (Final SEIR, Section 4.5, page 4.5-15).

Noise

Long-Term Noise Impacts: The proposed project would result in a reduction in the total number of boat slips in the marina; hence, the project is not expected to increase the number of vehicle trips on local roads or increase the number of boats using the marina. The Program FEIR determined that noise impacts associated with boat slips are not anticipated to be significant. Therefore, the operation of the proposed project would not result in any long-term adverse noise impacts (Final SEIR, Section 4.6, page 4.6-9).

Cumulative Long-Term Noise Impacts: Long-term noise generated by on-site operations for the Marina Improvement Project would not change after implementation of the proposed project; the proposed project would not contribute to off-site cumulative noise impacts from other planned and future projects. Therefore, impacts related to operational noise would be less than cumulatively significant. (Final SEIR, Section 4.6, page 4.6-12).

Biological Resources

Impacts: Sensitive Species – Eelgrass (*Zostera Marina*). Eelgrass is a nursery habitat for many juvenile fishes, including species of commercial and/or sports fish value (California halibut and barred sand bass). The Draft SEIR identified that the proposed project has a potential to impact eelgrass in the vicinity of the proposed OC Sailing and Events Center Docks as a result of shading from either dock structures or small boats tied up to the dock. However, with adoption of the Revised Project, as described in the Final SEIR Response to Comments, the impacts to eelgrass habitat in the vicinity of the OC Sailing and Events Center docks would be avoided.

Impact: Sensitive Species – Surfgrass (*Phyllospadix* spp.). Surfgrass is a sensitive marine resource that occurs in rocky shoreline and rocky subtidal habitats at depths to approximately 20 ft. Its sensitivity is related to its use by invertebrates and fishes as nursery habitat and its susceptibility to long-term damage because it is a very slow-growing species. Revegetation occurs very slowly through initial seeding and eventually through the spreading of roots and rhizomes over surfaces of rocks. Surfgrass is considered to be Essential Fish Habitat by the National Marine Fisheries Service (NMFS) and is an extremely important nursery habitat for juvenile lobsters and juvenile olive rockfish. Surfgrass does not occur within the confines of the Harbor; thus, it would not be impacted by construction activities.

Impact: Fisheries Management Plan (FMP) Species. Construction activities could potentially affect identified Coastal Pelagic FMP species (northern anchovy) and Pacific Groundfish FMP species (scorpion fish and juvenile olive rockfish). However, construction activities would cause these species to avoid construction zones, resulting in a less than significant impact. In addition, based on the life histories and distribution of these species, most of the populations would be distributed in offshore areas rather than the confines of the Harbor, and the potential for short-term construction-related impacts to FMP species is expected to be less than significant.

Impact: Conflict with an adopted habitat conservation plans. No Marine Protected Areas occur in the Harbor; therefore, impacts to such areas are considered less than significant.

Impact: Soft- and Hard-Bottom Associated Benthic Communities. The proposed project will result in minor disturbances to soft-bottom benthic invertebrates within a zone of disturbance around the piles to be removed related to sediment resuspension and sediment disturbances from machinery. This impact will be a less than significant impact on soft-bottom infauna. Once disturbances cease, larvae will settle on the sediments and begin the process of recolonization. Construction of piling and dock systems for the sport fishing dock would potentially impact hard-bottom macroflora and fauna living on or among the subtidal hardscape within these areas. Losses would be associated with the direct effects of pile driving and secondary turbidity plumes. Mortality of individual plants and invertebrates might occur. These initial losses would be offset since additional pile substrata and surface area would be added. Plants and invertebrates would begin to colonize the new hard substrate upon completion of construction. Mobile *macro invertebrates* (i.e., octopus and lobsters) would likely move out of the impact zone. The losses of plants and invertebrates from pile driving would not result in any population level impacts to *macro biota* within the surrounding region. Therefore, construction of the docks and the addition of the piles are considered to have a short-term less than significant impact on hard bottom-associated plants and invertebrates within these areas of the Harbor.

Impact: Water Column Biota – Plankton and Fishes. Construction activities would cause a temporary reduction in submarine light levels and a short-term reduction of plankton productivity due to increased turbidity. Because plankton drift with the current and turbidity is expected to be localized, there would be only short-term, less than significant construction impacts to the plankton community. Construction activities would not cause direct mortality of open water or bottom-dwelling fishes, as fishes would avoid the immediate work area due to either increased turbidity or a potential increase in underwater pressure and noise levels from work equipment.

Secondary impacts of increased water turbidity and decreased dissolved oxygen concentrations on fishes would be a short-term, less than significant construction impact. Because the proposed project would proceed incrementally and is phased over 8 years, fish living within the marina basins would be able to move to nearby areas. Therefore, potential impacts from construction activity would result in less than significant impacts to the water column biota.

Aesthetics

Impact: Cumulative Aesthetics. There are no visual incompatibilities between the proposed Marina Improvement Project and other cumulative projects, as the Marina Improvement Project does not contribute new uses or structures to the Harbor. Therefore, the contribution of the proposed project to potential cumulative aesthetic impacts in the project area is considered less than significant.

The proposed project would not contribute to a cumulative adverse impact related to light and glare or shade and shadow because the proposed project would be consistent with the existing developed marine Harbor setting. Therefore, no adverse cumulative impacts related to aesthetics or visual resources would result from the proposed project.

Recreation

Impact: Project Vicinity Recreational Facilities. The proposed project would not substantially affect any of the existing off-site, adjacent recreational uses and activities such as surrounding City, County and State parks. In addition, the marina waterside improvements are not anticipated to increase employment nor increase the permanent population that would utilize the existing recreational facilities in the project vicinity.

Impact: Harborwide Recreational Facilities. The proposed project would make improvements to the recreational amenities at the marinas. These improvements would enhance the existing recreational uses on site. Therefore, the proposed project would not result in any long-term adverse impacts related to recreation.

Impact: Cumulative Recreation. There are no recreational marinas in the immediate vicinity that would be considered to be within the cumulative study area for recreational impacts. Implementation of the proposed project in concert with the other Harbor Revitalization Projects is intended to increase lifespan and use of the recreational activities and associated facilities within Dana Point Harbor. Therefore, the proposed project would not cumulatively, along with other projects in the vicinity, result in increased demand for recreational facilities or require development or expansion of additional recreational facilities.

Hazards and Hazardous Materials.

Impact: Hazardous Materials during Operation. The operation of the marina as proposed would involve the use of small amounts of hazardous materials typical of such uses. The handling, use, storage, transport, and disposal of small amounts of substances used for boat cleaning and maintenance such as cleaners, solvents, and paints are subject to existing applicable federal, State, and local regulations. Because the uses on site remain the same as under current conditions, it can be assumed that these materials are already present on site, and that their use will continue. Substantial changes to the operational characteristics and types of potentially hazardous materials present on site are not anticipated.

Impact: Cumulative Hazards and Hazardous Materials Impacts. The proposed project would not create potential significant cumulative impacts related to hazardous materials off site, as hazardous materials are not expected to be encountered. In addition, the Orange County Sheriff, Orange County Fire Authority, and the Orange County Harbor Patrol are trained in emergency response procedures for safely responding to accidental spills of hazardous substances in the Harbor, further reducing potential impacts. Compliance with all federal, State, and local regulations concerning the storage and handling of hazardous materials, the impacts of the proposed project in combination with reasonably foreseeable projects in the surrounding areas would not contribute to significant cumulative impacts to people or the environment due to exposure to hazardous materials or hazards.

C. ENVIRONMENTAL EFFECTS WHICH WERE DETERMINED TO BE LESS THAN SIGNIFICANT WITH MITIGATION

The Final SEIR identified certain potentially significant effects that could result from the proposed project. However, the County of Orange finds for each of the significant or potentially

significant impacts identified in this section, based upon substantial evidence in the record, that changes or alterations have been required or incorporated into the proposed project that avoid or substantially lessen the significant effects as identified in the Final SEIR. As a result, adoption of the Mitigation Measures set forth below will reduce the identified significant effects to a less than significant level.

Geology and Soils

Impact: Rupture of a Known Earthquake Fault. The project site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone, nor is it currently identified by the regulatory community as being located within zones of either primary or secondary co-seismic surface deformation (e.g., pressure ridges, escarpments, fissures). Therefore, the site is not expected to experience primary surface fault rupture or related ground deformation. However, since the site is 3.4 miles (mi) from the Newport-Inglewood Fault Zone, significant ground shaking or secondary seismic ground deformation effects would occur at the site should a major seismic event occur along this fault zone.

Mitigation Measure: Based upon the analysis presented in Section 4.2 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to geology and soils (rupture of known earthquake faults) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.2-1: To reduce potential seismic ground-shaking impacts associated with the Americans with Disabilities Act (ADA) platforms, OC Dana Point Harbor and the Director, OC Public Works (OC PW)/Permit Services shall, prior to issuance of building permits, review and approve final design plans to ensure that recommendations contained in the Geotechnical Evaluation prepared for the proposed project (Leighton Associates, Inc., January 2008) are incorporated into final site drawings. The potential damaging effects of regional earthquake activity shall be considered in the design of each structure. The seismic evaluation shall be based on basic data, including the Uniform Building Code (UBC) Seismic Parameters. Structural design criteria shall be determined in consideration of building types, occupancy category, seismic importance factors, and possibly other factors. Design construction shall be performed in conformance with the latest UBC, California Building Code, or International Building Code and County Ordinances. Conformance can be expected to satisfactorily mitigate the effect of seismic groundshaking (refer to FEIR No. 591, Mitigation Measures 4.3-9 and 4.3-12).

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: The project would incorporate current codes and seismic requirements in the replacement and/or renovation of the docks and pilings. Appropriate seismic design provisions shall be implemented with project design and construction in accordance with the Geotechnical Evaluation prepared for the proposed project (Leighton Associates, Inc.,

January 2008) and governing building codes, including the Uniform Building Code (“UBC”) Seismic Parameters. The ADA platforms will require specific engineered foundations to ensure reasonable safety. To reduce the impact of seismically induced liquefaction, the platforms are proposed to consist of a reinforced structural concrete slab supported by a fixed foundation that will be situated behind (landside) the existing seawall, with the slab cantilevering to the gangway, a distance of approximately 8 ft from the Harborside face of the wall. Adherence to recommendations in the Geotechnical Evaluation regarding seismic building standards and compliance with governing building codes will prevent people or structures from being exposed to seismic related ground failure and therefore mitigate the potential impact to a less than significant level.

Hydrology and Water Quality

Impact: Degrade Water Quality. Implementation of the proposed project may result in short-term water quality impacts associated with temporary construction staging area(s), excavation associated with the construction of new ramp structures, waterside improvements associated with the removal of the docks and piles, and construction of the new docks and piles.

Mitigation Measures: Based upon the analysis presented in Section 4.3 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and would avoid or substantially reduce potentially significant impacts related to hydrology and water quality (degrade water quality) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.3-1: To reduce water quality impacts related to pile removal and replacement, OC Dana Point Harbor shall verify, prior to the issuance of any construction permits, that authorization has been obtained from: (1) the United States Army Corps of Engineers (Corps) under the Section 404 Permit program for the discharge of material into jurisdictional waters; and (2) the Corps, under Section 10 of the Rivers and Harbors Act for the placement of piles. In addition, standard conditions of the Corps permits require Section 401 water quality certification by the Regional Water Quality Control Board (RWQCB). In order to obtain these authorizations, the County shall develop a mitigation plan subject to review and approval by the appropriate resource agencies (Corps, United States Fish and Wildlife Service [USFWS], National Marine Fisheries Service [NMFS], California Department of Fish and Game [CDFG], and RWQCB).

Mitigation Measure 4.3-2: To reduce water quality impacts related to pile removal and replacement, OC Dana Point Harbor shall verify, prior to the issuance of any construction permits, that Best Management Practices (BMPs) for all pile removal and replacement activities have been incorporated into project plans in order to reduce impacts to water quality to the maximum extent practicable in a manner meeting the approval of the OC Public Works (OC PW) Director. The construction contractor shall be responsible for performing and documenting the application of silt curtains and other BMPs identified in this document.

Mitigation Measure 4.3-3: Prior to the issuance of any construction permits, OC Dana Point Harbor shall verify that a trash and debris containment boom has been incorporated into project plans and will be implemented during all dock removal and replacement activities in order to reduce impacts to water quality to the maximum extent practicable in a manner meeting the approval of the OC Public Works (OC PW) Director. The construction contractor shall be responsible for performing and documenting the application of the trash and debris containment boom.

Mitigation Measure 4.3-4: To reduce impacts related to dewatering or construction-related non-storm water discharges, the construction contractor shall determine, prior to commencement of grading activities, whether dewatering of groundwater will be necessary during project construction. Any dewatering will require compliance with the State General Permit for discharges to land with a low threat to water quality or a dewatering permit from the San Diego Regional Water Quality Control Board (RWQCB), consistent with National Pollutant Discharge Elimination System (NPDES) requirements. Once it receives and reviews the Notice of Intent (NOI), the RWQCB will decide which permit is applicable and whether sampling is required. A copy of the permit shall be kept at the Marina Improvement Project, available for City and/or RWQCB review upon request.

Mitigation Measure 4.3-5: To reduce impacts related to water quality during landside construction, the Construction Contractor shall prepare an Erosion and Sediment Control Plan (ESCP) for approval by the Director, OC Public Works (OC PW)/Permit Services to demonstrate compliance with local and State water quality regulations for construction activities. The ESCP shall be approved prior to the issuance of any construction permits and shall identify how all construction materials, wastes, or demolition debris, etc., shall be properly covered, stored, and secured to prevent transport into local drainages or coastal waters by wind, rain, tracking, tidal erosion, or dispersion. The ESCP shall also describe how the applicant will ensure that all best management practices (BMPs) will be maintained during construction. A copy of the current ESCP shall be kept at the offices of OC Dana Point Harbor and be available for review on request (refer to FEIR No. 591, Standard Conditions of Approval [SCA] 4.4-7).

