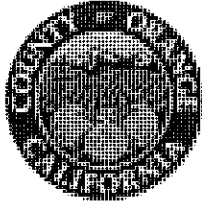


## **APPENDIX A**

# **NOTICE OF PREPARATION (NOP), INITIAL STUDY (IS), NOP COMMENTS, AND PROGRAM EIR EXECUTIVE SUMMARY**



**NOTICE OF PREPARATION  
NOTICE OF SCOPING MEETING  
SUBSEQUENT ENVIRONMENTAL IMPACT REPORT**

Date: November 27, 2007  
Subject: Notice of Intent to Prepare a Draft Subsequent Environmental Impact Report  
Project Title: Dana Point Harbor Marina Improvement Project  
Applicant: County of Orange – Dana Point Harbor Department

The Orange County Dana Point Harbor Department (County) has prepared an Initial Study (IS) for the proposed waterside Marina Improvement Project in the City of Dana Point (City) and has determined that a Subsequent Environmental Impact Report (SEIR) is required. The County is the lead agency for the project and will prepare the SEIR in accordance with the requirements of the California Environmental Quality Act (CEQA) and the CEQA implementing guidelines (Guidelines).

The project proposes renovation of the marinas and other facilities in the Dana Point Harbor. The Marina Improvement Project (Project) renovations include removal of nearly all floating docks and piles in the West and East Marinas; reconstruction of portions of the quay wall; and installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and supporting utilities within both marina areas. Additionally, new dry stack storage staging docks and dinghy docks, along with renovations to the Youth and Group docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed Project. Other Project components include improved lighting on the docks and public access improvements, including gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines. In order to accommodate boaters during the renovations, the Project also includes the construction of temporary docks to be located in the Harbor's Main Channel and along the breakwater adjacent to Doheny State Beach.

This Notice of Preparation (NOP) is being circulated pursuant to California Public Resources Code Section 21153(a) and CEQA Guidelines Section 15082. Public agencies and the public are invited to comment on the proposed scope and content of the environmental information to be included in the SEIR. Potential Responsible Agencies, federal agencies involved in funding or approving the project, and Trustee Agencies responsible for natural resources affected by the project areas are invited to comment regarding the scope and content of the environmental information relevant to your agency's statutory responsibilities in connection with the proposed project. The project location map is included with this NOP. Based on the analysis contained in the IS, the probable environmental effects of the project to be analyzed in the DSEIR, include but are not necessarily limited to the following: aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, recreation, transportation and traffic, and utilities. Responses received to this NOP may modify or add to the preliminary assessment of potential issues addressed in the SEIR.

**A public SEIR scoping meeting will be held on Saturday, December 8, 2007, at 11:00 a.m. to 1:00 p.m. at the Dana Point Youth and Group Facility, Dana Cove Room, 34451 Ensenada Place, Dana Point Harbor, Dana Point, California 92629. A complete copy of the NOP and IS prepared for the proposed project may be reviewed at the Orange County Dana Point Harbor Department, 24650 Dana Point Harbor Drive, Dana Point, California 92629, or online at [www.dphplan.com](http://www.dphplan.com). Because of time limits mandated by State law, your response must be sent at the earliest possible date but *not later than 30 days* after receipt of this notice. The County will accept comments from agencies and others regarding this notice through the close of business on January 2, 2008. All comments to this notice must be submitted in writing to the following address, or by e-mail as indicated below:**

**COUNTY OF ORANGE**  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Attention: Brad Gross, Director  
Phone: (949) 923-2236  
[Marinaeir@dphd.ocgov.com](mailto:Marinaeir@dphd.ocgov.com)

# **NOTICE OF PREPARATION SUBSEQUENT ENVIRONMENTAL IMPACT REPORT DANA POINT HARBOR MARINA IMPROVEMENT PROJECT**

## **ENVIRONMENTAL SETTING**

The project site is located within the City of Dana Point (City) at Dana Point Harbor (Harbor) in Capistrano Bay on the Southern Orange County (County) coastline, between Los Angeles and San Diego Counties as shown on Figure 1, Project Location. The Harbor is bordered by the Pacific Ocean to the south; Dana Headlands and Old Cove Marine Preserve to the west; Doheny State Beach to the east; and a variety of commercial, hotel, residential, and park uses to the north.

The Harbor is a County facility located within the City and offers recreational boaters and County residents, tourists, and others a number of recreational activities, retail shopping, and dining opportunities. The facility operates under the direction of the Dana Point Harbor Department (DPHD), a County agency, and is owned by the County of Orange. The County of Orange was designated over 30 years ago by the Tidelands Act as the trustee of the Harbor for the people of the State of California. The Harbor is primarily accessible from Pacific Coast Highway and the Street of the Golden Lantern via Dana Point Harbor Drive. Secondary access is provided by Cove Road and the Pacific Ocean.

## **PROJECT HISTORY AND BACKGROUND**

The construction of Dana Point Harbor began in the late 1960s, and the Harbor was officially dedicated on July 31, 1971. Since its creation nearly four decades ago, the Harbor's infrastructure, including dock facilities and landside facilities such as storm drains, sewers, parking lots, and some of the buildings, is in need of modernization and/or replacement. In 1997, a Task Force was formed to help develop a plan to upgrade, refurbish, and expand existing landside Harbor facilities to meet current and projected needs of the merchants and Harbor visitors. The Dana Point Harbor Revitalization Plan (Revitalization Plan) was developed over the next several years and officially adopted by the County Board of Supervisors and the Dana Point City Council in 2006. A Program Final Environmental Impact Report (FEIR) was prepared for the overall Harbor Revitalization Project (landside and waterside areas) and certified by the Orange County Board of Supervisors on January 31, 2006 (County of Orange Dana Point Harbor Revitalization Program Environmental Impact Report [EIR] No. 591).

## **USE OF THE PREVIOUSLY CERTIFIED PROGRAM FEIR**

As stated above, the Dana Point Harbor Revitalization Program FEIR No. 591 (State Clearinghouse Number 2003101142) was certified by the Orange County Board of Supervisors on January 31, 2006. As defined by CEQA Guidelines Section 15168, "A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either: (1) Geographically; (2) A logical parts in the chain of contemplated actions; (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

The Program EIR evaluated the entire Harbor Revitalization Plan at a program, or conceptual level of detail, and provided a project or construction level EIR analysis where possible, consistent with CEQA Guidelines Sections 15146 and 15168.

As illustrated on Figure 2, Existing Harbor Layout, the Harbor was divided into twelve (12) Planning areas for the purpose of establishing land use regulations and development standards. Planning Areas 1 and 2 (known as the Commercial Core) were analyzed at a project level since project-specific construction level details were available. The Program EIR provided a programmatic analysis of the remaining Planning Areas 3 through 12. The proposed Dana Point Harbor Marina Improvement Project addressed in this NOP is comprised of Planning Areas 8 through 12, as indicated on Figure 2. Planning Areas 3 through 7 will require future additional environmental review, as future projects and funding sources are identified.

The current Dana Point Harbor Marina Improvement Project was anticipated to require further environmental review in the Program EIR. There is more project-specific information and more detailed marina design and engineering plans available at this time, sufficient enough to address all environmental impacts at a detailed level not possible at the time of the Program EIR. Consistent with CEQA Guidelines Section 15168, the County is proceeding with the subsequent EIR utilizing the analyses in the previous certified Program EIR to address the environmental impacts of the Marina Improvement Project. Therefore, the Marina Improvement Project is now being evaluated at a project, or construction, level and in accordance with CEQA Guidelines Section 15162 a Subsequent EIR is being prepared to focus on significant effects not discussed in the previous Program FEIR.

## **PROJECT DESCRIPTION**

The Dana Point Harbor Marina Improvement Project addressed in this NOP, includes the West and East Marinas in Dana Point Harbor, the quay wall and bulkheads within those basins, and gangways and security gates to both marina areas. Additionally, new dry stack storage staging docks and dinghy docks, along with renovations to the Youth and Group docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed marina project. In order to accommodate boaters during the renovations, the project also includes potential temporary docks to be located in the Harbor's Main Channel and along the breakwater adjacent to Doheny State Beach as shown on Figure 3, Proposed Harbor Layout.

Marina renovations will include removal of all floating docks and piles; reconstruction of portions of the degraded quay wall; and installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and utilities. In addition, the reconfiguration of the Youth and Group docks may require dredging in the basin area on the northwest side of the facility. Other areas under the new slips may also require maintenance dredging not to exceed original design depths in the basin (this maintenance dredging is not a part of the Marina Improvement Project). Other waterside project components include improved lighting on the docks and public access improvements, including gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines.

