

# Staff Report 44

## APPLICANT:

City of San Clemente

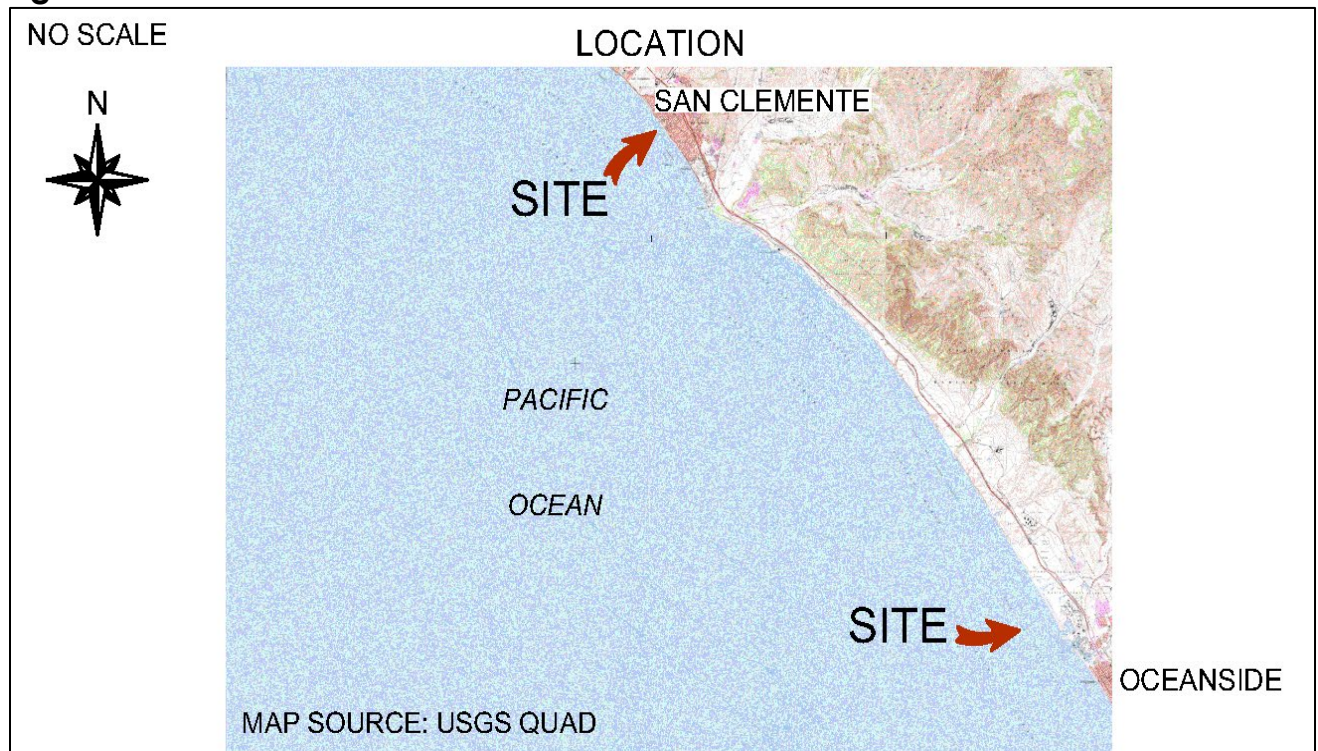
## PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, near San Clemente and Oceanside, Orange and San Diego Counties (as shown in Figure 1).

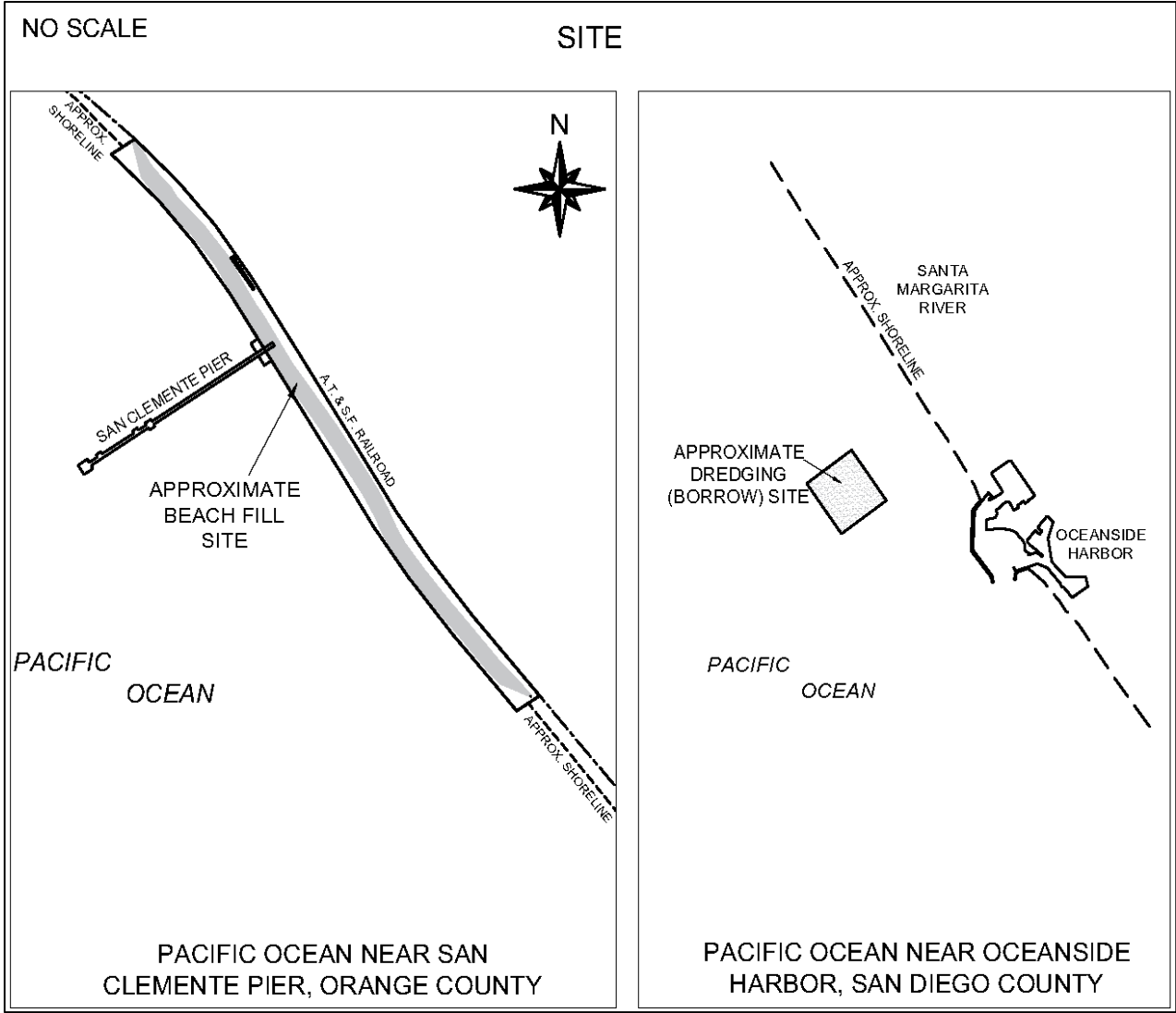
**Figure 1. Location**



**AUTHORIZED USE:**

Dredging of the Pacific Ocean from borrow site designated SO-9 near Oceanside; placement of a 50-foot-wide beach fill along an approximately 3,400-foot-long stretch of shoreline in the City of San Clemente with 251,000 cubic yards (cy) of compatible sediment with renourishment of 251,000 cy every 6 years on average; implemented under the Coastal Storm Damage Reduction Project/San Clemente Shoreline Protection Project (as shown in Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

49 years, beginning August 17, 2023.

**CONSIDERATION:**

Public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

**SPECIFIC LEASE PROVISIONS:**

- Prior to each beach replenishment event, Lessee shall provide Lessor a mean high tide line survey of the receiver site for Lessor's staff review.
- Lessee must update its Monitoring Plans to account for the best available climate change science, resource availability, and sea level rise projections. Such monitoring plans shall be updated and submitted to Lessor's staff for review and approval at least two months in advance of each subsequent planned beach replenishment event.
- One year before each replenishment event, Lessee must provide to Lessor's staff copies of all annual mitigation monitoring compliance reports for replenishment activities within the Lease Premises.
- Upon request, Lessee must provide Lessor's staff with copies of the semiannual beach profile surveys required by the Shoreline Monitoring Plan.
- Upon request, Lessee must promptly provide copies of any report, survey, data, or other document required by a mitigation measure or monitoring plan.
- Prior to the start of each beach replenishment event as described within the lease, Lessee shall provide Lessor with the name, address, telephone number, and license number(s) of the contractor(s) selected to implement the beach replenishment program.
- Lessee shall safely conduct all dredging and disposal operations in accordance with accepted dredging and disposal methods and practices then in effect and with due regard for the protection of life and property and preservation of the environment.

**BACKGROUND:**

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The [San Clemente Shoreline Feasibility Study](#) (Study) is a coastal storm damage reduction study that analyzes alternatives to improve public safety and protection of state- and city-owned lands, rail lines, and infrastructure along the shoreline with

the City of San Clemente. The Study describes existing and future without-project conditions of the area and identifies problems and opportunities to reduce storm damage, improve public safety, increase recreation opportunities, and protect the environment. The Study evaluates the potential effects of implementing the alternatives and identifies the mitigation measures needed to avoid, minimize, rectify, reduce, or compensate for those effects.

The Study was prepared as a response to the study authority in Section 208 of the Flood Control Act of 1965, and funding was initially appropriated by the Energy and Water Development Appropriations Act of 2000. The reconnaissance phase of the study was initiated on March 28, 2000. That phase resulted in the finding that there was a federal interest in continuing the study into the feasibility phase. The feasibility phase of the Study began in September 2001 with the United States Army Corps of Engineers (Army Corps) signing a Feasibility Cost Sharing Agreement with the City of San Clemente.

In September 2010, the draft Environmental Impact Study/Environmental Impact Report (EIS/EIR), was released for public review to appropriate resource agencies, local interest groups, and individuals. All comments and concerns that were received during the review period have been incorporated into the Final EIS/EIR. The Final EIS/EIR supports the Study for the Project and was concluded in August 2011. The Study was concluded and submitted to Congress on April 15, 2012. On September 30, 2022, the Army Corps published a Supplemental Environmental Assessment (SEA) to evaluate potential effects on green sea turtles and environmental commitments for nearshore rocky reef resources. The final SEA and Finding of No Significant Impact (FONSI) were published in June 2023. The City of San Clemente certified the EIS/EIR and final SEA/FONSI on July 18, 2023.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Beach erosion is an ongoing problem along the San Clemente shoreline, and over the past 20 years, average beach widths in the City of San Clemente have been gradually reducing. Shoreline erosion has narrowed the beaches and depleted them of sand, resulting in reduced recreational opportunities, and threatening the stability of City facilities, private property, and a major southern California rail

corridor. By implementing the Coastal Storm Damage Reduction Project/San Clemente Shoreline Protection Project (Project), the City of San Clemente aims to reduce coastal storm damage, enhance recreational beach opportunities, and protect critical infrastructure.

The Applicant's Project is similar to previous beach nourishment activities, such as the Regional Beach Sand Project (RBSP), which is an ongoing project implemented by the San Diego Association of Governments (SANDAG). The RBSP includes the dredging of sediment from offshore borrow sites and nourishes several beaches along the coast in San Diego County. However, this project's proposed receiver site is considerably smaller in overall area than the RBSP. For the Applicant's proposed receiver site, the Project proposes beach nourishment along 3,412 feet of shoreline, from Linda Lane to the north and to T-Street in the south.

Beach nourishment activities are designed to increase and enhance recreational opportunities at beaches for both residents and tourists by extending the width of beaches. The Applicant is seeking authorization from the Commission for its Project to extend the width of the beach. This will result in a new mean beach profile of 50 feet.

The Applicant will receive an initial placement of 251,000 cubic yards (cy) of sand from the borrow site, and future maintenance nourishment efforts will only occur when the shoreline reaches the 0-foot base beach width, every six years on average. Future maintenance nourishment could be estimated to occur roughly every six years over a 49-year period of the Project, with the same volume of the initial placement at 251,000 cy.

The dredged material will come from a borrow site identified as SO-9 in the Pacific Ocean near Oceanside, San Diego County. The borrow site refers to a large location that has been investigated for the project in terms of sediment characteristics, marine resources, and seabed elevation. The proposed borrow site near Oceanside has compatibility with the existing beach material and has already been defined and dredged for prior beach replenishment activities, including for the RBSP. The borrow site is located offshore of Oceanside Beach and is situated between the mouths of the San Luis Rey and Santa Margarita Rivers, and approximately 23 miles from the Project site.

The beach nourishment operations will include the use of dredge vessels, which will dredge the sediment from the offshore borrow site and transfer it to the proposed receiver site. The Project proposes the use of a hopper dredger with pump ashore capability, along with conventional earthmoving equipment. The hopper dredge will dredge the borrow site, and then haul the sand approximately 21 miles to the receiver site. Near the receiver site, the dredged material will be combined with

seawater to produce a slurry. The dredge will then be attached to a moored mono buoy connected to a floating section of pipeline extending 1,500 feet to the receiver site shoreline, where the slurry can be placed. The mono buoy is a floating pipeline connection platform that is moored to the seafloor and used to connect the submerged pipeline to the dredge at the ocean's surface.

At the receiver site, existing sand will be used to create "L" shaped berms to anchor sand placement operations. The slurry will be pumped onto the beach in the angle of the "L" shaped berm. As the material is deposited behind the berm, the sand will be spread using two bulldozers and one front-end loader to direct the flow of the sand slurry and form a gradual slope to the existing beach elevation. The berms will be subject to the forces of the waves and weather and will eventually settle down to a natural grade of the beach.

The dredging operation will be performed on a 24-hour, 7-days-a-week basis. Beach operations, such as the operation of sand spreading, will occur 12 hours a day, 7 days a week. Approximately two days will be required to set up the pipeline leading from the mono buoy site to the receiver site. The daily production rate will be 5,000 cy. Construction access for the Project will be located at the beach and a City-owned public parking lot. An open area exists along the beach immediately adjacent and north of the Pier and in the immediate vicinity of the City's Marine Safety Headquarters. This site is used extensively for access to the Headquarters and other municipal operations, poses no new environmental considerations, and minimizes disturbance to the environment and public access. Therefore, the general operation will still allow public access to beach facilities.

Almost all properties landward of the beach nourishment site are beaches owned and/or managed by the Applicant. However, running along the entire length of the San Clemente shoreline is a portion of the Los Angeles to San Diego (LOSSAN) railroad corridor, which is a major passenger rail line linking the coastal cities of southern California. The rail line runs between the beach and the coastal bluffs and is owned by the Orange County Transportation Authority and operated by the Southern California Regional Rail Authority. Existing riprap along the waterward side of the rail corridor provides some protection to the tracks, but loss of shore protection and recreational beach width threatens the railroad and is a continuous problem for the Applicant. The general purpose of the Project is to provide shoreline protection through nourishment of the beach in San Clemente, and with regular maintenance to prevent severe beach erosion from winter storms. The Project aims to prevent damage to adjacent beachfront structures, including the heavily used LOSSAN rail line, and prevent further loss of sand at the beach that will impact beach recreation contributing to the local economy.

Construction will be carried out in such a way that public access will only be impacted at the point of discharge near the staging area. Approximately 300 feet of beach will be inaccessible to the public around the discharge pipeline and berms. Additionally, there will be intermittent restrictions on public access for approximately 350 feet on either side of the discharge zone for the maneuvering of heavy equipment during construction of the temporary berm and relocation of the discharge pipelines. For each beach nourishment episode, public access is estimated to be limited for approximately 46 working days over the course of four months. During the construction period, signs would be posted to warn swimmers, waders, and surfers of potentially hazardous water conditions. Additional lifeguards will be provided for public safety.

The applications for the required permits and authorizations from the California Coastal Commission, Santa Ana Regional Water Quality Control Board, and California Department of Parks and Recreation have been submitted and are pending approval.

The proposed lease will require the Applicant to comply with the attached Exhibit A, Mitigation Monitoring Program (MMP) during sand placement to avoid potential impacts to Air Quality; Biological Resources; Water Resources, Sediments, and Oceanography; Cultural Resources; Noise; Recreation; and Public Health and Safety. Construction and beach nourishment activities will occur during approved, regulatory agency permit condition work windows with required on-site monitoring and clearance surveys.

The proposed 49-year lease term is the maximum allowed by the Commission's regulations. Staff often recommend shorter lease terms to allow the Commission to reassess best management practices and a proposed use's environmental context and impacts considering sea level rise and climate change. The Project's mitigation monitoring and reporting program (MMRP) includes numerous monitoring commitments, including a requirement to submit ongoing long-term shoreline monitoring reports to the California Coastal Commission. Additionally, the proposed lease requires the Applicant to provide the same reports to Commission staff and to incorporate the best available climate change science, resource availability, and sea level rise projections. As discussed in the Climate Change section below, while increased sea level rise may impact the efficacy of the Project, the Project would not exacerbate sea level rise or other climate change impacts. Moreover, the Project's objective is to lessen those sea level rise impacts and improve public access on California's public beaches and is federally funded for 50 years. Therefore, staff recommends a 49-year lease term.

**CLIMATE CHANGE:**

Climate change impacts, including sea level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in the city of San Clemente, Orange County, in a tidally influenced site vulnerable to flooding at current sea levels that will be at high risk of flood exposure based on the projected scenarios of sea level rise in this area.

The California Ocean Protection Council updated the *State of California Sea-Level Rise Guidance* in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The La Jolla tide gauge was used for the projected sea level rise scenario for the region as listed in Table 1.

**Table 1. Projected Sea Level Rise for La Jolla**

Year	Projection (feet)
2030	0.9
2040	1.3
2050	2.0
2100	7.1

Source: Table 13, [State of California Sea-Level Rise Guidance: 2018 Update](#)

Note: Projections are with respect to a 1991 to 2009 baseline.

Sea level rise will raise the total water levels of San Clemente beach areas and likely cause frequent inundation of the lease areas if no measures are taken to control the flooding and elevate the shoreline. In addition, as stated in [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of storms and rain events, causing more flooding in low-lying areas. In rivers, creeks, and tidally influenced waterways, higher water levels from sea level rise and flooding may cause damage such as beach erosion to the lease area as well as impact beach-front infrastructure. Storm debris and water-borne contaminants may constitute additional hazards to the lease areas. Higher rates of erosion and sedimentation from flooding, storm flow, and runoff will likely increase scour and further decrease beach stability and structural integrity of adjacent harbor structures.

As the total water levels along San Clemente increase with sea level rise, natural erosion along the coastline fronting the community will increase. The proposed dredging and beach nourishment actions will increase beach sand volumes to



widen beaches and stabilize coastal infrastructure within the lease areas. The dredging from the identified borrow site and sand placement would allow for continued recreation and public access along the city beaches. The lessee is responsible for protecting the lands, resources, and values of the Public Trust within the lease area and should be aware that climate change-induced changes are very likely to occur and impact not only the current and future footprint of the lease area, but the adjacent areas within San Clemente.

Regular dredging from the identified borrow area and beach nourishment, as referenced in the lease, may reduce the likelihood of severe erosion and structural degradation, and possible dislodgement of structures within adjacent areas. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent areas are in an area that may be subject to the effects of climate change, including sea level rise.

### **CONCLUSION:**

For the reasons stated above, staff believes the issuance of the proposed lease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law.
2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. An EIS/EIR, State Clearinghouse No. 2010084002, was prepared for this project by the Army Corps and the City of San Clemente. The City of San Clemente, as CEQA lead agency, certified the document on July 18, 2023. As part of its project approval, the City of San Clemente made a Statement of Findings of Fact and Statement of Overriding Considerations and adopted an MMRP.

Staff has reviewed these documents and prepared an independent MMP (attached, Exhibit A) that incorporates the City of San Clemente's document. Staff recommends adoption of Exhibit A by the Commission.

Staff also prepared Findings made in conformance with the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) contained in the attached Exhibit B. The Findings determined that all but three potential impacts would be less than significant or less than significant with mitigation. The Findings identified that the Project could cause a potentially significant impact to Biological Resources (sensitive biological habitat) on rocky reef substrate offshore of the City due to permanent surfgrass loss or long-term cover of reefs, despite mitigation measures. The Findings identified that the Project and construction of related projects in the Project area could cause a potentially significant cumulative impact to Air Quality and Meteorology due to short-term, construction-related exceedance of the significance threshold limitations for nitrogen oxides (NOx) and particulate matter with a diameter of 2.5 microns or less (PM 2.5), despite mitigation. The Findings identified that the Project could also cause a potentially significant cumulative impact to Recreation due the use of heavy equipment in an active public use area that could pose safety issues for recreating adults and children, despite mitigation measures. Staff prepared a Statement of Overriding Considerations made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) that balances the benefits of the Project against its unavoidable impacts and finds that the potential impact is acceptable in light of the Project benefits. Staff recommends the Commission adopt the Findings and Statement of Overriding Considerations contained in the attached Exhibit B.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

## **APPROVALS REQUIRED:**

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United States Coast Guard  
 United States Army Corps of Engineers  
 California Coastal Commission  
 California Department of Parks and Recreation  
 San Diego Regional Water Quality Control Board

## **EXHIBITS:**

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- A. Mitigation Monitoring Program
- B. Findings and Statement of Overriding Considerations

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that an EIS/EIR, State Clearinghouse No. 2010084002, was prepared for this project by the City of San Clemente and certified on July 18, 2023, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit A.

Adopt the Findings, made in conformance with California Code of Regulations, title 14, sections 15091 and 15096, subdivision (h), as contained in the attached Exhibit B.

Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, title 14, sections 15093 and 15096, subdivision (h), as contained in the attached Exhibit B.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; and is in the best interests of the state.

### **SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning August 17, 2023, for a term of 49 years, for the dredging of the Pacific Ocean near the City of Oceanside; placement of a 50-foot wide beach fill along an approximately 3,400 foot-long stretch of shoreline in the City of San Clemente consisting of 251,000 cubic yards (cy) of compatible sediment with renourishment of 251,000 cy every six years on average; implemented under the Coastal Storm

Damage Reduction Project/San Clemente Shoreline Protection Project; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

**EXHIBIT A**  
**CALIFORNIA STATE LANDS COMMISSION**  
**MITIGATION MONITORING PROGRAM**  
**COASTAL STORM DAMAGE REDUCTION PROJECT**  
(A3750, State Clearinghouse No. 2010084002)

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The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Coastal Storm Damage Reduction Project/San Clemente Shoreline Protection Project (Project). The CEQA lead agency for the Project is the City of San Clemente.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on State lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines<sup>1</sup> section 15097, subdivision (a), states in part:

*In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.*

The lead agency certified an EIR, State Clearinghouse No. 2010084002, adopted a Mitigation Monitoring and Reporting Program (MMRP) for the whole of the Project (see Exhibit A, Attachment A-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table A-1 below. The full text of each mitigation measure, as set forth in the MMRP prepared by the CEQA lead agency and provided in Attachment A-1, is incorporated by reference in this Exhibit A. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

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<sup>1</sup> The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

- Additions to the text of the mitigation measure are underlined.

**Table A-1. Project Impacts and Applicable Mitigation Measures**

Potential Impact	Mitigation Measure (MM) <sup>2</sup>	Difference Between CSLC MMP and Lead Agency MMRP
<b>Air Quality and Meteorology: AQ-50-3, Cumulative AQ</b>	<b>MM-AQ-50-3.1, MM-AQ-50-3.2</b>	None
<b>Water Resources, Sediments, Oceanography: WQ-50-1</b>	<b>MM-WR-50-1.1, MM-WR-50-1.2</b>	None
<b>Water Resources, Sediments, Oceanography: WQ-50-2</b>	<b>MM-WR-50-1.2</b>	None
<b>Biological Resources: BR-50-2, BR-50-5</b>	<b>MM-BR-50-2.1, MM-BR-50-2.2</b>	None
<b>Cultural Resources: CR-50-1</b>	<b>MM-CR-50-1, MM-CR-50-2</b>	None for MM-CR-50-1; see below for MM-CR-50-2
<b>Noise: N-50-4</b>	<b>MM-N-50-3.1</b>	None
<b>Recreation: REC-50-4, Cumulative REC</b>	<b>MM-REC-50-4.1</b>	None
<b>Public Health and Safety: PHS-50-1</b>	<b>MM-WR-50-1.1, MM-WR-50-1.2</b>	None

**Addition to Cultural Resources MM-CR-50-2:** Title to all archaeological sites and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the California State Lands Commission. Commission staff shall be notified of any cultural resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of archaeological and historical resources or paleontological specimens from such lands must be approved by the Commission. In addition, if requested by a Tribe, a Native American Monitor shall remain onsite during Project construction.

<sup>2</sup> See Attachment A-1 for the full text of each MM taken from the MMRP prepared by the CEQA lead agency.

## **ATTACHMENT A-1**

### **MITIGATION MONITORING AND REPORTING PROGRAM ADOPTED BY THE CITY OF SAN CLEMENTE**

## CITY OF SAN CLEMENTE

# USACE COASTAL STORM DAMAGE REDUCTION PROJECT FINAL EIS/EIR & SEA MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

JULY 2023

**Project Name:** San Clemente Coastal Storm Damage Reduction Project

**Description:** The U.S. Army Corps of Engineers (USACE) and the City of San Clemente (City) have prepared a joint Final Feasibility Study and Final Environmental Impact Statement/Environmental Impact Report (FEIS/FEIR) and Supplemental Environmental Assessment and Finding of No Significant Impact (SEA/FONSI) for the Coastal Storm Damage Reduction Project (Project). The FEIS/FEIR evaluates potential options for reducing storm damage related coastal erosion over a 50-year period. The Proposed Project in San Clemente includes construction of a 50-foot-wide beach fill along a 3,412-foot-long stretch of shoreline using 250,000 cubic yards of compatible sediment, with renourishment in same amount every 6 years on average over a 50-year period of Federal participation, for a total of 8 additional nourishments. Material for the beach fills will be dredged from a borrow site located off the coast of San Diego County. Physical monitoring of the performance of the project will be required annually throughout the 50-year period of Federal participation. The Proposed Project would provide coastal storm damage reduction throughout the project areas and would maintain and enhance the existing recreational beach.

**Project Location:** The project consists of a public beach segment along the San Clemente Shoreline which is 3,412 feet long and borrow site 2A located offshore of Oceanside.

**Purpose:** The following Mitigation Measure Reporting Program (MMRP) includes Mitigation Measures from the NEPA/CEQA documents as well as other Environmental Monitoring Commitments that are standard operating procedures (SOP) and/or best management practices (BMPs) for such a project and additional project conditions of approval (conditions) and have been incorporated into the Project and are to be implemented before, during, or after construction of the initial fill and renourishment events as required and as noted below in accordance with the FEIS/FEIR and SEA/FONSI. Additional project design features and best management practices, which are not require Mitigation Measures, are also listed in this document in an effort to be as comprehensible as possible.





Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
<b>SEA / FONSI</b>					
<b>Green Sea Turtle Monitoring</b>	During dredging, transit to and from the Oceanside Borrow Site, and placement of dredged material at the Placement Area, a qualified biologist or qualified monitor with experience monitoring GST will be onboard the hopper dredge to monitor for the presence of GST. The GST monitor will identify and communicate if there is a need to cease or alter operations to avoid impacts to GST. Additional details in Appendix A (Green Sea Turtle Monitoring Program).	Duration of active dredging/ placement activities		USACE and City of San Clemente	2023 SEA/FONSI
<b>Physical Monitoring</b>	Continuing construction monitoring efforts will consist of direct surveys of the beach and seabed morphology. Survey methods will consist of topographic measurements, bathymetric measurements, surf quality observations, and video stereo photogrammetric methods. The monitoring period will begin one year before construction (for the surf quality observations) and continue for the 50- year period of Federal involvement. Beach width measurements shall be obtained from the sub-aerial portion of the beach. Conventional topographic measurements will be obtained of the sub-aerial portion of the beach and bathymetric measurements of the surf zone and seabed morphology will be obtained using conventional acoustic sonar methods. Measurements will be obtained along pre-determined transects that coincide with historical transect locations, and mass points to develop a well- defined terrain model of the littoral system.	Post-construction		USACE and City of San Clemente	IFR (coastal engineering appendix); CZMA (page 8)
<b>California Coastal Commission Federal Consistency Determination Project Conditions</b>					
<b>Grunion Monitoring (if Project extends into Grunion season)</b>	If unanticipated delays result in a time extension of disposal into the grunion season (which is typically March through August), prior to any such sand placement, the USACE will inform the CCC staff, and agree to implement and adhere to the same grunion monitoring measures, mitigation triggers, and mitigation requirements as those adopted by the Commission on June 15, 2011, in its review of the San Diego Association of Governments' (SANDAG's) coastal development permit 6-11-018, Condition No. 8 (Grunions).	If construction extends to March - August		USACE and City of San Clemente	2023 SEA/FONSI (Exhibit 13, Appendix C)
<b>Final Monitoring Plans</b>	Prior to commencement of construction, the USACE will provide to the CCC Executive Director, for review and concurrence, a	Pre-construction	Complete	USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
	<p>copy of the final Preconstruction Engineering and Design (PED) phase surveys and the subsequent monitoring plans, including:</p> <ul style="list-style-type: none"> <li>the final biological (reef/surfgrass) Mitigation and Monitoring Plan (MMRP), including all surveys conducted in preparation of that plan;</li> <li>the surfing monitoring plan;</li> <li>the turbidity monitoring plan;</li> <li>the Stormwater Pollution Prevention Plan (SWPPP); and</li> <li>(e) the Oil Spill Prevention and Response Plan (OSPRP).</li> </ul>				
<b>Biological Resources</b>	<p>The final MMRP shall assure:</p> <ul style="list-style-type: none"> <li>that biological monitoring of all offshore potential impact areas shall be for a minimum of 2 years pre-construction and 2 years post construction;</li> <li>that monitoring and analytical methods are adequate to identify and accurately measure all short- and long-term impacts from the beach nourishment effort;</li> <li>that appropriate mitigation sites are available to address potential impacts; and</li> <li>that the success criteria and analytical methods used are adequate to demonstrate a difference between impact/mitigation site and control sites.</li> </ul> <p>Construction shall not commence until the USACE has received written concurrence from the CCC Executive Director that the MMRP satisfies all these criteria.</p>	<p>Pre-construction (2 years)</p> <p>Post-construction (2 years)</p>	Completed 2018-2020	USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2); MMRP
<b>Surf Monitoring</b>	Adequate baseline data collection, including, if feasible, a full year of preconstruction monitoring to determine the baseline condition. Additional details in Appendix B (Surf Monitoring Program).	Pre-construction	Complete	USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2 & Exhibit 15, Appendix C); CZMA (page 8)
<b>Construction Staging Plan</b>	<p>The staging plans will assure:</p> <ul style="list-style-type: none"> <li>that staging will not be permitted on public beaches, within public beach parking lots, or in any other location that would otherwise restrict public access to the beach; and</li> <li>that the minimum number of public parking spaces (on and off-street) that are required for the staging of equipment, machinery and employee parking and that are otherwise necessary to implement the project will be used.</li> </ul>	Construction		USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
<b>Water Resources Plan</b>	<p>The SWPPP will assure that:</p> <ul style="list-style-type: none"> <li>the contractor will not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion;</li> <li>no machinery will be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to implement the project;</li> <li>construction equipment will not be washed on the beach;</li> <li>where practicable, the contractor will use biodegradable (e.g., vegetable oil-based) lubricants and hydraulic fluids, and/or electric or natural gas-powered equipment; and</li> <li>immediately upon completion of construction and/or when the staging site is no longer needed, the site shall be returned to its preconstruction state.</li> </ul>	Construction		USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)
<b>On-going Monitoring Reports to CCC</b>	USACE will provide to the CCC Executive Director all monitoring reports, including biological monitoring (including biological mitigation monitoring), surfing monitoring, turbidity, and spill prevention and response monitoring, long-term shoreline monitoring, and cultural resource surveys.	Construction		USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)
<b>Out-of-kind Mitigation justification to CCC</b>	For any mitigation shown necessary by the post-construction monitoring, USACE will not proceed to implement out-of-kind mitigations (e.g., using kelp habitat to mitigate surfgrass impacts, or providing mid-water habitat to mitigate for shallow water habitat impacts) without showing to the satisfaction of the CCC Executive Director that in-kind mitigation is infeasible. In addition, if out-of-kind mitigation is agreed to and implemented, the mitigation ratio shall be 4:1 (i.e., 4 acres of mitigation for one acre of impact), and the area measured as the impact area shall be the entire seafloor area (and not, e.g., the acreage of scattered boulders alone).	Construction		USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)
<b>Renourishment Notification to CCC</b>	USACE will notify the Executive Director prior to any reinitiation (after the first phase) of nourishment, and the USACE shall not implement any such renourishment until the CCC Executive Director has received all of the monitoring reports required by that time, reviewed them, and agreed that the biological impacts have been mitigated and affected habitat restored to pre-project conditions.	Pre-construction for future/ subsequent renourishment events		USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
<b>RWQCB Section 401 Water Quality Certification Permit Conditions</b>					
<b>Stormwater Management Plan to SDRWQCB</b>	USACE must submit a stormwater management plan for review by the SDRQOCB. The stormwater management plan must include measures for avoiding and minimizing indirect impacts to aquatic resources from Project activities.	Pre-construction (NLT 30 days prior)	In Process	USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)
<b>Eelgrass Monitoring</b>	A pre-construction eelgrass survey must be completed in accordance with the requirements of the CEMP. If eelgrass identified within 30 ft of project area, USACE must implement best management practices for the protection of eelgrass beds, as described in Attachment 3 of the SDRWQCB Order; and complete a post-construction eelgrass survey, performed by a qualified biologist, within 30 days following the completion of in-water Project activities. The post-construction survey shall be used to quantify and determine mitigation for any losses to eelgrass in conformance with the CEMP.	Pre-construction (NET 90 days prior) Post-construction (within 30 days if needed)		USACE and City of San Clemente	SDRWQCB order
<b>Caulerpa Monitoring</b>	If applicable, USACE must conduct a surveillance-level survey for <i>Caulerpa taxifolia</i> and <i>Caulerpa prolifera</i> , in accordance with the requirements in the National Marine Fisheries Service's <i>Caulerpa Control Protocol</i> , not more than 90 days before the start of in-water Project activities to determine presence/absence of this species within the immediate vicinity of the project.  If any <i>Caulerpa</i> are identified during a survey, or at any other time before, during, or within 120 days following completion of authorized activities, both National Marine Fisheries Service and California Department of Fish and Wildlife must be contacted within 24 hours of first noting the occurrence. If any <i>Caulerpa</i> are detected, all disturbing activity must cease until such time as the infestation has been isolated and treated, or the risk of spread from the disturbing activity is eliminated in accordance with the <i>Caulerpa Control Protocol</i> .	Pre-construction (NET 90 days prior) Construction Post-construction (120 days after)		USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)
<b>Water Quality Monitoring</b>	USACE must conduct visual monitoring of Project activities in the Pacific Ocean prior to, during, and after each period of project construction (e.g., pile extraction and driving) as described below. The receiving water visual monitoring documentation must be included in the Annual Progress Reports as described in Attachment 2 of the SDRWQCB Order. The following parameters shall be visually monitored immediately outside of the construction area: floating	Pre-construction Construction Post-construction	Ongoing	USACE and City of San Clemente	SDRWQCB order

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
	particulates, suspended materials, surface visible turbidity plume; and Grease, oil, sheen, odor, color, or any other significant discoloration of the water surface.				
<b>Annual Progress Report</b>	<p>USACE must submit Annual Progress Reports to the SDRWQCB prior to March 1 of each year following the issuance of the Order and continue to provide the reports until the SDRWQCB accepts the Project Completion Notification submitted by the USACE. Annual Progress Reports must be submitted even if Project activities are not conducted during the reporting period.</p> <p>Annual reports must contain the status and anticipated schedule for both the Project and Compensatory Mitigation site(s). Additional requirements for the contents of Annual Progress Reports are detailed in Attachment 2 of the SDRWQCB Order.</p> <p>Annual Progress Reports must include, at a minimum, the following:</p> <ul style="list-style-type: none"> <li>• The status and anticipated schedule for completion of Project construction activities, including the installation and operational status of construction best management practices for water quality protection;</li> <li>• A description of any Project construction delays encountered or anticipated that may affect the schedule; and</li> <li>• Photo documentation of all areas of impact before and after construction. Photo documentation must be conducted in accordance with SDRWQCB posted guidelines.</li> </ul>	Annually prior to March 1 until project completion		USACE and City of San Clemente	SDRWQCB order
<b>Geographic Information System Data</b>	USACE must submit Geographic Information System (GIS) shapefiles and metadata that show the Project site(s) and impact areas associated with the Project. As part of the final Annual Progress Report, the USACE must submit GIS shape files and metadata that show mitigation site(s), including extent and distribution of aquatic resources.	Construction (within 30 days of start)		USACE and City of San Clemente	2023 SEA/FONSI (Section 5.2)

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
<b>Final EIS/EIR</b>					

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
<b>Air Quality</b>	Potentially Significant Impact: The EIS/EIR identifies potential significant indirect impact AQ-50-3: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable Federal or State ambient air quality standard.	Construction		USACE and City of San Clemente	Final EIS/EIR
		Construction		USACE and City of San Clemente	Final EIS/EIR
	Potentially Significant and Unavoidable Cumulative Impact: Section 6.2.1 of the EIS/EIR states that construction of the related projects would be short-term and depending on the extent of construction, could have effects similar to or greater than that of the proposed Project. Even with the prescribed mitigation, the proposed action is anticipated to exceed the significance threshold limitations for NOx and PM2.5. In accordance with SCAQMD methodology, projects that exceed the daily threshold values and cannot be mitigated to less than the SCAQMD thresholds add significantly to the cumulative impact. As such, the beach fill Project also is considered as significant and unavoidable at the cumulative level.	Construction		USACE and City of San Clemente	Final EIS/EIR

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference	
<b>Water Resources, Sediments, Oceanography</b>	Potentially Significant Impact: The EIS/EIR identifies potential significant indirect impact WQ-50-1: The water quality objectives in the California Ocean Plan (SWRCB 2005) are violated.	MM-WR-50-1.1: A SWPPP and an OSPRP shall be prepared for all construction activities. These plans shall specify specific measures that shall be taken during dredging and beach construction to avoid introducing contaminants to the ocean via leaks and spills. All measures shall be adhered to during Project construction.  MM-WR-50-1.2: Turbidity shall be monitored during dredging. If a visible turbidity plume is observed beyond the immediate dredging area, dredging activities shall be modified (e.g., decrease the rate of dredging, move to a new dredge location) until the turbidity plume disperses. Turbidity also shall be monitored during beach fill operations. If significant turbidity (i.e., a visible turbidity plume beyond the surf zone or rip current area) is observed, beach fill operations shall be modified (e.g., by slowing the rate of fill) until the turbidity plume disperses.	Construction		USACE and City of San Clemente	Final EIS/EIR
	Potentially Significant Impact: The EIS/EIR identifies potential significant indirect impact WQ-50-2: Project operations or discharges that change background levels of chemical and physical constituents or elevate turbidity would produce long-term changes in the receiving environment of the site, area, or region that would impair the beneficial uses of the receiving water.	MM-WR-50-1.2: Turbidity shall be monitored during dredging. If a visible turbidity plume is observed beyond the immediate dredging area, dredging activities shall be modified (e.g., decrease the rate of dredging, move to a new dredge location) until the turbidity plume disperses. Turbidity also shall be monitored during beach fill operations. If significant turbidity (i.e., a visible turbidity plume beyond the surf zone or rip current area) is observed, beach fill operations shall be modified (e.g., by slowing the rate of fill) until the turbidity plume disperses.	Construction		USACE and City of San Clemente	Final EIS/EIR
<b>Biological Resources</b>		MM-BR-50-2.1: An underwater survey for kelp and surfgrass shall be conducted by marine biologists prior to the initiation of beach fill activities. Based on the survey, a mooring location and a pipeline route shall be selected that minimizes contact with surfgrass and kelp habitat. If kelp and surfgrass cannot be avoided completely, immediately	Pre-construction, Construction, and Post-construction	Pre-construction monitoring completed in 2020	USACE and City of San Clemente	Final EIS/EIR

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
	Potentially Significant and Unavoidable Impact: The EIS/EIR identifies potential significant indirect impact BR-50-2: A long-term net loss in the habitat value of a sensitive biological habitat. For the purposes of this analysis, kelp beds, surfgrass beds, and well developed rocky intertidal are considered sensitive biological habitats.				
	<p>following beach fill activities, another survey of the mooring and pipeline areas shall be conducted to determine whether kelp and surfgrass were damaged. If substantial damage to surfgrass or kelp occurs, an additional survey shall be conducted six months after the beach fill to determine if kelp and surfgrass have recovered. If substantial damage to kelp and eelgrass is still observed, restoration of habitat shall be implemented in consultation with the resource agencies.</p> <p>MM-BR-50-2.2: Shallow subtidal surfgrass beds in the vicinity of San Clemente Beach shall be monitored to determine whether the proposed action adversely affects shallow subtidal reefs and surfgrass. Underwater transects shall be established offshore and downcoast from the proposed receiver beach. Control transects also shall be established upcoast of the project area. The transects shall be monitored by qualified biologists before and after the proposed action to determine whether the beach fill results in a long-term loss of surfgrass and/or reef habitat. The mitigation and monitoring plan is included as Vol. I, Appendix B. If adverse significant impacts to surfgrass and/or reef habitat compared to controls and baseline conditions are observed from the monitoring, subsequent nourishment activities will be modified to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed. Compensatory mitigation will consist of the creation of shallow rocky habitat in the Project area at a site to be determined in consultation with NOAA Fisheries and CDFG. Rocky reef habitat will be created in the Project area at a ratio of 1 acre of rocky reef habitat created for 1 acre of rocky reef habitat buried. If the monitoring determines that</p>	Pre-construction, Construction, and Post-construction	Pre-construction monitoring completed in 2020	USACE and City of San Clemente	Final EIS/EIR



Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
	<p>surfgrass has been affected by the Project, an experimental surfgrass restoration will be implemented. A successful method to transplant surfgrass has not been demonstrated, but recent studies by researchers at the University of California, Santa Barbara, have demonstrated some success restoring surfgrass using sprigs (Bull et al 2004).</p>				
<b>Biological Resources</b>	<p>Potentially Significant and Unavoidable Impact: The EIS/EIR identifies potential significant indirect impact BR-50-5: Substantial adverse impact on Essential Fish Habitat.</p>	<p>MM-BR-50-2.1: An underwater survey for kelp and surfgrass shall be conducted by marine biologists prior to the initiation of beach fill activities. Based on the survey, a mooring location and a pipeline route shall be selected that minimizes contact with surfgrass and kelp habitat. If kelp and surfgrass cannot be avoided completely, immediately following beach fill activities, another survey of the mooring and pipeline areas shall be conducted to determine whether kelp and surfgrass were damaged. If substantial damage to surfgrass or kelp occurs, an additional survey shall be conducted six months after the beach fill to determine if kelp and surfgrass have recovered. If substantial damage to kelp and eelgrass is still observed, restoration of habitat shall be implemented in consultation with the resource agencies.</p> <p>MM-BR-50-2.2: Shallow subtidal surfgrass beds in the vicinity of San Clemente Beach shall be monitored to determine whether the proposed action adversely affects shallow subtidal reefs and surfgrass. Underwater transects shall be established offshore and downcoast from the proposed receiver beach. Control transects also shall be established upcoast of the project area. The transects shall be monitored by qualified biologists before and after the proposed action to determine whether the beach fill results in a long-term loss of surfgrass and/or reef habitat. If adverse significant impacts to surfgrass and/or reef habitat compared to controls and baseline conditions are observed from the monitoring, subsequent nourishment activities will be modified</p>	<p>Pre-construction, construction and post construction. Pre-construction monitoring completed in 2020.</p>	USACE, City and Contractors	Final EIS/EIR

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference	
	to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed. Compensatory mitigation will consist of the creation of shallow rocky habitat in the Project area at a site to be determined in consultation with NOAA Fisheries and CDFW. Rocky reef habitat will be created in the Project area at a ratio of 1 acre of rocky reef habitat created for 1 acre of rocky reef habitat buried. If the monitoring determines that surfgrass has been affected by the Project, an experimental surfgrass restoration will be implemented. A successful method to transplant surfgrass has not been demonstrated, but recent studies by researchers at the University of California, Santa Barbara, have demonstrated some success restoring surfgrass using sprigs.					
Cultural Resources	Potentially Significant Impact: The Project has the potential for significant impact CR-50-1: Result in potentially significant impacts on cultural resources from project implementation.	MM-CR-50-1: Any earthmoving associated with this Project that will involve previously undisturbed soil will be monitored by a qualified archeologist who meets the Secretary of Interior’s Standards for an Archeologist (see 36 CFR Part 61). Earthmoving includes grubbing and ground clearing, grading, and excavation activities. If a previously unidentified cultural resource (i.e., property) that may be eligible for the NRHP is discovered, all earthmoving activities in the vicinity of the discovery shall be diverted until the USACE complies with 36 CFR § 800.13(a)(2).	Construction		USACE and City of San Clemente	Final EIS/EIR
		MM-CR-50-2: Prior to construction, offshore borrow areas 1 and 2 will be subjected to an underwater remote sensing survey in order to determine if submerged cultural resources are present within these areas. The USACE will comply with Section 106 of the NRHP and its implementing regulations at 36 CFR 800, as amended. This compliance involves the identification and	Pre-construction	Completed: June 3, 2020	USACE and City of San Clemente	Final EIS/EIR

Mitigation Measure / Monitoring Commitment	Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
	evaluation of cultural resources and consultation with the California State Historic Preservation Officer (SHPO), Native American tribes, and interested parties.				
<b>Noise</b>	<p>Potentially Significant Impact: The Project has the potential for significant impact N-50-4: Result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.</p> <p>MM-N-50-3.1: The City of San Clemente Noise Element discusses the potential impacts of construction noise on the residents and requires construction to employ feasible and practical techniques and practices that minimize the generation of excessive noise on adjacent land uses. The Applicant shall implement the following:</p> <ul style="list-style-type: none"> <li>• Regardless of dredge activity timing, onshore equipment shall be restricted to the hours included in the City of San Clemente Noise Ordinance discussed above.</li> <li>• To reduce the nuisance value of on-shore construction noise, on-shore construction activities located within 500 ft (152 m) of any residential unit shall not begin before 8:00 a.m. (as opposed to 7:00 a.m. as allowed in the Noise Ordinance). Work beyond may be performed in accordance with the hours included in the City Noise Ordinance. This provision shall not apply to any equipment mobilizing from the staging area that may pass within 500 ft (152 m) so long as it is not actively engaged in the movement of sand.</li> <li>• During all construction, the Project contractors shall equip all onshore construction equipment with properly operating and maintained mufflers and engine shrouds consistent with manufacturers' standards.</li> <li>• All heavy equipment shall be maintained in a proper state of tune as per the manufacturers' specifications.</li> <li>• The Project contractor shall place any stationary construction equipment as far as feasible from proximate receptor locations.</li> </ul>	Construction		USACE and City of San Clemente	Final EIS/EIR

Mitigation Measure / Monitoring Commitment		Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
<b>Recreation</b>	Potentially Significant Impact: The Project has the potential for significant impact REC-50-4: Result in a safety hazard to recreational beach users.	MM-REC-50-4.1: Provide signs to warn swimmers, waders and surfers of potentially hazardous surf conditions. Provide extra lifeguards.	Construction		USACE, City and Contractors	Final EIS/EIR
	Potentially significant and unavoidable short term and temporary impacts to Recreation have been identified in EIS/EIR Vol. I, Section 6.2.9 as there is the possibility that the initial beach fill or future maintenance nourishment activity may occur simultaneously along with Dana Point Harbor maintenance dredging activities. The cumulative presence of dredges and related dredging equipment may interrupt recreational activity in the Project vicinity for the duration of construction. Assuming beach use is low during the construction period, as it is planned for fall and winter seasons, cumulative impacts may be potentially significant, but temporary and short term in nature.	MM-REC-50-4.1: Provide signs to warn swimmers, waders and surfers of potentially hazardous surf conditions. Provide extra lifeguards.	Construction		USACE, City and Contractors	Final EIS/EIR
<b>Public Health and Safety</b>		MM-WR-50-1.1: A SWPPP and an OSPRP shall be prepared for all construction activities. These plans shall specify specific measures that shall be taken during dredging and beach construction to avoid introducing contaminants to the ocean via leaks and spills. All measures shall be adhered to during Project construction.	Pre-Construction and Construction		USACE, City and Contractors	Final EIS/EIR

Mitigation Measure / Monitoring Commitment		Description	Period of Compliance	Date of Compliance	Responsible Party	Reference
	<b>Potentially Significant Impact:</b> The Project has the potential for significant impact PHS-50-1: Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, and/or other public facilities.	MM-WR-50-1.2: Turbidity shall be monitored during dredging. If a visible turbidity plume is observed beyond the immediate dredging area, dredging activities shall be modified (e.g., decrease the rate of dredging, move to a new dredge location) until the turbidity plume disperses. Turbidity also shall be monitored during beach fill operations. If significant turbidity (i.e., a visible turbidity plume beyond the surf zone or rip current area) is observed, beach fill operations shall be modified (e.g., by slowing the rate of fill) until the turbidity plume disperses.	Construction		USACE, City and Contractors	Final EIS/EIR

## Appendix A – Green Sea Turtle Monitoring Program Details

Requirements	Period of Compliance	Responsible Party
<p>Inflow screening must be designed to capture and retain material for the qualified biologist to monitor for the presence of ESA-listed species. The screened area must be accessible to the biological monitor to ensure 100% observer coverage. The biological monitor must inspect the contents of all inflow screening boxes after every load, including opening the box (where applicable and safely accessible) and looking inside at all contents for evidence of ESA-listed species entrainment. If the contents are not clearly visible and identifiable from a location outside of the box, then in limited instances, the biological monitor may be required to enter the inflow box to identify contents for evidence of ESA-listed species take. All hopper dredges are required to have 100% inflow screening unless they must be removed for safety due to clogging as outlined below.</p> <ul style="list-style-type: none"> <li>• Inflow screening size will start at 4-inch by 4-inch, but may be gradually adjusted to a larger screen size if clogging reduces the ability for the qualified biologist to monitor the inflow for the presence of ESA-listed species or if clogging reduces dredging production and thereby expands the time dredging is required. Scenarios that may result in the clogging of inflow and overflow screens are dredged and project specific.</li> <li>• All modifications will be made in close coordination with the dredging contractor, qualified biologist, appropriate USACE project managers, and NMFS. The USACE will provide NMFS with a notification when screen sizes are increased or inflow screens are removed that will include an explanation of what attempts were made to reduce the clogging problem, how long the problem may persist, and how effective overflow screening will be achieved.</li> <li>• If inflow screens are increased to be larger than 4-inch by 4-inch or are removed due to clogging, the USACE will continue to re-evaluate the risk of clogging on a load by load basis and the inflow screens will be reinstated when clogging is no longer occurring. The USACE will track the number of loads that inflow screens were removed as part of the reporting requirements.</li> <li>• Hopper dredge operators will not open the hydraulic doors on the inflow boxes prior to inspection by the qualified biologist for evidence of ESA-listed take.</li> <li>• If the inflow box cannot be observed due to clogging, the box contents cannot be dumped or flushed unless overflow screening that captures contents for observation by the qualified biologist is operational and monitored for evidence of take. Once overflow screening is operational, the qualified biologist shall also visually monitor box contents as they are dumped or flushed into the hopper. All hopper dredges are recommended to have operational overflow screening and monitor for take after each load. Overflow screening is required to be installed and monitored after each load if the inflow screening is removed or bypassed due to clogging.</li> <li>• Overflow screening must be designed to capture and retain material larger than the screen size for the qualified biologist to monitor for the presence of ESA-listed species. The screened area must be accessible to the qualified biologist to inspect for evidence of ESA-listed species take.</li> <li>• Screen size will start at 4-inch by 4-inch, but may be adjusted to a larger screen size if clogging reduces the ability for the qualified biologist to monitor the screen for the presence of ESA-listed species or if clogging reduces dredging production and thereby expands the time dredging is required. All modifications will be made in close coordination with the dredging contractor, qualified biologist, appropriate USACE project managers, and NMFS. If screen sizes are increased due to clogging, the risk of clogging will be re-evaluated weekly and the overflow screens will be reinstated using the smallest screen size that can be effectively used (preferably 4 inch by 4 inch) when clogging is no longer occurring.</li> </ul>	Construction	USACE / City of San Clemente (via dredging contractor)
To prevent impingement or entrainment of ESA-listed species within the water column, dredging pumps will be disengaged by the operator when the dragheads are not actively dredging and therefore working to keep the draghead firmly on the bottom.	Construction	USACE / City of San Clemente (via

Requirements	Period of Compliance	Responsible Party
Pumps will be disengaged when lowering dragheads to the bottom to start dredging, turning, or lifting dragheads off the bottom at the completion of dredging. Hopper dredges may utilize a bypass or other system that would allow pumps to remain engaged, but result in no suction passing through the draghead.		dredging contractor)
Pumping water through the dragheads is not allowed while maneuvering or during travel to/from the disposal or pumpout area. The dredge operator will ensure the draghead is embedded in sediment when pumps are operational, to the maximum extent practicable.	Construction	USACE / City of San Clemente (via dredging contractor)
If green sea turtles are regularly seen by project monitors in the action area, especially within the vicinity of hopper dredging operations, the USACE shall contact NMFS to discuss implementation of any additional measures to reduce the risks of direct contact injuries or other adverse effects, along with potential modification of the green sea turtle monitoring plan to more specifically evaluate the impacts of the proposed project within this specific area.	Construction	USACE / City of San Clemente (via dredging contractor)
If the USACE's final monitoring and mitigation plan indicates that the currently available pre-construction survey information is inadequate to assess impacts to nearshore rocky reef and associated biological communities, and additional pre-construction physical and biological monitoring is not practicable to implement prior to the first nourishment event, then the USACE should utilize acoustic survey techniques similar to that already obtained for pre-construction purposes (i.e., Nearshore and Wetland Surveys 2018) to assess change in area of rocky reef substrate after completion of sediment placement. In this circumstance, any post-construction reductions in reef area that are measured which exceed a statistically reliable estimate of natural variability within the action area should be assumed to be due to the Project, and the USACE should implement rocky reef creation consistent with the associated environmental commitment in the EIS/EIR, or a functionally equivalent mitigation alternative. In addition, in this circumstance the USACE should assume some reduction in quantity and/or quality of surfgrass habitat and should implement the test surfgrass transplant as planned for in the EIS/EIR.	Post-construction	USACE
<p>During any reef construction operations, a qualified biologist will monitor for the presence of ESA-listed green sea turtles. The barge operator will maintain a safe working environment for the qualified biologist. The green sea turtle monitor will identify and communicate if there is a need to cease or alter operations to avoid impacts to green sea turtles. The biologist or monitor will clear the construction area and confirm no green sea turtles are present 30 minutes prior to the startup of reef placement operations. If a green sea turtle is observed within the vicinity of the project site during project operations, all appropriate precautions shall be implemented to avoid or minimize unintended impacts. These precautions include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Cessation of operations within 100 feet of an observed green sea turtle; ·</li> <li>• Operations may not resume until the green sea turtle has departed the monitoring zone by its own accord or has not been observed for a 15-minute period of time; and</li> <li>• Maneuver the barge to avoid any free-swimming green sea turtles observed during transit.</li> </ul>	Post-construction if required	USACE
Adequate lighting will be provided during nighttime operations (i.e., dredging, dredge material transport and placement) to allow the monitor to observe the surrounding area effectively.	Construction	USACE / City of San Clemente (via dredging contractor)
The biologist or monitor will clear the dredging area and confirm no GSTs are present 30 minutes prior to the startup of dredging operations.	Construction	USACE / City of San Clemente (via

Requirements	Period of Compliance	Responsible Party
		dredging contractor)
<p>If a GST is observed within the vicinity of the project site during project operations, all appropriate precautions shall be implemented to avoid or minimize unintended impacts. These precautions include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Cessation of operations within 100 feet of an observed GST;</li> <li>• Operations may not resume until the GST has departed the monitoring zone by its own accord or has not been observed for a 15-minute period of time; and</li> <li>• Maneuver the hopper dredge to avoid any free-swimming GSTs observed during transit.</li> </ul>	Construction	USACE / City of San Clemente (via dredging contractor)
<p>Biological monitors will maintain a written log of all GST observations during project operations. This observation log will be provided to the USACE and NMFS as an attachment to the postconstruction report for the project. Each observation log will contain the following information:</p> <ul style="list-style-type: none"> <li>• Observer name and title;</li> <li>• Type of construction activity (maintenance dredging, etc.);</li> <li>• Date and time animal first observed (for each observation);</li> <li>• Date and time observation ended (for each observation). A GST observation will terminate if (1) an animal is observed exiting the monitoring zone or (2) after a 15-minute period of no observation (assumption is that animal has exited, but was not observed to do so);</li> <li>• Location of monitor (latitude/longitude), direction of GST in relation to the monitor, and estimated distance (in meters) of GST to the monitor; and</li> <li>• Nature and duration of equipment shutdown.</li> </ul>	Construction	USACE / City of San Clemente (via dredging contractor)
The Contractor will implement an Environmental Protection Plan that will include a GST Monitoring and Avoidance Plan and an employee training program on GST observation protocols, avoidance, and minimization measures. The program will be conducted by the Biological Monitor and a record kept of dates of training, names and positions of attending employees, and an outline of the training presentation.	Construction	USACE / City of San Clemente (via dredging contractor)
In addition to a monitor onboard the hopper dredge, a qualified biologist or qualified monitor with experience monitoring green sea turtles will be onboard any construction barge used for creating rocky reefs as compensatory mitigation, and will monitor for the presence and behavior of green sea turtles.	Post-construction if required	USACE
Upon completion of each nourishment event and any compensatory mitigation activities, the USACE shall complete a report summarizing all data recorded during all monitoring throughout all phases of the proposed project, including all documentation and summary analysis of the presence and behavior of green sea turtles, effectiveness of the monitoring and avoidance measures, and assessment of any potential impacts that may have occurred throughout the entire proposed action.	Post-construction	USACE
Prior to initiating the proposed project, the USACE shall provide NMFS WCR an updated monitoring plan for minimizing and avoiding the impacts of project activities on sea turtles.	Pre-construction	USACE
The USACE shall require project monitors, key contractors and USACE project personnel to attend a project briefing prior to starting work on the proposed project. The project briefing shall review the protocols for minimization and avoidance of	Pre-construction	USACE / City of San Clemente (via



Requirements	Period of Compliance	Responsible Party
impacts to sea turtles as described in this biological opinion, as well as review the latest scientific information regarding green sea turtle ecology in the action area.		dredging contractor)
<p>Prior to initiating the proposed project and in coordination with NMFS WCR, the USACE shall develop and provide NMFS WCR a detailed final monitoring and mitigation reporting plan regarding Project effects on nearshore rocky reef habitat and associated biological communities. The USACE shall coordinate with Bryant Chesney (Bryant.Chesney@noaa.gov) prior to final submission. The final plan and any updates shall be provided to Dan Lawson at the email address identified above. The monitoring and mitigation plan shall be developed to address and evaluate the accuracy of key assumptions and expectations regarding the anticipated environmental impacts of the proposed action in comparison to any resulting impacts that do occur; the adequacy of the monitoring and analytical methods to identify and accurately measure impacts from the beach nourishment effort. the physical and biological monitoring of key habitat features throughout the sediment equilibrium footprint, such as the area of bedrock, boulder, cobble, and sand bottom habitat, as well as indicators of habitat quality, such as surfgrass, algae, and invertebrate cover and abundance; the appropriate mitigation sites for rocky reef creation and/or alternative mitigation activities that could enhance the quantity and/or quality of green sea turtle foraging and resting habitat; and the reporting timeline and process for documenting the extent of incidental take of green sea turtles through nearshore reef burial and/or sedimentation. At a minimum, the monitoring plan should report the extent of reef habitat within the sediment equilibrium footprint and quantify any reduction in rocky reef area. In addition, the report shall document any reductions in cover of surfgrass, macroalgae, and sessile invertebrates within the sediment equilibrium footprint. A draft report for each monitoring event shall be provided to NMFS WCR within 60 days following completion of habitat monitoring activities by email to Dan.Lawson@noaa.gov, with a final report provided within 90 days.</p>	Pre-construction	USACE
<p>Prior to initiation of any future beach renourishment events, the USACE shall develop, in coordination with NMFS WCR, a standardized and consistent protocol for assessing impacts to nearshore rocky reef communities for future events based upon consideration of any deficiencies identified in development of the final monitoring and mitigation reporting plan described in 1F above, information collected from monitoring during the initial nourishment event, and other relevant impact assessment approaches used for similar types of projects. The protocol and any updates shall be provided to Dan Lawson at the same email address listed above.</p>	Post-construction	USACE

## Appendix B – Surfzone Monitoring Program

Requirements	Period of Compliance	Responsible Party
Adequate baseline data collection, including, if feasible, a full year of preconstruction monitoring to determine the baseline condition. If this is infeasible, then another local surf site should be monitored as a control (e.g., Lower Trestles, which is already monitored daily and shown on the website: <a href="http://www.surflife.com">www.surflife.com</a> ).	Pre-construction	USACE / City of San Clemente
Identification of locations to be monitored, the length of the pre-project monitoring, and interest groups to be involved in establishing the monitoring effort to identify surfing or surf quality changes that might be attributable to the nourishment project, including identifying criteria for a determination of what constitutes a significant alteration or impact.	Pre-construction	USACE / City of San Clemente
Supplementing the “wave observation” component of the surf monitoring with observations about the surfing activities, including a usage scale of surfers in the water, both morning and mid-day, and describing the average and maximum ride lengths.	Pre-construction	USACE / City of San Clemente
Given that video recordings are included, if observer counts are too difficult for one observer, video may be used to augment observer counts.	Pre-construction	USACE / City of San Clemente
When collecting user data, the analysis should be disaggregated into weekday and weekend data.	Pre-construction	USACE / City of San Clemente
For mid-day observations on days when surfers are kept out of the water by lifeguards, these should be recorded as restricted use days (not zero use days).	Pre-construction	USACE / City of San Clemente
Establishing mechanisms for informing the local community about the project, and encouraging public comments on surfing quality (or other recreational concerns), including but not limited to: <ul style="list-style-type: none"> <li>• a web site;</li> <li>• pre-construction notifications to the public; and</li> <li>• signs.</li> </ul>	Pre-construction	USACE / City of San Clemente

## Appendix C – Additional Operational Recommendations, SOPs and BMPs (Non – NEPA & CEQA RELATED)

Standard Operating Procedures and/or Best Management Practices	Description	Party Responsible	Reference
<b>Recreation</b>	Contract specifications shall require the contractor to fence/secure off areas of construction from public access, including construction staging areas and active construction areas, including the beach and nearshore zone.	Contractor; USACE; City of San Clemente	Final EIS/EIS
<b>Navigational Safety</b>	<ul style="list-style-type: none"> <li>• The dredge would be equipped with markings and lightings in accordance with the U.S. Coast Guard regulations.</li> <li>• The location and schedule of the dredge would be published in the U.S. Coast Guard Local Notice to Mariners.</li> <li>• The dredge would travel at very low speeds (approximately 1.5 knots) during dredging operations.</li> <li>• The travel speed during transport would be approximately 5 knots.</li> <li>• During dredging and nourishment activities, proper advanced notice to mariners would be obtained, and navigational traffic would not be allowed within the offshore borrow site area or mooring/discharge area offshore of Oceanside.</li> </ul>	Contractor; USACE	Final EIS/EIR
<b>Commercial Fishing Association Notification</b>	The local commercial fishermen's association shall be provided with written notification of the intended start date of onshore construction, offshore construction, maps of project-related vessel transportation routes, and its duration. Noticing shall include a point of contact throughout the entire construction phase to respond to concerns regarding interference and/or other issues associated with local commercial fishing operations.	Coast Guard (via contractor); USACE	Final EIS/EIR

# **EXHIBIT B –COASTAL STORM DAMAGE REDUCTION PROJECT/SAN CLEMENTE SHORELINE PROTECTION PROJECT CALIFORNIA STATE LANDS COMMISSION**

## **STATEMENT OF FINDINGS**

### **1.0 INTRODUCTION**

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use to the City of San Clemente (City) for use of sovereign land associated with the proposed Coastal Storm Damage Reduction Project/ San Clemente Shoreline Protection Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines<sup>1</sup>, § 15381.) The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust.

The Commission is a responsible agency under CEQA for the Project because the Commission must approve a lease for the Project to go forward and because the City, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The City analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2010084002, certified the EIR, and adopted a Mitigation Monitoring and Reporting Program (MMRP), Findings of Fact, and a Statement of Overriding Considerations.

The Project consists of a 50-foot wide beach berm which would be renourished every 6 years over the 50-year project life. The beach berm would be approximately 3,400 feet long. The initial construction would use approximately 251,000 cubic yards of sand which would be dredged from a borrow site

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<sup>1</sup> CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

offshore of northern San Diego County. Monitoring of the beach profile would be undertaken annually.

The City determined that the Project could have significant environmental effects on the following environmental resources:

- Air Quality and Meteorology
- Water Resources, Sediments, Oceanography
- Biological Resources
- Cultural Resources
- Noise
- Public Health and Safety
- Recreation

All of the resources areas noted above include Project components within the Commission's jurisdiction (i.e., dredging) and could have significant environmental effects.

In certifying the Final EIR and approving the Project, the City imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that many Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant. However, even with the integration of all feasible mitigation, the City concluded in the EIR that some of the identified impacts would remain significant. As a result, the City adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The City determined that, after mitigation, the Project may still have significant impacts on Biological Resources. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission, the Commission also adopts a Statement of Overriding Considerations set forth in this exhibit as part of its approval.

As a responsible agency, the Commission complies with CEQA by considering the Final EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the Commission will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the Commission adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit A as part of its Project approval.

## **2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD**

These Findings are supported by substantial evidence contained in the Final EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Science, Planning, and Management.

### **3.0 FINDINGS**

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the Final EIR certified by the City for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.

While the Commission must consider the environmental impacts of the Project as set forth in the Final EIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only issuing a General Lease – Public Agency Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the Final EIR fully complies with CEQA.

The Commission has reviewed and considered the information contained in the Project Final EIR. All significant adverse impacts of the Project identified in the Final EIR relating to the Commission's approval of a General Lease – Public Agency Use, which would allow offshore dredging and sand placement on the designated beach areas, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings

for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.<sup>2</sup>

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

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<sup>2</sup> See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the Final EIR.

#### A. SUMMARY OF FINDINGS

Based on public scoping, the proposed Project will have No Impact on the following environmental issue areas:

- Agricultural and Forestry Resources
- Energy
- Hazards and Hazardous Materials
- Mineral Resources
- Population and Housing
- Public Services
- Utilities and Service Systems

The EIR subsequently identified the following impacts as Less Than Significant:

- Aesthetics
- Geology and Topography
- Land Use and Policy
- Socioeconomics/Environmental Justice
- Ground and Vessel Transportation

For the remaining potentially significant effects, the Findings are organized by significant impacts within the Final EIR issue areas as presented below.

#### B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts within CSLC jurisdiction identified in Table B-1 were determined in the Final EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit A, Attachment A-1.

However, even with the integration of all feasible mitigation, the City concluded in the Final EIR that the other identified potentially significant impacts will remain significant. Table B-1 identifies those impacts that the City determined would be, after mitigation, significant and unavoidable (SU).

**Table B-1 – Significant Impacts by Issue Area**

<b>Environmental Issue Area</b>	<b>Impact Nos. (LTSM)</b>	<b>Impact Nos. (SU)</b>
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Air Quality and Meteorology	<b>AQ-50-3</b>	<b>Cumulative AQ</b>
Water Resources, Sediments, Oceanography	<b>WQ-50-1, WQ-50-2</b>	
Biological Resources		<b>BR-50-2, BR-50-5</b>
Cultural Resources	<b>CR-50-1</b>	
Noise	<b>N-50-4</b>	
Recreation	<b>REC-50-4</b>	<b>Cumulative REC</b>
Public Health and Safety	<b>PHS-50-1</b>	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

### **C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION**

The impacts identified below were determined in the Final EIR to be potentially significant absent mitigation; however, the impacts were determined to be less than significant with mitigation (LTSM).

#### **1. AIR QUALITY AND METEOROLOGY**

##### **CEQA FINDING NO. AQ-1**

Impact: **Impact AQ-50-3: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable Federal or State ambient air quality standard.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

The use of dredging equipment in the water and use of heavy construction equipment operating in the surf zone and on the beach area could have a

potential significant impact to Air Quality. Site construction may approach the daily threshold for nitrogen oxides (NO<sub>x</sub>) emissions, therefore the Project could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable Federal or State ambient air quality standard.

This impact will be mitigated to a level less than significant by the USACE, City of San Clemente, or its contractors implementing mitigation measures to require the use of on-shore heavy equipment that meets Tier II or higher air pollutant emission standards, as equipment is available, to reduce NO<sub>x</sub> emissions by approximately 40 percent and particulate emissions by about 25 percent over Tier 1 equipment (MM-AQ-50-3.1). Additionally, all heavy equipment shall be maintained per manufacturer's specifications required by regulatory agencies (California Air Resources Board and/or U.S Environmental Protection Agency) in order to reduce emissions of NO<sub>x</sub> as well as carbon monoxide (CO) and reactive organic gases (ROG) (MM-AQ-50-3.2).

Implementation of MM-AQ-50-3.1 and MM-AQ-50-3.2 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM-AQ-50-3.1:** The construction contractors shall use on-shore heavy equipment that meets Tier II or higher air pollutant emission standards where these standards are applicable and equipment available.

**MM-AQ-50-3.2:** All heavy equipment shall be maintained and tuned per manufacturer's specifications to perform at California Air Resources Board (CARB) and/or EPA certification, where applicable, levels and to perform at verified standards applicable to retrofit technologies.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

## 2. WATER RESOURCES, SEDIMENTS, OCEANOGRAPHY

### CEQA FINDING NO. WQ-1

Impact: **Impact WQ-50-1: Result in a potential significant indirect impact to the water quality objectives from the California Ocean Plan (SWRCB 2005).**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

### FACTS SUPPORTING THE FINDING(S)

Dredging and beach construction activities will involve the use of vessels and construction vehicles on and near the ocean. An accident or the improper handling of materials could result in the introduction of fuels or other hazardous materials to the ocean. The introduction of fuels or other contaminants to marine water would be a potentially significant impact. Additionally, if a silt layer is encountered during dredging activities, the hopper dredge may create a surface turbidity plume that could extend for 1,000 ft (300 m) or more from the work site. Finally, turbidity plumes could arise during beach construction, and if those plumes are extensive, impacts could be significant to nearshore waters. The aforementioned activities could result in a potentially significant impact to Water Resources through indirect impacts to water quality and violation of water quality objectives in the California Ocean Plan.

These impacts will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing mitigation measures. A Stormwater Pollution Prevention Plan (SWPPP) and an Oil Spill Prevention and response Plan (OSPRP) shall be required to avoid introduction of contaminants into the ocean via leaks and spills (MM-WR-50-1.1). Additionally, turbidity will be monitored during dredging activities and beach fill operations. If Project work activities increase turbidity beyond the immediate Project area, then Project activities will be modified (e.g., decrease in the rate of dredging, move to a new dredge location, slow the rate of beach fill) until the turbidity plume disperses (MM-WR-50-1.2)

Implementation of MM-WQ-50-1.1 and MM-WQ-50-1.2 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM-WQ-50-1.1:** SWPPP and an OSPRP shall be prepared for all construction activities.

**MM-WQ-50-1.2:** Turbidity monitoring during dredging.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. WQ-2**

**Impact:** **Impact WQ-50-2: Project operations or discharges that change background levels of chemical and physical constituents or elevate turbidity would produce long-term changes in the receiving environment of the site, area, or region that would impair the beneficial uses of the receiving water.**

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

**FACTS SUPPORTING THE FINDING(S)**

Beneficial uses of ocean waters off San Clemente and Oceanside include marine habitat, wildlife habitat, navigation, water-related recreation that involves body contact with water, non-contact water recreation, and habitat for threatened and endangered species. Turbidity generated during excavation of sediment at the Oceanside source site would be within the foraging range of California least terns. While the proposed Project is expected to occur outside of the least tern breeding season, a large least tern nesting colony at Santa Margarita River is within about 1.5 miles from the Oceanside borrow site. An increase in turbidity could result in a change in the receiving environment that would impact beneficial uses.

The potential significant impact to Water Resources from sand dredging and sand placement in the surf break and beach areas will increase turbidity within the Project footprint and will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractor's implementing mitigation measure MM-WR-50-1.2. Turbidity will be monitored during dredging activities. If Project work activities increase turbidity from beyond the immediate Project area, then Project activities will be modified (e.g., decrease in the rate of dredging, move to a new dredge location) until the turbidity plume disperses (MM-WR-50-1.2)

Implementation of MM-WQ-50-1.2 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM-WQ-50-1.2.** Turbidity monitoring during dredging.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

### 3. CULTURAL RESOURCES

#### CEQA FINDING NO. CR-1

Impact: **Impact CR-50-1: Result in potentially significant impacts on cultural resources from project implementation.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

#### FACTS SUPPORTING THE FINDING(S)

The Project may result in a potentially significant impact to Cultural Resources during project dredging, sand placement, and beach construction. Any earthmoving associated with the Project that will involve previously undisturbed soil has the potential to impact cultural resources.

The impact will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing mitigation measures. Any earthmoving activities associated with the Project that will involve previously undisturbed soil will be monitored by a qualified archeologist (MM-CR-50-1). Prior to initiating dredging and construction, offshore borrow areas 1 and 2 will be subjected to an underwater remote sensing survey in order to determine if submerged cultural resources are present within these areas (MM-CR-50-2). If new cultural resources are discovered or identified during dredging of sand in borrow areas 1 and 2, dredging and construction activities will cease until the resource has been identified, the extent of the discovery has been determined, and required consultations occur. The survey of the borrow areas will reduce or minimize impacts to previously undiscovered cultural resources. Commission staff shall be notified of any cultural resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. If requested by a Tribe, a Native American Monitor shall remain onsite during Project construction. The borrow areas will be surveyed using methodologies authorized and approved to comply with Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR 800, as amended.

Implementation of MM-CR-50-1 and MM-CR-50-2 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM-CR-50-1:** Undisturbed soil monitoring by a qualified archeologist prior to earthmoving and excavation activities.

**MM-CR-50-2:** Offshore borrow areas 1 and 2 underwater remote sensing survey to determine if submerged cultural resources are present within these areas.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

#### 4. NOISE

##### CEQA FINDING NO. N-1

Impact: **Impact N-50-4: Result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

##### FACTS SUPPORTING THE FINDING(S)

The Project dredging and construction equipment may create substantial temporary or periodic increases in ambient noise levels within the project vicinity above background levels without the project. The construction-related noise is anticipated to exceed the goals of the City's Noise Element in the General Plan. The nearest existing residents are located to the northeast of the project area at a distance of about 55-60 meters. Any construction within 500 ft (152 meters) of the nearby residents could create significant impacts. Further, on occasion, beach-based heavy equipment may be required to operate at night to keep up with the dredge, and any use of land-side equipment overnight may create a significant impact.

The impact will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing mitigation measures (MM-N-50-3.1). The City's Noise Element requires construction activities to employ feasible and practical techniques and practices that minimize the generation of excessive noise on adjacent land uses during the identified construction hours and work windows. On-shore equipment shall be restricted to the hours included in the City of San Clemente Noise Ordinance, and on-shore construction activities located within 500 ft (152 meters) of any residential unit shall not begin before 8:00 am (as opposed to 7:00 am as allowed in the Noise Ordinance). Further, all on-shore construction equipment shall have properly operated and maintained mufflers and engine shrouds, be maintained in a proper state of tune per manufacturers' specifications, and shall be placed as far as feasible

from proximate receptors and oriented to emit noise away from sensitive receptors.

Implementation of MM-N-50-3.1 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM-N-50-3.1:** Implementation of feasible and practical techniques and practices that minimize the generation of excessive noise on adjacent land uses.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

## 5. RECREATION

### CEQA FINDING NO. R-1

Impact: **Impact REC-50-4: Result in a safety hazard to recreational beach users.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

### FACTS SUPPORTING THE FINDING(S)

Heavy equipment working in an active public use area poses a potentially significant safety issue for adults and children. Children may be prone to come close to the equipment both during equipment operation on the beach and storage within staging areas. The beach fill activities also have the potential to create public safety impacts to swimmers and waders due to the creation of a steep foreshore (beach) slope during and immediately following construction of the project. Swimmers and waders may perceive this change as a “drop-off,” and may be unexpectedly confronted with deeper water resulting in hazardous conditions. The change in beach slope in the surf zone may also enable larger waves to break very close to shore, potentially posing a safety risk to the recreating public who are suddenly confronted with a higher energy wave climate. In some locations nationwide, there has been an increase in lifeguard rescue missions immediately following beach fill construction projects.

The impact will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing mitigation measures (MM-REC-50-4.1). Notification signs, beach construction monitors, and warning barriers will be used to prevent recreational beach users from entering active construction areas during dredging and sand placement activities on the beaches and to

alert swimmers, waders, and surfers to potentially hazardous surf conditions. Additionally, extra lifeguards will be provided on site.

Implementation of MM-REC-50-4.1 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM-REC-50-4.1:** Provide signs to warn swimmers, waders and surfers of potentially hazardous surf conditions. Provide extra lifeguards.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

## 6. PUBLIC HEALTH AND SAFETY

### CEQA FINDING NO. PHS-1

Impact: **Impact PHS-50-1: Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, and/or other public facilities.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

### FACTS SUPPORTING THE FINDING(S)

Heavy equipment working in active public use areas poses safety issues for the public. Offshore dredge equipment has the potential to result in a hazard to boat traffic. Additionally, spills or chemical discharges during dredging and construction activities could cause substantial adverse physical impacts.

The impact will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing mitigation measures (MM-WR-50-1.1 and MM-WR-50-1.2). A SWPPP and an OSPRP shall be prepared for all construction activities, and monitoring of the Project areas will occur during dredging and beach construction to avoid introducing contaminants to the offshore waters and beach placement areas via leaks and spills. Construction equipment will be properly maintained to ensure leaks and discharges are eliminated. Turbidity will be monitored to ensure the plume from dredging and sand placement does not exceed impact standards from approved regulatory



agency plans. In the event turbidity increases, dredging and sand placement will be reduced until the turbidity plumes are at acceptable levels.

Implementation of MM-WQ-50-1.1 and MM-WQ-50-1.2 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM-WQ-50-1.1:** SWPPP and an OSPRP shall be prepared for all construction activities.

**MM-WQ-50-1.2:** Turbidity shall be monitored during dredging.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

#### **D. SIGNIFICANT AND UNAVOIDABLE IMPACTS**

The following impacts were determined in the Final EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

### **7. AIR QUALITY AND METEOROLOGY**

#### **CEQA FINDING-CUMULATIVE AIR QUALITY**

Impact: **Impact Cumulative AQ: Construction of the related projects would be short-term and depending on the extent of construction, could have effects similar to or greater than that of the proposed Project.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

(3) 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 the Final EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

Potentially significant and unavoidable cumulative air quality impacts would occur during site preparation, dredging, grading, and sporadic maintenance activities required for implementation of the Project. Maintenance activities would occur every 6 years depending on need and would result in repetition of

initial construction activities. Construction of nearby and related projects would be short-term and depending on the extent of construction, could have effects similar to or greater than that of the proposed Project. Even with the prescribed mitigation, the proposed action is anticipated to exceed the significance threshold limitations for NO<sub>x</sub> and PM<sub>2.5</sub>. In accordance with South Coast Air Quality Management District (SCAQMD) methodology, projects that exceed the daily threshold values and cannot be mitigated to less than the SCAQMD thresholds add significantly to the cumulative impact. As such, the beach fill Project is considered as significant and unavoidable at the cumulative level.

Implementation of MM-AQ-50-3.1 and MM-AQ-50-3.2 has been incorporated into the Project and would reduce the severity of impacts to Cumulative Air Quality, although not necessarily to a less than significant level.

**MM-AQ-50-3.1:** The construction contractors shall use on-shore heavy equipment that meets Tier II or higher air pollutant emission standards where these standards are applicable and equipment available.

**MM-AQ-50-3.2:** All heavy equipment shall be maintained and tuned per manufacturer's specifications to perform at California Air Resources Board (CARB) and/or EPA certification, where applicable, levels and to perform at verified standards applicable to retrofit technologies.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

## 8. BIOLOGICAL RESOURCES

### CEQA FINDING NO. BR-1

Impact: **Impact BR-50-2: A long-term net loss in the habitat value of a sensitive biological habitat. For the purposes of this analysis, kelp beds, surfgrass beds, and well developed rocky intertidal are considered sensitive biological habitats.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

(3) 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 the Final EIR.

## FACTS SUPPORTING THE FINDING(S)

Potential significant indirect impacts to Biological Resources could result in long-term net loss in the habitat value of a sensitive biological habitat. Kelp beds, surfgrass beds, and well developed rocky intertidal areas are considered sensitive biological habitats. The Project has been located, sized, and designed to minimize and avoid direct impacts to kelp, surfgrass, eelgrass and vegetated reefs to the maximum extent feasible. The potential exists however that impacts to offshore aquatic vegetation could be significant even with implementation of mitigation measures. No direct placement of sand on the reef is proposed, but movement of sand due to equilibrium changes over time could result in loss of surfgrass and sensitive habitat.

Pre-construction and post-construction surveys will be conducted to determine the extent of dredging and sand placement impacts from the dredging, construction and the placement on the beach areas. If adverse significant impacts to surfgrass are observed from the monitoring, subsequent beach nourishment activities will be modified to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional beach renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed.

Implementation of MM-BR-50-2.1 and MM-BR-50-2.2 has been incorporated into the Project and would reduce the severity of Impact BR-50-2, although not necessarily to a less than significant level.

**MM-BR-50-2.1: Perform Underwater Surveys.** An underwater survey for kelp and surfgrass shall be conducted by marine biologists prior to the initiation of beach fill activities.

**MM-BR-50-2.2: Shallow Subtidal Surfgrass Bed Monitoring.** Shallow subtidal surfgrass beds in the vicinity of San Clemente Beach shall be monitored to determine whether the proposed action adversely affects shallow subtidal reefs and surfgrass.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

**CEQA FINDING NO. BR-2**

Impact: **Impact BR-50-5: Substantial adverse impact on Essential Fish Habitat.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.
- (3) 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 the Final EIR.

#### FACTS SUPPORTING THE FINDING(S)

Potentially significant and unavoidable impacts as a result of Project implementation and construction have the potential to indirectly impact Essential Fish Habitat. The Project has been located, sized, and designed to minimize and avoid direct impacts to essential fish habitat to the maximum extent feasible. The potential exists however that impacts from dredging and sand placement to offshore essential fish habitat (aquatic vegetation) could be significant and unavoidable even with implementation of mitigation measures.

Pre-construction and post-construction surveys will be conducted to determine the extent of dredging, construction and sand placement impacts from the dredging and sand placement on the beach and tidal areas. If a substantial amount of surfgrass were lost, the impact may remain significant even with mitigation. Although the beach fill sand would be expected to move out of the equilibrium footprint within 6 years, it is not clear if surfgrass would recover. If adverse significant impacts to surfgrass are observed from the monitoring, subsequent nourishment activities will be modified to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed.

Implementation of MM-BR-50-2.1 and MM-BR-50-2.2 has been incorporated into the Project and would reduce the severity of Impact BR-50-5, although not necessarily to a less than significant level.

#### **MM-BR-50-2.1: Perform Underwater Surveys.**

#### **MM-BR-50-2.2: Shallow Subtidal Surfgrass Bed Monitoring.**

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

## 9. RECREATION

### CEQA FINDING-CUMULATIVE RECREATION

**Impact:** **Impact Cumulative REC: Construction of the related project would be short-term and depending on the extent of construction, could have Recreation effects similar to or greater than that of the proposed Project.**

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the Final EIR.

(3) 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 the Final EIR.

### FACTS SUPPORTING THE FINDING(S)

The Project may cause potential significant indirect impact to Recreation from dredging and construction. Heavy equipment working in active public use areas poses safety issues for the public. The initial beach fill or future maintenance nourishment activity may occur simultaneously along with nearby Dana Point Harbor maintenance dredging activities. The cumulative presence of dredges and related dredging equipment may interrupt recreational activity and pose safety hazards in the Project vicinity for the duration of scheduled construction work windows. Assuming beach use is low during the construction period, as it is planned for fall and winter seasons, cumulative impacts may be potentially significant but temporary and short-term in nature. Recreation impacts would occur during dredging and construction as heavy equipment operates offshore, on the beaches, and is stored on active public use areas which poses safety issues for adults and children.

Implementation of MM-REC-50-4.1 has been incorporated into the Project and would reduce the severity of Impact Cumulative Recreation, although not necessarily to a less than significant level.

**MM-REC-50-4.1:** Provide signs to warn swimmers, waders and surfers of potentially hazardous surf conditions. Provide extra lifeguards.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** This impact is considered significant and unavoidable.

## E. FINDINGS ON ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

*When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].*

The 8 alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

- 1) No Action Alternative
- 2) Managed Retreat
- 3) Beach Nourishment
- 4) Revetment
- 5) Seawall
- 6) Groins
- 7) Visible Offshore Breakwater
- 8) Submerged Reef

As presented in the Final EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the Final EIR, there is no clear environmentally superior alternative to the proposed Project that is capable of achieving the Project objective. No one alternative would eliminate the significant and adverse impacts of the proposed Project.

The City independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the City's

independent judgment as to alternatives. The City found that the Project provides the best balance between the Project goals and objectives and the Project's benefits. Seven CEQA alternatives proposed and evaluated in the Final EIR were rejected as being infeasible for several reasons. After reviewing the alternatives, beach nourishment emerged as the optimal alternative being both economically feasible and environmentally acceptable. All other alternatives were dropped from further consideration due to a variety of considerations including cost, potential environmental effects, lack of local support, or greater environmental effects.

The USACE then further evaluated 12 beach width scenarios, from 33 to 115 feet, to assess the expected storm damage reduction benefits and costs associated with each beach width scenario. The larger beach fill alternative described in the EIS/EIR Vol. I, Section 3.0, would create a beach berm that is 115 feet in width compared to the 50-foot project width. Thus, this larger project would place more sand on the beach and result in potentially greater impacts in comparison to the project.

USACE policy requires it to identify the National Economic Development (NED) plan which is the alternative which maximizes the potential economic benefits to the Nation. Of the 12 beach width scenarios, the 50-foot wide (i.e., 15-meter) beach fill alternative was identified as the NED plan.

The USACE was also required to identify a Least Environmentally Damaging Practicable Alternative (LEDPA) which is the alternative that has the fewest potential effects and still meets the Project purpose and objectives. Based on this, the USACE also identified the 50-foot beach width alternative as its Recommended Plan, which is the alternative that was forwarded for authorization and funding by Congress in 2012. These reasons provided in the City's Findings Regarding Alternatives (Attachment D-1) are incorporated herein by reference.

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit A, Mitigation Monitoring Program).

## **4.0 STATEMENT OF OVERRIDING CONSIDERATIONS**

### **A. INTRODUCTION**

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the Coastal Storm Damage Reduction Project/San Clemente Shoreline Protection Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the City and Commission have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under three resource areas: Air Quality (cumulative), Biological Resources, and Recreation (cumulative) (see Table B-2). These impacts are specifically identified and discussed in more detail in the Commission's CEQA Findings and in City's Final EIR. While the Commission has required all feasible mitigation measures, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

**Table B-2 – Significant and Unavoidable Impacts Identified for the Approved Project**

Impact	Impact Description
<b>Air Quality</b>	
<b>Cumulative AQ</b>	Construction of the nearby and related projects would be short-term and depending on the extent of construction, could have effects similar to or greater than that of the proposed Project. Even with the prescribed mitigation, the proposed action is anticipated to exceed the significance threshold limitations for NO <sub>x</sub> and PM <sub>2.5</sub> . In accordance



Impact	Impact Description
	with SCAQMD methodology, projects that exceed the daily threshold values and cannot be mitigated to less than the SCAQMD thresholds add significantly to the cumulative impact. As such, the Project also is considered as significant and unavoidable at the cumulative level.
<b>Biological Resources</b>	
<b>BR-50-2</b>	Project implementation may result in indirect, potentially significant and unavoidable impacts to biological resources (aquatic plant species) on rocky reef substrate offshore of the City and a long-term net loss in the habitat value of a sensitive biological habitat. For the purposes of this analysis, kelp beds, surfgrass beds, and well developed rocky intertidal are considered sensitive biological habitats. No direct impacts to surfgrass would occur with project implementation as the Project has been located, sized, and designed to minimize and avoid direct impacts to kelp, surfgrass, eelgrass and other aquatic plant species on rocky substrate to the maximum extent feasible.
<b>BR-50-5</b>	Potential significant indirect impacts to Biological Resources due to Project activities may create a substantial adverse impact on Essential Fish Habitat. For the purposes of this analysis, kelp beds, surfgrass beds, and well developed rocky intertidal are considered essential habitat. No direct impacts to surfgrass would occur with project implementation as the Project has been located, sized, and designed to minimize and avoid direct impacts to kelp, surfgrass, eelgrass and other aquatic plant species on rocky substrate to the maximum extent feasible.
<b>Recreation</b>	
<b>Cumulative REC</b>	Potentially significant and unavoidable short term and temporary impacts to Recreation have been identified in Project documents as there is the possibility that the initial beach fill or future maintenance nourishment activity may occur simultaneously along with Dana Point Harbor maintenance dredging activities. The cumulative presence of dredges and related dredging equipment may interrupt recreational activity in the Project vicinity for the duration of construction. Assuming beach use is low

Impact	Impact Description
	during the construction period, as it is planned for fall and winter seasons, cumulative impacts may be potentially significant, but temporary and short term in nature.

## **B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE APPROVAL**

State CEQA Guidelines section 15093, subdivision (a) 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.

## **C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS**

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the Final EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease associated with the Approved Project and with implementation of all feasible mitigation in the Final EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable.

The Project would provide the following benefits including local, regional, statewide and federal environmental, economic, public access, recreational and social benefits. The direct benefits of the City's 50-year coastal storm damage reduction project outweigh the potential unavoidable environmental risks of the Project. A lack of sediment supply to shoreline of San Clemente has resulted in chronic, mild, and long-term erosion. Without a coastal storm damage reduction project, public properties and structures will continue to be susceptible to damages caused by erosion (including land loss and undermining of structures), inundation (structures), and wave attack (structures, railroad). The project area includes the LOS SAN (Los Angeles to San Diego) railroad corridor which is a vital link for passenger and freight service and has been designated as a Strategic Rail Corridor by the Department of Defense. As the protective beach lessens over time and is eventually lost, it is expected that storm waves will act directly upon the railroad ballast, significantly threatening the operation of the LOS SAN railroad line.

The narrowing beaches and ancillary beachfront public facilities are expected to be subject to storm wave-induced damages and further reduce recreational space on an already space-limited beach. These facilities, maintained by the City of San Clemente, include the Marine Safety Building, public restroom facilities located on the beach, lifeguard stations, parking areas, the California Coastal Trail and the City's municipal pier, which facilitate beach access and recreation. The Project would maximize coastal storm damage reduction, address potential environmental affects, and minimize cost.

The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the Final EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

#### D. CONCLUSION

The Commission has considered the Final EIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial

evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the Final EIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.

**ATTACHMENT B-1**  
**CITY OF SAN CLEMENTE**  
**FINDINGS REGARDING ALTERNATIVES AND**  
**STATEMENT OF OVERRIDING CONSIDERATIONS**



# **CITY OF SAN CLEMENTE**

## **FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS**

### **FOR THE U.S. ARMY CORPS OF ENGINEERS CITY OF SAN CLEMENTE COASTAL STORM DAMAGE REDUCTION PROJECT**

**FINAL ENVIRONMENTAL IMPACT STATEMENT /  
FINAL ENVIRONMENTAL IMPACT REPORT  
(SCH # 2010084002)**

July 2023

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**FINDINGS OF FACT  
FOR THE  
U.S. ARMY CORPS OF ENGINEERS & CITY OF SAN CLEMENTE  
COASTAL STORM DAMAGE REDUCTION PROJECT  
FINAL ENVIRONMENTAL IMPACT STATEMENT /  
FINAL ENVIRONMENTAL IMPACT REPORT AND  
SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT  
(SCH # 2010084002)**

## **INTRODUCTION**

The City Council of the City of San Clemente (“City”) hereby makes the following Findings of Fact concerning the joint Final Environmental Impact Statement/Environmental Impact Report (FEIS/FEIR) (SCH #2010084002) and 2023 Supplemental Environmental Assessment (SEA) and Finding of No Significant Impact (FONSI) for the U.S. Army Corps of Engineers, City of San Clemente Coastal Storm Damage Reduction Project (“Project” or “Proposed Project”), pursuant to the California Environmental Quality Act, Public Resources Code § 21000, et seq. (“CEQA”), and its implementing regulations, California Code of Regulations, title 14, § 15000, et seq. (“CEQA Guidelines”).

The FEIS/FEIR and SEA/FONSI were prepared for the Proposed Project to identify and evaluate potential options for reducing coastal storm damage and beach erosion over a 50-year period.

The Draft EIS/EIR was filed with the U.S. Environmental Protection Agency and was made available to interested parties for review and comment pursuant to regulations of the President's Council on Environmental Quality for implementing NEPA (40 CFR Parts 1500-1508).

The Draft EIS/EIR was circulated for a public review period of 45 days, from August 6 through September 20, 2010, to appropriate resource agencies, local interest groups, and individuals (see EIS/EIR, Vol. 1, Chapter 13 for distribution list). A public meeting was held at the Community Development Office at 910 Calle Negocio, San Clemente, CA 92673, on August 19, 2010, at 7 p.m.

The Notice of Availability and Notice of Completion was filed with the State Clearinghouse/Governor's Office of Planning and Research and County Clerk for a 45-day public review period beginning August 6, 2010. The USACE is the Lead Agency for the National Environmental Policy Act (NEPA) and the City of San Clemente is the Lead Agency for CEQA.

The FEIS/FEIR is divided into two volumes as follows:

### **Volume I**

- Final Joint Environmental Impact Statement/Environmental Impact Report (Final EIS/EIR)
- Appendix A – 404(b)(1)
- Appendix B – Biological Resources Monitoring Plan

### **Volume II**

- Appendix C – Air Quality Analysis Report
- Appendix D – Coastal Engineering Report
- Appendix E – Geotechnical Report



The FEIS/FEIR includes the DEIS/DEIR as required by CEQA Guidelines § 15132. The potential environmental effects, proposed mitigation measures and alternatives analyzed in the DEIS/DEIR and the responses to public and agency comments contained in the FEIS/FEIR have influenced the design and final selection of the Proposed Project. These environmental documents and procedures reflect the City of San Clemente's commitment to address all environmental considerations identified during the CEQA/NEPA process into the final project selection, design and mitigation and monitoring commitments.

Additionally, the USACE prepared a Supplemental Environmental Assessment (SEA) to evaluate potential effects on green sea turtles and environmental commitments for nearshore rocky reef resources. GST were not known to be present in the project area in 2011 when the Final EIS/EIR was prepared. However, newly available information indicates GST may utilize the project area.

The Draft SEA was published by the USACE on September 30, 2022. The Final SEA and Finding of No Significant Impact (FONSI) prepared by the USACE and published in June 2023.

## **1.0 PROJECT DESCRIPTION**

The Project is a 50 foot (15 m) resultant beach width. Beach fill would be 3,412 ft (1,040 m) long with a +17 ft (+5.2 m) crest elevation. The dredge volume is estimated to be approximately 251,000 cubic yards (192,000 m<sup>3</sup>). Maintenance nourishment efforts will occur when the shoreline reaches the 0 ft base beach width (i.e., approximately 35 ft [11 m]) over the project life of 50 years. Maintenance nourishment efforts would return the beach to the design beach width 50 ft (15 m) and would involve up to approximately 251,000 cy (192,000 m<sup>3</sup>) of material.

### **1.2 Project Location**

The City of San Clemente is located along the coast of southern California about 60 miles south of Los Angeles at the southern end of Orange County near the border with San Diego County. The project site is the public beach in the City of San Clemente and extends along the beach approximately 3,412 ft (1,040 m) from Linda Lane on the north to T-Street on the south and is located within the San Clemente 7.5-minute U.S. Geological Survey (USGS) topographic quadrangle in Section 4 of Township 9 South and Range 7 West.

### **1.3 Project Components**

The Proposed Project is described in additional detail in the FEIS/FEIR, Volume 1. The Proposed Project for coastal storm damage reduction in San Clemente is a Beach Fill Alternative which includes construction of a 50-foot-wide beach fill along a 3,412-foot-long segment of the public beach. At the time of construction, the actual immediate post-construction width is expected to be approximately 76 ft (23 m). The project will require approximately 251,000 cy (192,000 m<sup>3</sup>) of beach compatible sand. The project is estimated to take 46 working days to construct.

Future renourishment in the amount of 251,000 cubic yards is expected to occur every 5-6 years on average over a 50-year period of Federal participation, for a total of eight additional nourishments.

Material for the beach fills will be dredged from borrow site 2A located south of the City offshore of the City of Oceanside.

Physical monitoring of the performance of the Project will be required annually throughout the 50-year period of Federal participation. This plan would provide coastal storm damage reduction throughout the project reach and would maintain the existing recreational beach.

The Project will be constructed with hopper dredging equipment with pump ashore capability and conventional earthmoving equipment. Typical USACE Los Angeles District beach fill projects require large capacity open-ocean capable dredges. A medium-sized hopper dredge would be used. The hopper dredge effective capacity is estimated at 1,700 cy (1,300 m<sup>3</sup>) and 3.2 loads per day. The hopper dredge would pump out the dredge material via a 24-inch pipeline at 1,800 cy/hr. (1,376 m<sup>3</sup>/hr.). The hopper dredge would be filled at the designated borrow site at Oceanside and hauled approximately 21 miles (35 km) to San Clemente. At the receiver beach, the dredge would be attached to a moored floating section of pipeline extending 1,500 ft (457 m) to the shoreline. The material would be re-suspended and discharged through the on-board pumping system to the receiver site.

The hopper dredge requires a mono buoy to discharge its sand onto the beach. A mono buoy is a floating pipeline connection platform that is moored to the seafloor and is used to interconnect with a steel sinker pipeline that carries the slurry along the seafloor to the beach. For this Project the mono buoy would be anchored in at least 25 ft (7.6 m) of water, between 2,500 and 5,000 ft (762 m to 1,524 m) from shore and in the appropriate location in relation to sensitive resources and engineering considerations. From one mono buoy location, sand can be pumped directly onshore and up to approximately 2,000 ft (610 m) alongshore in either direction.

Dredging would be performed 24 hours a day, 7 days a week. Shore equipment would work 12 hours a day, 7 days a week. The Project duration is estimated to be four months. Anticipated number of working days is estimated to be 46 working days to complete the project.

Sand would be combined with seawater until it reaches the consistency of slurry. It then would be conveyed to the beach via either pipeline or a combination of hopper dredge and pipeline, as described above.

Existing sand at the receiver site would be used to build a small, “L”-shaped berm to anchor the sand placement operations. The short side of the “L” would be transverse (crosswise) to the shoreline and would be the proposed width. The long side would be parallel to the shore at the seaward edge and would be approximately 200 ft (61 m) long. Berm construction may be adjusted from the design requirements during fill placement depending on actual field conditions. The crosswise side of the berm would be constructed to allow alongshore landward beach access for emergency access at all times. The slurry would be pumped onto the beach between this berm and toe.

The berm reduces ocean water turbidity by allowing all the sand to settle out inside the bermed area while the seawater is channeled along the berm until it reaches the open end where it drains into the ocean. Temporary dikes within the berm will allow sand to settle in designated areas. Once a 200 ft (61 m) section of berm is filled in with sand, another 200 ft (61 m) of berm would be created, the pipeline would be moved or extended into the new berm area, and the process would begin again. As the material is deposited behind the berm, the sand would be spread using two bulldozers and one front-end loader to direct the flow of the sand slurry and form a gradual slope to the existing beach elevation. The berm would be subject to the forces of the waves and weather once constructed and would eventually settle down to a natural grade for the beach.

## **1.4 Project Objectives**

The Project is intended to accomplish the following objectives:

- Reduce coastal storm damages to property and infrastructure along the study area shoreline and the bluff top, prior to the need for emergency action, throughout the period of analysis.
- Improve public safety in the study area by reducing the threat of life-threatening bluff failures caused by wave action against the bluff base, throughout the period of analysis.
- Reduce coastal erosion and shoreline narrowing to improve recreational opportunities for beach users within the study area throughout the period of analysis.

## **2.0 ENVIRONMENTAL PROCEDURES**

### **2.2 CEQA Lead Agency**

Pursuant to CEQA Guidelines section 15367, the City of San Clemente is the “lead agency” for the purpose of preparing the environmental review required by CEQA for the Project.

The FEIS/FEIR and Final SEA/FONSI have been, or will be, used by the City of San Clemente and other agencies in their respective decisions regarding the following actions associated with the Project:

- City of San Clemente: EIR certification and approval of the Proposed Project.
- California Coastal Commission: Federal Consistency Determination.
- Regional Water Quality Control Board: Clean Water Act Section 401 water quality certification.
- State Lands Commission: grant of lease to City of San Clemente for placement of beach compatible sediments in the water area seaward of the mean high tide line.

### **2.3 Environmental Impact Statement / Environmental Impact Report**

Pursuant to CEQA Guidelines Section 15080, *et seq.*, the City of San Clemente together with the U.S. Army Corps of Engineers prepared a Draft and Final an Environmental Impact Statement/Environmental Impact Report (“EIS/EIR”) to analyze the potential impacts of the Project on the environment. The FEIS/FEIR consists of two volumes which contain all the information required by CEQA Guidelines section 15132.

### **2.4 Public Participation**

Chapter 9 of Vol. I of the Final EIS/EIR, Vol. I provides a detailed overview of the public participation process for the Draft and Final EIS/EIR process.

As required by CEQA Guidelines §15082, the City issued a Notice of Preparation in August 2010, that summarized the Project, stated their intention to prepare a Feasibility Study and joint EIR/EIS with the USACE, and requested comments from interested parties including State agencies. The NOP was filed with the State Clearinghouse (SCH) on August 5, 2010 and the Project was assigned SCH# 2010084002 which began the 30-day public scoping period. The review period for the NOP ended on September 5, 2010.

To announce the start of the report scoping, a public notice was issued to residents, Federal, State, and Local agencies, and interested groups. The recipients were invited to provide input to the study, including the scoping of the environmental issues that should be addressed throughout the study. The Notice of Intent (NOI) was published in the Federal Register. The Notice of Preparation (NOP) was distributed with the NOI and has been approved by the lead CEQA agency, the City of San Clemente. The notice announced a public workshop, where the public were given the opportunity to comment.

The San Clemente City Council also conducted a public meeting on the Project on March 15, 2011 and the City Council expressed its support for the Proposed Project and endorsed the 50-foot beach fill design alternative, as the recommended project, by the USACE.

A public meeting of the USACE Civil Works Review Board (CWRB) was held on May 12, 2011 to approve issuance of the Draft Feasibility Study and Draft EIS/EIR.

The Draft EIS/EIR was published for a 45-day public review period from August 30, 2011 through September 28, 2011. Comments on the Draft EIS/EIR were received from Federal, State, and local agencies, non-profit organizations, and the public.

The Final EIS/EIR was published in February 2012. The USACE utilized a mailing list for public notification purposes that is included in the Final EIS/EIR, Volume I, Chapter 13. The responses to the public comments are included in the FEIS/FEIR as required by CEQA Guidelines sections 15088 and 15132 as detailed in Final EIS/EIR Volume I, Chapter 14.

The City acknowledges receipt of copies of the letters from USACE and understands the letters were sent in response to USACE's publication of the FEIS/FEIR pursuant to NEPA and the USACE has prepared responses to each of the comment letters which are included in the final USACE administrative record and Chief's Report.

The USACE Chief's Report was published on April 15, 2012. The USACE published a Record of Decision (ROD) on September 6, 2012.

The San Diego Regional Water Quality Control Board also filed a Notice of Determination (NOD) as a Responsible Agency under CEQA on November 3, 2022 as part of their process to issue the Project regulatory approval.

A public hearing concerning certification of the FEIS/FEIR and approval of the Project was held by the City Council of San Clemente at a regular meeting on July 18, 2023. A public notice of the City Council meeting was published in the newspaper on July 6, 2023 and on the City website on June 29, 2023.

## **2.5 Record of Proceedings**

For purposes of CEQA and the findings set forth below, the administrative record of the City of San Clemente City Council's decision concerning certification of the Final EIS/EIR and the SEA/FONSI for the Project shall include the following:

- The Draft Feasibility Study and Draft EIS/EIR (DEIS/DEIR) and all appendices (2011);
- The Final Feasibility Study and Final EIS/EIR (FEIS/FEIR) and all appendices (2012);
- Draft SEA (2022);
- Final SEA and FONSI (2023);
- All documents and other materials listed as references and/or incorporated by reference in the DEIS/DEIR, FEIS/FEIR, Draft and Final SEA and FONSI;
- All reports, reviews, memoranda, maps, letters, and other documents prepared by the staff of the USACE, City of San Clemente and their consultants for the Project which are before the City Council as determined by the City Clerk;
- All documents or other materials submitted by interested persons and public agencies in connection with the DEIS/DEIR, FEIS/FEIR and Draft and Final SEA and FONSI;
- The action agenda, video/audio recordings, if any, of the public hearing held on July 18, 2023 concerning the FEIS/FEIR and Final SEA/FONSI for the Project; and
- Matters of common knowledge to the City Council and staff and consultants to the City of San Clemente, including but not limited to the Project.

The custodian of the documents and other materials comprising the administrative record of the City of San Clemente's decision concerning certification of the FEIS/FEIR and Final SEA/FONSI is the Department of Public Works of the City of San Clemente. The location of the administrative record is the City of San Clemente office at 910 Calle Negocio, San Clemente, California 92673. (Public Resources Code § 21081.6(a)(2).)

## **3.0 FINDINGS UNDER CEQA**

### **3.2 Purpose**

CEQA requires the City to make written findings of fact for each potentially significant environmental impact identified in the FEIS/FEIR (CEQA Guidelines §15091). The purpose of the findings is to systematically restate the potentially significant effects of the Project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the Final EIS/EIR which would avoid or substantially lessen the significant effects. Once it has adopted sufficient measures to avoid or substantially lessen a significant impact, the City is not required to adopt every mitigation measure identified in the FEIS/FEIR or otherwise brought to its attention. These findings set forth the reasons, and the evidence in support of, the City of San Clemente's determinations.

These findings incorporate by reference the discussion of potential significant impacts and mitigation measures contained in the FEIS/FEIR. The FEIS/FEIR, which includes the DEIS/DEIR, is referred to in the findings below as the "EIS/EIR."

### **3.3 Terminology**

A "finding" is a written statement made by the City which explains how it dealt with each potentially significant impact and alternative identified in the FEIS/FEIR. Each finding contains an ultimate conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation of how the substantial evidence supports the conclusion.

For each significant effect identified in the FEIS/FEIR, the City is required by CEQA to make a written finding reaching one or more of the following conclusions:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effect identified in the EIR;
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or
3. Specific legal, economic, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIS/EIR (CEQA Guidelines §15091(a)).

A mitigation measure or an alternative is considered "feasible" if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors (CEQA Guidelines §15364).

### **3.4 Legal Effect**

To the extent these findings conclude mitigation measures identified in the FEIS/FEIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself and any other responsible parties, including the USACE and their successors in interest, to implement those mitigation measures following Project authorization by Congress, necessary funding appropriations and construction. These findings are not merely informational but constitute a binding set of obligations upon the City and responsible parties, which will take effect if and when the City adopts a resolution certifying the FEIS/FEIR, SEA/FONSI and the City and/or the responsible agencies adopt resolution(s) approving the Project.

### **3.5 Mitigation Monitoring and Reporting Program**

In adopting these findings, the City of San Clemente also adopts a mitigation monitoring and reporting program (MMRP) pursuant to Public Resources Code Section 21081.6. This program is designed to ensure the Project complies with the feasible mitigation measures identified below during implementation of the Project. The program is set forth in the “Coastal Storm Damage Reduction Project Mitigation Monitoring and Reporting Program,” which is adopted by the City of San Clemente concurrently with these findings and is incorporated herein by this reference.

## 4.0 FINDINGS REGARDING POTENTIAL SIGNIFICANT EFFECTS

The City Council has certified a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Clemente Shoreline Protection Project ("Project"). The EIS/EIR identifies nine potentially significant environmental impacts for which findings are required by CEQA Guideline 15091. The findings for each of those impacts are provided below.

### 4.1 Air Quality and Meteorology

**Potentially Significant Impact:** The EIS/EIR identifies potential significant indirect impact AQ-50-3: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable Federal or State ambient air quality standard.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project which avoid or substantially lessen the significant indirect environmental effect to Air Quality (construction phase emissions) as identified in the EIS/EIR.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.1, Air Quality and Meteorology, and EIS/EIR Vol. 2, Appendix C, Air Quality Analysis Report, the potential significant impact to Air Quality will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing Mitigation Measures:

MM-AQ-50-3.1: The construction contractors shall use on-shore heavy equipment that meets Tier II or higher air pollutant emission standards where these standards are applicable and equipment available.

MM-AQ-50-3.2: All heavy equipment shall be maintained and tuned per manufacturer's specifications to perform at California Air Resources Board (CARB) and/or EPA certification, where applicable, levels and to perform at verified standards applicable to retrofit technologies.

### 4.2 Water Resources

**Potentially Significant Impact:** The EIS/EIR identifies potential significant indirect impact WQ-50-1: The water quality objectives in the California Ocean Plan (SWRCB 2005) are violated.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project which avoid or substantially lessen the significant indirect environmental effect to Water Quality (construction phase impacts) as identified in the EIS/EIR.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.2, Water Resources, the potential significant impact to Water Resources will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractor's implementing Mitigation Measures:

MM-WR-50-1.1: A SWPPP and an OSPRP shall be prepared for all construction activities. These plans shall specify specific measures that shall be taken during dredging and beach construction to avoid introducing contaminants to the ocean via leaks and spills. All measures shall be adhered to during Project construction.

MM-WR-50-1.2: Turbidity shall be monitored during dredging. If a visible turbidity plume is observed beyond the immediate dredging area, dredging activities shall be modified (e.g., decrease the rate of dredging, move to a new dredge location) until the turbidity plume disperses. Turbidity also shall be monitored during beach fill operations. If significant turbidity (i.e., a visible turbidity plume beyond the surf zone or rip current area) is observed, beach fill



operations shall be modified (e.g., by slowing the rate of fill) until the turbidity plume disperses.

**Potentially Significant Impact:** The EIS/EIR identifies potential significant indirect impact WQ-50-2: Project operations or discharges that change background levels of chemical and physical constituents or elevate turbidity would produce long-term changes in the receiving environment of the site, area, or region that would impair the beneficial uses of the receiving water.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project which avoid or substantially lessen the significant indirect environmental effect to Water Quality (construction and operation phase) as identified in the EIS/EIR.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.3, Water Resources, the potential significant impact to Water Resources will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractor's implementing Mitigation Measures:

MM-WR-50-1.2: Turbidity shall be monitored during dredging. If a visible turbidity plume is observed beyond the immediate dredging area, dredging activities shall be modified (e.g., decrease the rate of dredging, move to a new dredge location) until the turbidity plume disperses. Turbidity also shall be monitored during beach fill operations. If significant turbidity (i.e., a visible turbidity plume beyond the surf zone or rip current area) is observed, beach fill operations shall be modified (e.g., by slowing the rate of fill) until the turbidity plume disperses.

### 4.3 Biological Resources

**Potentially Significant and Unavoidable Impact:** The EIS/EIR identifies potential significant indirect impact BR-50-2: A long-term net loss in the habitat value of a sensitive biological habitat. For the purposes of this analysis, kelp beds, surfgrass beds, and well developed rocky intertidal are considered sensitive biological habitats.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(3) specific economic, legal, social, technological, or other considerations make it infeasible to reduce the impacts to Biological Resources (sensitive biological habitat) as identified in the EIS/EIR. EIS/EIR Vol. I, and EIS/EIR, Vol. I, Appendix B "Biological Resources Monitoring Plan" to less than significant.

**Facts in Support of Finding:** The Project has been located, sized, and designed to minimize and avoid direct impacts to kelp, surfgrass, eelgrass and vegetated reefs to the maximum extent feasible. The potential exists however that impacts to offshore aquatic vegetation could be significant even with implementation of mitigation measures BR 50-2.1 and BR 50-2.2.

Per EIS/EIR Vol. I, Section 5.4, no direct placement of sand on the reef is proposed. The equilibrium footprint is demonstrated as potentially extending to inner portions of the reef. Based on the best available scientific and coastal engineering data, it is predicted that there will be negligible effects to the rocky reef and surfgrass vegetation. Monitoring for 2 years immediately post construction is proposed to determine what actual impacts, if any, do occur. After the first four years (2 years pre-action, 2 years post-action) of monitoring, if the rocky reef and surfgrass vegetation illustrate effects based on triggers specifically determined by the marine ecologists deemed most knowledgeable and experience, the current plan is to attempt "in-kind" mitigation as the primary mode. If "in-kind" mitigation is not successful, based on success criteria developed in consultation, the mitigation would be adjusted to "out-of-kind" mitigation.

Per EIS/EIR Vol. I, Appendix B, Biological Resources Monitoring Plan, if mitigation were required based on results of the post-construction monitoring, rocky reef and surfgrass mitigation shall each be conducted at an equivalent functional value to the impacted area. Because it will take at least two years to identify impacts, some temporal loss of surfgrass, if impacts were to occur, is unavoidable. Recovery of impacted resources will also occur as sand is redistributed within the littoral cell. Additionally, if impacts were to occur, future beach fills would be modified to avoid future impacts; any observed burial of reef or surfgrass would be temporary because sand would be expected to move out of the project area.

If a substantial amount of surfgrass were lost, the impact may remain significant even with mitigation. Although the beach fill sand would be expected to move out of the equilibrium footprint within 6 years, because models are not precise, it is not clear if surfgrass would recover. If adverse significant impacts to surfgrass are observed from the monitoring, subsequent nourishment activities will be modified to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed. A consistently successful method to transplant surfgrass has not yet been devised, although recent experiments may provide new options. Potential mitigation, if necessary, is described in the Biological Resources Monitoring Plan (EIS/EIR Vol. I, Appendix B). The potential significant impact to Biological Resources will be mitigated by the USACE, City of San Clemente or its contractor's implementing Mitigation Measures however there is the potential for impacts to remain significant and unavoidable even with mitigation provided:

- MM-BR-50-2.1: An underwater survey for kelp and surfgrass shall be conducted by marine biologists prior to the initiation of beach fill activities. Based on the survey, a mooring location and a pipeline route shall be selected that minimizes contact with surfgrass and kelp habitat. If kelp and surfgrass cannot be avoided completely, immediately following beach fill activities, another survey of the mooring and pipeline areas shall be conducted to determine whether kelp and surfgrass were damaged. If substantial damage to surfgrass or kelp occurs, an additional survey shall be conducted six months after the beach fill to determine if kelp and surfgrass have recovered. If substantial damage to kelp and eelgrass is still observed, restoration of habitat shall be implemented in consultation with the resource agencies.
- MM-BR-50-2.2: Shallow subtidal surfgrass beds in the vicinity of San Clemente Beach shall be monitored to determine whether the proposed action adversely affects shallow subtidal reefs and surfgrass. Underwater transects shall be established offshore and downcoast from the proposed receiver beach. Control transects also shall be established upcoast of the project area. The transects shall be monitored by qualified biologists before and after the proposed action to determine whether the beach fill results in a long-term loss of surfgrass and/or reef habitat. The mitigation and monitoring plan is included as Vol. I, Appendix B. If adverse significant impacts to surfgrass and/or reef habitat compared to controls and baseline conditions are observed from the monitoring, subsequent nourishment activities will be modified to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed. Compensatory mitigation will consist of the creation of shallow rocky habitat in the Project area at a site to be determined in consultation with NOAA Fisheries and CDFG. Rocky reef habitat will be created in the Project area at a ratio of 1

acre of rocky reef habitat created for 1 acre of rocky reef habitat buried. If the monitoring determines that surfgrass has been affected by the Project, an experimental surfgrass restoration will be implemented. A successful method to transplant surfgrass has not been demonstrated, but recent studies by researchers at the University of California, Santa Barbara, have demonstrated some success restoring surfgrass using sprigs (Bull et al 2004).

**Potentially Significant and Unavoidable Impact:** The EIS/EIR identifies potential significant indirect impact BR-50-5: Substantial adverse impact on Essential Fish Habitat.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(3) specific economic, legal, social, technological, or other considerations make it infeasible to reduce impacts to Biological Resources (sensitive biological habitat) as identified in the EIS/EIR to less than significant levels. EIS/EIR Vol. I, and EIS/EIR, Vol. I, Appendix B contains a 10-page detailed “Biological Resources Monitoring Plan”.

**Facts in Support of Finding:** The Project has been located, sized, and designed to minimize and avoid direct impacts to essential fish habitat to the maximum extent feasible. The potential exists however that impacts to offshore essential fish habitat (aquatic vegetation) could be significant and unavoidable even with implementation of mitigation measures BR 50-2.1 and BR 50-2.2

Per EIS/EIR Vol. I, Section 5.4, no direct placement of sand on the reef is proposed. The equilibrium footprint is demonstrated as potentially extending to inner portions of the reef. Based on the best available scientific and coastal engineering data, it is predicted that there will be negligible effects to the rocky reef and surfgrass vegetation. Monitoring for 2 years immediately post construction is proposed to determine what actual impacts, if any, do occur. After the first four years (2 years pre-action, 2 years post-action) of monitoring, if the rocky reef and surfgrass vegetation illustrate effects based on triggers specifically determined by the marine ecologists deemed most knowledgeable and experience, the current plan is to attempt “in-kind” mitigation as the primary mode. If “in-kind” mitigation is not successful, based on success criteria developed in consultation, the mitigation would be adjusted to “out-of-kind” mitigation.

Per EIS/EIR Vol. I, Appendix B, Biological Resources Monitoring Plan, if mitigation were required based on results of the post-construction monitoring, rocky reef and surfgrass mitigation shall each be conducted at an equivalent functional value to the impacted area. Because it will take at least two years to identify impacts, some temporal loss of surfgrass, if impacts were to occur, is unavoidable. Recovery of impacted resources will also occur as sand is redistributed within the littoral cell. Additionally, if impacts were to occur, future beach fills would be modified to avoid future impacts; any observed burial of reef or surfgrass would be temporary because sand would be expected to move out of the project area.

If a substantial amount of surfgrass were lost, the impact may remain significant even with mitigation. Although the beach fill sand would be expected to move out of the equilibrium footprint within 6 years, it is not clear if surfgrass would recover. If adverse significant impacts to surfgrass are observed from the monitoring, subsequent nourishment activities will be modified to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed. A consistently successful method to transplant surfgrass has not yet been devised, although recent experiments may provide new options. Potential mitigation, if necessary, is described in the Biological Resources Monitoring Plan (EIS/EIR Vol I, Appendix B). The potential significant impact to Biological Resources will be mitigated by the USACE, City of San Clemente or its contractor’s implementing Mitigation Measures:

- MM-BR-50-2.1: An underwater survey for kelp and surfgrass shall be conducted by marine biologists prior to the initiation of beach fill activities. Based on the survey, a mooring location and a pipeline route shall be selected that minimizes contact with surfgrass and kelp habitat. If kelp and surfgrass cannot be avoided completely, immediately following beach fill activities, another survey of the mooring and pipeline areas shall be conducted to determine whether kelp and surfgrass were damaged. If substantial damage to surfgrass or kelp occurs, an additional survey shall be conducted six months after the beach fill to determine if kelp and surfgrass have recovered. If substantial damage to kelp and eelgrass is still observed, restoration of habitat shall be implemented in consultation with the resource agencies.
- MM-BR-50-2.2: Shallow subtidal surfgrass beds in the vicinity of San Clemente Beach shall be monitored to determine whether the proposed action adversely affects shallow subtidal reefs and surfgrass. Underwater transects shall be established offshore and downcoast from the proposed receiver beach. Control transects also shall be established upcoast of the project area. The transects shall be monitored by qualified biologists before and after the proposed action to determine whether the beach fill results in a long-term loss of surfgrass and/or reef habitat. If adverse significant impacts to surfgrass and/or reef habitat compared to controls and baseline conditions are observed from the monitoring, subsequent nourishment activities will be modified to avoid or minimize these impacts as part of adaptive management. If adverse significant impacts still are observed after all reasonable attempts to avoid or minimize impacts have been exhausted, additional renourishment would not occur until impacted surfgrass has recovered or compensatory mitigation is completed. Compensatory mitigation will consist of the creation of shallow rocky habitat in the Project area at a site to be determined in consultation with NOAA Fisheries and CDFW. Rocky reef habitat will be created in the Project area at a ratio of 1 acre of rocky reef habitat created for 1 acre of rocky reef habitat buried. If the monitoring determines that surfgrass has been affected by the Project, an experimental surfgrass restoration will be implemented. A successful method to transplant surfgrass has not been demonstrated, but recent studies by researchers at the University of California, Santa Barbara, have demonstrated some success restoring surfgrass using sprigs.

#### 4.4 Cultural Resources

**Potentially Significant Impact:** The Project has the potential for significant impact CR-50-1: Result in potentially significant impacts on cultural resources from project implementation.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project which avoid or substantially lessen the significant indirect environmental effect to Cultural Resources as identified in the EIS/EIR.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.5, Cultural Resources, the potential significant impact to Cultural Resources will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing Mitigation Measures:

- MM-CR-50-1: Any earthmoving associated with this Project that will involve previously undisturbed soil will be monitored by a qualified archeologist who meets the Secretary of Interior's Standards for an Archeologist (see 36 CFR Part 61). Earthmoving includes grubbing and ground clearing, grading, and excavation activities. If a previously unidentified cultural resource (i.e., property) that may be eligible for the NRHP is discovered, all earthmoving

activities in the vicinity of the discovery shall be diverted until the USACE complies with 36 CFR § 800.13(a)(2).

MM-CR-50-2: Prior to construction, offshore borrow areas 1 and 2 will be subjected to an underwater remote sensing survey in order to determine if submerged cultural resources are present within these areas. The USACE will comply with Section 106 of the NRHP and its implementing regulations at 36 CFR 800, as amended. This compliance involves the identification and evaluation of cultural resources and consultation with the California State Historic Preservation Officer (SHPO), Native American tribes, and interested parties.

## 4.5 Noise

**Potentially Significant Impact:** The Project has the potential for significant impact N-50-4: Result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project which avoid or substantially lessen the significant indirect environmental effect to Noise as identified in the EIS/EIR.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.8, Noise the potential significant impact to Noise will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing Mitigation Measures:

MM-N-50-3.1: The City of San Clemente Noise Element discusses the potential impacts of construction noise on the residents and requires construction to employ feasible and practical techniques and practices that minimize the generation of excessive noise on adjacent land uses. The Applicant shall implement the following:

- Regardless of dredge activity timing, onshore equipment shall be restricted to the hours included in the City of San Clemente Noise Ordinance discussed above.
- To reduce the nuisance value of on-shore construction noise, on-shore construction activities located within 500 ft (152 m) of any residential unit shall not begin before 8:00 a.m. (as opposed to 7:00 a.m. as allowed in the Noise Ordinance). Work beyond may be performed in accordance with the hours included in the City Noise Ordinance. This provision shall not apply to any equipment mobilizing from the staging area that may pass within 500 ft (152 m) so long as it is not actively engaged in the movement of sand.
- During all construction, the Project contractors shall equip all onshore construction equipment with properly operating and maintained mufflers and engine shrouds consistent with manufacturers' standards.
- All heavy equipment shall be maintained in a proper state of tune as per the manufacturers' specifications.
- The Project contractor shall place any stationary construction equipment as far as feasible from proximate receptor locations.

## 4.6 Recreation

**Potentially Significant Impact:** The Project has the potential for significant impact REC-50-4: Result in a safety hazard to recreational beach users.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project which avoid or substantially lessen the significant indirect environmental effect to Recreation as identified in the EIS/EIR.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.9, Recreation the potential significant impact to Recreation will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing Mitigation Measures:

MM-REC-50-4.1: Provide signs to warn swimmers, waders and surfers of potentially hazardous surf conditions. Provide extra lifeguards.

#### 4.7 Public Health and Safety

**Potentially Significant Impact:** The Project has the potential for significant impact PHS-50-1: Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, and/or other public facilities.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(1), changes or alterations have been required or incorporated in the Project which avoid or substantially lessen the significant indirect environmental effect to Public Health and Safety as identified in the EIS/EIR.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.11, Public Health and Safety the potential significant impact to Public Health and Safety will be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors implementing Mitigation Measures:

MM-WR-50-1.1: A SWPPP and an OSPRP shall be prepared for all construction activities. These plans shall specify specific measures that shall be taken during dredging and beach construction to avoid introducing contaminants to the ocean via leaks and spills. All measures shall be adhered to during Project construction.

MM-WR-50-1.2: Turbidity shall be monitored during dredging. If a visible turbidity plume is observed beyond the immediate dredging area, dredging activities shall be modified (e.g., decrease the rate of dredging, move to a new dredge location) until the turbidity plume disperses. Turbidity also shall be monitored during beach fill operations. If significant turbidity (i.e., a visible turbidity plume beyond the surf zone or rip current area) is observed, beach fill operations shall be modified (e.g., by slowing the rate of fill) until the turbidity plume disperses.

## 5.0 FINDINGS REGARDING EFFECTS THAT ARE NOT SIGNIFICANT

In addition to Air Quality, Water Resources, Biological Resources, Cultural Resources, Noise, Recreation and Public Health and Safety discussed above, the EIS/EIR analyzed the potential impacts of the Project on the full range of resource topics including:

- Geology and Topography
- Ground and Vessel Transportation
- Land Use and Policy
- Aesthetics
- Socioeconomics and Environmental Justice

The FEIS/FEIR determined that for all the above resource topics, potential project impacts would be less than significant.

## 6.0 FINDINGS REGARDING CUMULATIVE SIGNIFICANT EFFECTS

CEQA requires a lead agency to evaluate the cumulative impacts of a proposed project (CEQA Guidelines §15130(a)). Cumulative impacts are those which are considered significant when viewed in connection with the impacts of other closely related past, present and reasonably foreseeable future projects (CEQA Guidelines §15355). Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The EIS/EIR Vol. I, Chapter 6 analyzes cumulative impacts of past, present, and reasonably anticipated future projects producing related or cumulative impacts, including projects outside the agency's jurisdiction (CEQA Guidelines §15130(b)(1)(A)). The list of "past, present and reasonably anticipated future projects" should include related projects which already have been constructed, are presently under construction, are approved but not yet under construction, and are not yet approved but are under environmental review at the time the draft EIS/EIR is prepared (CEQA Guidelines §15130 [Discussion]). The list must include not only projects under review by the lead agency, but also those under review by other relevant public agencies.

The cumulative projects considered in the EIS/EIS generally considered those projects in the northern Oceanside Littoral Cell including maintenance dredging at the Dana Point Harbor, construction of the SONGS mitigation reef project offshore of the City and railroad operations along the beach in the project vicinity.

Based on the information and analysis provided in Chapter 6, of Vol. I of the EIS/EIR, it was determined that the potential cumulative impacts of the Project would be less than significant for all resources with the exception of Air Quality and Recreation. .

### 6.1 Air Quality and Meteorology

**Potentially Significant and Unavoidable Cumulative Impact:** Section 6.2.1 of the EIS/EIR states that construction of the related projects would be short-term and depending on the extent of construction, could have effects similar to or greater than that of the proposed Project. Even with the prescribed mitigation, the proposed action is anticipated to exceed the significance threshold limitations for NO<sub>x</sub> and PM<sub>2.5</sub>. In accordance with SCAQMD methodology, projects that exceed the daily threshold values and cannot be mitigated to less than the SCAQMD thresholds add significantly to the cumulative impact. As such, the beach fill Project also is considered as significant and unavoidable at the cumulative level.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(3), specific economic, legal, social, technological, or other considerations make it infeasible to reduce impacts to Air Quality and Meteorology as identified in the EIS/EIR Vol. I, Sections 5.1 and 6.2 and EIS/EIR Vol. I, Appendix C to less than cumulatively considerable levels.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.1, Air Quality and Meteorology, Air quality impacts would occur during site preparation, grading, and sporadic maintenance activities required for implementation of the proposed land use. Maintenance could take place once every 6 years depending on need and financial ability. Maintenance would result in a repetition of the initial construction activities. Project construction may approach the daily threshold for NO<sub>x</sub> emissions. Applicable mitigation for NO<sub>x</sub> is included in the project and listed below. The included measures would also reduce ROG and PM<sub>2.5</sub> for on-shore heavy equipment exhaust.



The requirement for Tier II heavy equipment, where applicable, could reduce NOx emissions by about 40 percent and particulate emissions by about 25 percent over Tier I equipment levels. A higher percentage reduction would be achieved over the use of equipment-produced prior to Tier I requirements. Because the status of the actual equipment assemblage, as well as those pieces subject to Tier II requirements, is variable, the overall reduction in NOx emissions could be less than the 40 percent reduction noted for the use of Tier II equipment. PM2.5 emissions, assuming TIER II equipment, reduces particulate levels by 25 percent.

Per EIS/EIR Vol. 2, Appendix C, Air Quality Analysis Report, the potential significant cumulative impact to Air Quality cannot be reduced but cannot be fully mitigated to a level less than significant by the USACE, City of San Clemente or its contractors even with implementation of the following Mitigation Measures:

MM-AQ-50-3.1: The construction contractors shall use on-shore heavy equipment that meets Tier II or higher air pollutant emission standards where these standards are applicable and equipment available.

MM-AQ-50-3.2: All heavy equipment shall be maintained and tuned per manufacturer's specifications to perform at California Air Resources Board (CARB) and/or EPA certification, where applicable, levels and to perform at verified standards applicable to retrofit technologies.

## 6.2 Recreation

Potentially significant and unavoidable short term and temporary impacts to Recreation have been identified in EIS/EIR Vol. I, Section 6.2.9 as there is the possibility that the initial beach fill or future maintenance nourishment activity may occur simultaneously along with Dana Point Harbor maintenance dredging activities. The cumulative presence of dredges and related dredging equipment may interrupt recreational activity in the Project vicinity for the duration of construction. Assuming beach use is low during the construction period, as it is planned for fall and winter seasons, cumulative impacts may be potentially significant, but temporary and short term in nature.

**Finding:** Pursuant to CEQA Guidelines §15091(a)(3), specific economic, legal, social, technological, or other considerations make it infeasible to reduce impacts to Recreation as identified in the EIS/EIR Vol. I, Sections 5.9 and 6.2.9 to less than cumulatively considerable levels.

**Facts in Support of Finding:** As described in EIS/EIR Vol. I, Section 5.9, Recreation, heavy equipment working in an active public use area poses safety issues for adults and children. Children may be prone to come close to the equipment both during equipment operation on the beach and storage within staging areas. Offshore dredge equipment has the potential to result in a hazard to boat traffic. During dredging and nourishment activities, proper advanced notice to mariners would be obtained and navigational traffic would not be allowed within the offshore borrow site area or mooring/discharge area offshore of Oceanside. It is unlikely that recreational vessels, such as kayaks, sailboats, jet-skiers, and paddleboards would use this area close to shore and close to the Pier. Contract specifications shall require the contractor to fence/secure off areas of construction from public access, including construction staging areas and active. As noted in EIS/EIR, Vol. I, Section 6.2.9, Recreation, The proposed Project would occur at least two years after the construction of the Wheeler North Reef project and, therefore, would not have any cumulative impacts to recreation in conjunction with that project; however there is a chance that both the Dana Point Harbor maintenance dredging activities will occur during the same time as the project construction operations therefore, the potentially significant cumulative impact to Recreation cannot be mitigated to a level less than significant by the USACE, City of San Clemente or its contractors even with implementing Mitigation Measure:

MM-REC-50-4.1: Provide signs to warn swimmers, waders and surfers of potentially hazardous surf conditions. Provide extra lifeguards.

## 7.0 FINDINGS REGARDING PROJECT ALTERNATIVES

In preparing and adopting findings, a lead agency need not necessarily address the feasibility of both mitigation measures or other alternatives when contemplating the approval of a project with significant environmental impacts. Where the significant impacts can be mitigated to a level of less than significant by the adoption of mitigation measures, the lead agency has no obligation in drafting its findings to consider the feasibility of other alternatives including environmentally superior alternatives, even if their impacts would be less severe than those of the project as mitigated.

The EIS/EIR found that all potentially significant environmental impacts of the Project and all potentially cumulatively considerable impacts of the Project are reduced to a level below significance through the implementation of mitigation measures, with the exception of potentially significant and unavoidable impacts to surfgrass on vegetated rocky reef (biological resources).

Based on the information and analysis provided in Chapter 6, of Vol. I of the EIS/EIR, it was determined that the potential cumulative impacts of the Project would be less than significant for all resources with the exception of Air Quality and Recreation as noted in Section 6.0.

The EIS/EIR considered a full range of reasonable alternatives to the project including:

- No Action Alternative (i.e., the Do-Nothing Alternative)
- Managed Retreat
- Beach Nourishment
- Revetment
- Seawall
- Groins
- Visible Offshore Breakwater
- Submerged Reef

After reviewing the alternatives, beach nourishment emerged as the optimal alternative being both economically feasible and environmentally acceptable. All other alternatives were dropped from further consideration due to a variety of considerations including cost, potential environmental effects, or lack of local support or greater environmental effects.

The USACE then further evaluated 12 beach width scenarios, from 33 to 115 feet, to assess the expected storm damage reduction benefits and costs associated with each beach width scenario. The larger beach fill alternative described in the EIS/EIR Vol. I, Section 3.0, would create a beach berm that is 115 feet in width compared to the 50-foot project width. Thus, this larger project would place more sand on the beach and result in potentially greater impacts in comparison to the project.

USACE policy requires it to identify the National Economic Development (NED) plan which is the alternative which maximizes the potential economic benefits to the Nation. Of the 12 beach width scenarios, the 50-foot wide (i.e., 15-meter) beach fill alternative was identified as the NED plan.

The USACE was also required to identify a Least Environmentally Damaging Practicable Alternative (LEDPA) which is the alternative that has the fewest potential effects and still meets the Project purpose and objectives. Based on this, the USACE also identified the 50-foot beach width alternative as its Recommended Plan, which is the alternative that was forwarded for authorization and funding by Congress in 2012.

## 8.0 STATEMENT OF OVERRIDING CONSIDERATIONS

As described in Section 4.4 of this document, Project implementation may result in indirect, potentially significant and unavoidable impacts to biological resources (aquatic plant species) on rocky reef substrate offshore of the City. No direct impacts to surfgrass would occur with project implementation as the Project has been located, sized, and designed to minimize and avoid direct impacts to kelp, surfgrass, eelgrass and other aquatic plant species on rocky substrate to the maximum extent feasible.

As stated in the EIS/EIR, the potential exists however that impacts to offshore aquatic vegetation could be significant even with implementation of mitigation measures BR 50-2.1 and BR 50-2.2. The impact assessment is planned to occur as part of the post-construction monitoring effort following Project implementation as part of the MMRP. Mitigation has also been provided to address this potential impact. However, it is not known if the available mitigation measures will be successful. Thus, there is the potential for impacts to remain significant even with mitigation as outlined in the EIS/EIR, Vol. I, Appendix B.

Additionally, potential air quality and recreational impacts of the project could be potentially cumulatively significant even with mitigation measures in place. Therefore, pursuant to CEQA §15093, the City is required to adopt a "Statement of Overriding Considerations".

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.

After due consideration of the multitude of benefits derived from Project implementation, which include local, regional, statewide and federal environmental, economic, public access, recreational and social benefits, the City as the CEQA lead agency hereby finds that the direct benefits of the City's 50-year coastal storm damage reduction project outweigh the potential unavoidable environmental risks of the Project.

According to the U.S. Department of the Army, Office of the Chief of Engineers, April 2012 Chiefs Report, along the shoreline of San Clemente, a lack of sediment supply to the shoreline has resulted in chronic, mild, and long-term erosion. Without a coastal storm damage reduction project public properties and structures will continue to be susceptible to damages caused by erosion (including land loss and undermining of structures), inundation (structures), and wave attack (structures, railroad). The project area includes the LOS SAN (Los Angeles to San Diego) railroad corridor which is a vital link for passenger and freight service and has been designated as a Strategic Rail Corridor by the Department of Defense. As the protective beach lessens over time and is eventually lost, it is expected that storm waves will act directly upon the railroad ballast, significantly threatening the operation of the LOS SAN railroad line.

The narrowing beaches are also expected to subject ancillary beachfront public facilities to storm wave-induced damages, and further reduce recreational space on an already space-limited beach. The project was formulated to maximize coastal storm damage reduction, address potential environmental affects, and minimize cost. In accordance with the Corps Engineering Circular (EC 1165-2-211) on sea level change, the study performed a sensitivity analysis to investigate the economic effects that different rates of accelerated sea level rise could have on the recommended plan. The plan was formulated using a historical or low rate of sea level rise, and the sensitivity analysis used additional accelerated rates, which includes both medium and high rates of sea level rise. The sensitivity analysis indicates that at higher rates of sea level rise, renourishment intervals increase and the reduction of storm damages decreases, and the project continues to be warranted and economically justified.

Continued future shoreline erosion is expected to result in storm waves breaking directly upon the public beach and railroad ballast located at the back of the beach, which significantly threatens the operation of the rail corridor. Continued future shoreline erosion also will subject public facilities and critical public infrastructure to storm wave-induced damages. These facilities, maintained by the City of San Clemente, include the Marine Safety Building, public restroom facilities located on the beach, lifeguard stations, parking areas, the California Coastal Trail and the City's municipal pier. The railroad is a vital transportation link for passenger and freight service between cities in San Diego, Orange, and Los Angeles counties. The Department of Defense has designated this right of- way as a Strategic Rail Corridor with great significance to National defense. Due to chronic beach erosion, the railroad corridor between the bluff and the beach is threatened by undermining. Metrolink has been taking emergency actions to place additional rocks/riprap along the segment between North Beach and the Marine Safety Building to reduce wave energy impacts along the beach.

Train service has been delayed during winter storm events in order to provide extra precautionary measures to allow trains to move safely through the area. Crews are dispatched during high tide and storm conditions to visually inspect for track damage that could potentially cause derailments. The impact of riprap placement over the years has resulted in a cumulative decrease of lateral beach access.

Thus, it is in this sense, that the City finds that the potential adverse effects on surfgrass, air quality and short-term recreation may be considered acceptable in light of the long-term benefits to be generated by the project.

The City hereby includes this statement of overriding considerations in the record of the project and will note this action on the Notice of Determination to be filed with the County Clerk following project approval.