Mitigation Measure 4.3-6: To reduce impacts related to water quality during landside construction, the Construction Contractor shall submit for review and approval by the Director, OC Public Works (OC PW)/Inspection Services Division, an Amendment to the Dana Point Harbor Conceptual Water Quality Management Plan (WQMP) specifically identifying best management practices (BMPs) that will be used on site to control predictable pollutant runoff. Any required Amendment to the Conceptual WQMP shall be approved prior to the issuance of any construction permits. The WQMP will specifically identify BMPs that will be used on site to minimize the volume, velocity, and pollutant load of runoff, including measures to prevent, eliminate, and/or otherwise effectively address dry weather nuisance flow control predictable pollutant runoff. The WQMP shall follow the model WQMP as outlined in Exhibit 7.1 1 of the 2003 Drainage Area Master Plan, prepared by the County of Orange Flood Control District on July 1, 2003, or the most recent version available. This WQMP shall also demonstrate conformance with the policies and provisions governing Water Quality and Hydrology identified in Chapter 2 of the Dana Point Harbor Revitalization

Plan, Resource Protection section, including applicable provisions from the Project Design Features and Requirements section. The WQMP shall identify, at a minimum, the routine structural and nonstructural measures specified in the current Drainage Area Management Plan (DAMP). The WQMP may include one or more of the following:

- Discuss regional water quality and/or watershed programs (if available for the project);
- Address Site Design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or “zero discharge” areas and conserving natural areas;
- Include the applicable Routine Source Control BMPs and where necessary, Treatment Control BMPs as defined in the DAMP; and
- Demonstrate how surface runoff and subsurface drainage shall be managed and directed to the nearest acceptable drainage facility (as applicable), via sump pumps if necessary (refer to Land Use Plan [LUP] I-6.1-6).

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Implementation of Mitigation Measures that require compliance with Army Corp Section 404, Section 10 and Section 401 permitting requirements will reduce the potential for construction materials to be discharged into the waters within and surrounding the project site. Implementation of Best Management Practices (“BMP”) shall be used during construction to minimize the potential for erosion, therefore employing the best methods available to prevent erosion. Use of silt curtains and debris booms will assist in containing sediment and construction materials within a confined area and will allow for the removal of any construction debris from the water so that water quality is not compromised during such activities. Should dewatering of groundwater be necessary, compliance with NPDES requirements will prevent contamination of groundwater due to excavation activities. The Erosion and Sediment Control Plan and Amended Harbor Conceptual Water Quality Management Plan require special care to be taken during construction to prevent off-site siltation. Control of erosion through implementation of these conditions and measures will reduce the potential impact caused by uncontrolled erosion to be minimized to a less than significant level.

Impact: Cumulative Hydrology and Water Quality Impacts. The proposed project would be required to prepare a WQMP, in compliance with the DAMP, which would mitigate the project’s cumulative contribution to drainage and erosion impacts to less than significant levels. Other cumulative projects’ required compliance with the DAMP and WQMP would reduce cumulative impacts associated with construction and operation to less than significant levels. Therefore, no adverse cumulative impacts related to Hydrology and Water Quality would result from the proposed project.

Mitigation Measures: Based upon the analysis presented in Section 4.3 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and

would avoid or substantially reduce potentially significant impacts related to hydrology and water quality (cumulative water quality impacts) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.3-5 – see above

Mitigation Measure 4.3-6 – see above

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: The WQMP will require that special care be taken during to ensure that soils and debris do not enter or remain in the Harbor waters. Measures contained in the WQMP require structural and nonstructural measures to prevent contaminants from being carried off-site in surface runoff. The requirements mandate that surface runoff and subsurface drainage (if applicable) shall be managed and directed to the nearest acceptable drainage facility so that no unfiltered runoff enters the Harbor waters. Implementation of these conditions and measures will reduce potential cumulative water quality impacts to be minimized to a less than significant level.

Transportation and Circulation

Impact: Boater Vessel Traffic - East and West Basins. Implementation of the project would result in fewer, and on average slightly longer, slips in the harbor, which may attract a limited number of larger boats to the marinas. However, the minor change in the average size of slips in the marinas would not change operations. In addition, the proposed design of the marinas would not significantly change boat congestion. However, the proposed design could result in additional boat-to-boat conflicts.

Mitigation Measure: Based upon the analysis presented in Section 4.4 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to boater vessel traffic (East and West Basins) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.4-1: To reduce potential boat congestion in the East and West Basins, OC Dana Point Harbor (Harbor) shall, beginning at the start of construction and in the areas of construction activity, provide education and outreach to ensure that the slow speed/wake policy is adhered to and to ensure that speeds in the Inner Channel are maintained at 4 to 5 knots in order to maintain boat traffic flow and steering. Additionally, no construction shall be permitted to block the main navigational channels in the Harbor and should minimize the disruption or loss of existing docks by providing temporary facilities to the greatest extent feasible (refer to Implementation Plan [IP] II-3 Special Provisions [SP] No. 3).

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: The project will result in fewer overall slips and boats, which will help reduce congestion issues related to boater vessel traffic. Enforcing the slow speed/no wake policy will increase the ability of vessel operators to maintain control and avoid conflicts with other vessels. Keeping construction equipment such as barges from blocking the main channels will allow boat traffic to continue to travel unrestricted throughout the harbor so that congestion between boats is avoided and/or minimized. These measures will mitigate the potential impact to a less than significant level.

Impact: Construction Traffic. Although the proposed Marina Improvement Project would not create additional traffic, construction traffic associated with the renovations could create temporary and intermittent traffic and circulation impacts on site. The primary staging area for the duration of project construction will be located in the West Cove parking lot and will extend all the way to the quay wall, which will require the boardwalk to be rerouted or detoured around it for the entire construction period. During each phase, there will be periods of time when the boardwalk will be detoured, and parking may be restricted or impacted by the boardwalk detour. Additionally, four other possible staging areas have also been identified in parking areas. Due to the length of construction related to implementation of the Marina Improvement Project, it is possible that construction of the proposed project could occur at the same time as the Dana Point Harbor Revitalization project Commercial Core component. Due to the close proximity of these two projects within the same Harbor, the construction traffic from the combined projects could result in a potentially significant circulation impact.

Mitigation Measures: Based upon the analysis presented in Section 4.4 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and would avoid or substantially reduce potentially significant impacts related to construction traffic to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.4-2: Public and boater access shall be provided to all Harbor facilities and businesses to the extent that they can be safely accessed during construction activities and reduce parking congestion/conflicts. To reduce parking, public access, and circulation conflicts during construction operations, OC Dana Point Harbor shall prepare a Construction Management Plan (CMP) that establishes access and staging locations for staging areas, temporary access routes, and parking areas that are separate from those used by the general public. The CMP shall also include the locations for shuttle drop-off areas, the relocations of public transit facilities, and provisions for valet service (in the event that construction activities do not allow for convenient parking adjacent to existing businesses).

The CMP shall be prepared and approved prior to issuance of any construction or building permits and shall include a construction sign program to direct Harbor visitors and boaters to available parking during all phases of construction (refer to FEIR No. 591, Mitigation Measures 4.5-3 and 4.1-3a, Land Use Plan [LUP] I-4.4.1-6 A, Implementation Plan [IP] II-14.6e, and IP II-3 Special Provisions [SP] No. 3).

Mitigation Measure 4.4-3: Construction phasing for implementation of all Dana Point Harbor Revitalization Plan improvements shall minimize the disruption of vehicular and pedestrian access routes and parking availability to the maximum extent feasible. Access to the Marine Services Commercial areas shall be maintained during all construction phases. To reduce parking, public access, and circulation conflicts during construction operations, OC Dana Point Harbor shall prepare a coordinated construction truck route and parking program should the Dana Point Harbor Revitalization Plan Commercial Core construction occur at the same time as construction of the Marina Improvement Project.

In the event of temporary closures, alternative routes and clear directional signage shall be provided. Any temporary parking loss during construction shall be replaced prior to its removal and shall be located in reasonable proximity to the uses it serves to the maximum extent feasible. Temporary replacement parking spaces, located in reasonable proximity to the uses they serve, to the maximum extent feasible shall be provided prior to the removal of any existing parking spaces due to construction, in accordance with an approved Construction and Temporary Operations Plan (refer to Implementation Plan [IP] Section II-14.6e).

The coordinated program shall be approved by the Director, OC Public Works/Building Permit Services, prior to the issuance of any construction permits, and shall identify construction haul routes, the hours of construction traffic, traffic controls and detours, and off-site vehicle staging areas and address traffic control for any street closure, detour, or other disruption to traffic circulation and public transit routes.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Development of a Construction Management Plan (CMP) would direct drivers where to park and what alternate routes to use during construction activities. The CMP would help reduce traffic and circulation conflicts by identifying drop-off areas, transit facilities and valet services. By requiring that access to the Marine Services Commercial areas are maintained during construction, the public would continue to have access to these services. Temporary parking spaces provided during construction would be as close as feasible to the uses they serve so that boaters and visitors would not be inconvenienced. The CMP includes mandates regarding traffic control for street closures, detours, or other disruptions to traffic circulation; identification of the routes that construction vehicles will use to access the site; the hours of construction traffic; traffic controls and detours; and vehicle staging and parking areas. These measures will combine to prevent any significant impact to traffic circulation as a result of the Project's potential cumulative construction-related traffic impacts.

Impact: Operational Long-Term Parking. The proposed project does not involve any changes to the number of parking spaces located in the Harbor. The Program FEIR (Table 4.5-37) concluded that the number of parking spaces provided with the Revitalization Plan would exceed the County's parking requirements. The modifications to the Dana Point Harbor Land Use Plan

(LUP) certified by the California Coastal Commission (CCC) include the adoption of a parking standard of 0.6 spaces per boat slip; and include a requirement to reserve adequate land areas to provide parking for 2,409 slips (under the “no net loss” policy). In addition, implementation of the Project does not increase the number of slips in the Harbor and therefore does not create a need for additional parking spaces.

A temporary dock may also be in place for the duration of construction activities (up to 8 years). The temporary dock may be used on a permanent basis as a yacht broker dock; however, any permanent use within this federal anchorage area would require approval by the Army Corps of Engineers. Because these docks will be utilized by yacht brokers, parking for these docks will be provided in the designated boater lots near each particular yacht broker’s building. If needed, customers will be shuttled to the temporary dock by boat or car by the yacht broker staff.

Mitigation Measure: Based upon the analysis presented in Section 4.4 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to transportation and circulation (operational long-term parking) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.4-2 – see above

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Although the Project does not result in significant operational impacts related to parking conditions, Mitigation Measure 4.4-2, is proposed to ensure that an adequate traffic control plan is in place so that traffic is directed to the appropriate parking locations. The signage program mandated by the CMP will direct visitors and boaters where to park and will reduce potential parking conflicts and confusion. Approval and implementation of parking plans ensures that public and boater access shall continue to be provided to all Harbor facilities and businesses. These measures will mitigate the potential impact to a less than significant level.

Impact: Cumulative Transportation and Circulation Impacts. Construction workers and equipment and haul vehicles working in the vicinity of the proposed project may utilize the same haul route potentially creating cumulative impacts. Therefore, when combined, these projects have the potential to contribute to cumulative construction-related traffic impacts. With implementation of Mitigation Measures as identified, potential cumulative impacts related to the proposed project would be less than cumulatively significant.

Mitigation Measure: Based upon the analysis presented in Section 4.4 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant cumulative traffic and parking impacts to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.4-3 – see above

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: The CMP includes mandates regarding traffic control for street closures, detours, or other disruptions to traffic circulation; identification of the routes that construction vehicles will use to access the site; the hours of construction traffic; traffic controls and detours; and vehicle staging and parking areas. These measures will combine to prevent any significant impact to traffic circulation as a result of the Project's potential cumulative construction-related traffic impacts.

Noise

Impact: Short-Term Construction Vibration Impacts. The proposed pile driving for pile installation in the marina would generate the primary source of vibration during construction. However, the level of vibration at the closest sensitive receptors would not exceed the California Department of Transportation (Caltrans) Transportation and Construction-Induced Vibration Guidance Manual thresholds, and there is virtually no risk of architectural damage to normal buildings. The live-aboards are also in proximity to the proposed construction activities; however the boats would not be subject to groundborne vibrations. Implementation of Mitigation Measure 4.6-2 would also lessen any construction nuisance impacts to the live-aboards. Therefore, the proposed project would not result in any significant vibration impacts.

Mitigation Measure: Based upon the analysis presented in Section 4.6 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to noise (construction vibration impacts) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure: 4.6-2. To reduce construction noise impacts throughout the phased construction activities of the proposed project, OC Dana Point Harbor shall coordinate with those residents living on boats within the marina to relocate them to be moved as far as feasible from the construction activities to minimize construction-related noise nuisance impacts. In addition, OC Dana Point Harbor staff shall provide marina boat residents with information regarding the availability of other nearby marina facilities. Information regarding the timing and location of the construction activities shall also be made available on the Harbor website, by postings throughout the marina, and other means as appropriate.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: During the construction period live-aboards in the marinas would potentially be exposed to short-term noise, however, the boats would not be subject to ground-borne vibrations. Relocating the residents who live on their boats as far as feasible from the construction activities would help reduce the noise impacts and would minimize construction-related nuisance impacts. By providing information regarding the availability within other nearby marina facilities, residents could consider whether to relocate during the construction activities. Posting the times of construction will assist the residents and boaters in the harbor who wish to avoid the area during construction hours. These measures will mitigate the potential impact to a less than significant level.

Biological Resources

Impact: Construction Water Turbidity Impacts. Pile replacement activities would have a potential to release detectable levels of sediment-bound contaminants into the water column that would be redistributed through the tidally induced movement of the turbidity plume. Organically enriched sediments suspended into the water column during pile replacement would also cause a slight decrease in dissolved oxygen levels. Turbidity would result in a short-term reduction of light and an increase of suspended material in areas that are high in macrophyte productivity. Bottom sediments would also be disturbed during construction activities and could potentially affect marine biological resources. While the impact is expected to be short-term, turbidity levels for each specific phase may be above ambient conditions for an extended period.

Mitigation Measure: Based upon the analysis presented in Section 4.7 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to biological resources (construction water turbidity impacts) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.7-1: Prior to issuance of any construction permits, the Director, OC Dana Point Harbor, shall review and approve a Marina Construction Management Plan and confirm that the following construction Best Management Practices (BMPs) are included to minimize turbidity plumes and possible contaminants released into the water column during construction activity:

- No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to tidal erosion and dispersion. Construction materials shall not be stored in contact with the soil;
- Hazardous waste and oil spill contingency plans and spill response equipment shall be kept on site or near the Harbor during marina construction. The Construction Contractor shall have adequate equipment available to contain such spills immediately;
- Any construction debris shall be removed from the site. All trash shall be disposed of in the proper trash receptacles at the end of each construction day;
- Floating booms shall be used to contain debris discharged, and any debris discharged, including construction debris from the sea floor, shall be removed no later than the end of each day. A post construction bottom survey shall be conducted to ensure that all material has been successfully removed from construction areas;

- Where feasible, silt curtains shall be deployed around work barges and the pile removal and placement operations in order to minimize the spread of turbid waters outside the project area; and
- Barges and work vessels shall be operated in a manner to ensure that sensitive resources within the Harbor are not impacted through grounding, propeller damage, or other activities that may disturb the sea floor. Such measures shall include speed restrictions, establishment of off-limit areas, and use of shallow draft vessels.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Keeping construction materials and debris away from the water area will reduce the likelihood of turbidity that would occur if those materials were introduced into the water. Floating booms will minimize the opportunity for any suspended particulate material to spread throughout the harbor and daily removal of construction debris will minimize the levels of sediment-bound contaminants in the water column and related light reduction and other turbidity related impacts. Use of silt curtains will assist in containing sediment and construction materials within a confined area and will allow for the resettlement of suspended material within the immediate work area. Containment of suspended materials will minimize the spread of such materials and will ensure that water quality is not compromised during construction activities. These measures will ensure that construction water turbidity impacts remain less than significant.

Oil and Fuel Discharges. Accidental oil or fuel spills that could potentially occur during project construction activities could result in significant effects on water quality, and depending on the severity of the spill, affect the fish and wildlife of the Harbor. The potential for the occurrence of petroleum product leaks or spills would be low, but the potential for significant, long-term effects on marine resources would be moderate to high.

Mitigation Measure: Based upon the analysis presented in Section 4.7 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to biological resources (construction oil and fuel spills) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.7-1 – See above

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Keeping hazardous waste and oil spill response equipment on or near the Harbor during construction will allow any accidental spills to be immediately

contained. Providing the adequate spill response equipment, in conjunction with the use of floating booms and silt curtains will help reduce the potential spread of any accidental spills. Placing construction materials, equipment, and waste away from areas subject to tidal influences and off of soils will reduce the potential for an accidental spill, and will ensure that construction oil and fuel spill impacts remain less than significant.

Impact: Conflict with any local policies or ordinances protecting biological resources.

Invasive Algae (*Caulerpa taxifolia* or *Undaria pinnatifolia*). *Caulerpa* has a potential to cause ecosystem-level impacts on California's bays and near shore systems due to its extreme ability to outcompete other algae and seagrasses. Although *Caulerpa* was not observed within the regions proposed for waterside improvements, the State Water Resources Control Board (SWRCB), through the NMFS and the California Department of Fish and Game (CDFG), requires that projects that have the potential to spread this species through dredging, and bottom-disturbing activities conduct preconstruction surveys to determine whether this species is present. In the event that *Caulerpa* is detected, disturbance shall not be conducted until such time as the infestation has been isolated, treated, or the risk of spread from the proposed disturbing activity is eliminated in accordance with the NMFS *Caulerpa* Control Protocol (Version 3, adopted March 12, 2007 [NMFS 2007]).

Undaria pinnatifida is not currently growing within the Harbor. However, preconstruction surveys will be conducted. Should it be found during preconstruction surveys, it should be removed prior to marina modifications to prevent its spread during the pile and dock removal process. It should be noted that at this time, there are no defined eradication processes for this species by the NMFS or the CDFG.

Mitigation Measures: Based upon the analysis presented in Section 4.7 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and would avoid or substantially reduce potentially significant impacts related to biological resources (invasive algae and eelgrass resources) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.7-2: To reduce impacts related to potential disturbance to the shallow water marine substrate, OC Dana Point Harbor shall confirm that preconstruction and post construction eelgrass and *Caulerpa* monitoring surveys are conducted in accordance with the most currently approved National Marine Fisheries Service (NMFS) Control Protocol and the Southern California Eelgrass Mitigation Policy (SCEMP) as adopted by the NMFS, in consultation with the California Department of Fish and Game. The survey shall be conducted during the active growth period (typically March through October) when possible. The preconstruction survey reports shall be completed within 30 days prior to construction activities, and the post construction survey reports shall be completed within 30 days of completion of each phase of the project and shall be submitted to the California Coastal Commission and the United States Army Corps of Engineers. The survey shall provide recommendations to avoid areas of eelgrass if determined to be present and/or provide recommendations for appropriate mitigation.

In the event that *Caulerpa* is detected, disturbance shall not be conducted until such time as the infestation has been isolated, treated, or the risk of spread from the proposed

disturbing activity is eliminated in accordance with the NMFS *Caulerpa* Control Protocol (NMFS 2007).

An eelgrass mitigation plan shall be developed based upon the results of preconstruction and post-construction surveys. The plan shall require that direct losses, if any, to eelgrass vegetation shall be mitigated at a ratio of 1.2:1 (mitigation to impact), and potential eelgrass habitat shall be mitigated at a ratio of 1:1 according to requirements of the SCEMP. As detailed in the SCEMP, the actual amount of eelgrass to be mitigated shall depend on preconstruction and post-construction surveys (refer to IP II-3 SP24).

Mitigation Measure 4.7-3: To reduce potential impacts related to the presence of eelgrass, OC Dana Point Harbor shall hire a qualified marine biologist who shall implement the following measures during construction activities near Baby Beach and the OC Sailing and Events Center:

- A qualified marine biologist shall mark the positions of eelgrass beds with buoys prior to the initiation of any construction to minimize damage to eelgrass beds outside the construction zone. Impacts to eelgrass beds shall be avoided where practical and feasible. To assist the construction crew in avoiding unnecessary damage to eelgrass, the project marine biologist shall meet with construction crews prior to construction to review areas of eelgrass to avoid and to review proper construction techniques; and
- Barges and work vessels shall be operated in a manner to ensure that eelgrass beds are not impacted through grounding, propeller damage, or other activities that may disturb the sea floor. Such measures shall include speed restrictions, establishment of off-limit areas, and use of shallow draft vessels.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Conducting preconstruction and post construction eelgrass and *Caulerpa* monitoring surveys in accordance with the most currently approved NMFS Control Protocol and the SCEMP procedures will ensure that construction activities do not disturb these marine biological resources. Direct losses, if any, to eelgrass vegetation shall be mitigated at a ratio of 1.2:1 (mitigation to impact), and potential eelgrass habitat shall be mitigated at a ratio of 1:1 according to requirements of the SCEMP. Marking the positions of this sensitive resource with buoys will allow construction operators to avoid such areas so that vessel grounding or propeller damage does not impact the habitat, and impacts to invasive algae and eelgrass resources remain less than significant.

Impact: Impacts to candidate, sensitive, or special status species – Sea Turtles. No green sea turtle mortality would be expected to occur as a result of the waterside construction activities, nor would the project cause any decline in green sea turtle populations. However, construction activities and vessels within the Harbor could induce behavioral modification to this species that

would result in a change in swimming behavior to avoid excessive noise, turbidity, or the vessel movements.

Mitigation Measure: Based upon the analysis presented in Section 4.7 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to biological resources (sensitive or listed species –sea turtles) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.7-4: To reduce potential construction impacts to sensitive habitats and endangered species, OC Dana Point Harbor shall hire a qualified marine biologist who shall conduct a pre-construction marine biological survey to identify sensitive marine biological resources (i.e., eelgrass, reefs and kelp beds, and seabirds). This survey shall be used to prepare a Marine Biological Impact Reduction Plan (MBIRP) to map sensitive biological resources and minimize construction impacts to marine resources. The marine biologist shall also meet with the construction crews prior to the issuance of any construction permits or any construction activities to review sensitive areas to avoid and to review proper construction techniques. The Marine Biologist shall:

- Brief construction and work vessel crews on the potential for sea turtles to be present and provide crews with the identification characteristics of sea turtles since they may occasionally be mistaken for seals or sea lions;
- Prepare an incident report of any green sea turtle activity in the project area and inform the construction manager to have the crew aware of the potential for additional sightings. The report shall be provided within 24 hours to the California Department of Fish and Game and the National Marine Fisheries Service;
- A biological monitor shall be present on site during the start-up of each construction phase and periodically throughout construction activities to monitor the presence of endangered species (seabirds, marine mammals, and sea turtles). In the event that an endangered species is sighted within 100 meters (m) of the construction zone, all construction activity shall be temporarily stopped until the animal is safely outside the outer perimeter of construction. The on-site biological monitor shall have the authority to halt construction operation and shall determine when construction operations can proceed;
- In the event a marine mammal is injured or killed as a consequence of a vessel collision, the vessel operator and OC Dana Point Harbor shall immediately notify the National Marine Fisheries Service (Southwest Division) and shall submit a written follow-up report within 24 hours of the incident; and
- Monitor the construction process on a regular basis to ensure that all water quality Best Management Practices (BMPs) are implemented and to assist the project engineer in avoiding and minimizing environmental effects to Harbor marine biological resources.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the

Project that avoid or substantially lessen the effect on the environment to below a level of significance.

Facts in Support of the Finding: Mapping sensitive biological resources will minimize construction impacts to such resources by keeping vessels away from such resources. The marine biologist shall also meet with the construction crews prior to the issuance of any construction permits or any construction activities to describe the locations of sensitive biological areas and review avoidance methods. Briefing the crews on identification characteristics of sea turtles will minimize the chances of injuries to them. Having a biological monitor present at the start of each construction phase and periodically during construction activities ensures that the presence of endangered species is adequately monitored and that crews are taking the appropriate measures to avoid such species. These measures will ensure that impacts to sensitive or listed species (sea turtles) remain less than significant.

Impact: Impacts to candidate, sensitive, or special status species – Listed or Otherwise Sensitive Bird Species. The special-status marine birds most likely to occur in the vicinity of the project area include brown pelican, double-crested cormorant, western snowy plover, California gull, elegant tern, and occasionally, California least tern and common loon. Construction activities associated with the proposed project may result in some temporary disruptions to the roosting activities of great blue herons in the project vicinity. The Program FEIR included mitigation, which was intended to protect the nesting habitat of the black-crowned night herons and snowy egrets, and is applicable to the Marina Improvement Project.

Mitigation Measure: Based upon the analysis presented in Section 4.7 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to biological resources (sensitive or listed species –bird species) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.7-5: Prior to issuance of any demolition or construction permits, OC Dana Point Harbor shall ensure that the following provisions are incorporated into the final project plans for the purpose of protecting migratory and sensitive nesting birds (blue herons, snowy egrets, the black crowned night heron, owls and raptors) within the study area during construction:

- If construction activities are performed during the breeding and nesting season (January through September), a preconstruction survey within 500 feet (ft) of the site for nests shall be performed by a qualified biologist at least 15 days prior to construction to document the presence/absence of all these species;
- If an active nest of any bird species listed pursuant to the federal or California Endangered Species Act, California bird species of special concern or a wading bird (herons or egrets), as well as owls or raptors, is found, construction activities within 300 ft (500 ft from any identified raptor nest) shall not exceed noise levels of 65-decibel (dB) peak until the nest is vacated and juveniles have fledged and there is no longer evidence of a second attempt at nesting; and

- The qualified biologist shall monitor active nest sites on a weekly basis. If the biologist notes that all young have fledged from the nest, then the noise restriction near the nest is no longer required.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Having pre-construction bird surveys conducted for any construction activities during the breeding and nesting season (January through September) will reduce the likelihood that any nests will be disturbed. The monitoring of nests by the biologist will protect migratory and sensitive nesting birds (blue herons, snowy egrets, the black crowned night heron, owls and raptors) from construction disturbances, especially noise. Once the young have fledged from the nest, construction noise restrictions will no longer apply. Nesting and bird surveys will ensure that impacts to sensitive or listed bird species remain less than significant.

Impact: Impacts to Marine Mammals. Vessel traffic could collide with marine mammals or could expose these resource groups to contaminants and interfere with foraging. However, marine mammals are mobile and are generally capable of avoiding boat traffic, especially at the speeds the slower barge and tug vessels would likely be traveling. Vessel operators are also trained to recognize the presence of marine mammals, which reduces the potential for adverse impacts. Therefore, impacts to marine mammals are expected to be less than significant.

In the event that a collision resulted in the death of a marine mammal, the loss would be a locally significant impact, but it would not result in a significant population level impact. However, to ensure that impacts related to collisions with marine mammals remain less than significant, and that any potential vessel collision is properly reported, the vessel operator and OC Dana Point Harbor are required to immediately notify the NFMS and to submit a written follow-up report within 24 hours of the incident.

Marine mammals are not anticipated to be in the immediate construction areas and would not suffer any direct mortality resulting from construction activities. Pile extraction and pile driving can cause underwater noise and vibrations that marine mammals are capable of sensing, and they would be expected to avoid the immediate vicinity and move away from any area of disturbance. The sound intensity produced, and the potential level of impact on marine mammals for the Dana Point Harbor Improvement Project, is considered less than significant. However, to ensure that pile-driving activities remain less than significant, Mitigation Measure 4.7-6, requiring slowly ramping up pile-driving activities (referred to as a “soft start”) has been proposed. Implementation of Mitigation Measure 4.7-6 will ensure that any potential pile-driving noise impacts on marine mammals will remain at a less than significant level.

Mitigation Measures: Based upon the analysis presented in Section 4.7 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and

would avoid or substantially reduce potentially significant impacts related to biological resources (marine mammals) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.7-4 – See above

Mitigation Measure 4.7-6: To ensure that potential pile-driving noise impacts to marine mammals remain less than significant, OC Dana Point Harbor shall ensure that the following provisions are incorporated into the final project plans for the proposed project:

- The contractor shall use sound abatement techniques to reduce noise and vibrations from pile-driving activities. Recommended sound abatement techniques shall include, but are not limited to, vibration or hydraulic insertion techniques, drilled or augured holes for cast-in-place piles, bubble curtain technology, and sound aprons if feasible for the project; and
- At the initiation of each pile-driving event and after breaks of more than 15 minutes, the pile driving shall employ a “soft-start” in which the hammer is operated at less than full capacity (i.e., approximately 40–60 percent energy levels) with no less than a 1-minute interval between each strike for a 5-minute period. The operation of the hammer at 40–60 percent energy level during the soft start of pile driving is expected to result in similar levels of noise reduction (40–60 percent) underwater.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Training vessel operators to recognize marine mammals reduce the chance for collision between vessels and the mammals. Requiring reporting any injury or death of a marine mammal due to a vessel collision will allow the National Marine Fisheries Service to track such incidents. During pile-driving activities, the use of sound abatement techniques to reduce noise and vibrations will reduce the level of noise and vibrations that may affect marine mammals. Operating the pile-driving hammer at less than full capacity during start-up operations will give a warning to any marine mammals that may be present in the area. This will allow for those mammals to avoid the construction area, ensuring that impacts to marine mammals from pile-driving noise remain less than significant.

Impacts: Long-Term Operational Water Turbidity Impacts. Periodic and/or uncontrolled discharges of various pollutants, oils, greases, and wastes would potentially create significant long-term adverse effects on water quality with subsequent adverse impacts on local marine life. The policies and procedures required for Clean Marina Certification provide tenants and boaters with reasonable BMPs, safety guidelines, information on pump-out facility use, regulations and steps to take in response to trash and debris disposal, accidental spills, leakages, and fires to reduce the potential for water quality degradation.

Mitigation Measure: Based upon the analysis presented in Section 4.7 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to biological resources (operational water quality impacts) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.7-7: To reduce potential long-term water quality-related impacts to marine life, OC Dana Point Harbor shall, prior to occupancy of any new dock or slip facilities, provide boater education material to tenants as part of lease materials, and to reduce the potential for water quality degradation of Dana Point Harbor marine resources by boaters. In addition, OC Dana Point Harbor shall provide the following to boaters:

- A copy of all applicable regulations regarding vessel discharges of wastes, antifouling paint use, and refuse management (including handling of hazardous wastes);
- Information regarding procedures for notifying appropriate authorities regarding spills of hazardous materials, containment measures, and applicable penalties for violations;
- A regular cleaning schedule of the marina dock facilities and vacuum sweeping of the parking lots;
- Adequate signage to identify the location off pump-out stations and hours of operation;
- A regular inspection and maintenance schedule for the pump-out facility;
- Educational information about the pump out station to tenant boaters;
- A list of existing local, State, and federal regulations that will be enforced pertaining to marine sanitation devices and the illegal discharge of boat sewage; and;
- A list of other local pump-out locations shall be made available to boaters.

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Providing educational materials related to water quality to tenants will reduce the likelihood of degradation of Dana Point Harbor marine resources by boaters. When boaters are made aware of the rules and regulations for the proper handling and disposal of materials it reduces the amount of contaminants that could enter the Harbor waters. Regular cleaning and maintenance of the dock facilities, parking areas, and pump-out stations reduces the likelihood that contaminants runoff into the water or that accidental discharges will occur. Enforcing existing local, State, and federal regulations will ensure that long-term water quality-related impacts to marine life remain less than significant.

Aesthetics

Impact: Degradation of the Existing Scenic Vistas, Visual Character, or Quality of the Site and its Surroundings. Construction activities and equipment of the proposed project would impact the existing public views from lookout points in the vicinity of the Harbor. Large construction equipment and the temporary docks would be visible throughout construction. Upon project completion, the construction equipment and temporary docks would be removed. After construction is complete, the boat docks in the marina would be arranged into new

configurations. However, views of the project area would not be substantially different from existing conditions and would not be a significant effect of the project.

Mitigation Measures: Based upon the analysis presented in Section 4.8 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and would avoid or substantially reduce potentially significant impacts related to aesthetics (construction visual impacts) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.8-1: To reduce the visual impact associated with construction equipment and materials, OC Dana Point Harbor shall prepare a Construction Management Plan that establishes access and staging locations for construction equipment, separate from those used by the general public. The contractor's construction equipment and supply staging areas shall be established away from existing marina operations. The Plan shall specify the following:

- During construction and grading, the Contractor shall keep the site clear of all trash, weeds, and debris; and
- The grading contractor shall not create large stockpiles of debris or soils, but shall seek to place smaller piles adjacent to each other to minimize visual impacts.

Mitigation Measure 4.8-2: To reduce the visual impact associated with construction equipment and materials, the Director, OC Public Works (OC PW)/Subdivision and Grading, or designee, shall require OC Dana Point Harbor to provide screened construction fencing around the construction staging area to temporarily screen views of construction equipment and materials. The construction screening shall be in place prior to issuance of any construction permit for development within the marinas (refer to Land Use Plan [LUP] I-8.1.1-30 and FEIR No. 591, Mitigation Measure 4.2-2).

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Potential impacts to public views due to construction activities will be mitigated by the requirement that the contractor's construction equipment and supply staging areas shall be established away from existing marina operations. Requiring the contractor not to create large stockpiles of debris or soils and to keep the site clear of all trash, weeds, and debris will minimize visual impacts. The contractor is also required to install screened fencing that will substantially block views of the Project site affected by construction staging activities. The screening shall remain in place until construction is complete. These measures will ensure that impacts to public views are mitigated to a less than significant level.

Impact: Damage to Scenic Resources. Dana Point Harbor Drive, Dana Drive, and Island Way are designated as Scenic Highways (Landscape Corridor) in the City's General Plan.

Construction activities would have the potential to impact portions of these streets' view of the project area. However, these impacts would be temporary during construction and would cease upon project completion.

Mitigation Measures: Based upon the analysis presented in Section 4.8 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measures are feasible and would avoid or substantially reduce potentially significant impacts related to aesthetics (impacts to scenic resources) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.8-1 – see above

Mitigation Measure 4.8-2 – see above

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Potential impacts to public views from scenic highways during construction will be mitigated by the requirement that the contractor's construction equipment and supply staging areas be screened and separated from public use areas. Requiring the contractor not to create large stockpiles of debris or soils and to keep the site clear of all trash, weeds, and debris will minimize visual impacts. The contractor is also required to install screened fencing that will substantially block views of the Project site affected by construction staging activities. The screening shall remain in place until construction is complete. These measures will ensure that impacts to public views from nearby scenic highways are mitigated to a less than significant level.

Impact: New Sources of Light and Glare: The proposed project would include replacement of the existing lighting on the docks. The replacement lighting would be low-intensity lighting with minimal spillover and would not substantially increase the amount of light and glare.

Mitigation Measure: Based upon the analysis presented in Section 4.8 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to aesthetics (light and glare) to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.8-3: To reduce impacts associated with lighting, an Exterior Lighting Plan (including outdoor recreation areas) for all proposed improvements shall be prepared prior to the issuance of a building permit. The lighting plan shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The Lighting Plan shall demonstrate that all exterior lighting has been designed and located so that all direct rays are directed downwards, confined to the property, away from other areas and, where feasible, to minimize impacts to sensitive biological resource areas. The Lighting Plan shall be subject to review and approval by the Director, OC Dana Point Harbor (refer to FEIR No. 591, Mitigation Measure 4.2-4).

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Shielding and directing the replacement lighting downward will ensure that there is minimal spillover. As a result, those light sources will not create a substantial amount of light and glare viewable from the public access viewpoints or scenic vistas. Requiring the use of low-intensity lighting on the new docks and gangways would not substantially increase the amount of light and glare, and impacts would be mitigated to a less than significant level.

Hazards and Hazardous Materials

Impact: Hazardous Materials During Construction. The proposed renovations may pose a potential concern through the release of potentially hazardous materials during disturbance of any soils potentially contaminated by hazardous materials. Specifically, construction of the ADA gangways will require a certain amount of soil disturbance.

Mitigation Measure: Based upon the analysis presented in Section 4.10 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to hazards and hazardous materials during construction to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.10-1: During all excavation and construction activities for the Americans with Disabilities Act (ADA) gangway platforms and utilities, OC Dana Point Harbor shall require that all construction subcontractors address site safety requirements by complying with the appropriate health and safety measures required by the Occupational Safety and Health Administration (OSHA). Applicable specifications prepared by OSHA related to earth resources consist of Section 29 Code of Federal Regulations (CFR) Part 1926, which are focused on worker safety in excavations. In the event that suspicious odors are observed in soil, construction shall be terminated until the soil is properly characterized for hazardous waste content. Appropriate measures shall be taken in compliance with all applicable regulations for the characterization and disposal of hazardous materials (refer to FEIR No. 591, Mitigation Measure 4.3-4).

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: No significant ground disturbance is anticipated in the vicinity of either of the two listed sites that have not received closure letters from the Regional Water Quality Control Board (RWQCB). The two sites are approximately 0.25 mile northeast and 0.05 mile northwest of the project site. However, MM 4.10-1 is proposed to ensure that appropriate

measures are taken should contaminated groundwater or soils be encountered during excavation or trenching activities. If contamination is found or suspected, including any suspicious odors, construction will be stopped and soil remediation measures will be implemented to avoid or minimize the release of hazardous materials into the environment. These measures will ensure that impacts related to hazards and hazardous materials during construction are mitigated to a less than significant level. Further, complying with the appropriate health and safety measures required by OSHA will reduce potential impacts to workers during excavations associated with the gangways.

Greenhouse Gases (GHG)

Impact: Climate Change/GHG Emissions. Greenhouse gas (GHG) emissions associated with the project would occur over the short term from construction activities, consisting primarily of emissions from equipment exhaust. There would also be long-term regional emissions associated with project-related vehicular trips and stationary source emissions, such as electricity used for lighting. GHG emissions generated by the proposed project would predominantly consist of carbon dioxide (CO₂). Implementation of the project would result in GHG emission levels that would not substantially conflict with implementation of the GHG reduction goals under Assembly Bill (AB) 32 or other State regulations. Therefore, project-related impacts related to global climate change (GCC) are considered less than cumulatively significant. However, in order to ensure that the proposed project complies with and would not conflict with or impede the implementation of reduction goals identified in AB 32, the Governor's Executive Order (EO) S-3-05, and other strategies to help reduce GHGs to the level proposed by the Governor, Mitigation Measure 4.11-1 is proposed.

Mitigation Measure: Based upon the analysis presented in Section 4.11 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to greenhouse gas emissions to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.11-1: OC Dana Point Harbor shall review and specifically approve contract provisions requiring that the following measures be incorporated into the design and construction of the project:

Energy Efficiency Measures.

- Install energy-efficient lighting and lighting control systems;
- Install solar or other energy-efficient outdoor lighting, such as light-emitting diodes (LEDs); and
- Landscape with native or drought-tolerant species to reduce water consumption and provide passive solar benefits, where feasible.

Solid Waste Measures.

- Reuse and recycle construction waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard) to the extent feasible; and
- Provide storage areas for recyclables and green waste and adequate recycling containers located in public areas (refer to FEIR No. 591, Project Design Feature [PDF] 4.6-1).

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Requiring the use of energy-efficient lighting and landscaping with native or drought-tolerant species to reduce water consumption will reduce the long-term regional emissions of GHGs. Recycling and reusing construction waste, as well as providing storage areas and containers for recyclables will encourage users to recycle, thereby further reducing emissions. These measures are proposed to ensure that the proposed project complies with and would not conflict with or impede the implementation of reduction goals other strategies to help reduce GHGs, thereby resulting in a less than significant impact related to GHG emissions.

Cumulative Greenhouse Gases: Project-related GHG emissions are not project-specific impacts to global warming but are instead the project's contribution to this cumulative impact. Therefore, the Draft SEIR analyzed whether the project's GHG emissions would contribute toward the potential for GCC on a cumulative basis. Implementation of Mitigation Measure 4.11-1 would further reduce GHG emissions from construction and energy consumption sources. In addition, the project would also be subject to all applicable regulatory requirements, which would also reduce the GHG emissions of the project. Therefore, project-related impacts in regard to GCC are considered less than cumulatively significant.

Mitigation Measure: Based upon the analysis presented in Section 4.11 of the Final SEIR, which is incorporated herein by reference, the following Mitigation Measure is feasible and would avoid or substantially reduce potentially significant impacts related to greenhouse gas emissions to a less than significant level for the reasons set forth in the Final SEIR:

Mitigation Measure 4.11-1 – see above

Finding: Pursuant to Public Resources Code § 20181 and State CEQA Guidelines § 15091, the County hereby finds that changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect on the environment to below a level of significance.

Facts in Support of the Finding: Requiring the use of energy-efficient lighting and landscaping with native or drought-tolerant species to reduce water consumption will reduce the project's cumulative contribution to regional emissions of GHGs. Recycling and reusing construction waste, as well as providing storage areas and containers for recyclables will encourage users to recycle, thereby further reducing cumulative emissions. These measures are proposed to ensure that the proposed project complies with and would not conflict with or impede the

implementation of reduction goals other strategies to help reduce GHGs, thereby resulting in a less than significant impact related to cumulative GHG emissions.

D. SIGNIFICANT ENVIRONMENTAL EFFECTS THAT CANNOT BE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

The following summary describes the unavoidable adverse impacts of the proposed project where either Mitigation Measures were found to be infeasible, or mitigation would lessen impacts but not to a less than significant level. The following adverse impacts would remain significant and unavoidable:

Liquefaction and Lateral Spreading – Existing Environmental Condition

There is the potential for liquefaction to occur with the fill and alluvial soils that comprise the Island as well as the small peninsula adjacent to the Sport Fishing Docks in the eastern region of the Harbor and in the peninsula area of the Orange County (OC) Sailing and Events Center in the western region of the Harbor. Liquefaction potential was determined to exist in either relatively thin layers or significantly thicker zones, typically on the order of 10 to 15 ft in thickness.

Construction equipment used in demolition or to construct the proposed project has the potential to impact the stability of the seawall if the load is not properly set back from the wall. Implementation of Mitigation Measure 4.2-2, which requires appropriate setbacks from the wall, will reduce the load impacts on the seawall to less than significant levels.

The guide piles that will be installed within the marina will be primarily subjected to lateral loading conditions associated with minor wave action, wind, and more significantly, by the impact loads associated with boats that dock at the platforms. In addition, the slope movements that may occur as a result of liquefaction could impart significant additional lateral load on the guide piles within the zone of slide movement. Implementation of Mitigation Measure 4.2-1 will ensure that lateral load impacts associated with the piles will be less than significant.

Because liquefaction is an existing condition on site the potential impact to the seawall and gangway platforms in select locations in the event of an earthquake capable of producing liquefied conditions will continue to exist. Therefore, although Mitigation Measures 4.2-1 and 4.2-2 will reduce potential seismic ground shaking impacts and potential lateral and surcharge load impacts from construction equipment near the seawall, impacts associated with liquefaction are significant unavoidable adverse impacts of the proposed project related to geology and soils. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations.

Mitigation Measure 4.2-1: To reduce potential seismic ground-shaking impacts associated with the Americans with Disabilities Act (ADA) platforms, OC Dana Point Harbor and the Director, OC Public Works (OC PW)/Permit Services shall, prior to issuance of building permits, review and approve final design plans to ensure that recommendations contained in the Geotechnical Evaluation prepared for the proposed project (Leighton Associates, Inc., January 2008) are

incorporated into final site drawings. The potential damaging effects of regional earthquake activity shall be considered in the design of each structure. The seismic evaluation shall be based on basic data, including the Uniform Building Code (UBC) Seismic Parameters. Structural design criteria shall be determined in consideration of building types, occupancy category, seismic importance factors, and possibly other factors. Design construction shall be performed in conformance with the latest UBC, California Building Code, or International Building Code and County Ordinances. Conformance can be expected to satisfactorily mitigate the effect of seismic groundshaking (refer to FEIR No. 591, Mitigation Measures 4.3-9 and 4.3-12).

Mitigation Measure 4.2-2: To reduce potential lateral and surcharge load impacts from construction equipment near the seawall, OC Dana Point Harbor shall review and specifically approve contract provisions requiring equipment and/or storage setbacks from the seawall prior to issuance of any contract to demolish or construct within the project area. To reduce potential impacts associated with the instability of the seawall due to increased lateral loads imposed by construction equipment, adequate setbacks shall be observed from bulkhead areas for cranes, pile-driving equipment, or any other heavy construction equipment. (Refer to FEIR No. 591, Mitigation Measure 4.3-6).

Finding: The County hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the County further finds that there are no additional feasible Mitigation Measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations make infeasible the Mitigation Measures or alternatives identified in the Final SEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations.

Facts in Support of the Finding: Mitigation Measures 4.2-1 and 4.2-2 are feasible and substantially lessen the seismic ground shaking impacts to ADA platforms, and potential lateral and surcharge load impacts from construction equipment near the seawall. However, because liquefaction is an existing condition on site the potential impact to the seawall and gangway platforms in select locations in the event of an earthquake capable of producing liquefied conditions will continue to exist. Therefore, even with implementation of these measures, impacts associated with seismically induced liquefaction related to geology and soils would remain significant and unavoidable.

Air Quality Construction Impacts (Short-Term and Cumulative)

Construction of the proposed project is planned to occur in multiple phases over approximately eight or more years. Construction equipment/vehicle emissions during slip and pile removal and installation periods for the construction of the proposed project would result in NO_x and reactive organic compound (ROC) emissions that would exceed the SCAQMD established daily emissions threshold for those pollutants. The proposed project would also contribute to adverse cumulative air quality impacts because construction activity would result in additional emissions of pollutants, which may exacerbate ambient levels currently in excess of applicable NAAQS or

CAAQS for PM₁₀ and O₃ (because NO_x and VOC are precursors to O₃). The proposed project, in conjunction with other planned projects, would contribute to the existing nonattainment status

While the adherence to SCAQMD rules and regulations would reduce these impacts, it would remain significant and adverse because the SCAQMD daily threshold would be exceeded. No feasible Mitigation Measures beyond compliance with SCAQMD rules and regulations are available to offset these significant impacts. Therefore, the project-level and cumulative short-term construction air quality impacts of the proposed project would remain significant and unavoidable. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations.

Standard Conditions (SC)

SC-1: The construction of the Marina Improvement Project must comply with SCAQMD rules to reduce short-term air pollutant emissions generated during construction. SCAQMD Rule 403 requires that fugitive dust be controlled with best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. In addition, Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off a project site. Applicable dust suppression techniques from Rule 403 are summarized below.

Implementation of these dust suppression techniques would reduce the fugitive dust generation and the PM₁₀ and PM_{2.5} components of fugitive dust. Compliance with these rules would reduce the short-term project air quality impacts on sensitive receptors. Rule 403 measures applicable to the construction of the Marina Improvement Project are:

- Water active landside construction areas at least twice daily. Locations where equipment operations are to occur will be thoroughly watered prior to use;
- All trucks hauling dirt, sand, soil, or other loose materials are to be covered, or should maintain at least two feet of freeboard in accordance with the requirements of California Vehicle Code Section 23114 (freeboard means vertical space between the top of the load and top of the trailer); and
- Use low-sulfur fuel for stationary construction equipment.

SC-2: The following dust suppression measures in the SCAQMD *CEQA Air Quality Handbook* would further reduce the likelihood of short-term air quality impacts:

- Sweep all streets once per day if visible soil materials are carried to adjacent streets (recommend water sweepers with reclaimed water);
- Pave, water, or chemically stabilize all on-site roads as soon as feasible; and
- Minimize at all times the area disturbed by earthmoving or excavation operations.

SC-3: The construction contractor will select the construction equipment used on site based on low-emission factors and high-energy efficiency. The construction contractor will ensure that the construction plans include a statement that all construction equipment will be tuned and maintained in accordance with the manufacturer's specifications.

SC-4: The construction contractor will time the construction activities so as to not interfere with peak-hour traffic and minimize obstruction of through traffic lanes adjacent to the site; if necessary, a flag person will be retained to maintain safety adjacent to existing roads.

SC-5: The construction contractor will support and encourage ridesharing and transit incentives for the construction crew.

Finding: The County hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the County further finds that there are no additional feasible Mitigation Measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations make infeasible the Mitigation Measures or alternatives identified in the Final SEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations.

Facts in Support of the Finding: The Standard Conditions are feasible and substantially lessen the significant construction air quality impacts of the proposed project; however, even with implementation of the Standard Conditions, NO_x and ROC emissions would exceed SCAQMD thresholds during construction. No feasible Mitigation Measures beyond compliance with SCAQMD rules and regulations (Standard Conditions) are available to offset this significant impact. Project-level and cumulative construction air quality impacts would remain Significant and Unavoidable.

Noise Construction Impacts (Short-Term and Cumulative)

The nearest sensitive receptors would be subjected to short-term noise reaching 87 A-weighted decibels (dBA) generated by project construction activities. Due to the length of construction for the proposed project, construction-related noise impacts are deemed to be significant and unavoidable. The Commercial Core Project associated with the Dana Point Harbor Revitalization Project could potentially be under construction at the same time as the Marina Improvement Project. That project has the potential to generate construction-related noise in the immediate area, which was considered cumulatively significant in the Program FEIR. Because construction noise for the Marina Improvement Project is also considered a significant adverse impact, the cumulative construction-related noise and vibration impacts for the proposed project, in conjunction with the Commercial Core Project, are considered cumulatively adverse and significant.

Mitigation Measure 4.6-1: To reduce project construction noise impacts, OC Dana Point Harbor shall verify that construction hour limitations are noted on building and/or grading plans

prior to issuance of any construction or building permits. Construction shall be limited to the hours of 7:00 a.m. to 8:00 p.m., Monday through Saturday. In accordance with the County of Orange and City of Dana Point Noise Ordinances, no construction activities shall be conducted outside of these hours or on Sundays and federal holidays. The following measures shall also be noted on building and/grading plans and implemented to reduce potential construction noise impacts on nearby sensitive receptors:

1. The project contractor shall place all stationary construction equipment so that emitted noise is directed away from the sensitive receptors nearest the construction areas.
2. The construction contractor shall locate equipment staging in areas farthest from noise-sensitive receptors nearest the project site during all project construction (refer to FEIR No. 591, Standard Conditions of Approval [SCA] 4.9-1 and 4.9-3).

Mitigation Measure 4.6-2: To reduce construction noise impacts throughout the phased construction activities of the proposed project, OC Dana Point Harbor shall coordinate with those residents living on boats within the marina to relocate them to be moved as far as feasible from the construction activities to minimize construction-related noise nuisance impacts. In addition, OC Dana Point Harbor staff shall provide marina boat residents with information regarding the availability of other nearby marina facilities. Information regarding the timing and location of the construction activities shall also be made available on the Harbor website, by postings throughout the marina, and other means as appropriate.

Finding: The County hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the County further finds that there are no additional feasible Mitigation Measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations make infeasible the Mitigation Measures or alternatives identified in the Final SEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations.

Facts in Support of the Finding: Mitigation Measures 4.6-1 and 4.6-2 are feasible and substantially lessen the construction noise impacts. However, these measures would reduce, but not entirely mitigate, the construction-related noise impacts. No other feasible Mitigation Measures are available to offset this significant impact. Construction noise impacts (short-term and cumulative) would remain Significant and Unavoidable.

Biological Resources Shading Impacts (Construction, Long-Term and Cumulative)

The installation of the temporary docks adjacent to the East Breakwater would create a long-term adverse shading effect on water column habitat and a combination of hard-bottom quarry stone/natural reef habitat and soft-bottom habitat. Shading over kelp areas would be considered a significant and adverse impact for the duration of the temporary docks. The length of time that habitats and organisms would be affected by shading is potentially up to eight years. Therefore,

due to the length of time that these habitats will have been subjected to reduction in light conditions, and because there is no feasible mitigation to reduce shading impacts with the current project design, impacts to these habitats are considered significant and adverse.

Permanent dock installation at the OC Sailing & Events Center would create additional shading over some soft-bottom and natural reef areas. This would result in a long-term, adverse decrease in the amount of unobstructed habitat in this area. However, with adoption of the Revised Project, as described in the Final SEIR Response to Comments, the significant and unavoidable shading impacts associated with the OC Sailing & Events Center docks would not occur. The proposed configuration of the new headwalk at the Sport Fishing Docks creates an additional dock surface area that would shade riprap habitat, also resulting in a long-term adverse shading impact. Because the shading impacts in the Sport Fishing Dock areas would be permanent during the life of the project, and because there is no feasible mitigation to reduce shading impacts with the current project design, shading impacts for this area is considered significant and adverse.

Shading impacts to marine biological resources due to new and additional dock coverage of water surfaces are considered significant and adverse for the temporary/broker docks. Because the temporary docks will be present for the duration of construction activities (up to 8 years) and could possibly become permanent as yacht broker docks, and because there is no feasible mitigation to reduce shading impacts with the current project design, shading impacts in the temporary/yacht broker dock area are considered a significant and unavoidable adverse impact for both construction (short-term) and operational (long-term) conditions.

Mitigation Measure: Other than avoiding construction in the identified areas, there are no feasible Mitigation Measures available to lessen or reduce biological shading impacts at the temporary docks and at the Sport Fishing Docks.

Finding: The County hereby finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effects on the environment. However, despite such measures, the impacts will still be above a level of significance. Therefore, the County further finds that there are no additional feasible Mitigation Measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations make infeasible the Mitigation Measures or alternatives identified in the Final SEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations.

Facts in Support of the Finding: There are no feasible Mitigation Measures to entirely mitigate or reduce the biological shading impacts in the temporary dock and Sport Fishing dock areas. Biological shading impacts in these areas would remain Significant and Unavoidable.

III. ALTERNATIVES TO THE PROPOSED PROJECT

CEQA requires that an EIR describe a reasonable range of alternatives to the proposed project or to its location that could feasibly attain most of the basic project objectives, but would avoid or substantially lessen any of the significant effects, and that it evaluate the comparative merits of

each of the alternatives. Section 15126.6(b) of the State CEQA Guidelines states that the “. . . discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” The following section discusses the project alternatives that were considered and analyzed in the EIR and summarizes the consistency of these alternatives with the objectives of the proposed project.

The Final SEIR identified three alternatives as follows:

1. Alternative 1: No Project/No Development
2. Alternative 2: Reduced Project Alternative – East and West Basins
3. Alternative 3: Reduced Project Alternative - Americans with Disability Act (ADA) Improvements

The County’s findings and facts in support of findings with respect to each of the alternatives considered are provided below.

Alternative 1: No Project Alternative

Description: This alternative, which is required by CEQA, is the existing condition of the project site at the time the NOP (December 2009) was published, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved. This alternative will evaluate circumstances under which the project does not proceed. This alternative assumed that the Harbor Revitalization Project, including the Local Coastal Program Amendment (LCPA) previously approved by the City and certified with suggested modifications by the CCC, would continue to proceed toward implementation. However, this alternative assumed that planned improvements to the waterside marina facilities (Planning Areas 8–12), which require a separate, independent process for environmental clearance and approval, would not be implemented. In addition, because some docks would be required to service the Dry Boat Storage building proposed as part of the overall Revitalization Plan, the Embarcadero/Boat Storage Staging docks are presumed to be necessary; however, the Marine Services dock would need to be modified (northern portion removed) in order to construct the Dry Boat Storage Staging docks. Under the No Project Alternative it is assumed that the Embarcadero/Dry Boat Storage Staging docks would also proceed through a separate environmental review and approval process.

Environmental Effects: In leaving the project area in its current condition, none of the physical impacts associated with construction of the proposed project would occur. There would be no construction traffic related to dock and slip replacement, and no construction air emissions or noise would be generated. This Alternative would result in no disturbance to marine habitat or species, would not cause impacts related to over-water shading, and would not reduce the number of slips in the Harbor. Current liquefaction concerns and the potential for impacts related to such concerns would continue to exist with this alternative, similar to the proposed project. This alternative would not result in any substantial physical environmental effects and would avoid significant project-related impacts to construction and cumulative air quality effects,

cumulative construction noise in the project vicinity, and significant biological resource impacts due to shading.

Ability to Achieve Project Objectives: The No Project/No Development Alternative would not achieve the project objectives. The marina facilities would not be enhanced for boaters and overall serviceability would not be improved. The No Project/No Development Alternative would not meet the Harbor Task Force Plan Priority to implement a facelift/renovation to Harbor structures.

Findings: The County of Orange finds, pursuant to Public Resources Code Section 21081(a)(3), that specific legal, economic, social, technical, or other considerations make the No Project/No Development Alternative identified in the Draft SEIR and Final SEIR infeasible.

Facts in Support of the Finding: This alternative would not meet the Harbor Task Force Plan Priority to implement a facelift/renovation to Harbor structures. The deteriorating dock and slip facilities would not be replaced or renovated, ADA access would not be provided, and facilities would not be brought up to DBW standards. The utility infrastructure provided to the docks would not be upgraded. The dock and slip facilities that have reached the end of their useful life would not be replaced or brought up to current DBW standards. As deterioration of the recreational facilities continued to occur, public access to coastal recreational resources could be impacted. In addition, the guest docks, now located in the West Marina, would not be relocated to a more convenient and central location near the commercial core.

Alternative 2: Reduced Project Alternative – East and West Basins

Description: This alternative includes the East and West Marinas dock renovations, including the construction of seven ADA gangways (including two within each marina). Alternative 2 replaces the docks in their current configuration and does not include channel narrowing or a realignment of the West Basin. This alternative would result in a loss of 155 slips as compared to the existing marina layout. Alternative 2 would include the Embarcadero/Dry Boat Storage Staging docks, guest docks, dinghy docks, sport fishing docks, Harbor Patrol docks, and commercial fishing docks, but would not include renovations to the Marine Services docks or OC Sailing and Events Center docks. However, the Marine Services dock will need to be modified (northern portion removed) in order to construct the Dry Boat Storage Staging docks and the Dry Boat Storage building structure (the landside building is part of the overall Revitalization Plan). In addition, this alternative would not include any temporary docks or permanent yacht broker docks.

Environmental Effects: This alternative would not avoid significant and adverse project-related impacts to construction and cumulative air quality effects or avoid significant and adverse cumulative construction noise in the project vicinity. Geology and soils impacts related to the existing liquefaction conditions would continue to exist, similar to the proposed project. However, this alternative would avoid the significant and adverse biological shading impacts as compared to the proposed project.

Ability to Achieve Project Objectives: Alternative 2 would achieve most of the project objectives, but not to the same extent as the proposed project because this alternative would not improve the level of boater services at the Marine Services docks or provide ADA access at the OC Sailing and Events Center docks. In addition, under Alternative 2, the temporary dock would not be constructed, and therefore, the yacht broker slips would not be relocated to another area of the Harbor. Further, utility infrastructure would not be upgraded in all areas of the marinas.

Findings: The County of Orange finds, pursuant to Public Resources Code Section 21081(a)(3), that specific legal, economic, social, technical, or other considerations make Alternative 2 - Reduced Project Alternative identified in the Draft SEIR and Final SEIR infeasible.

Facts in Support of the Finding. This Alternative would achieve most of the project objectives but would not improve all areas of the marina provided in the goals of the Dana Point Task Force. This alternative does not include improvements, including ADA access, to all of the areas included in the proposed project and would not include the relocation of the yacht broker slips. Further, utility infrastructure would not be upgraded in all areas of the marinas.

Alternative 3: Reduced Project Alternative - Americans with Disability Act Improvements.

Description: Alternative 3 includes only improvements in the East and West Basins to meet ADA standards (four ADA gangways) and does not include any renovations to the existing dock and slip facilities in those basins. The layout, configuration, and number of slips in the two Basins would remain essentially the same. Alternative 3 would also include construction of the Embarcadero/Dry Boat Storage Staging docks and sport fishing docks (including ADA gangways for each of those two dock areas), the guest docks, and the dinghy docks, but would not include renovations to the Marine Services docks, OC Sailing and Events Center docks, Harbor Patrol docks, or commercial fishing docks. Similar to Alternative 1, the Marine Services dock will need to be modified (northern portion removed) in order to construct the Dry Boat Storage Staging docks. In addition, this alternative would not include any temporary/yacht broker docks.

Environmental Effects: This alternative would avoid significant and adverse project-related impacts to construction and cumulative air quality effects and cumulative construction noise in the project vicinity. Geology and soils impacts related to the existing liquefaction conditions would continue to exist, similar to the proposed project. However, this alternative would avoid the significant and adverse biological shading impacts as compared to the proposed project.

Ability to Achieve Project Objectives: Alternative 3 would not achieve the project objectives, except to provide ADA access in the East and West Basins, and new Embarcadero/Dry Boat Storage Staging docks, sport fishing docks, and guest docks, each with an ADA gangway. The marina facilities would not be enhanced for boaters, and overall serviceability would not be improved.

Finding: The County of Orange finds, pursuant to Public Resources Code Section 21081(a)(3), that specific legal, economic, social, technical, or other considerations make Alternative 3 - Reduced Project Alternative the identified in the DEIR and FEIR infeasible.

Facts in Support of the Finding: Under Alternative 3 the deteriorating dock and slip facilities throughout the Harbor would not be replaced or renovated, and facilities would not be brought up to DBW standards. Commercial fishing facilities would not be updated, and the yacht broker slips would not be relocated to other areas of the Harbor. In addition, Alternative 3 would not upgrade the utility infrastructure. Lastly, boats would not be placed in appropriately sized slips. The goals of the Dana Point Task Force would not be furthered since this alternative does not include improvements to all of the areas included in the proposed project.

Preferred Alternative – Revised Project Alternative

In response to comments received during public review of the Draft SEIR, and as allowed under CEQA, (Public Resources Code sections 21002, 21002.1, 21004, CEQA Guidelines sections 15002(a), 15002 (h), 15021(a), 15088(d)). OC Dana Point Harbor has made a modification to the proposed project design and is proposing to reduce the amount of new docks in the areas adjacent to Baby Beach (Figure 1, Project Revisions, Final SEIR Response to Comments Document). The proposed dock revisions will not replace any existing docks or slips and will not significantly alter the existing uses and activities associated with this area of the West Basin. The new dock area will be provided on the southernmost side of the facility near the inner channel of the Harbor. The Revised Project Alternative will include no channel narrowing, and no realignment of the West Basin.

The Revised Project Alternative will include replacement of waterside facilities in the West and East Marinas in the Harbor, connection of dock gangways with the quay wall and bulkheads within those basins, upgrading of pumpout stations, and replacement of gangways and security gates to both Marina areas (including ADA-compliant gangways and dock facilities). Additionally, new Embarcadero/Dry Boat Storage Staging docks and dinghy docks, along with renovations to the marine services docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the revised Project Alternative. In order to accommodate displaced boats during project implementation, a temporary dock near the eastern breakwater may be included in the project. The plan for this set of docks includes an option to retain all or a portion of the temporary docks as permanent yacht broker docks (any permanent use of these docks would require approval by the United States Army Corps of Engineers [Corps] and the CCC.)

The Revised Project Alternative would result in a net loss of no more than 155 slips, consistent with the Land Use Plan (LUP) approved with suggested modifications by the California Coastal Commission (CCC) on October 8, 2009. In addition, the revised project design is intended to be consistent with all applicable policies and requirements of the certified Dana Point Harbor Revitalization Plan and District Regulations.

Environmental Effects: Air quality construction impacts would remain significant and adverse for the Revised Project Alternative. Geology and soils impacts related to the existing liquefaction conditions would continue to exist, similar to the project analyzed in the Final SEIR. Implementation of the revised project is still expected to result in significant construction noise impacts due to the number of phases of construction still required and the duration of

construction activities, including pile driving. Shading impacts to marine biological resources due to new and additional dock coverage of water surfaces for the revised project would remain significant and adverse for the areas associated with the temporary/yacht broker docks. However, the Revised Project Alternative would avoid potential impacts to the eelgrass habitat in the vicinity of the OC Sailing and Events Center docks; potential impacts related to the disturbance or removal of eelgrass in this area would be eliminated under the Revised Project Alternative.

Ability to Achieve Project Objectives: The Revised Project Alternative would achieve a majority of the project objectives. The marina facilities would be enhanced for boaters would provide ADA access and overall serviceability would be improved.

Finding: The County of Orange hereby finds, pursuant to Public Resources Code Section 21081(a)(1), that changes or alterations have been required in, or incorporated into, the Revised Project Alternative that will avoid or substantially lessen the significant environmental effects on the environment and that Revised Project Alternative is the environmentally preferred alternative. However, despite such measures, the impacts will still be above a level of significance. Therefore, the County further finds that there are no additional feasible Mitigation Measures which might avoid or reduce these effects because specific economic, legal, social, technological, or other considerations make infeasible the Mitigation Measures or alternatives identified in the Final SEIR. Nevertheless, these unavoidable significant effects are considered acceptable when balanced against the overriding benefits of the Project, as set forth in the Statement of Overriding Considerations.

Facts in Support of the Finding: Under the Revised Project Alternative the deteriorating dock and slip facilities throughout the Harbor would be replaced or renovated, and facilities would be brought up to DBW standards. Commercial fishing facilities would be updated, and the yacht broker slips would be relocated to other areas of the Harbor. In addition, the Revised Project Alternative would upgrade the utility infrastructure. Lastly, boats would be placed in appropriately sized slips. The goals of the Dana Point Task Force would be furthered since this alternative includes improvements to essentially all of the areas included in the proposed project.

IV. GENERAL FINDINGS

1. The plans for the project have been prepared and analyzed so as to provide for public involvement in the planning and CEQA processes.
2. To the degree that any impacts described in the Final SEIR are perceived to have a less than significant effect on the environment or that such impacts appear ambiguous as to their effect on the environment as discussed in the Draft SEIR, the County has responded to key environmental issues and has incorporated Mitigation Measures to reduce or minimize potential environmental effects of the proposed project to the maximum extent feasible.
3. Comments regarding the Draft SEIR received during the public review period have been adequately responded to in written Responses to Comments attached to the Final SEIR. Any significant effects described in such comments were avoided or substantially lessened by the standard conditions and Mitigation Measures described in the Final SEIR.

4. The analysis contained in the Draft SEIR and Final SEIR of the environmental effects and Mitigation Measures represent the independent judgment and analysis of the County.

ATTACHMENT 6

DRAFT STATEMENT OF OVERRIDING CONSIDERATIONS
OC DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

**STATEMENT OF OVERRIDING CONSIDERATIONS
FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT NO. 613
FOR THE
DANA POINT HARBOR MARINA IMPROVEMENT PROJECT
ORANGE COUNTY, CALIFORNIA**

STATE CLEARINGHOUSE NO. 2003101142

A. Introduction

The County of Orange is the Lead Agency under CEQA for preparation, review and certification of the Final Subsequent Environmental Impact Report (Final SEIR) for the project. As the Lead Agency, the County of Orange is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant, and which can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed project. In making this determination the County of Orange is guided by CEQA Guidelines Section 15093 which provides as follows:

- CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal,

social, technological, or other benefits of the project outweigh the significant effects of the project.

Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the County of Orange has balanced the benefits of the proposed Project against the following unavoidable adverse impacts associated with the proposed Project and has adopted all feasible mitigation measures with respect to these impacts. The County of Orange also has examined alternatives to the proposed Project, and has determined that the Revised Project Alternative as incorporated in the Response to Comments on the Final SEIR would meet the Project objectives and is environmentally preferable to the proposed Project for the reasons discussed in the Findings and Facts in Support of Findings.

The Orange County Board of Supervisors, acting as Lead Agency, and having reviewed the Final SEIR for the Dana Point Harbor Marina Improvement project, and reviewed all written materials within the County's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the project against its significant unavoidable environmental impacts in reaching its decision to approve the project.

B. Significant Unavoidable Adverse Environmental Impacts

Although most potential significant project impacts have been substantially avoided or mitigated, as described in the Findings and Facts in Support of Findings, there remain some project impacts for which complete mitigation is not feasible. For some impacts, mitigation measures were identified and adopted by the Lead Agency, however, even with implementation of the measures, the County finds that the impact cannot be reduced to a level of less than significant. For other impacts, no feasible mitigation measures were identified and no feasible alternatives were identified that would avoid or minimize these impacts. The impacts are described below and were also addressed in the Findings.

The Final SEIR identified the following unavoidable adverse impacts of the proposed Project:

1. Liquefaction and Lateral Spreading – Existing Environmental Condition

There is the potential for liquefaction to occur with the fill and alluvial soils that comprise the Island as well as the small peninsula adjacent to the Sport Fishing Docks in the eastern region of the Harbor and in the peninsula area of the Orange County (OC) Sailing and Events Center in the western region of the Harbor. Because liquefaction is an existing condition on site, the potential impact to the seawall and gangway platforms in select locations in the event of an earthquake capable of producing liquefied conditions will continue to exist. Mitigation Measures will reduce potential seismic ground shaking impacts and potential lateral and surcharge load impacts from construction equipment near the seawall; however, impacts associated with liquefaction would remain significant and unavoidable adverse impacts of the proposed project related to geology and soils.

2. Construction Air Quality (Short-Term and Cumulative)

Construction emissions from the project would exceed the South Coast Air Quality Management District (SCAQMD) daily emissions thresholds for nitrous oxide (NO_x) and reactive organic compounds (ROC). Construction activities for the Marina Improvement Project would also contribute to construction-related adverse cumulative air quality impacts because the Basin is presently in nonattainment for O₃, and the project, in conjunction with other planned projects, would contribute to the existing nonattainment status for O₃. Adherence to SCAQMD rules and regulations will reduce NO_x and ROC emissions; however, even with implementation of all available measures, project impacts related to construction emissions and cumulative construction impacts of the proposed project would remain significant and unavoidable adverse impacts of the proposed project related to air quality.

3. Noise Construction Impacts (Short-Term and Cumulative)

Construction activities associated with the proposed project would subject the nearest sensitive receptors (the Dana Point Marina Inn, located approximately 200 ft from the project construction area, and the live-aboards in various locations throughout the Marinas) to short-term noise reaching 87 A-weighted decibels (dBA). Due to the length of construction for the proposed project, construction-related noise impacts are deemed to be significant and unavoidable. The Commercial Core Project associated with the Dana Point Harbor Revitalization Project could potentially be under construction at the same time as the Marina Improvement Project. That project has the potential to generate construction-related noise in the immediate area, which was considered cumulatively significant in the Program Final EIR. Because construction noise for the Marina Improvement Project is also considered a significant adverse impact, the cumulative construction-related noise and vibration impacts for the proposed project, in conjunction with the Commercial Core Project, are considered cumulatively adverse and significant. Implementation of Mitigation Measures would help reduce project-related construction noise impacts; however, construction-related noise impacts would remain significant and unavoidable adverse impacts of the proposed project.

4. Biological Resources Shading Impacts (Construction, Long-Term and Cumulative)

The installation of the temporary docks adjacent to the East Breakwater would create a long-term adverse shading effect on water column habitat and a combination of hard-bottom quarry stone/natural reef habitat and soft-bottom habitat. Shading over kelp areas would be considered a significant and adverse impact for the duration of the temporary docks. Because the temporary docks may be present for the duration of construction activities (up to 8 years) and could possibly become permanent as yacht broker docks, and because there is no feasible mitigation to reduce shading impacts with the current project design, shading impacts in the temporary/yacht broker dock area are considered a significant and unavoidable adverse impact for both construction (short-term) and operational (long-term) conditions. The proposed configuration of the new headwalk at the Sport Fishing Docks creates an additional dock surface area that would shade riprap habitat, also resulting in a long-term adverse shading impact. There is no feasible mitigation to reduce shading impacts; therefore shading impacts to these habitats would remain significant and unavoidable adverse impacts of the proposed project related to biological resources.

Adoption of the Revised Project Alternative, as described in Final SEIR No. 613 Response to Comments and the Findings and Facts in Support of Findings, would avoid the significant and unavoidable shading impacts associated with the OC Sailing & Events Center docks identified in the Draft SEIR.

C. Public Benefits

The County of Orange, in balancing the specific economic, legal, social, technological, and other benefits, including region-wide or statewide environmental benefits, of the proposed Dana Point Harbor Marina Improvement Project, has determined that the unavoidable adverse environmental impacts identified above are considered acceptable due to the following specific considerations that outweigh the unavoidable, adverse environmental impacts of the proposed project.

1. The proposed project will revitalize Dana Point Harbor as a popular destination for boaters, local residents, and tourists while maintaining the unique character of the Harbor (recreational and economic benefits).
2. The proposed project will replace the marina facilities that are in need of modernization and/or replacement and have reached the end of their useful life since the construction of the Harbor over 40 years ago (economic, social and technical benefits).
3. The proposed project will implement Coastal Act Policies in conformance with the approved Dana Point Harbor Revitalization Plan Land Use Plan, including: preservation of marine resources; promoting low-cost recreational opportunities; promoting practices that improve water quality; promoting public access opportunities; and providing a slip mix that minimizes slip loss (legal, social, recreational).
4. The proposed project will satisfy all of the following project objectives (social, recreational, economic, technical and legal benefits):
 - Maintain the Harbor's current character and family atmosphere
 - Renovate and replace the deteriorating docks and slips
 - Satisfy ADA requirements for dock areas of the Harbor
 - Maintain a full-service Harbor
 - Enhance the level of services for boaters
 - Update commercial fishing facilities
 - Maximize the number of slips available in the East and West Marinas for public rental by relocating many of the yacht broker slips to another area of the Harbor.
 - Relocate guest dock facilities and provide new dinghy docks convenient to Day-Use Commercial uses
 - Upgrade utility infrastructure to all areas of the Marinas
 - Maintain a safe environment for all levels of the boating community, Harbor users, and merchants

- Provide improvements in accordance with California Department of Boating and Waterways (DBW) guidelines, including the placement of boats in correctly sized slips
 - Update the sport fishing dock
5. Significant and unavoidable liquefaction impacts are the result of an existing condition on site, and are limited to the areas where the seawall and gangway platforms will be constructed on the Island, the small peninsula adjacent to the Sport Fishing Docks, and in the peninsula area of the Orange County (OC) Sailing and Events Center.
 6. Significant and unavoidable air quality impacts resulting from construction of the proposed project would be limited to the slip and pile removal and installation phases of the proposed project.
 7. Significant and unavoidable noise impacts to the nearest sensitive receptors during construction would be limited to short-term noise events reaching 87 A-weighted dBA, primarily due to pile driving activities.
 8. The Revised Project Alternative, as described in Final SEIR No. 613 Response to Comments and the Findings and Facts in Support of Findings, would avoid the significant and unavoidable shading impacts associated with the OC Sailing & Events Center docks identified in the Draft SEIR.

On balance, the Orange County Board of Supervisors finds that there are specific considerations associated with the proposed project that serve to override and outweigh the project's significant environmental impacts and the existence of an environmentally superior alternative that meets the project objectives. The Orange County Board of Supervisors further finds that all feasible mitigation measures identified in the Final SEIR have been and will be implemented with the Revised Project Alternative. Therefore, any significant unavoidable effects remaining after implementation of mitigation measures are acceptable due to the above stated specific economic, social, and other considerations, based upon the facts set forth above, in Final SEIR No. 613, and in the public record of the consideration of this Project.

ATTACHMENT 7

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM
OC DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

7.0 MITIGATION MONITORING AND REPORTING PROGRAM

7.1 MITIGATION MONITORING REQUIREMENTS

Public Resources Code Section 21081.6 (enacted by the passage of Assembly Bill 3180) mandates that the following requirements shall apply to all reporting or mitigation monitoring programs:

- I. The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead agency or a responsible agency, prepare and submit a proposed reporting or monitoring program.
- II. The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.
- III. A public agency shall provide the measures to mitigate or avoid significant effects on the environment that are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or in the case of the adoption of a plan, policy, regulation, or other project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.
- IV. Prior to the close of the public review period for a draft environmental impact report or mitigated negative declaration, a responsible agency, or a public agency having jurisdiction over natural resources affected by the project, shall either submit to the lead agency complete and detailed performance objectives for mitigation measures which would address the significant effects on the environment identified by the responsible agency or agency having jurisdiction over natural resources affected by the project, or refer the lead agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to a lead agency by a responsible agency or an agency having jurisdiction over natural resources affected by the project shall be limited to measures which mitigate impacts to resources which are subject to the statutory authority of, and definitions applicable to, that agency. Compliance or noncompliance by a responsible agency or agency having jurisdiction over natural resources affected by a project with that requirement shall not limit that authority of the responsible agency or agency having jurisdiction over natural resources affected by a project, or the authority of the lead agency, to approve, condition, or deny projects as provided by this division or any other provision of law.

7.2 MITIGATION MONITORING PROCEDURES

The mitigation monitoring and reporting program has been prepared in compliance with Public Resources Code Section 21081.6. It describes the requirements and procedures to be followed by the OC Dana Point Harbor to ensure that all mitigation measures adopted as part of the proposed Dana Point Harbor Marina Improvement Project will be carried out as described in this SEIR.

Table 7.A lists each of the mitigation measures specified in this SEIR and identifies the party or parties responsible for implementation and monitoring of each measure.

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|---|--|
| 4.1 LAND USE AND PLANNING | | |
| None required | | |
| 4.2 GEOLOGY AND SOILS | | |
| 4.2-1 To reduce potential seismic ground-shaking impacts associated with the Americans with Disabilities Act (ADA) platforms, OC Dana Point Harbor and the Director, OC Public Works (OC PW)/Permit Services shall, prior to issuance of building permits, review and approve final design plans to ensure that recommendations contained in the Geotechnical Evaluation prepared for the proposed project (Leighton Associates, Inc., January 2008) are incorporated into final site drawings. The potential damaging effects of regional earthquake activity shall be considered in the design of each structure. The seismic evaluation shall be based on basic data, including the Uniform Building Code (UBC) Seismic Parameters. Structural design criteria shall be determined in consideration of building types, occupancy category, seismic importance factors, and possibly other factors. Design construction shall be performed in conformance with the latest UBC, California Building Code, or International Building Code and County Ordinances. Conformance can be expected to satisfactorily mitigate the effect of seismic groundshaking (refer to FEIR No. 591, Mitigation Measures 4.3-9 and 4.3-12). | OC Dana Point Harbor Director, OC PW/Building Permit Services | Prior to issuance of construction permits |
| 4.2-2 To reduce potential lateral and surcharge load impacts from construction equipment near the seawall, OC Dana Point Harbor shall review and specifically approve contract provisions requiring equipment and/or storage setbacks from the seawall prior to issuance of any contract to demolish or construct within the project area. To reduce potential impacts associated with the instability of the seawall due to increased lateral loads imposed by construction equipment, adequate setbacks shall be observed from bulkhead areas for cranes, pile-driving equipment, or any other heavy construction equipment. (refer to FEIR No. 591, Mitigation Measure 4.3-6). | OC Dana Point Harbor Director | Prior to issuance of any construction or demolition contract |
| 4.3 HYDROLOGY AND WATER QUALITY | | |
| 4.3-1 To reduce water quality impacts related to pile removal and replacement, OC Dana Point Harbor shall verify, prior to the issuance of any construction permits, that authorization has been obtained from: (1) the United States Army Corps of Engineers (Corps) under the Section 404 Permit program for the discharge of material into jurisdictional waters; and (2) the Corps, under Section 10 of the Rivers and Harbors Act for the placement of piles. In addition, standard conditions of the Corps permits require Section 401 water quality certification by the Regional Water Quality Control Board (RWQCB). In order to obtain these authorizations, the County shall develop a mitigation plan subject to review and approval by the appropriate resource agencies (Corps, United States Fish and Wildlife Service [USFWS], National Marine Fisheries Service [NMFS], California Department of Fish and Game [CDFG], and RWQCB). | OC Dana Point Harbor | Prior to the issuance of any construction permits |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|--|---|
| 4.3-2 To reduce water quality impacts related to pile removal and replacement, OC Dana Point Harbor shall verify, prior to the issuance of any construction permits, that best management practices (BMPs) for all pile removal and replacement activities have been incorporated into project plans in order to reduce impacts to water quality to the maximum extent practicable in a manner meeting the approval of the OC Public Works (OC PW) Director. The construction contractor shall be responsible for performing and documenting the application of silt curtains and other BMPs identified in this document. | OC Dana Point Harbor | Prior to the issuance of any construction permits |
| 4.3-3 Prior to the issuance of any construction permits, OC Dana Point Harbor shall verify that a trash and debris containment boom has been incorporated into project plans and will be implemented during all dock removal and replacement activities in order to reduce impacts to water quality to the maximum extent practicable in a manner meeting the approval of the OC Public Works (OC PW) Director. The construction contractor shall be responsible for performing and documenting the application of the trash and debris containment boom. | OC Dana Point Harbor | Prior to the issuance of any construction permits |
| 4.3-4 To reduce impacts related to dewatering or construction-related non-storm water discharges, the construction contractor shall determine, prior to commencement of grading activities, whether dewatering of groundwater will be necessary during project construction. Any dewatering will require compliance with the State General Permit for discharges to land with a low threat to water quality or a dewatering permit from the San Diego Regional Water Quality Control Board (RWQCB), consistent with National Pollutant Discharge Elimination System (NPDES) requirements. Once it receives and reviews the Notice of Intent (NOI), the RWQCB will decide which permit is applicable and whether sampling is required. A copy of the permit shall be kept at the Marina Improvement Project, available for City and/or RWQCB review upon request. | Construction Contractor | Prior to commencement of grading activities |
| 4.3-5 To reduce impacts related to water quality during landside construction, the Construction Contractor shall prepare an Erosion and Sediment Control Plan (ESCP) for approval by the Director, OC Public Works (OC PW)/Permit Services to demonstrate compliance with local and State water quality regulations for construction activities. The ESCP shall be approved prior to the issuance of any construction permits and shall identify how all construction materials, wastes, or demolition debris, etc., shall be properly covered, stored, and secured to prevent transport into local drainages or coastal waters by wind, rain, tracking, tidal erosion, or dispersion. The ESCP shall also describe how the applicant will ensure that all best management practices (BMPs) will be maintained during construction. A copy of the current ESCP shall be kept at the offices of OC Dana Point Harbor and be available for review on request (refer to FEIR No. 591, Standard Conditions of Approval [SCA] 4.4-7). | Construction Contractor, Director, OC PW/Permit Services | Prior to the issuance of any construction permits |
| 4.3-6 To reduce impacts related to water quality during landside construction, the Construction Contractor shall submit for review and approval by the Director, OC Public Works (OC PW)/Inspection Services Division, an Amendment to the Dana Point Harbor Conceptual Water Quality Management Plan | Construction Contractor, Director, OC | Prior to the issuance of any construction permits |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|----------------------|---|
| <p>(WQMP) specifically identifying best management practices (BMPs) that will be used on site to control predictable pollutant runoff. Any required Amendment to the Conceptual WQMP shall be approved prior to the issuance of any construction permits. The WQMP will specifically identify BMPs that will be used on site to minimize the volume, velocity, and pollutant load of runoff, including measures to prevent, eliminate, and/or otherwise effectively address dry weather nuisance flow control predictable pollutant runoff. The WQMP shall follow the model WQMP as outlined in Exhibit 7.1 1 of the 2003 Drainage Area Master Plan, prepared by the County of Orange Flood Control District on July 1, 2003, or the most recent version available. This WQMP shall also demonstrate conformance with the policies and provisions governing Water Quality and Hydrology identified in Chapter 2 of the Dana Point Harbor Revitalization Plan, Resource Protection section, including applicable provisions from the Project Design Features and Requirements section. The WQMP shall identify, at a minimum, the routine structural and nonstructural measures specified in the current Drainage Area Management Plan (DAMP). The WQMP may include one or more of the following:</p> <ul style="list-style-type: none"> • Discuss regional water quality and/or watershed programs (if available for the project); • Address Site Design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or “zero discharge” areas and conserving natural areas; • Include the applicable Routine Source Control BMPs and where necessary, Treatment Control BMPs as defined in the DAMP; and • Demonstrate how surface runoff and subsurface drainage shall be managed and directed to the nearest acceptable drainage facility (as applicable), via sump pumps if necessary (refer to Land Use Plan [LUP] I-6.1-6). | PW/Permit Services | |
| 4.4 TRANSPORTATION AND CIRCULATION | | |
| <p>4.4-1 To reduce potential boat congestion in the East and West Basins, OC Dana Point Harbor (Harbor) shall, beginning at the start of construction and in the areas of construction activity, provide education and outreach to ensure that the slow speed/wake policy is adhered to and to ensure that speeds in the Inner Channel are maintained at 4 to 5 knots in order to maintain boat traffic flow and steerage. Additionally, no construction shall be permitted to block the main navigational channels in the Harbor and should minimize the disruption or loss of existing docks by providing temporary facilities to the greatest extent feasible (refer to Implementation Plan [IP] II-3 Special Provisions [SP] No. 3).</p> | OC Dana Point Harbor | Prior to and during construction activities |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|----------------------|---|
| <p>4.4-2 Public and boater access shall be provided to all Harbor facilities and businesses to the extent that they can be safely accessed during construction activities and reduce parking congestion/conflicts. To reduce parking, public access, and circulation conflicts during construction operations, OC Dana Point Harbor shall prepare a Construction Management Plan (CMP) that establishes access and staging locations for staging areas, temporary access routes, and parking areas that are separate from those used by the general public. The CMP shall also include the locations for shuttle drop-off areas, the relocations of public transit facilities, and provisions for valet service (in the event that construction activities do not allow for convenient parking adjacent to existing businesses).</p> <p>The CMP shall be prepared and approved prior to issuance of any construction or building permits and shall include a construction sign program to direct Harbor visitors and boaters to available parking during all phases of construction (refer to FEIR No. 591, Mitigation Measures 4.5-3 and 4.1-3a, Land Use Plan [LUP] I-4.4.1-6 A, Implementation Plan [IP] II-14.6e, and IP II-3 Special Provisions [SP] No. 3).</p> | OC Dana Point Harbor | Prior to the issuance of any construction permits |
| <p>4.4-3 Construction phasing for implementation of all Dana Point Harbor Revitalization Plan improvements shall minimize the disruption of vehicular and pedestrian access routes and parking availability to the maximum extent feasible. Access to the Marine Services Commercial areas shall be maintained during all construction phases. To reduce parking, public access, and circulation conflicts during construction operations, OC Dana Point Harbor shall prepare a coordinated construction truck route and parking program should the Dana Point Harbor Revitalization Plan Commercial Core construction occur at the same time as construction of the Marina Improvement Project.</p> <p>In the event of temporary closures, alternative routes and clear directional signage shall be provided. Any temporary parking loss during construction shall be replaced prior to its removal and shall be located in reasonable proximity to the uses it serves to the maximum extent feasible. Temporary replacement parking spaces, located in reasonable proximity to the uses they serve, to the maximum extent feasible shall be provided prior to the removal of any existing parking spaces due to construction, in accordance with an approved Construction and Temporary Operations Plan (refer to Implementation Plan [IP] Section II-14.6e).</p> <p>The coordinated program shall be approved by the Director, OC Public Works/Building Permit Services, prior to the issuance of any construction permits, and shall identify construction haul routes, the hours of construction traffic, traffic controls and detours, and off-site vehicle staging areas and address traffic control for any street closure, detour, or other disruption to traffic circulation and public transit routes.</p> | OC Dana Point Harbor | Prior to the issuance of any construction permits |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|--------------------------------|---|
| 4.5 AIR QUALITY | | |
| None Required | | |
| 4.6 NOISE | | |
| <p>4.6-1 To reduce project construction noise impacts, OC Dana Point Harbor shall verify that construction hour limitations are noted on building and/or grading plans prior to issuance of any construction or building permits. Construction shall be limited to the hours of 7:00 a.m. to 8:00 p.m., Monday through Saturday. In accordance with the County of Orange and City of Dana Point Noise Ordinances, no construction activities shall be conducted outside of these hours or on Sundays and federal holidays.</p> <p>The following measures shall also be noted on building and/or grading plans and implemented to reduce potential construction noise impacts on nearby sensitive receptors:</p> <ol style="list-style-type: none"> 1. The project contractor shall place all stationary construction equipment so that emitted noise is directed away from the sensitive receptors nearest the construction areas. 2. The construction contractor shall locate equipment staging in areas farthest from noise-sensitive receptors nearest the project site during all project construction (refer to FEIR No. 591, Standard Conditions of Approval [SCA] 4.9-1 and 4.9-3). | OC Dana Point Harbor | Prior to issuance of any construction permits |
| <p>4.6-2 To reduce construction noise impacts throughout the phased construction activities of the proposed project, OC Dana Point Harbor shall coordinate with those residents living on boats within the Marina to relocate them to be moved as far as feasible from the construction activities to minimize construction-related noise nuisance impacts. In addition, OC Dana Point Harbor staff shall provide Marina boat residents with information regarding the availability of other nearby Marina facilities. Information regarding the timing and location of the construction activities shall also be made available on the Harbor website, by postings throughout the Marina, and other means as appropriate.</p> | OC Dana Point Harbor | During construction activities |
| 4.7 BIOLOGY | | |
| <p>4.7-1 Prior to issuance of any construction permits, the Director, OC Dana Point Harbor, shall review and approve a Marina Construction Management Plan and confirm that the following construction best management practices (BMPs) are included to minimize turbidity plumes and possible contaminants released into the water column during construction activity:</p> <ul style="list-style-type: none"> • No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to tidal erosion and dispersion. Construction materials shall not be stored in contact with the soil. • Hazardous waste and oil spill contingency plans and spill response equipment shall be kept on site or near the Harbor during Marina construction. The Construction Contractor shall have adequate | Director, OC Dana Point Harbor | Prior to issuance of any construction permits |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|----------------------|---|
| <p>equipment available to contain such spills immediately.</p> <ul style="list-style-type: none"> Any construction debris shall be removed from the site. All trash shall be disposed of in the proper trash receptacles at the end of each construction day. Floating booms shall be used to contain debris discharged, and any debris discharged, including construction debris from the sea floor, shall be removed no later than the end of each day. A postconstruction bottom survey shall be conducted to ensure that all material has been successfully removed from construction areas. Where feasible, silt curtains shall be deployed around work barges and the pile removal and placement operations in order to minimize the spread of turbid waters outside the project area. Barges and work vessels shall be operated in a manner to ensure that sensitive resources within the Harbor are not impacted through grounding, propeller damage, or other activities that may disturb the sea floor. Such measures shall include speed restrictions, establishment of off-limit areas, and use of shallow draft vessels. | | |
| <p>4.7-2 To reduce impacts related to potential disturbance to the shallow water marine substrate, OC Dana Point Harbor shall confirm that preconstruction and postconstruction eelgrass and <i>Caulerpa</i> monitoring surveys are conducted in accordance with the most currently approved National Marine Fisheries Service (NMFS) Control Protocol and the Southern California Eelgrass Mitigation Policy (SCEMP) as adopted by the NMFS, in consultation with the California Department of Fish and Game. The survey shall be conducted during the active growth period (typically March through October) when possible. The preconstruction survey reports shall be completed within 30 days prior to construction activities, and the postconstruction survey reports shall be completed within 30 days of completion of each phase of the project and shall be submitted to the California Coastal Commission and the United States Army Corps of Engineers. The survey shall provide recommendations to avoid areas of eelgrass if determined to be present and/or provide recommendations for appropriate mitigation.</p> <p>In the event that <i>Caulerpa</i> is detected, disturbance shall not be conducted until such time as the infestation has been isolated, treated, or the risk of spread from the proposed disturbing activity is eliminated in accordance with the NMFS <i>Caulerpa</i> Control Protocol (NMFS 2007).</p> <p>An eelgrass mitigation plan shall be developed based upon the results of preconstruction and postconstruction surveys. The plan shall require that direct losses, if any, to eelgrass vegetation shall be mitigated at a ratio of 1.2:1 (mitigation to impact), and potential eelgrass habitat shall be mitigated at a ratio of 1:1 according to requirements of the SCEMP. As detailed in the SCEMP, the actual amount of eelgrass to be mitigated shall depend on preconstruction and postconstruction surveys (refer to IP</p> | OC Dana Point Harbor | Prior to the start of any construction activities |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|--|----------------------|---|
| <p>II-3 SP24).</p> <p>4.7-3 To reduce potential impacts related to the presence of eelgrass, OC Dana Point Harbor shall hire a qualified marine biologist who shall implement the following measures during construction activities near Baby Beach and the OC Sailing and Events Center:</p> <ul style="list-style-type: none"> • A qualified marine biologist shall mark the positions of eelgrass beds with buoys prior to the initiation of any construction to minimize damage to eelgrass beds outside the construction zone. Impacts to eelgrass beds shall be avoided where practical and feasible. To assist the construction crew in avoiding unnecessary damage to eelgrass, the project marine biologist shall meet with construction crews prior to construction to review areas of eelgrass to avoid and to review proper construction techniques. • Barges and work vessels shall be operated in a manner to ensure that eelgrass beds are not impacted through grounding, propeller damage, or other activities that may disturb the sea floor. Such measures shall include speed restrictions, establishment of off-limit areas, and use of shallow draft vessels | OC Dana Point Harbor | Prior to the start of any construction activities |
| <p>4.7-4 To reduce potential construction impacts to sensitive habitats and endangered species, OC Dana Point Harbor shall hire a qualified marine biologist who shall conduct a pre-construction marine biological survey to identify sensitive marine biological resources (i.e., eelgrass, reefs and kelp beds, and seabirds). This survey shall be used to prepare a Marine Biological Impact Reduction Plan (MBIRP) to map sensitive biological resources and minimize construction impacts to marine resources. The marine biologist shall also meet with the construction crews prior to the issuance of any construction permits or any construction activities to review sensitive areas to avoid and to review proper construction techniques. The Marine Biologist shall:</p> <ul style="list-style-type: none"> • Brief construction and work vessel crews on the potential for sea turtles to be present and provide crews with the identification characteristics of sea turtles since they may occasionally be mistaken for seals or sea lions. • Prepare an incident report of any green sea turtle activity in the project area and inform the construction manager to have the crew aware of the potential for additional sightings. The report shall be provided within 24 hours to the California Department of Fish and Game and the National Marine Fisheries Service. • A biological monitor shall be present on site during the start-up of each construction phase and periodically throughout construction activities to monitor the presence of endangered species (seabirds, marine mammals, and sea turtles). In the event that an endangered species is sighted within 100 meters (m) of the construction zone, all construction activity shall be temporarily stopped until the animal is | OC Dana Point Harbor | Prior to issuance of any construction permits |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|--|----------------------|---|
| <p>safely outside the outer perimeter of construction. The on-site biological monitor shall have the authority to halt construction operation and shall determine when construction operations can proceed.</p> <ul style="list-style-type: none"> • In the event a marine mammal is injured or killed as a consequence of a vessel collision, the vessel operator and OC Dana Point Harbor shall immediately notify the National Marine Fisheries Service (Southwest Division) and shall submit a written follow-up report within 24 hours of the incident. • Monitor the construction process on a regular basis to ensure that all water quality Best Management Practices (BMPs) are implemented and to assist the project engineer in avoiding and minimizing environmental effects to Harbor marine biological resources. | | |
| <p>4.7-5 Prior to issuance of any demolition or construction permits, OC Dana Point Harbor shall ensure that the following provisions are incorporated into the final project plans for the purpose of protecting migratory and sensitive nesting birds (blue herons, snowy egrets, the black crowned night heron, owls and raptors) within the study area during construction:</p> <ul style="list-style-type: none"> • If construction activities are performed during the breeding and nesting season (January through September), a preconstruction survey within 500 feet (ft) of the site for nests shall be performed by a qualified biologist at least 15 days prior to construction to document the presence/absence of all these species; • If an active nest of any bird species listed pursuant to the federal or California Endangered Species Act, California bird species of special concern or a wading bird (herons or egrets), as well as owls or raptors, is found, construction activities within 300 ft (500 ft from any identified raptor nest) shall not exceed noise levels of 65-decibel (dB) peak until the nest is vacated and juveniles have fledged and there is no longer evidence of a second attempt at nesting. • The qualified biologist shall monitor active nest sites on a weekly basis. If the biologist notes that all young have fledge from the nest, then the noise restriction near the nest is no longer required. | OC Dana Point Harbor | Prior to issuance of any demolition or construction permits |
| <p>4.7-6 To ensure that potential pile-driving noise impacts to marine mammals remain less than significant, OC Dana Point Harbor shall ensure that the following provisions are incorporated into the final project plans for the proposed project:</p> <ul style="list-style-type: none"> • The contractor shall use sound abatement techniques to reduce noise and vibrations from pile-driving activities. Recommended sound abatement techniques shall include, but are not limited to, vibration or hydraulic insertion techniques, drilled or augured holes for cast-in-place piles, bubble curtain technology, and sound aprons if feasible for the project. • At the initiation of each pile-driving event and after breaks of more than 15 minutes, the pile driving shall employ a "soft-start" in which the hammer is operated at less than full capacity (i.e., | OC Dana Point Harbor | Prior to issuance of any construction or demolition permits |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|----------------------|---|
| approximately 40–60 percent energy levels) with no less than a 1-minute interval between each strike for a 5-minute period. The operation of the hammer at 40–60 percent energy level during the soft start of pile driving is expected to result in similar levels of noise reduction (40–60 percent) underwater. | | |
| <p>4.7-7 To reduce potential long-term water quality-related impacts to marine life, OC Dana Point Harbor shall, prior to occupancy of any new dock or slip facilities, provide boater education material to tenants as part of lease materials, and to reduce the potential for water quality and degradation of Dana Point Harbor marine resources by boaters. In addition, OC Dana Point Harbor shall provide the following to boaters:</p> <ul style="list-style-type: none"> • A copy of all applicable regulations regarding vessel discharges of wastes, antifouling paint use, and refuse management (including handling of hazardous wastes); • Information regarding procedures for notifying appropriate authorities regarding spills of hazardous materials, containment measures, and applicable penalties for violations; • A regular cleaning schedule of the Marina dock facilities and vacuum sweeping of the parking lots; • Adequate signage to identify the location off pump-out stations and hours of operation; • A regular inspection and maintenance schedule for the pump-out facility; • Educational information about the pump out station to tenant boaters; • A list of existing local, State, and federal regulations that will be enforced pertaining to marine sanitation devices and the illegal discharge of boat sewage; and; • A list of other local pump-out locations shall be made available to boaters. | OC Dana Point Harbor | Prior to occupancy of any new dock or slip facilities |
| 4.8 AESTHETICS | | |
| <p>4.8-1 To reduce the visual impact associated with construction equipment and materials, OC Dana Point Harbor shall prepare a Construction Management Plan that establishes access and staging locations for construction equipment, separate from those used by the general public. The contractor's construction equipment and supply staging areas shall be established away from existing Marina operations. The Plan shall specify the following:</p> <ol style="list-style-type: none"> a. During construction and grading, the Contractor shall keep the site clear of all trash, weeds, and debris. b. The grading contractor shall not create large stockpiles of debris or soils, but shall seek to place smaller piles adjacent to each other to minimize visual impacts. | OC Dana Point Harbor | Prior to issuance of any demolition or construction permits |
| 4.8-2 To reduce the visual impact associated with construction equipment and materials, the Director, OC | Director, OC Public | Prior to issuance of a |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|--|--------------------------------|---|
| Public Works (OC PW)/Subdivision and Grading, or designee, shall require OC Dana Point Harbor to provide screened construction fencing around the construction staging area to temporarily screen views of construction equipment and materials. The construction screening shall be in place prior to issuance of any construction permit for development within the Marinas (refer to Land Use Plan [LUP] I-8.1.1-30 and FEIR No. 591, Mitigation Measure 4.2-2). | Works-Subdivision and Grading | construction permit |
| 4.8-3 To reduce impacts associated with lighting, an Exterior Lighting Plan (including outdoor recreation areas) for all proposed improvements shall be prepared prior to the issuance of a building permit. The lighting plan shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The Lighting Plan shall demonstrate that all exterior lighting has been designed and located so that all direct rays are directed downwards, confined to the property, away from other areas and, where feasible, to minimize impacts to sensitive biological resource areas. The Lighting Plan shall be subject to review and approval by the Director, OC Dana Point Harbor (refer to FEIR No. 591, Mitigation Measure 4.2-4). | Director, OC Dana Point Harbor | Prior to the issuance of a building permit |
| 4.9 RECREATION | | |
| None Required | | |
| 4.10 HAZARDS AND HAZARDOUS MATERIALS | | |
| 4.10-1 During all excavation and construction activities for the Americans with Disabilities (ADA) gangway platforms and utilities, OC Dana Point Harbor shall require that all construction subcontractors address site safety requirements by complying with the appropriate health and safety measures required by the Occupational Safety and Health Administration (OSHA). Applicable specifications prepared by OSHA related to earth resources consist of Section 29 Code of Federal Regulations (CFR) Part 1926, which are focused on worker safety in excavations. In the event that suspicious odors are observed in soil, construction shall be terminated until the soil is properly characterized for hazardous waste content. Appropriate measures shall be taken in compliance with all applicable regulations for the characterization and disposal of hazardous materials (refer to FEIR No. 591, Mitigation Measure 4.3-4). | OC Dana Point Harbor | During all excavation and construction activities for the ADA gangway platforms |

Table 7.A: Mitigation and Monitoring Reporting Program

| Mitigation Measures | Responsible Party | Timing for Mitigation Measure |
|---|----------------------|---|
| 4.11 GREENHOUSE GASES | | |
| <p>4.11-1 OC Dana Point Harbor shall review and specifically approve contract provisions requiring that the following measures be incorporated into the design and construction of the project:</p> <p>Energy Efficiency Measures.</p> <ul style="list-style-type: none"> • Install energy-efficient lighting and lighting control systems • Install solar or other energy-efficient outdoor lighting, such as light-emitting diodes (LEDs) • Landscape with native or drought-tolerant species to reduce water consumption and provide passive solar benefits, where feasible. <p>Solid Waste Measures.</p> <ul style="list-style-type: none"> • Reuse and recycle construction waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard) to the extent feasible; and • Provide storage areas for recyclables and green waste and adequate recycling containers located in public areas (refer to FEIR No. 591, Project Design Feature [PDF] 4.6-1). | OC Dana Point Harbor | Prior to the issuance of any construction permits |

ATTACHMENT 8

**PROPOSED FINAL SUBSEQUENT ENVIRONMENTAL
IMPACT REPORT 613 AND APPENDICES**

OC DANA POINT HARBOR MARINA IMPROVEMENT PROJECT