The West and East Marinas currently contain 2,409 slips with an average length of 29.85 feet (ft). Due to changes in the boating needs of the public and in response to the market trend of increased demand for larger slips, the proposed marina improvements include adjustments to the number and location of slips throughout the marinas. Currently, the marina operators allow boats to be up to 3 ft. longer than their dock length; approximately 400 boats presently exceed this policy and should be placed in the next larger size slip category. Most of these are in the 30 ft. and under slip category. In consideration of all factors related to slip size, including oversized boats in smaller slips; boater feedback; waitlists; market demand; other marinas located throughout the state; design criteria; and California Coastal Commission (CCC) recommendations, California Department of Boating and Waterways (DBW) and ADA design requirements, the DPHD has concluded that a plan with a modified slip mix with a slightly larger average slip size is appropriate.

At project completion, the total number of boat slips under the County's preferred design would decrease from 2,409 to 2,035, resulting in a net loss of 374 slips. However, the average slip length would increase from approximately 30 (29.85) ft. to approximately 34 (33.96) ft. While the total number of boat slips would decrease, the surface area of water currently occupied by floating docks would increase due to the proposed reconfiguration of the docks, which includes up to a 20 ft. encroachment (from each side) into both the East and West Marina channels and a 52.5 ft. encroachment (from each side) into both channels near the island bridge. One-third of the slips 30 ft. and under are also going to be constructed as double wide slips in an effort to limit the loss of slips. In addition, to maximize the number of boat slips, the West Marina would be realigned from a north-south orientation to an east-west orientation, consistent with the existing dock orientation in the East Marina. Implementation of the project is anticipated to be accomplished over approximately eight years after obtaining the necessary agency approvals.

## **RESPONSIBLE AND TRUSTEE AGENCIES**

In accordance with Sections 15050 and 15367 of the State CEQA Guidelines, the County is the designated Lead Agency for the project and has principal authority and jurisdiction for CEQA actions. Responsible Agencies are those agencies that have jurisdiction or authority over one or more aspects associated with the development of a proposed project. Trustee Agencies are State agencies that have jurisdiction by law over natural resources affected by a proposed project that are held in trust for the people of the State.

Project implementation will require discretionary and administrative (ministerial) approvals from the County of Orange and Responsible and Trustee Agencies, including (but not limited to) the City of Dana Point, the United States Department of the Interior, the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the California Department of Fish and Game, the National Marine Fisheries Service (NMFS), the State of California Water Resources Control Board Region 9, the California Coastal Commission (CCC), and the California State Lands Commission.

## **ENVIRONMENTAL PROCEDURES**

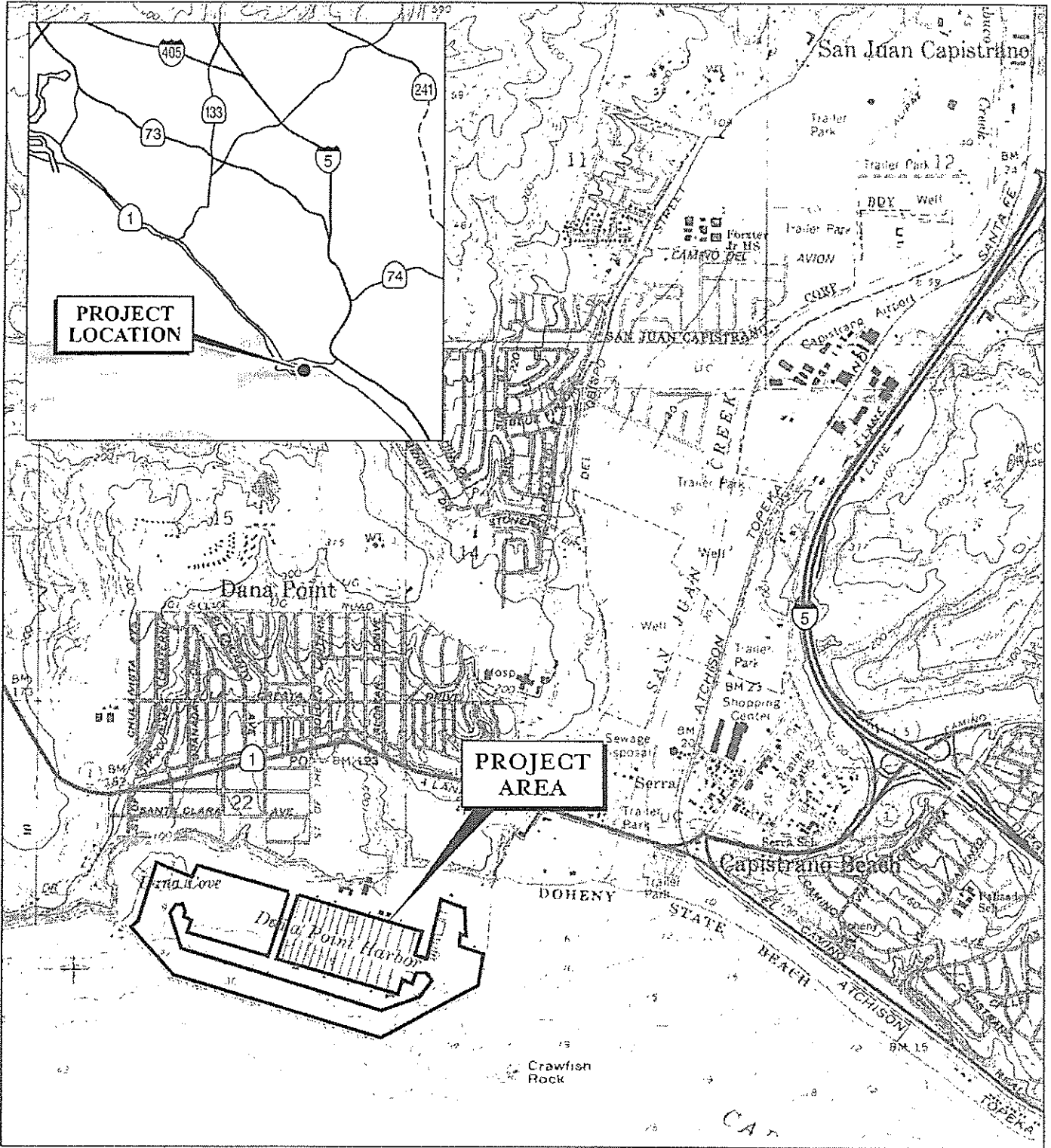
This Notice of Preparation (NOP) for the proposed project will be submitted to the State Clearinghouse, Responsible Agencies, and Trustee Agencies that may have jurisdiction over some aspect of the proposed project, surrounding residents, boaters, merchants and other interested parties that have specifically requested a copy of the NOP.

After the 30-day review period for the NOP is complete and all comments are received, a Draft Subsequent Environmental Impact Report (DSEIR) will be prepared in accordance with CEQA, as amended (Public Resources Code, Section 21000 et seq.), and the State Guidelines for Implementation of CEQA (California Code of Regulations [CCR], Section 15000 et seq.). The DSEIR will examine the proposed Marina Improvement Project in the context of the Revitalization Plan and other applicable plans, policies, and regulations. Analyses will be conducted in order to ascertain the proposed project's effects on the environment and the relative degree of impact prior to implementation of mitigation measures. Where impacts are determined to be significant, mitigation measures will be prescribed with the purpose of eliminating or reducing those impacts to the extent feasible.

Once the DSEIR is completed, it will be made available for public review and comment. Copies of the DSEIR will be sent directly to those agencies commenting on the NOP, and will also be made available to the public at a number of locations, including the Dana Point Harbor Department offices, and several public libraries in the area. The SEIR will serve as the CEQA mandated document for environmental clearance for all Marina (waterside) improvements included in the project.

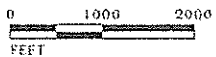
## TOPICS TO BE ANALYZED IN THE SEIR

Based on the analysis contained in the IS for the proposed project, the County has determined that an SEIR will be prepared. The SEIR will serve to further assess the proposed project's effects on the environment, to identify significant impacts, and to identify feasible mitigation measures to reduce or eliminate potentially significant environmental impacts. An analysis of alternatives to the proposed project will also be included in the SEIR. Topics to be analyzed in the DSEIR, as identified in the IS, include but are not necessarily limited to the following: aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, recreation, transportation and traffic, and utilities. Responses received to this NOP may modify or add to the preliminary assessment of potential issues addressed in the SEIR.



LSA

FIGURE I



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

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Dana Point Harbor Marina Improvement Project  
Project Location

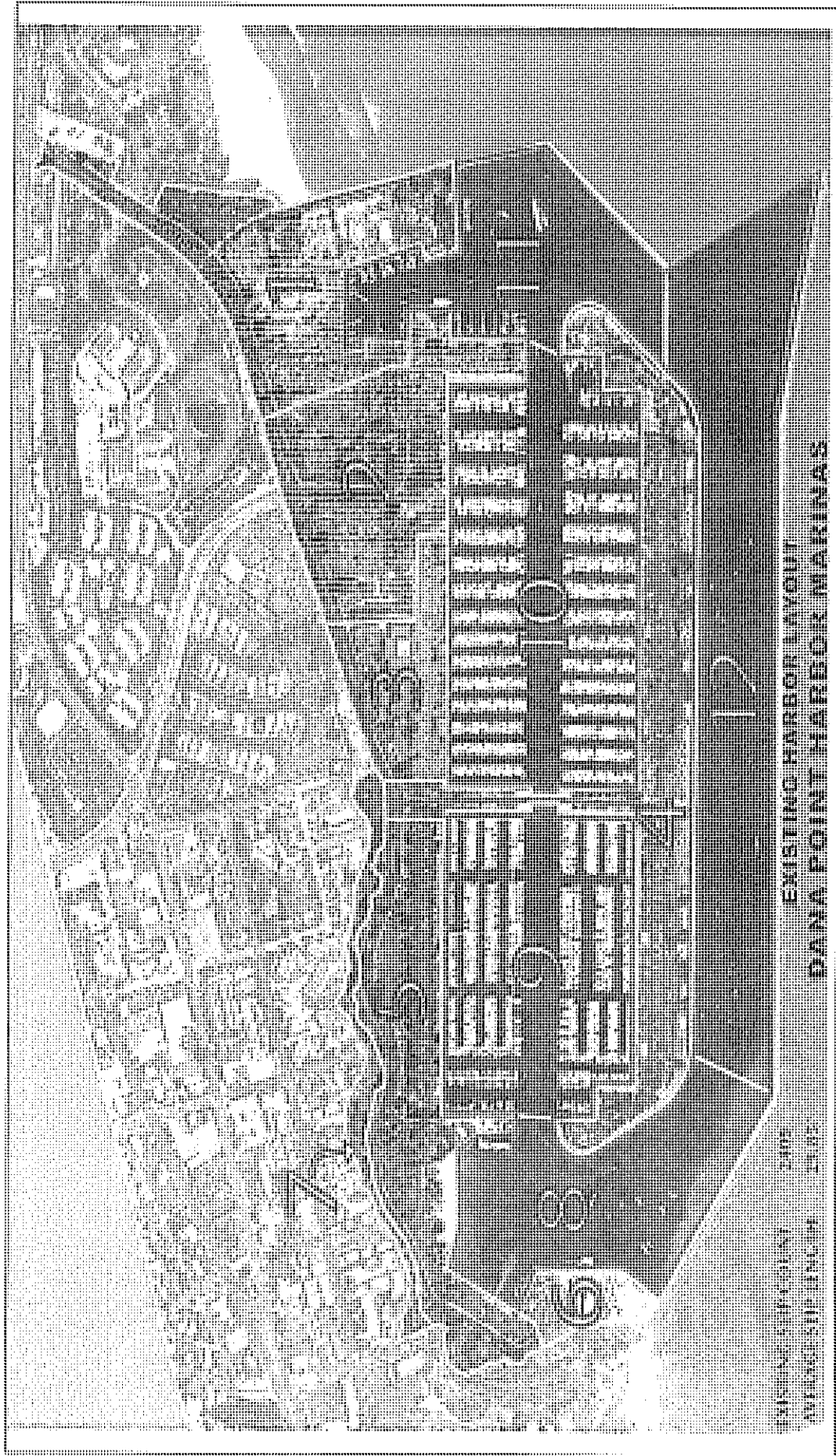


FIGURE 2

Dana Point Harbor Marina Improvement Project  
Existing Harbor Layout



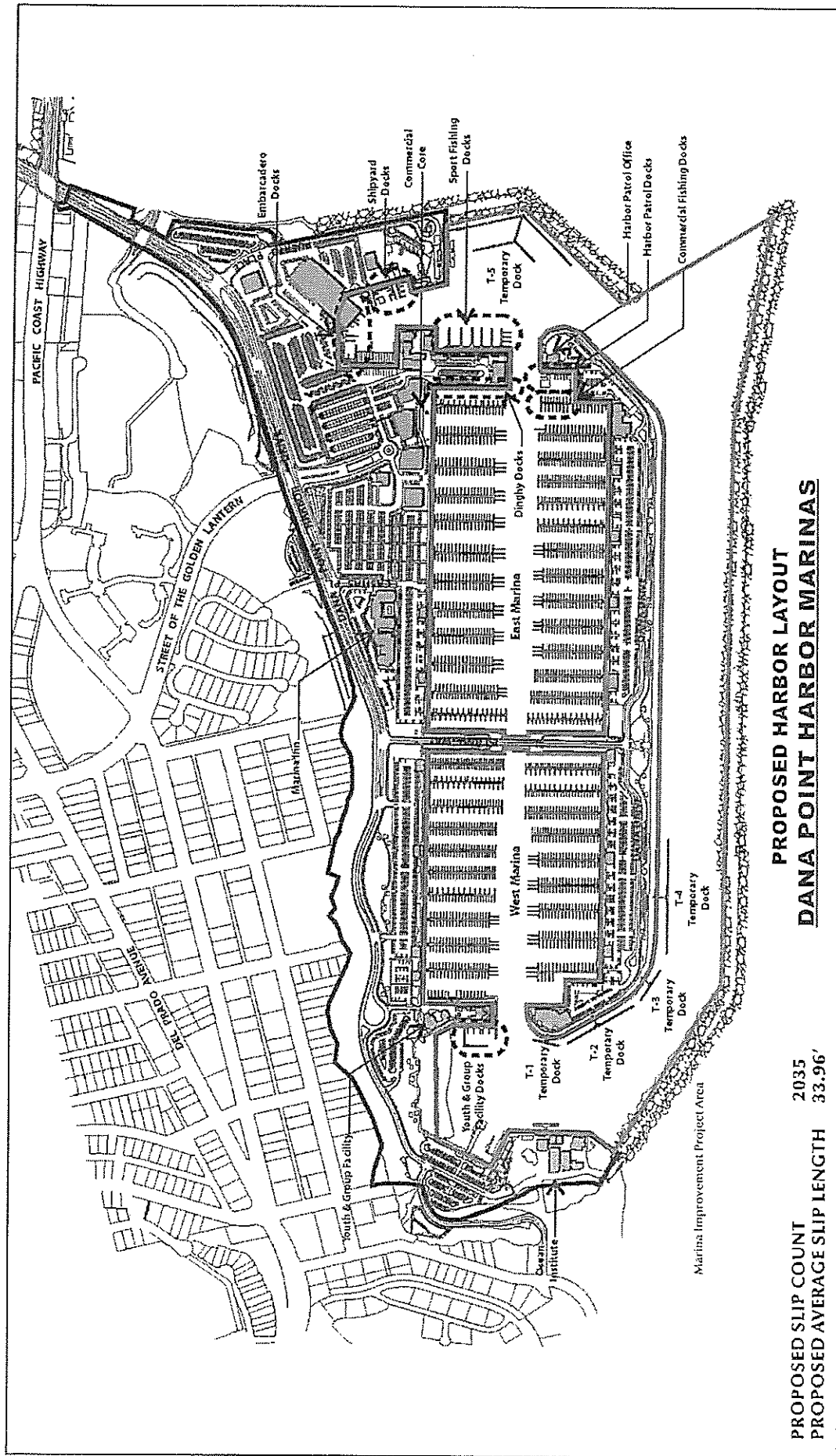


FIGURE 3

*Dana Point Harbor Marina Improvement Project*  
Proposed Harbor Layout

INITIAL STUDY

DANA POINT HARBOR MARINA  
IMPROVEMENT PROJECT

Submitted to:

County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, California 92629

Prepared by:

LSA Associates, Inc.  
20 Executive Park, Suite 200  
Irvine, California 92614-4731  
(949) 553-0666

LSA

November 2007

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## 1.0 INTRODUCTION

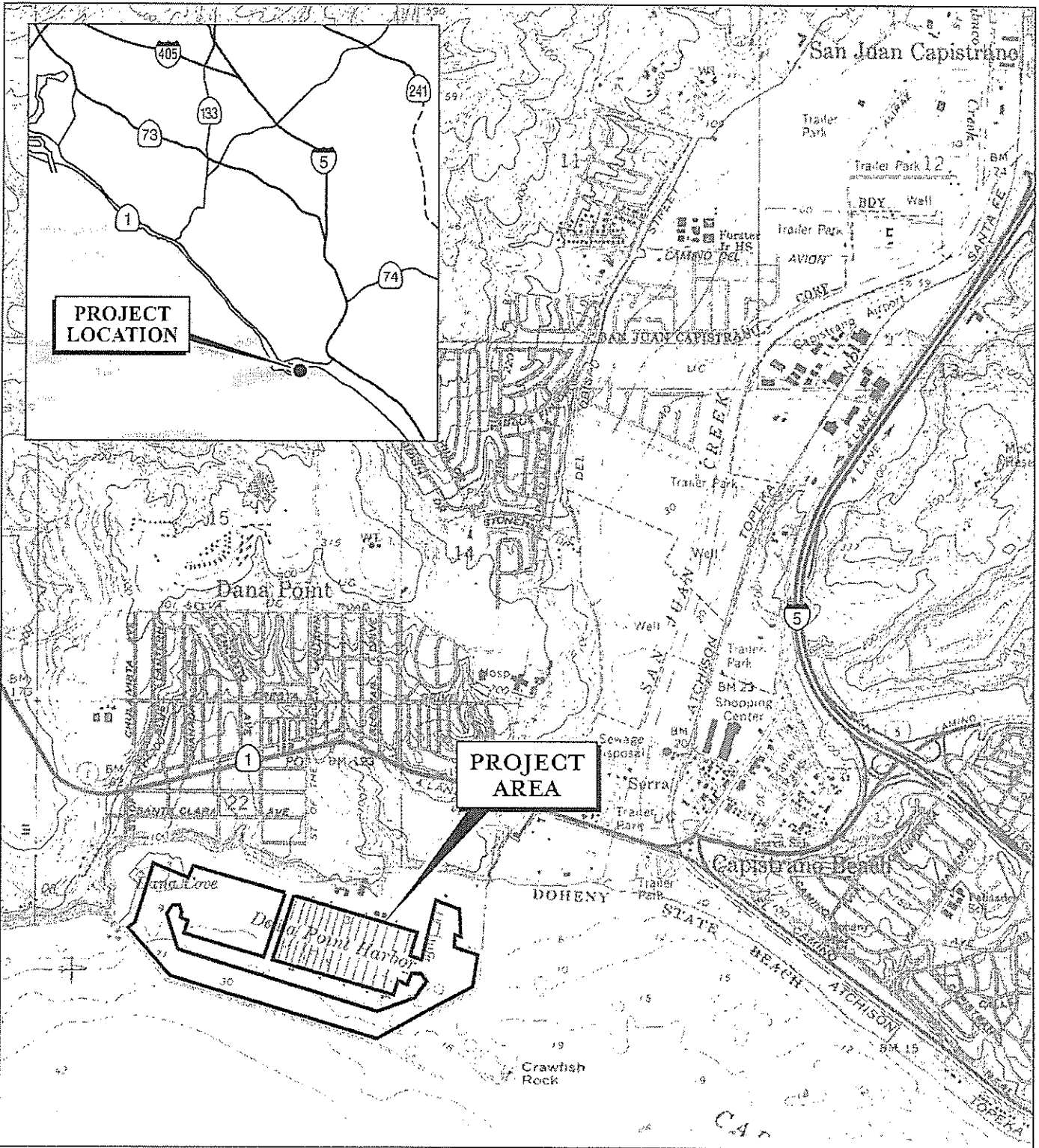
In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, this Initial Study (IS) has been prepared as preliminary environmental analysis and documentation for the proposed Dana Point Harbor Marina Improvement Project (hereinafter referenced as the "project"). This IS includes a description of the proposed project; an environmental checklist form identifying four categories of project impact (potentially significant impact, less than significant with mitigation incorporated, less than significant impact, and no impact); and response and analysis of each checklist topic. The County of Orange (County) is the Lead Agency under CEQA for the proposed project. The County Board of Supervisors is responsible for approval of the environmental documentation prior to approval of the project.

Previous environmental documentation on the Dana Point Harbor (Harbor) Revitalization Plan, including the proposed project, is noted below in Section 1.2, Project History and Background. The proposed project addressed in this IS was evaluated at a preliminary program level in the Program Final Environmental Impact Report (FEIR) No. 591 that was prepared for the overall Harbor Revitalization Project; conceptual construction plans have subsequently been developed; therefore, the project is now being evaluated at a project level in accordance with CEQA, as amended (Public Resources Code Section 21000, et seq.); the CEQA Guidelines (California Code of Regulations Section 15000, et seq.); and the County of Orange Environmental Procedures. The analysis included in this IS tiers off of the previously certified documentation. The analysis in this IS concludes that the County should prepare a Subsequent Environmental Impact Report (SEIR) to focus on significant effects not discussed in the previous Program FEIR, and to satisfy the requirements of CEQA for the proposed Waterside Improvement Project.

### 1.1 PROJECT LOCATION

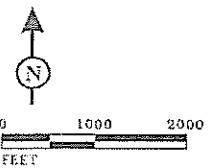
The Harbor is located in Capistrano Bay on the Southern Orange County coastline. The Harbor is a County facility located within the City of Dana Point (City) and offers recreational boaters, County residents, tourists, and others a number of recreational activities, retail shopping, and dining opportunities. The facility is operated under the direction of the Dana Point Harbor Department (DPHD), a County agency, and is owned by the County of Orange. The County of Orange was designated over 30 years ago by the Tidelands Act as the trustee of the Harbor for the people of the State of California. The Harbor is primarily accessible from Pacific Coast Highway and the Street of the Golden Lantern via Dana Point Harbor Drive (see Figure 1). Secondary access is provided by Cove Road and the Pacific Ocean.

The Harbor comprises three areas: a landside area along Dana Point Harbor Drive, adjacent to the bluffs; the Island area (connected by a bridge to the landside); and marinas consisting of docks, commercial fishing slips, federal anchorage areas, and tall ship docks for the Spirit of Dana Point, Sea Explorer, and the Pilgrim in addition to the Youth and Group docks, fishing pier, fuel dock, sport fishing dock, and bait barge.



LSA

FIGURE I



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

Dana Point Harbor Marina Improvement Project

Project Location

## 1.2 PROJECT HISTORY AND BACKGROUND

The construction of Dana Point Harbor began in the late 1960s, and the Harbor was officially dedicated on July 31, 1971. Since its creation nearly four decades ago, the Harbor's infrastructure, including dock facilities and landside facilities such as storm drains, sewers, parking lots, and some of the buildings, are in need of modernization and/or replacement. In 1997, a Task Force was formed to help develop a plan to upgrade, refurbish, and expand existing landside Harbor facilities to meet current and projected needs of the merchants and Harbor visitors. The Dana Point Harbor Revitalization Project (Revitalization Plan) was developed over the next several years and officially adopted by the County Board of Supervisors and the Dana Point City Council in 2006. A Program FEIR was prepared for the overall Harbor Revitalization Project (landside and waterside areas) and certified by the Orange County Board of Supervisors on January 31, 2006 (County of Orange Dana Point Harbor Revitalization Program EIR No. 591). See Section 1.3 for further discussion regarding the use of the previously certified Program FEIR.

## 1.3 USE OF THE PREVIOUSLY CERTIFIED PROGRAM FEIR

As stated above, the Dana Point Harbor Revitalization Program FEIR No. 591 (State Clearinghouse Number 2003101142) was certified by the Orange County Board of Supervisors on January 31, 2006. As defined by CEQA Guidelines Section 15168, "A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either: (1) Geographically; (2) A logical parts in the chain of contemplated actions; (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

The Program EIR evaluated the entire Harbor Revitalization Plan at a program, or conceptual, level of detail and provided a project- or construction-level EIR analysis where possible, consistent with CEQA Guidelines Sections 15146 and 15168.

As illustrated on Figure 2, the Harbor was divided into 12 Planning Areas for the purpose of establishing land use regulations and development standards. Planning Areas 1 and 2 (known as the Commercial Core) were analyzed at a project level since project-specific construction-level details were available for those Planning Areas. The Program EIR provided a programmatic analysis of the remaining Planning Areas 3 through 12. The proposed Dana Point Harbor Marina Improvement Project addressed in this Initial Study comprises Planning Areas 8 through 12, as indicated on Figure 2. Planning Areas 3 through 7 will require future additional environmental review as future projects and funding sources are identified.

The current Dana Point Harbor Marina Improvement Project was anticipated to require further environmental review in the Program EIR. There is more project-specific information and more detailed marina design and engineering plans available at this time, sufficient to address all environmental impacts at a detailed level not possible at the time of the Program EIR. Consistent with CEQA Guidelines Section 15168, the County is proceeding with the subsequent EIR, utilizing the analyses in the previous certified Program EIR to address the environmental impacts of the Marina Improvement Project. Therefore, the Marina Improvement Project is now being evaluated at a project, or construction, level, and in accordance with CEQA Guidelines Section 15162, a Subsequent EIR is being prepared to focus on significant effects not discussed in the previous Program FEIR.

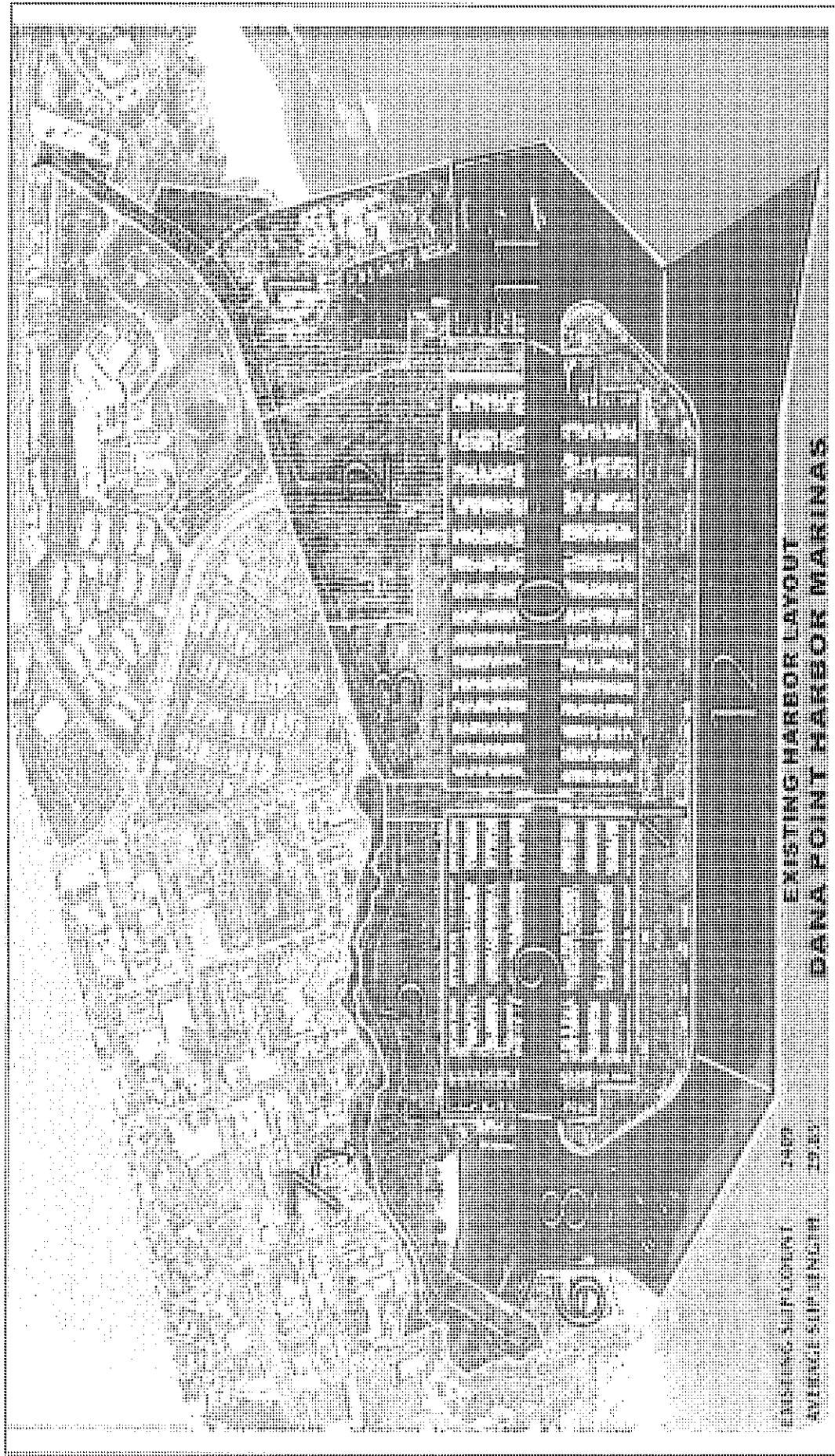


FIGURE 2

*Dana Point Harbor Marina Improvement Project*  
Existing Harbor Layout

SOURCE: URS/Cash & Associates.

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The analysis contained in this IS incorporates by reference the documentation contained in the Dana Point Harbor Revitalization Plan Program FEIR. In addition, as stated in the Program FEIR, feasible mitigation measures and alternatives developed in the Program FEIR shall be incorporated into subsequent actions in the program. Therefore, each topic discussed in this IS includes an overview of the Program FEIR and a summary of applicable Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM) that are being carried forward and incorporated into the current Marina Improvement Project to reduce potential impacts.

## 1.4 PROJECT DESCRIPTION

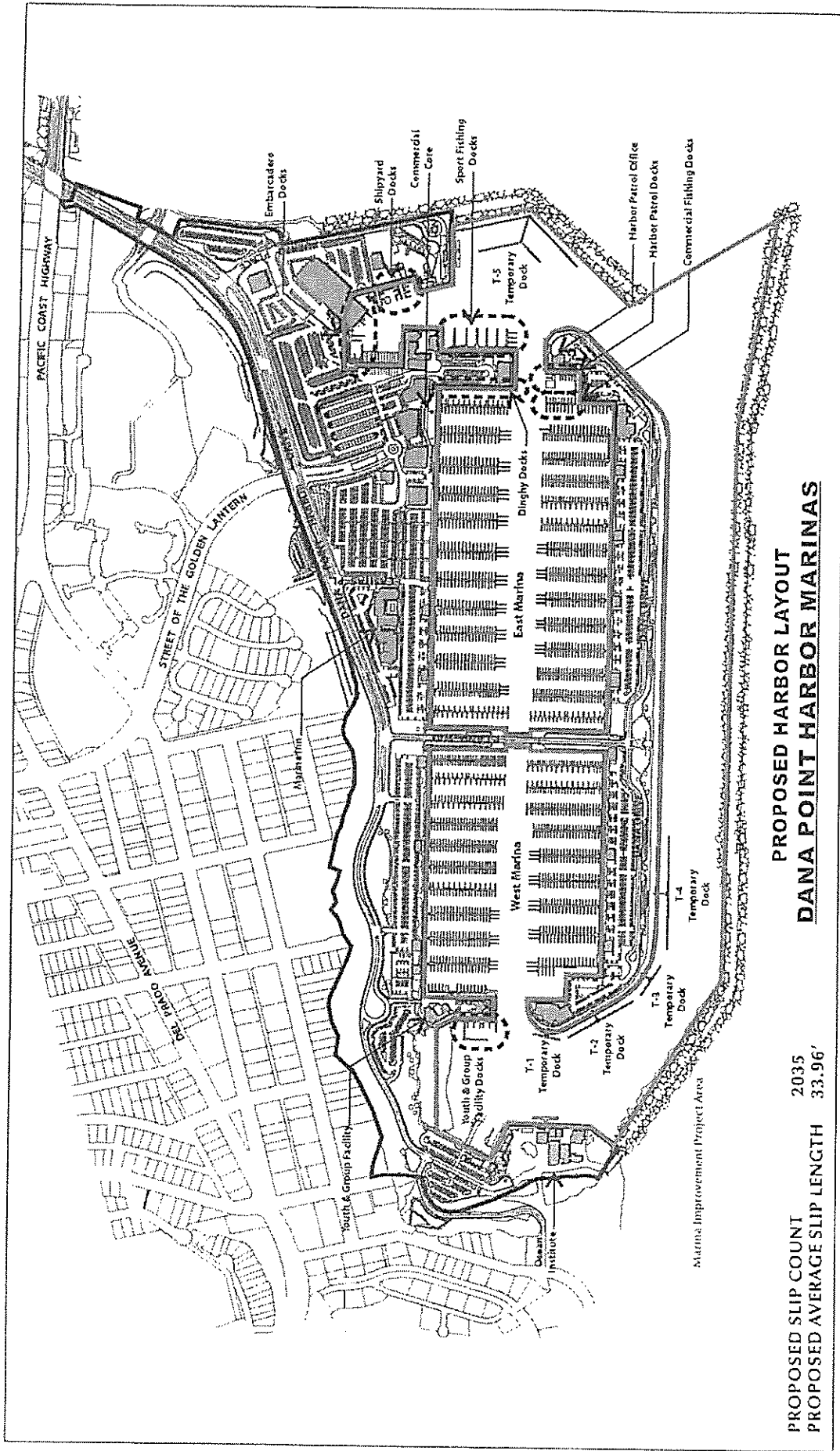
The Dana Point Harbor Marina Improvement Project addressed in this IS includes the West and East Marinas in Dana Point Harbor, the quay wall and bulkheads within those basins, and gangways and security gates to both marina areas. Additionally, new dry stack storage staging docks and dinghy docks, along with renovations to the Youth and Group docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed marina Project. In order to accommodate boaters during the renovations, the Project also includes potential temporary docks to be located in the Harbor's Main Channel and along the breakwater adjacent to Doheny State Beach as shown on Figure 3.

Marina renovations will include removal of nearly all floating docks and piles; reconstruction of portions of the degraded quay wall; installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and utilities. In addition, the reconfiguration of the Youth and Group docks may require dredging in the basin area on the northwest side of the facility. Other areas under the new slips may also require maintenance dredging not to exceed original design depths in the basin (this maintenance dredging is not a part of the Marina Improvement Project). Other marina project components include improved lighting on the docks and public access improvements, including gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines.

The West and East Marinas currently contain 2,409 slips with an average length of 29.85 feet (ft.). Due to changes in the boating needs of the public and in response to the market trend of increased demand for larger slips, the proposed marina improvements include adjustments to the number and location of slips throughout the marinas. Currently, the marina operators allow for boats to be up to 3 ft. longer than their dock length; approximately 400 boats presently exceed this policy and should be placed in the next larger size slip category. Most of these are in the 30 ft. and under slip category. In consideration of all factors related to slip size, including oversized boats in smaller slips, boater feedback, waitlists, market demand, slip mixes at other marinas located throughout the state, design criteria, and California Coastal Commission (CCC) recommendations, California Department of Boating and Waterways (DBW) and ADA design requirements, the Dana Point Harbor Department (DPHD) has concluded that a plan with a modified slip mix with a slightly larger average slip size is appropriate.

At project completion the total number of boat slips under the County's preferred design would decrease from 2,409 to 2,035, resulting in a net loss of 374 slips. However, the average slip length would increase from 30 (29.85) ft. to 34 (33.96) ft. While the total number of boat slips would decrease, the surface area of water currently occupied by floating docks would increase due to the proposed reconfiguration of the docks, which includes up to a 20 ft. encroachment (from each





**PROPOSED HARBOR LAYOUT  
DANA POINT HARBOR MARINAS**

PROPOSED SLIP COUNT 2035  
PROPOSED AVERAGE SLIP LENGTH 33.96'

LSA

**LEGEND**  
 [Symbol] Boundary  
 [Symbol] Marina Improvement Project Area

NOTE: Landslide areas are shown in accordance with the Dana Point Harbor Revitalization Plan and District Regulations Land Use Plan.



SOURCE: URS/Cash & Associates

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FIGURE 3

Dana Point Harbor Marina Improvement Project  
Proposed Harbor Layout

side) into both the East and West Marina channels, and a 52.5 ft. encroachment (from each side) into both channels near the island bridge. One-third of the slips 30 ft. and under are also going to be constructed as double wide slips in an effort to limit the loss of slips. In addition, to maximize the number of boat slips, the West Marina would be realigned from a north-south orientation to an east-west orientation, consistent with the existing dock orientation in the East Marina. Implementation of the Project is anticipated to be accomplished over approximately eight years after obtaining the necessary agency approvals.

This IS has been prepared to determine the appropriate documentation required for compliance with CEQA. The analysis contained in the IS concludes that the Project may have different effects on the environment than were analyzed in the previous Program FEIR and that substantial new information and analyses are needed to assess the impacts on the environment. At the time the Program FEIR was prepared for the Revitalization Project, specific construction-level detail was not available for the waterside improvements. CEQA Guidelines (Section 15163) state that a Subsequent EIR should be prepared for a project under certain circumstances where major additions or changes to the previous EIR are required, and when new information of substantial importance not known at the time of the previous EIR shows that the Project will have significant effects not discussed in the previous EIR. Therefore, because conceptual construction-level plans have subsequently been developed for the waterside improvements, this IS has determined that a Subsequent EIR is required for the Dana Point Harbor Marina Improvement Project.

Project implementation will require discretionary and administrative (ministerial) approvals from the County and Responsible and Trustee Agencies, including but not limited to the City of Dana Point, the California Coastal Commission, California Water Resources Control Board Region 9, the United States Department of the Interior, the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the California Department of Fish and Game, National Marine Fisheries Service (NMFS), California Department of Boating and Waterways, and the California State Lands Commission. Project components are further listed in Section 2.0, No. 9.

## 1.5 CONTACT PERSONS

Any questions regarding the preparation of this IS, its assumptions, or conclusions should be referred to:

County of Orange  
Brad Gross, Director  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629  
Phone: (949) 923-2236

## 2.0 ENVIRONMENTAL ANALYSIS CHECKLIST INITIAL STUDY

1. Project Title: Dana Point Harbor Marina Improvement Project
2. Lead Agency: County of Orange, Dana Point Harbor Department (DPHD)
3. Contact Person and Phone Number: Brad Gross, Director, Dana Point Harbor Department  
949-923-2236
4. Decision Makers: SEIR Certification: Orange County Board of Supervisors; Project  
Approval: County of Orange; Implementation, DPHD, and California Coastal  
Commission (CCC); Coastal Development Permit: CCC
4. Project Location: Dana Point Harbor, Dana Point, Orange County, California
5. Project Applicant's Name and Address: County of Orange, Dana Point Harbor Department  
24650 Dana Point Harbor Drive, Dana Point, California 92629
6. General Plan Designation: Harbor Marine Water (City of Dana Point)
7. Zoning: Dana Point Harbor Planned Community (City of Dana Point)
8. Sources of Information: The following sources of information were used in preparation of this checklist and IS:  
County of Orange General Plan (2000); County of Orange Dana Point Harbor Revitalization  
Project Program FEIR No.591 (Certified 2006); Dana Point Harbor Revitalization Plan and  
District Regulations (LCPA 06-03); City of Dana Point General Plan (1991)
9. Description of Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheet(s) if necessary).  
The Dana Point Harbor Marina Improvement Project addressed in this IS includes the West and East Marinas in Dana Point Harbor, the quay wall and bulkheads within those basins, and gangways and security gates to both marina areas. Additionally, new dry stack storage staging docks and renovations to the Youth and Group docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed marina Project. In order to accommodate boaters during the renovations, the Project also includes temporary docks to be located in the Harbor's Main Channel and along the breakwater adjacent to Doheny State Beach. Marina renovations would include removal of all floating docks and piles; reconstruction of portions of the degraded quay wall; installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and utilities. Other marina Project components include improved lighting on the docks and public access improvements, including gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines. In addition, the reconfiguration of the Youth and Group docks may require dredging in the basin area on the

northwest side of the facility.

The West and East Marinas currently contain 2,409 slips with an average length of 29.85 feet. Due to changes in the boating needs of the public and in response to the market trend of increased demand for larger slips, the proposed marina improvements include adjustments to the number and location of slips throughout the marinas. Currently, the marina operators allow for boats to be up to 3 ft. longer than their dock length; approximately 400 boats presently exceed this policy and should be placed in the next larger size slip category. Most of these are in the 30 ft. and under slip category. In consideration of all factors related to slip size (including oversized boats in smaller slips, boater feedback, waitlists, market demand, slip mixes at other marinas located throughout the state, design criteria, and CCC recommendations, DBW, and ADA design requirements), the DPHD has concluded that a plan with a modified slip mix with a slightly larger average slip size is appropriate.

At Project completion, the total number of boat slips under the County's preferred design would decrease from 2,409 to 2,035, resulting in a net loss of 374 slips. However, the average slip length would increase from 30 (29.85) ft. to 34 (33.96) ft. While the total number of boat slips would decrease, the surface area of water currently occupied by floating docks would increase due to the proposed reconfiguration of the docks, which includes up to a 20 ft. encroachment (from each side) into both the East and West Marina channels and a 52.5 ft. encroachment (from each side) into both channels near the island bridge. One-third of the slips 30 ft. and under are also going to be constructed as double wide slips in an effort to limit the loss of slips. In addition, to maximize the number of boat slips, the West Marina would be realigned from a north-south orientation to an east-west orientation, consistent with the existing dock orientation in the East Marina. Implementation of the Project is anticipated to be accomplished in approximately 16 phases over approximately 8 years.

10. Surrounding Land Uses and Setting: (Briefly describe the project's surroundings.)

Land uses surrounding the Marina Project include marine service businesses, commercial retail, restaurants, parking, public waterways, sports fishing docks, yacht clubs, harbor patrol and sheriff facilities, hotels, launch ramp, harbor-related public recreational areas, and public parks. Residential and commercial uses are located to the north and west along the coastal bluffs, outside of the Harbor boundaries.

11. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):

California Coastal Commission (LCPA and Coastal Development Permit approvals for waterside areas); California Water Resources Control Board Region 9; United States Department of the Interior; United States Fish and Wildlife Service; United States Army Corps of Engineers; California Department of Fish and Game; National Marine Fisheries Service (NMFS); California Department of Boating and Waterways; the California State Lands Commission; City of Dana Point; and several County of Orange agencies or departments.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

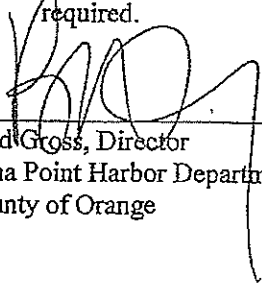
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

X	Aesthetics		Agriculture Resources	X	Air Quality
X	Biological Resources		Cultural Resources	X	Geology/Soils
X	Hazards & Hazardous Materials	X	Hydrology/Water Quality		Land Use/Planning
	Mineral Resources	X	Noise		Population/Housing
	Public Services	X	Recreation	X	Transportation/Traffic
X	Utilities/Service Systems	X	Mandatory Findings of Significance		

DETERMINATION (To be completed by the Lead Agency):

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant or "potentially significant unless mitigated" impact on the environment, but at least one effect has been (1) adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects have been (a) analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
\_\_\_\_\_  
Brad Gross, Director  
Dana Point Harbor Department  
County of Orange

21 Nov 2007  
Date

## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers adequately supported by the information sources cited by a lead agency in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that indicates that an effect is significant. If one or more “Potentially Significant Impact” entries exist when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant with Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, Program FEIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c) (3) (D). In this case, a brief discussion should identify the following:
  - a) Earlier Analyses Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are “Less Than Significant with Mitigation Measures Incorporated,” describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.

- 9) The explanation of each issue should identify:
- a) the significance criteria or threshold, if any, used to evaluate each question; and
  - b) the mitigation measure identified, if any, to reduce the impact to less than significant.



ENVIRONMENTAL ANALYSIS CHECKLIST

Dana Point Harbor Marina Improvement Project  
Initial Study

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>1. LAND USE &amp; PLANNING. Would the project:</b>				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>2. AGRICULTURE. Would the project:</b>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3. POPULATION &amp; HOUSING. Would the project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
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**4. GEOLOGY AND SOILS. Would the project:**

- |  |                                     |                          |                                     |                                     |
|--|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:   |                                     |                          |                                     |                                     |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| ii) Strong seismic ground shaking?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| iii) Seismic-related ground failure, including liquefaction?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| iv) Landslides?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b) Result in substantial soil erosion or the loss of topsoil?  | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| d) Be located on expansive soils, as defined in Table 18-1-B of the California Building Code (2001), creating substantial risks to life or property?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal system where sewers are not available for the disposal of wastewater?  | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**5. HYDROLOGY & WATER QUALITY. Would the project:**

- |   |                                     |                          |                          |                                     |
|---|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Have a significant adverse impact on groundwater quality or otherwise substantially degrade water quality?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>6. TRANSPORTATION/CIRCULATION. Would the project:</b>				
a) Result in an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Result in inadequate parking capacity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Conflict with adopted policies, plan or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>7. AIR QUALITY. Would the project:</b>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>8. NOISE. Would the project result in:</b>				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such plan has not been adopted, within two miles of a private or public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>9. BIOLOGICAL RESOURCES. Would the project:</b>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Services?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Services?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on Federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>10. AESTHETICS. Would the project:</b>				
a) Have a substantial adverse effect a scenic vista?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>11. CULTURAL/SCIENTIFIC RESOURCES. Would the project:</b>				
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse changed in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>12. RECREATION. Would the project:</b>				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>13. MINERAL RESOURCES. Would the project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>14. HAZARDS. Would the project:</b>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk or loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Include a new or retrofitted storm water treatment control Best Management Practice (BMP), (e.g. water quality treatment basin, constructed treatment wetlands), the operation of which could result in significant environmental effects (e.g. increased vectors and odors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>15. PUBLIC SERVICES. Would the project:</b>				
a) Result in 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 any of the public services:				
i) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>16. UTILITIES &amp; SERVICE SYSTEMS. Would the project:</b>				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ISSUES & SUPPORTING DATA SOURCES:	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**MANDATORY FINDINGS**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have possible environmental effects, which are individually limited but cumulatively considerable? ("cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**DETERMINATION:**

Based upon the evidence in light of the whole record documented in the attached environmental checklist explanation, cited incorporations and attachments, I find that the proposed project:

**COULD NOT** have a significant effect on the environment, and a negative declaration (ND) will be prepared pursuant to CEQA Guidelines Article 6, 15070 through 15075.

**COULD** have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures have been added to the project. A negative declaration (ND) will be prepared pursuant to CEQA Guidelines Article 6, 15070 through 15075.

**MAY** have a significant effect on the environment, which has not been analyzed previously. Therefore, an environmental impact report (EIR) is required.



Signature: \_\_\_\_\_

Director: Brad Cross

County of Orange, Dana Point Harbor Department

Telephone: (949) 923-2236

**NOTE:** All referenced and/or incorporated documents may be reviewed by appointment only, at the County of Orange Dana Point Harbor Department, 24650 Dana Point Harbor Drive, Dana Point, California, unless otherwise specified. An appointment can be made by contacting the Person identified above.

### 3.0 ENVIRONMENTAL ANALYSIS CHECKLIST RESPONSES

This section provides detailed analysis of each environmental topic identified in the Environmental Analysis Checklist. The analyses and preliminary assessments of the proposed project use available sources and documents. For many of the environmental topics, the conclusions indicate that there potentially could be or will be significant impacts from the project that should be analyzed further in a Subsequent EIR in light of the facts and analyses provided in the Program FEIR. An overview section for each environmental topic summarizes the impacts, applicable mitigation, and level of significance for the potential impacts included in the County of Orange Dana Point Harbor Revitalization Project Program FEIR No. 591 ("Program FEIR").

The analysis included in this IS tiers off of the previously certified Program FEIR. This IS concludes that the waterside improvements may have different effects than were analyzed in the Program FEIR and that substantial new information and analysis are needed to assess the impacts on the environment. Therefore, in accordance with CEQA Guidelines Section 15162, preparation of a Subsequent EIR is recommended for the current Marina Improvement Project. In accordance with CEQA Guidelines Section 15168, the Subsequent EIR will focus on significant effects not discussed in the previous Program FEIR.

The analysis contained in this IS incorporates by reference the documentation contained in the Program FEIR. In addition, as stated in the Program FEIR, feasible mitigation measures and alternatives developed in the Program FEIR shall be incorporated into subsequent actions in the program. Therefore, each topic discussed in this IS contains a summary of Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM) that are applicable to the Marina Improvement Project and are being carried forward and incorporated into the current Marina Improvement Project to reduce potential impacts.

The Environmental Analysis Checklist identifies four categories of project impact: "potentially significant impact," "less than significant with mitigation incorporated," "less than significant impact," and "no impact." A response of "potentially significant impact" applies if there is substantial evidence that an effect is significant. A response of "less than significant with mitigation incorporated" applies where the mitigation measures are available to reduce an effect from "potentially significant impact" to a "less than significant impact." A response of "less than significant impact" applies if there is evidence that potential project impacts are not significant. A response of "no impact" indicates that the project will have no effect on the environment.

#### References Used in Completing the Environmental Analysis Checklist

The following documents were used in completing the Environmental Analysis Checklist/Initial Study and the discussion provided herein. These documents are available for review at the County of Orange (County), Dana Point Harbor Department, 24650 Dana Point Harbor Drive, Dana Point, California, 92629. Where appropriate, the documents have also been cited in the Environmental Analysis Checklist.

- County of Orange General Plan (2000)
- County of Orange Dana Point Harbor Revitalization Project Program FEIR No.591 (Certified 2006)
- Dana Point Harbor Revitalization Plan and District Regulations (September 2006)
- City of Dana Point Local Coastal Program (LCP)
- California Coastal Act

### 3.1 LAND USE AND PLANNING

#### Program FEIR Overview

**Impacts.** Implementation of the Revitalization Project does not include any permanent land use changes other than renovated, and/or replaced, marina docks and related infrastructure to better serve visitors, boaters, and existing Harbor uses. The Revitalization Project required that a Local Coastal Plan Amendment (LCPA) be prepared and locally adopted by the City of Dana Point with input from the County, and then certified by the CCC. The Program FEIR concluded that because the project required an LCPA, it was by definition “inconsistent” with the current LCP. This was, however, not considered a significant impact because the future LCPA will improve overall Coastal Act compliance. All waterside improvements must be reviewed and approved by the CCC prior to project construction. An application for a Coastal Development Permit (CDP) will be submitted for consideration by the CCC after certification of the SEIR and approval of the Marina Improvement Project by the County.

Due to temporary construction activities and/or long-term maintenance or operations, the Revitalization Project, including the Marina Improvement Project, may result in conflicts with Harbor facilities or land uses. In addition, the proposed Revitalization Project, combined with other future development, could increase the intensity of land uses in the area. However, the Program FEIR concluded that with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures, no significant impacts are anticipated. Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

#### Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)

- PDF 4.1-1** Construction Phasing for the Harbor Revitalization Plan has been designed to minimize the disruption of vehicular and pedestrian access routes and parking availability throughout the Harbor. In the event of temporary closures, alternate routes and clear directional signage will be provided.
- MM 4.1-1a** The Project will require a Local Coastal Plan Amendment and subsequent Coastal Development Permits to ensure consistency with the California Coastal Act and Local Coastal Plan.
- MM 4.1-3a** Access to the Marine Service areas shall be maintained during all construction phases. A Construction Management Plan shall be prepared identifying the

configuration of construction staging areas temporary access routes, and parking areas and will be submitted in conjunction with review of Coastal and/or Site Development Permits for each phase of development.

- MM 4.1-3b** A comprehensive signage program for public access shall be implemented in conjunction with the construction of the Commercial Core Area and subsequent planning areas within the Harbor to inform the public of the availability of, and provide direction to, public parking areas, coastal access and on-site recreational amenities.

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Land Use and Planning were identified in the Program FEIR.

### Marina Improvement Project Checklist Responses

**Would the project:**

- a) **Physically divide an established community?**

**No Impact.** The proposed project is renovation of the existing marinas, Youth and Group docks, guest docks, Harbor Patrol docks, commercial fishing docks, sport fishing docks, and new dry stack storage staging docks within Dana Point Harbor. The project also includes dredging in the basin area on the northwest side of the Youth and Group docks and temporary docks to be located in the Harbor's Main Channel and along the breakwater adjacent to Doheny State Beach. The Dana Point Harbor is County property located within the City of Dana Point and will remain as is without dividing or altering any community or political boundary. As stated in the Program FEIR, the existing Marinas serve recreational boating activities and are compatible with the other existing uses in the Harbor. The proposed project would reconfigure and upgrade the slips and docks to better serve and meet the needs of boaters and would include new boarding float docks that will be accessible in accordance with ADA guidelines for recreational facilities. The proposed project is contained within the existing Harbor and will not divide an established community; therefore, further analysis in the Subsequent EIR (SEIR) is not required.

- b) **Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

**Less Than Significant Impact.** Dana Point Harbor is owned by the County of Orange and located entirely in the City of Dana Point. The County has the primary authority for development, maintenance, and operation of uses and activities within the Harbor. Development within the Harbor has been historically regulated and land uses defined by the County under the Dana Point Harbor Planned Community District Development Plan, adopted by the County Board of Supervisors in 1969. The Harbor is shown as a Regional Recreation area in the County General Plan. The proposed project is a continuation of existing land uses and is consistent with the County's General Plan designation:

Dana Point Harbor is located entirely within the Coastal Zone (CZ) as defined by the California Coastal Act of 1976. Under provisions of the Coastal Act, each local government along the coast must develop an LCP. In accordance with the California Coastal Act, the County prepared an LCP that was certified by the CCC in 1981. The County's LCP is referred to as the South Coast Planning Unit Local Coastal Program.

Subsequent to the City's incorporation in 1989, the County prepared and adopted an LCPA that was certified by the CCC that transferred land use regulatory authority to the City of Dana Point and serves as the applicable Coastal Act regulatory document for Dana Point Harbor. All waterside improvements must be reviewed and approved by the CCC and require a CDP from the CCC. An LCPA has been prepared for the Dana Point Harbor Revitalization Project and is currently under review by the CCC.

The land use and development regulations for the Harbor are contained in the Dana Point Harbor Revitalization Plan and District Regulations (pending CCC certification). The proposed project is consistent with the District Regulations land use designations and the project analyzed in the Program FEIR certified by the County Board of Supervisors on January 31, 2006.

The SEIR will further address the land use impacts of the proposed project based primarily on the project's consistency with the CCC, the City LCP, and the Dana Point Harbor Revitalization Plan and District Regulations.

**c) Conflict with any applicable habitat conservation plan or natural community conservation plan?**

**No Impact.** The project site is not located within a habitat conservation or natural community plan area. Therefore, no further analysis in the SEIR is required.

## **3.2 AGRICULTURAL RESOURCES**

### **Program FEIR Overview**

In the course of preparing the Program FEIR certain impacts were found to be less than significant due to the inability of the Revitalization Project to create such impacts, or the absence of project characteristics producing such effects. Effects determined not to be significant were not addressed further in the Program FEIR. The Program FEIR determined that no farmland would be converted to nonagricultural uses and that no agricultural zoning or Williamson Act contracts existed within or adjacent to the project site. Impacts related to agricultural resources were therefore determined to be less than significant and were not discussed further in the Program FEIR.

### **Marina Improvement Project Checklist Responses**

**Would the project:**

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

The following response applies to questions a, b, and c, above.

**No Impact.** The project site is located in Dana Point Harbor in an urbanized area surrounded by commercial and residential development as well as existing infrastructure (Dana Point Harbor Drive, the Street of the Golden Lantern, and Pacific Coast Highway). The project site is located entirely in salt water where there is no historic agricultural use. Based on the City's and County's General Plan, no farmland, agricultural zoning, or Williamson Act contracts exist within or adjacent to the project site. Therefore, as stated in the Program FEIR, implementation of the proposed project would not convert Farmland to nonagricultural use. No impact to farmland or agriculture would occur, and further analysis in the SEIR is not required.

### 3.3 POPULATION AND HOUSING

#### Program FEIR Overview

In the course of preparing the Program FEIR certain impacts were found to be less than significant due to the inability of the Revitalization Project to create such impacts or the absence of project characteristics producing such effects. Effects determined not to be significant were not addressed further in the Program FEIR. The Program FEIR determined that there would be no displacement or loss of residential units as a result of the Revitalization Project, and no replacement housing would be necessary. Impacts related to population and housing were therefore determined to be less than significant and were not discussed further in the Program FEIR.

#### Marina Improvement Project Checklist Responses

Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other infrastructure)?

**No Impact.** The proposed project is intended to renovate the existing boating facilities throughout the Harbor and does not propose the construction of any new homes or businesses. The proposed project will not impact or affect the location, distribution, density, or growth rate of populations within the immediate vicinity of the project site. In addition, the proposed Marina Improvement Project does not create additional employment that could increase the City's population. Therefore, no impacts related to population growth are anticipated, and further analysis in the SEIR is not required.

**b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?**

**No Impact.** No existing housing will be displaced by the proposed project, and no replacement housing would be necessary. Therefore, no impacts related to loss of housing are anticipated, and further analysis in the SEIR is not required.

**c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

**Less Than Significant Impact.** There would be no displacement or loss of residential units as a result of the project, and no replacement housing would be necessary. However, it is possible that people living on their boats (“live-aboards”) may claim them as their primary home. Because the reconstruction of the marina anticipates a loss of boat slips, the proposed project may result in temporary displacement or relocation of these individuals. However, because the number of live-aboards is relatively small (56 persons, or less than 2.5 percent of slips), and because any displacement of people is expected to be temporary, impacts are considered less than significant, and further analysis in the SEIR is not required.

### 3.4 GEOLOGY AND SOILS

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that soil conditions such as collapsible and expansive soils, soil erosion, and subsidence would have some effect on implementation of the Revitalization Project. Because the Revitalization Project is located in a region that experiences seismic activity, the Program FEIR concluded that development would expose people and structures to effects associated with seismic activity. However, analysis concluded that with compliance with the County Zoning Code, the Uniform Building Code, Standard Conditions of Approval, Project Design Features, and Mitigation Measures, the impacts would be less than significant. Measures identified in the Program FEIR and applicable to the Marina Improvement Project are listed below.

#### Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)

- MM 4.3-4** Site safety requirements shall address specifications of the Occupational Safety and Health Administration (OSHA). