



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Marine Region  
1933 Cliff Drive, Suite 9  
Santa Barbara, CA, 93109  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



August 11, 2014

Mr. Jason Ramos  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825

**Subject: Revised Analysis of Impacts to Public Trust Resources for the Broad Beach Restoration Project**

Dear Mr. Ramos:

The Department of Fish and Wildlife (Department) has reviewed the Revised Analysis of Impacts to Public Trust Resources (RAPTR) for the Broad Beach Restoration Project (Project) prepared for the California State Lands Commission (CSLC) by AMEC Environment and Infrastructure, Inc. The District proposes to address the emergency rip-rap revetment and extensive beach erosion at Broad Beach in the City of Malibu, Los Angeles County, through beach and sand dune restoration. The District is requesting that CSLC issue a twenty year lease for the portion of the proposed Project that is located on tidelands that are in the CSLC jurisdiction. Broad Beach extends laterally for more than 6,700 feet from Lechuza Point to Trancas Creek which is located immediately adjacent to the western parking lot for Zuma Beach County Park. The Project is located in the Point Dume State Marine Conservation Area (SMCA) which is protected under California Code of Regulations title 14 section 632.

As a trustee for the State fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations (Fish and G. Code, § 1802). In this capacity, the Department administers the Marine Life Management Act (MLMA), the Marine Life Protection Act (MLPA), and other provisions of the California Fish and Game Code and California Code of Regulations title 14 that afford protection to the fish and wildlife of the State. The Department is a Trustee Agency for purposes of CEQA (Cal. Code Regs., tit.14, § 15386(a)). Under both the MLMA and MLPA, the Department is responsible for marine biodiversity protection in coastal marine waters of California. Pursuant to our statutory authority, the Department submits the following concerns, comments, and recommendations regarding the project.

**Project Description**

The proposed Project would include the following beach and dune restoration activities and ongoing maintenance elements:

- An estimated 42 acres of sand dune restoration and beach widening would require the deposition of a total of 600,000 cubic yards or more of beach and dune compatible sand. The beach restoration would require 500,000 cubic yards and the dune restoration would require 100,000 cubic yards.
- Burial of the existing emergency revetment from the landward edge of the widened nourished beach by placing imported dune quality sand over the existing revetment to create a restored dune. The dune restoration would include planting of native dune species.
- Sand would be supplied from three inland quarries. The sand from these sources has been deemed compatible with the existing beach and dune sand.
- A reservoir of sand would be established at the eastern end of the Project site to be used for future maintenance of the beach and dune habitat.
- Back-passing, defined as the grooming and movement of sand, will be conducted from one end of the beach footprint to the other. The back-passing will consist of moving between 10,000 to 50,000 cubic yards of sand from the eastern end of project footprint to the far western end which includes Lechuza Point. The back-passing event would occur on an annual basis. The volume of sand moved each year would be dependent upon the sand loss from the previous year. The back-passing activity would occur over the life of the Project which is identified as at least twenty years.
- The Project also includes one additional beach sand replenishment project of 450,000 cubic yards on Broad Beach in approximately 8 to 10 years for beach maintenance and erosion control.

### **Department Comment Letter on Broad Beach Notice of Preparation**

In April of 2011, the CSLC distributed a Notice of Preparation (NOP) for a Draft Environmental Impact Report for the Broad Beach Restoration Project (SCH # 2011041052). The Project and several of the alternatives proposed in the current RAPTR contain almost identical components as the Project described in the NOP. Please be advised the Department commented on the NOP where we identified our concerns, comments and recommendations regarding the proposed Project. The Department believes that the concerns, comments, and recommendations identified in our May 18, 2011 NOP comment letter are still applicable to the current Project as proposed in the RAPTR. We recommend that the CSLC adequately address the concerns, comments and recommendations that were included in our May 18, 2011 letter prior to the finalization of the RAPTR or issuance of a lease agreement. We have enclosed that letter for your convenience and its comments are incorporated into this letter by this reference.

### **Department Letter on the October 2012 APTR**

In October 2012 CSLC distributed the original APTR for the Project. The Project and several alternatives proposed in the RAPTR contain almost identical components of the October 2012 version of the APTR. The only major difference is that the sand will now be supplied from three inland quarries. The Department commented on the October 2012 APTR in a letter dated December 18, 2012 which identified Department concerns, comments and recommendations regarding the proposed Project. The Department believes that those concerns, comments, and recommendations are still applicable to the current Project as proposed in the RAPTR. We recommend that the CSLC adequately address the concerns, comments and recommendations in our December 18, 2012 letter prior to the finalization of the RAPTR or issuance of a lease agreement. We have also enclosed that letter for your convenience and its comments are incorporated into this letter by this reference.

### **Marine Fish and Wildlife and Habitat Impacts**

The Department's evaluation indicates that the proposed Project and most of the alternatives identified in the RAPTR will likely result in significant permanent and temporary adverse impacts to fish and wildlife resources and their habitats within the Project footprint. The RAPTR does include one alternative that may address some of the impacts. Alternative 8 as indicated on page ES-11 of the RAPTR would eliminate all sand placements from the western portion of the Project footprint. In addition, Alternative 8 would leave the rock revetment in place as well as the placement of 460,000 cubic yards of sand beginning at the western end of the rock revetment and ending at the eastern most reach of the Project footprint. Alternative 8 would also include re-nourishment of 380,000 cubic yards of sand in eight to ten years, and Alternative 8 would still include annual back-passing. The Department believes that Alternative 8 would be the least impactful Project and would alleviate some of our concerns as it relates to impacts to rocky intertidal habitat on the western portion of the Project footprint; however, as discussed below, back-passing would remain a concern.

It should also be noted that the Project footprint is located in the Point Dume State Marine Conservation Area (SMCA). There are provisions identified for the Point Dume SMCA that allow for sediment management activities, as well as other actions to address health and safety issues. However, significant adverse impacts to marine resources and their habitats, regardless of the marine protected area (MPA) designation, are of significant concern to the Department. The RAPTR, beginning at Page 3.3-46, identifies significant environmental impacts to very sensitive habitat, including the direct burial of approximately 2.98 acres of rocky intertidal habitat, "resulting in 100% mortality to the intertidal and subtidal organisms." Figure 3.7 on page 3.3-57 of the RAPTR also indicates that total direct and indirect fill impacts will cause permanent and/or long term adverse impacts to approximately 10.23 acres of

habitat, including burial of rocky intertidal, lower intertidal/surf grass, kelp beds, eelgrass and subtidal reefs.

The RAPTR indicates that the initial beach restoration portion of the Project will bury (under approximately 10 to 17 feet of sand) existing tidepools, intertidal and subtidal reefs, surf grass, and eelgrass habitat that is located at the western end of the Project in the area of Lechuza Point. Impacts would also include permanent or temporary sedimentation and scouring of rocky intertidal reefs, tide pools, surfgrass, eelgrass, seaweed, and kelp bed habitats. These impacts will in turn have adverse impacts to the associated marine life communities that utilize these habitats. The RAPTR also indicates that there is a potential for indirect post-construction adverse burial impacts as a result of sediment transport and scouring. In addition, the beach restoration and back-passing will impact existing hard substrate habitat and sandy beach habitat throughout the Project footprint. These habitats are unique and critical to the preservation and maintenance of the vast array of fish and wildlife resources that utilize these areas of the Point Dume SMCA.

Point Dume SMCA/Point Dume SMR are an important cluster of MPAs that provide moderate or greater levels of key hard bottom habitats, including rocky shores, nearshore reefs (0-30meters(m)), 30m and deeper reefs, as well as biogenic habitats that are supported by nearshore reef habitats, including kelp and surfgrass. Moreover, the kelp and shallow 0-30m hard substrate habitats within these two MPAs facilitate dispersal and connectivity along the mainland between the Campus Point SMR and the cluster of MPAs off Palos Verdes (Point Vicente No Take SMCA and Abalone Cove SMCA). These two habitats in particular exhibit patchy distribution along the mainland of the Santa Barbara Channel, and therefore are crucial to the fabric of the regional south coast MPA network habitat which was carefully crafted by a wide range of ocean users and informed by scientific input during the planning process for the south coast MPAs. The primary distribution of these habitats in the Point Dume SMCA is the western portion of the MPA, in between Lechuza Point and Trancas Creek, directly conflicting with the proposed Project. In fact, the size of this MPA was created deliberately large enough to encompass this particular area containing these key habitats. Removal of any of this habitat may jeopardize the size and spacing requirements set forth by the MLPA South Coast Science Advisory Team, which in turn, may create a less effective South Coast network and may fail to meet the goals of the MLPA. Additional background and justification regarding the development of these MPA requirements can be found at:

[http://www.dfg.ca.gov/marine/pdfs/binders\\_sc/appendix\\_a.pdf](http://www.dfg.ca.gov/marine/pdfs/binders_sc/appendix_a.pdf) ).

## **Recommendations**

As the trustee of the fish and wildlife resources of the State, it is the Department's mission and mandate to protect and maintain the habitats that our resources utilize. This includes habitats within MPAs. The regulations that were established for the Point Dume SMCA do not have provisions to allow for significant or adverse impacts that

would require compensatory mitigation within this area. In order to protect marine resources within the Point Dume SMCA and to comply with the specific laws and regulations pertinent to the Point Dume SMCA, the Department recommends that the intertidal and subtidal rocky habitat impacts from the proposed Project, or any other chosen alternatives, be avoided.

Avoidance and Minimization Measures (AMMs) specified on page 3.3-50 of the RAPTR attempt to address major adverse impacts associated with the sand placement at the west end of the Project footprint. However, the RAPTR also concludes that the proposed AMMs that are geared towards addressing the myriad of impacts at the west end of the project will not successfully avoid nor satisfactorily minimize these impacts. The Department concurs with this conclusion and we believe these AMMs are insufficient to completely protect the various habitats that occur in the Project footprint. However, we do believe that AMM-MB-2a and 2b on page 3.3-50 of the RAPTR may help facilitate the selection of a satisfactory alternative for the Project. AMM-MB-2a and 2b state the following:

“AMM MB-2a: Compliance with Existing Laws. Prior to commencement of construction activities, the Applicant shall provide California State Lands Commission (CSLC) staff copies of permits or other applicable written approvals from the California Coastal Commission (CCC), California Department of Fish and Wildlife (CDFW), National Marine Fisheries Service (NMFS), and U.S. Army Corps of Engineers (USACE) that placement of fill west of the existing rock revetment is not inconsistent with the California Coastal Act (CCA), California Marine Life Protection Act (MLPA), Magnuson-Stevens Fishery Conservation and Management Act, and Federal Rivers and Harbors Act, respectively.”

“AMM MB-2b: Multi-Agency Collaboration for Sensitive Marine Habitat Impacts. Prior to commencement of construction activities, the Applicant shall work with jurisdictional marine habitat protection agencies, including the CCC, CDFW, NMFS, USACE, and CSLC for review and endorsement of all marine habitat baseline surveys, impact analyses, appropriate monitoring and any compensation for impacts to sensitive marine habitats and species. Prior to commencement of construction activities, the Applicant shall provide to CSLC staff any resultant surveys, impact analyses, and monitoring and compensation protocols determined through the multi-agency process and required by jurisdictional agencies.”

The Department concurs with the requirements identified in AMM MB-2a and 2b. However, it should be noted that the Department is not able to approve any take resulting from the Project in the Point Dume SMCA. With respect to AMM MB-2b, the Department does recommend that United States Fish and Wildlife Service (USFWS), United States Environmental Protection Agency and the Los Angeles Regional Water Quality Control Board be added to the multi-agency group.

The multi-agency collaboration effort will be essential in the determination of a final Project that may fully avoid or effectively minimize the impacts associated with the Broad Beach Restoration Project. In addition, this multi-agency effort will ensure that a comprehensive biological baseline study will be developed and implemented prior to any beach nourishment activities. The Department recognizes that the RAPTR (AMM MB-2b) includes a requirement to conduct such studies and that the study design will need to be acceptable to the multi-agency group. The Department concurs with this requirement.

The District will also need to develop and implement a comprehensive monitoring plan to determine the extent of any impacts that may occur as a result of the Project. Finally, the Project proponent will need to develop a comprehensive mitigation plan to address all adverse impacts. The Department recognizes that the RAPTR (AMM MB-2b) includes a requirement for such studies and plans as indicated above. The Department concurs with this requirement. The Department also recommends that the multi-agency group be allowed to review and approve any such studies and plans prior to finalization of the RAPTR or the issuance of the lease agreement.

On page 3.3-60 of the RAPTR, there is a brief discussion regarding the possibility that the District would mitigate for hard substrate impacts by constructing an artificial reef as compensation for the loss of natural reef habitats within the Project footprint. The MLPA laws and regulations do not include provisions for the construction of an artificial reef as mitigation for impacts to habitats located within an MPA (Fish & G. Code § 2857(c)). The Department recommends that the final lease agreement include a requirement that the location of a mitigation reef will not be allowed in the Point Dume SCMA.

The Department has serious concerns regarding the use of artificial reefs as mitigation for the identified adverse impacts associated with the Project. The ability to identify a location, determine size and configuration, identify appropriate materials as well as construct and maintain an artificial reef for mitigation for those impacts identified in the RAPTR is extremely difficult and the functionality is questionable. We also question whether the biogenic qualities of an artificial reef will provide habitat equivalent to those lost by the destruction of intertidal and subtidal habitat. If the CSLC determines that an artificial reef would be a viable mitigation alternative, then the Department recommends that the final lease agreement include a requirement that the multi-agency group be involved in any discussions and planning efforts regarding the development of an artificial reef as mitigation. The Department also recommends that the final RAPTR or lease agreement include a requirement that the multi-agency group approve any artificial reef mitigation plan prior to finalization of the RAPTR or the issuance of the lease agreement.

The proposed Project also includes a back-passing component that entails the grooming and movement of sand throughout the Project footprint. The back-passing will consist of moving between 10,000 to 50,000 cubic yards of sand from the eastern end of Project footprint to the far western end which includes Lechuza Cove. The back-

passing event would occur on an annual basis. The volume of sand moved each year would be dependent upon the sand loss from the previous year. The back-passing activity would occur over the life of the Project which is identified as at least twenty years. The Department is concerned that the annual back-passing of sand for twenty years would impede the overall beach systems ability to stabilize. The sandy beach habitat is utilized by a vast array of fish and wildlife resources. The annual disturbance of this habitat may prevent re-establishment by many of the species that utilize this habitat. Sand crabs and other crustaceans, various polychaete worm species, amphipod species, grunion, Pismo clam and other clam species, and various bird species, including the listed snowy plover, are just a few of the fish and wildlife resources that may be adversely impacted by the back-passing activity.

The Department recognizes that the RAPTR (page 3.3-62 and 63) includes AMM MB-3 and AMM 5a, 5b, and 5c which attempt to address the back-passing impacts. AMM 5a, 5b and 5c establish the requirement to develop various management plans that would include provisions to avoid or significantly reduce the impacts associated with annual back-passing events. The RAPTR indicates that these plans will need to be reviewed and approved by CSLC, USFWS, CCC and CDFW staff prior to any construction activities. As discussed above, we believe, that while these AMMs will address most of the impacts, this annual activity may prevent the biological populations from stabilizing.

The Department will participate in the multi-agency process to assist in development of the various management plans. The management plans will need to include provisions that will adequately avoid or significantly minimize the impacts from the annual back-passing events. The Department also recommends that NMFS and USACE be included on the review team.

Thank you for the opportunity to review and comment upon the RAPTR. As always, Department personnel are available to discuss our concerns, comments, and recommendations. Please contact Mr. William Paznokas, Senior Environmental Scientist (Specialist), at (858) 467-4218 or [William.Paznokas@wildlife.ca.gov](mailto:William.Paznokas@wildlife.ca.gov) if you have any questions.

Sincerely,



Craig Shuman, D. Env.  
Regional Manager  
Marine Region

Enclosure(s)

ec: Sonke Mastrup, Executive Director  
Fish and Game Commission  
[Sonke.Mastrup@fgc.ca.gov](mailto:Sonke.Mastrup@fgc.ca.gov)

Catherine Kuhlman, Executive Director  
Ocean Protection Council  
[Cat.Kuhlman@resources.ca.gov](mailto:Cat.Kuhlman@resources.ca.gov)

Becky Ota, Environmental Program Manager  
Department of Fish and Wildlife  
[Becky.Ota@Wildlife.ca.gov](mailto:Becky.Ota@Wildlife.ca.gov)

Vicki Frey, Senior Environmental Scientist Supervisor  
Department of Fish and Wildlife  
[Vicki.Frey@Wildlife.ca.gov](mailto:Vicki.Frey@Wildlife.ca.gov)

William Paznokas, Senior Environmental Scientist Specialist  
Department of Fish and Wildlife  
[William.Paznokas@Wildlife.ca.gov](mailto:William.Paznokas@Wildlife.ca.gov)

Loni Adams, Environmental Scientist  
Department of Fish and Wildlife  
[Loni.Adams@Wildlife.ca.gov](mailto:Loni.Adams@Wildlife.ca.gov)

Mr. Bryant Chesney  
National Marine Fisheries Service  
[Bryant.Chesney@noaa.gov](mailto:Bryant.Chesney@noaa.gov)

Christine Medak  
U.S. Fish and Wildlife Service  
[Christine\\_Medak@fws.gov](mailto:Christine_Medak@fws.gov)

Jonna Engel  
California Coastal Commission  
South Coast District Office  
[Jonna.Engel@coastal.ca.gov](mailto:Jonna.Engel@coastal.ca.gov)



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND GAME  
[www.dfg.ca.gov](http://www.dfg.ca.gov)  
Marine Region  
4665 Lampson Avenue, Suite C  
Los Alamitos, CA 90720  
(562)342-7210

*EDMUND G. BROWN, Jr., Governor*  
*CHARLTON H. BONHAM, Director*



December 18, 2012

Mr. Jason Ramos  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825

**Subject: Analysis of Impacts to Public Trust Resources for the Broad Beach Restoration Project**

Dear Mr. Ramos:

The Department of Fish and Game (Department) has reviewed the Analysis of Impacts to Public Trust Resources (APTR) for the Broad Beach Restoration Project (Project) prepared for the California State Lands Commission (SLC) by AMEC Environment and Infrastructure, Inc. The Broad Beach Geological Hazard Abatement District (District) is the Project proponent. According to the SLC, the District's implementation of the Project is statutorily exempt from the California Environmental Quality Act (CEQA) because an "[i]mprovement caused to be undertaken...and all activities in furtherance thereof or in connection therewith, shall be deemed to be specific actions necessary to prevent or mitigate an emergency..." (Public Resources Code §§ 26601 & 21080 (b) (4)). The District proposes to address the emergency rip-rap revetment and extensive beach erosion at Broad Beach in the City of Malibu, Los Angeles County, through beach and sand dune restoration. Broad Beach extends laterally for more than 6,700 feet from Lechuza Point to Trancas Creek which is located immediately adjacent to the western parking lot for Zuma Beach County Park. The Project is located in the Point Dume State Marine Conservation Area (SMCA) which is protected under California Code of Regulations Title 14 section 632.

As a trustee for the State fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations (Fish and Game Code, Section 1802). In this capacity, the Department administers the Marine Life Protection Act (MLPA) and other provisions of the California Fish and Game Code and California Code of Regulations Title 14 that afford protection to the fish and wildlife of the State. The Department is a Trustee Agency for purposes of CEQA (14 C.C.R. Section 15386(a)). Under the MLPA, the Department is responsible for marine biodiversity protection in coastal marine waters of California. Pursuant to our statutory authority, the Department submits the following concerns, comments, and recommendations regarding the project.

The proposed Project would include the following beach and dune restoration activities and ongoing maintenance elements:

*Conserving California's Wildlife Since 1870*

- An estimated 42 acres of sand dune restoration and beach widening would require approximately 600,000 cubic yards or more of beach and dune compatible sand. The beach restoration would require 500,000 cubic yards and the dune restoration 100,000 cubic yards.
- Burial of the existing emergency revetment from the landward edge of the widened nourished beach by placing imported beach quality sand over the existing revetment to create a restored dune.
- Dredging of beach compatible material at an offshore borrow site or sites and delivery of the dredged material from a holding vessel via dredge discharge pipeline. As an alternative to offshore sources, collect sand from a stockpile adjacent to Calleguas Creek in Ventura County located near the intersection of Los Posas Road and Hueneme Road and transport the sand by truck. The offshore borrow sites identified in the APTR are located offshore of Trancas Canyon (dune restoration sand), offshore of the City of Manhattan Beach, offshore of Dockweiler State Beach, and material from Ventura Harbor. The Manhattan Beach and Dockweiler State Beach borrow sites are located in Santa Monica Bay.
- A reservoir of sand would be established at the eastern end of the Project site to be used for future maintenance of the beach and dune habitat which would also include planting of native dune plant species.
- Back-passing, defined as the grooming and movement of sand, will be conducted from one end of the beach footprint to the other. Approximately 75,000 cubic yards of sand would be moved during back-passing on an annual or bi-annual basis. The back-passing activity would occur over the life of the Project which is identified as at least twenty years.
- The Project also includes one additional beach sand replenishment project on Broad Beach in approximately 8 to 10 years for beach maintenance and erosion control.

### **Department Comment Letter on Broad Beach Notice of Preparation**

In April of 2011, the SLC distributed a Notice of Preparation (NOP) for a Draft Environmental Impact Report for the Broad Beach Restoration Project (SCH 2011041052). The Project and several of the alternatives proposed in the current APTR contain almost identical components as the Project described in the NOP. Please be advised the Department commented on the NOP where we identified our concerns, comments and recommendations regarding the proposed Project.

The Department believes that the concerns, comments, and recommendations identified in our May 18, 2011 NOP comment letter are still applicable to the current Project as proposed in the APTR. We recommend that the CSLC adequately address

our concerns, comments and recommendations prior to the finalization of the APTR. We have attached that letter for your convenience.

### **Marine Fish and Wildlife and Habitat Impacts**

The Department does not support the preferred Project and similar alternatives as identified in the APTR since it will result in substantial adverse (long term and/or temporary) impacts to fish and wildlife resources and their habitats within the Point Dume SMCA. The APTR, beginning at Page 3.3.-50, identifies significant environmental impacts to the Point Dume State Marine Conservation Area, including the direct burial of approximately 2 acres of rocky intertidal habitat, resulting in "100% mortality to the intertidal and subtidal organisms." The mitigation proposed for this impact, construction of a low-relief artificial reef, is speculative.

The APTR indicates that the initial beach restoration portion of the project will bury (under approximately 10 to 12 feet of sand) existing tidepools, intertidal and subtidal reefs, surf grass, and eelgrass habitat that is located at the western end of the Project footprint. Impacts would also include permanent or temporary sedimentation, scour and crushing of reefs, tide pools, surfgrass, eelgrass, seaweed, and kelp beds that will in turn have adverse impacts to the associated marine life communities that utilize these habitats. Potential indirect post-construction adverse impacts may include reef and rock burial from sediment transport and sand scouring. In addition, the beach restoration and back-passing will impact existing sandy beach habitat. These habitats are unique and critical to the preservation and maintenance of the vast array of fish and wildlife resources that utilize these areas of the Point Dume SMCA. The Department recognizes that the APTR includes minimization measures that partially address these impacts. However, the Department does not believe these minimization measures are sufficient to protect the various habitats that occur in the Project footprint.

Point Dume SMCA/Point Dume SMR are an important cluster of MPAs that provide moderate or greater levels of key hard bottom habitats, including rocky shores, nearshore reefs ((0-30meters(m)), 30m and deeper reefs, as well as biogenic habitats that are support by nearshore reef habitats including kelp and surfgrass. Moreover, the kelp and shallow 0-30m hard bottom habitats within these two MPAs facilitate dispersal and connectivity along the mainland between the Campus Point SMR and the cluster of MPAs off Palos Verdes (Point Vicente No Take SMCA and Abalone Cove SMCA). These two habitats in particular exhibit patchy distribution along the mainland of the Santa Barbara Channel, and therefore crucial to the fabric of the regional south coast MPA network which was carefully crafted by a wide range of ocean users and informed by scientific input during the planning process for the south coast MPAs. The primary distribution of these habitats in the Point Dume SMCA is the western portion of the MPA, in between Lachuza Point and Trancas Creek, directly conflicting with the proposed project. In fact, the size of this MPA was created deliberately large enough to encompass this particular area containing these key habitats. Removal of any of this habitat may jeopardize the size and spacing requirements set forth by the MLPA South Coast Science Advisory Team, which in turn, may create a less effective South Coast network and may fail to meet the goals of the MLPA.

The regulations that were established for the Point Dume SMCA do not have provisions to allow for significant or adverse impacts that would require compensatory mitigation within this area. In order to protect marine resources within the Point Dume SMCA and to comply with the specific laws and regulations pertinent to the Point Dume SMCA, the Department recommends that the intertidal and subtidal habitat impacts from the Project or any other chosen alternatives be avoided. In addition we recommend that SLC convene a technical advisory committee consisting of both state and federal resource agencies (the Department, U.S. Fish and Wildlife Service, NOAA Fisheries) as well as the U.S. Army Corp of Engineers, U.S. Environmental Protection Agency, California Coastal Commission and the Los Angeles Regional Water Quality Control Board to assist in the development of alternatives that would avoid or effectively minimize the impacts associated with the Broad Beach Restoration Project.

In addition to the new alternatives development, it should be noted that a comprehensive biological baseline study would need to be developed and implemented prior to any restoration activities. The Project proponent will also need to develop and implement a comprehensive monitoring plan to determine the extent of any impacts that may occur because of the Project. Finally, the Project proponent will need to develop a comprehensive mitigation plan to address all adverse impacts. The Department recommends that the final APTR be amended to include a requirement for such studies and plans as indicated above. Lastly, the Department also recommends that the technical advisory committee be allowed to review and approve any such studies and plans prior to finalization.

It is stated in the APTR that the Project proponent has indicated that they would mitigate for hard substrate impacts by constructing an artificial reef as compensation for the loss of natural reefs within the Point Dume SMCA. The APTR also indicates that the preference would be to locate such a reef within the Point Dume SMCA if feasible. If infeasible, then the secondary location would be a site somewhere in Santa Monica Bay. The MLPA laws and regulations do not include provisions for the construction of artificial reefs as mitigation for impacts to habitats located within an MPA [Need to site the Code Section regarding the required habitats for each region (FGC Section 2857(c)] The Department recommends that the APTR be amended to reflect that the construction of an artificial reef for mitigation will not be allowed in the Point Dume SCMA.

Thank you for the opportunity to review and comment upon the APTR. As always, Department personnel are available to discuss our concerns, comments, and recommendations. Please contact Ms. Loni Adams, Environmental Scientist, at (858) 627-3985 or [ladams@dfg.ca.gov](mailto:ladams@dfg.ca.gov) if you have any questions.

Sincerely,



Paul Hamdorf  
Acting Regional Manager  
Marine Region

Broad Beach Restoration Project  
December 18, 2012  
Page 5 of 5

cc: Department of Fish and Game  
Becky Ota- Belmont Office  
Vicki Frey- Eureka Office  
Loni Adams- San Diego Office

Mr. Bryant Chesney  
National Marine Fisheries Service  
501 West Ocean Blvd., Suite 4200  
Long Beach, CA 90802-4213  
[Bryant.Chesney@noaa.gov](mailto:Bryant.Chesney@noaa.gov)

Christine Medak  
U.S. Fish and Wildlife Service  
6010 Hidden Valley Road  
Carlsbad, CA 92011  
[Christine\\_Medak@fws.gov](mailto:Christine_Medak@fws.gov)

Jonna Engel  
California Coastal Commission  
South Coast District Office  
200 OceanGate, 10th Floor  
Long Beach, California 90802-4416  
[Jonna.Engel@coastal.ca.gov](mailto:Jonna.Engel@coastal.ca.gov)





State of California – The Natural Resources Agency

DEPARTMENT OF FISH AND GAME

South Coast Region  
4949 Viewridge Avenue  
San Diego, CA 92123  
(858) 467-4201  
<http://www.dfg.ca.gov>

Edmund G. Brown, Jr., *Governor*

John McCamman, *Director*



May 18, 2011

Ms. Crystal Spurr, Staff Environmental Scientist  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, California 95825  
Fax #: (916) 574-1885

**Subject: Notice of Preparation of a Draft Environmental Impact Report for the Broad Beach Restoration Project, SCH 2011041052, Los Angeles County**

Dear Ms. Spurr:

The Department of Fish and Game (Department) has reviewed the Notice of Preparation (NOP) prepared by the California State Lands Commission (CSLC) of a Draft Environmental Impact Report (DEIR) for the Broad Beach Restoration Project (Project). The Trancas Property Owner's Association proposes to address the extensive erosion at Broad Beach in the City of Malibu, Los Angeles County, through beach and sand dune restoration. The proposed Project would include beach widening and replenishment using sand dredged and transported from an offshore source and/or transported from an onshore source, sand dune building and restoration, and burying of an existing temporary emergency revetment. The Project area is located west of Broad Beach Road (which runs parallel to Pacific Coast Highway) and is comprised of shoreline fronting approximately 109 homes, spanning from Lechuza Point to Trancas Creek.

The Department is California's Trustee Agency for fish and wildlife resources, holding these resources in trust for the People of the State pursuant to various provisions of the California Fish and Game Code (Fish & G. Code, §§ 711.7, subd. (a), 1802.). The Department submits these comments in that capacity under the California Environmental Quality Act (CEQA) (See generally Pub. Resources Code, §§ 21070; 21080.4.). Given its related permitting authority under the California Endangered Species Act (CESA) and Fish and Game Code section 1600 *et seq.*, the Department also submits these comments likely as a Responsible Agency for the project under CEQA (Id., § 21069.).

The California Wildlife Action Plan, a recent Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. The Department looks forward to working with the Lead Agency to minimize impacts to fish and wildlife resources with a focus on these stressors. Please let Department staff know if you would like a copy of the plan to review.

To enable Department staff to adequately review and comment on the project, we recommend the following information, where applicable, be considered during the preparation of the DEIR:

1. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats (See Protocols for Surveying and Evaluating Impacts to

*Conserving California's Wildlife Since 1870*

Special Status Native Plant Populations and Natural Communities at:  
<http://www.dfg.ca.gov/habcon/plant/>).

- a. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities.
  - b. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use within the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and U.S. Fish and Wildlife Service.
  - c. Endangered, rare, and threatened species to address should include all those species which meet the related definition under the CEQA Guidelines. (See Cal. Code Regs., tit. 14, § 15380.)
  - d. The Department's Biogeographic Data Branch in Sacramento should be contacted at (916) 322-2493 ([www.dfg.ca.gov/biogeodata](http://www.dfg.ca.gov/biogeodata)) to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Significant Ecological Areas (SEAs) or Environmentally Sensitive Habitats (ESHs) or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.
2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.
- a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
  - b. Project impacts should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, adjacent natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas are of concern to the Department and should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic, outdoor artificial lighting, noise and vibration.
  - c. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
  - d. Impacts to migratory wildlife affected by the project should be fully evaluated including proposals to remove/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.
  - e. Impacts to all habitats from City or County required Fuel Modification Zones (FMZ). Areas slated as mitigation for loss of habitat shall not occur within the FMZ.

- f. Proposed project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- September 1) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department recommends a minimum 500-foot buffer for all active raptor nests).
3. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.
  - a. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with off-site mitigation locations clearly identified.
  - b. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts.
  - c. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.
4. An Incidental Take Permit (ITP) from the Department may be required if the project, project construction, or any project-related activity during the life of the project will result in "take," as defined by the Fish and Game Code, of any species protected by CESA (Fish & G. Code, §§86, 2080, 2081, subd. (b), (c)). Early consultation with Department regarding potential permitting obligations under CESA with respect to the project is encouraged (Cal. Code Regs., tit. 14, § 783.2, subd. (b)). It is imperative with these potential permitting obligations that the DEIR includes a thorough and robust analysis of the potentially significant impacts to endangered, rare, and threatened species, and their habitat, that may occur as a result of the proposed project. For any such potentially significant impacts the document should also analyze and describe specific, potentially feasible mitigation measures to avoid or substantially lessen any such impacts as required by CEQA and, if an ITP is necessary, as required by the relevant permitting criteria prescribed by Fish and Game Code section 2081, subdivisions (b) and (c). The failure to include this analysis in the project DEIR could preclude the Department from relying on the document's analysis to issue an ITP without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project (See, e.g., Cal. Code Regs., tit. 14, § 15096, subd. (f); Pub. Resources Code, § 21166.). For these reasons, the following information is requested:
  - a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
  - b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.

5. The Department opposes the elimination of watercourses (including concrete channels) and/or the canalization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of drainage.
  - a. The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) or a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration Agreement (LSA) is required. The Department's issuance of a LSA is a project subject to CEQA. To facilitate issuance of a LSA, if necessary, the DEIR should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. Again, the failure to include this analysis in the project DEIR could preclude the Department from relying on the Lead Agency's analysis to issue a LSA without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project.

### **MARINE IMPACTS**

The Department's Marine Region recommends that the DEIR for the Project should address the following marine assessments and issues:

1. A marine biological assessment should encompass the marine flora and fauna within and adjacent to the project area, with particular emphasis upon identifying state or federally listed rare, threatened, or endangered species and California species of special concern. A focus should also be on locally unique, rare and sensitive marine species or habitats.
2. All marine species and habitat-specific surveys and/or studies should be conducted in conformance with established protocols at the appropriate time of year and time of day when the species are active or otherwise identifiable.
3. A thorough discussion of direct, indirect, and cumulative marine resource impacts is crucial for this proposed project because it lies within the proposed Point Dume State Marine Conservation Area (PDSMCA). The Department will be giving this proposed project increased scrutiny since it is within the PDSMCA. Specifically, the DEIR should include, at a minimum, the following information.
  - a. Discussions regarding the regional setting, pursuant to the CEQA Guidelines Section 15125(a), should be included with special emphasis on resources that are rare, sensitive or unique to the region. Emphasis should be given to habitats that are important to listed or sensitive species that may be affected by the Project. The project area includes

intertidal and subtidal reef habitat, giant kelp (*Macrocystis pyrifera*), and surfgrass (*Phyllospadix spp.*). In addition, black abalone (*Haliotis cracherodii*), a federally endangered species, may occur in the project area. Trancas Creek mouth is near the project site and may support habitat for the tidewater goby, *Eucyclogobius newberryi*. Relatively flat wide beaches in this area have historically supported spawning California grunion (*Leuresthes tenuis*), Pismo clams (*Tivela stultorum*), and eelgrass (*Zostera spp.*), which may be found in the intertidal surf zone and/or the subtidal areas. Potential and expected impacts of the Project on these species and habitats should be fully addressed.

- b. Detailed discussions of potential direct or indirect burial and/or sedimentation, as well as turbidity impacts, to offshore marine resources from initial and subsequent sand replenishments should be included. Specifically, an analysis of cumulative impacts should be conducted of the proposed repetitive sand replenishments and of other similar projects that may be proposed for the Broad Beach area in the foreseeable future.
- c. Potential impacts to marine species related to dredging, moving, transporting, and piping of sand materials onto Broad Beach should be fully addressed.
- d. Perform a thorough survey of the proposed and alternative project footprints to describe all types of marine substrates, such as sandy beach, rocky reef, kelp bed, intertidal, subtidal, and other habitats that may be affected. Site maps and tables should be used in the DEIR to summarize survey information and should include square footage or acreage of various marine habitats that will be impacted.
- e. Mitigation and monitoring plans for impacts to marine resources and habitats should be included in the DEIR. Best management practices and avoidance measures for each construction activity should be included in mitigation plans. Such plans should also include conducting construction activities during low tide conditions to avoid marine waters, avoidance of sensitive habitats when locating pipes, and avoidance of spawning and/or nesting seasons when appropriate. All such plans should be drafted in consultation with the Department's Marine Region staff and other appropriate resource agencies.

Thank you for this opportunity to provide comments. Please contact Ms. Loni Adams, Marine Region, Environmental Scientist, at (858) 627-3985 if you should have any questions and for further coordination on the marine aspects of the proposed Project. Please contact Mr. Daniel Blankenship, South Coast Region Staff Environmental Scientist, at (661) 259-3750 if you should have any questions and for further coordination on the non-marine aspects of the proposed Project.

Sincerely,

Edmund Pert  
Regional Manager  
South Coast Region

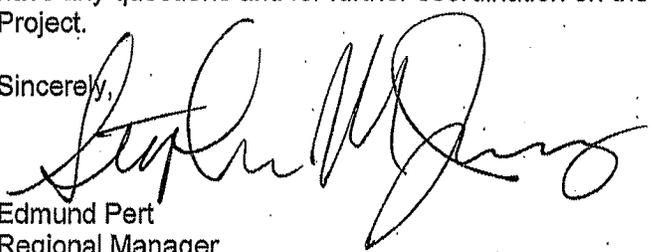
cc: Helen Birss, Santa Barbara  
Terri Dickerson, Laguna Niguel  
Dan Blankenship, Valencia  
Loni Adams, San Diego  
Vicki Frey, Eureka  
Scott Morgan, Sacramento, State Clearinghouse See next page for signed signature page

intertidal and subtidal reef habitat, giant kelp (*Macrocystis pyrifera*), and surfgrass (*Phyllospadix spp.*). In addition, black abalone (*Haliotis cracherodii*), a federally endangered species, may occur in the project area. Trancas Creek mouth is near the project site and may support habitat for the tidewater goby, *Eucyclogobius newberryi*. Relatively flat wide beaches in this area have historically supported spawning California grunion (*Leuresthes tenuis*), Pismo clams (*Tivela stultorum*), and eelgrass (*Zostera spp.*), which may be found in the intertidal surf zone and/or the subtidal areas. Potential and expected impacts of the Project on these species and habitats should be fully addressed.

- b. Detailed discussions of potential direct or indirect burial and/or sedimentation, as well as turbidity impacts, to offshore marine resources from initial and subsequent sand replenishments should be included. Specifically, an analysis of cumulative impacts should be conducted of the proposed repetitive sand replenishments and of other similar projects that may be proposed for the Broad Beach area in the foreseeable future.
- c. Potential impacts to marine species related to dredging, moving, transporting, and piping of sand materials onto Broad Beach should be fully addressed.
- d. Perform a thorough survey of the proposed and alternative project footprints to describe all types of marine substrates, such as sandy beach, rocky reef, kelp bed, intertidal, subtidal, and other habitats that may be affected. Site maps and tables should be used in the DEIR to summarize survey information and should include square footage or acreage of various marine habitats that will be impacted.
- e. Mitigation and monitoring plans for impacts to marine resources and habitats should be included in the DEIR. Best management practices and avoidance measures for each construction activity should be included in mitigation plans. Such plans should also include conducting construction activities during low tide conditions to avoid marine waters, avoidance of sensitive habitats when locating pipes, and avoidance of spawning and/or nesting seasons when appropriate. All such plans should be drafted in consultation with the Department's Marine Region staff and other appropriate resource agencies.

Thank you for this opportunity to provide comments. Please contact Ms. Loni Adams, Marine Region, Environmental Scientist, at (858) 627-3985 if you should have any questions and for further coordination on the marine aspects of the proposed Project. Please contact Mr. Daniel Blankenship, South Coast Region Staff Environmental Scientist, at (661) 259-3750 if you should have any questions and for further coordination on the non-marine aspects of the proposed Project.

Sincerely,

  
Edmund Pert  
Regional Manager  
South Coast Region

cc: Helen Birss, Santa Barbara  
Terri Dickerson, Laguna Niguel  
Dan Blankenship, Valencia  
Loni Adams, San Diego  
Vicki Frey, Eureka  
Scott Morgan, Sacramento, State Clearinghouse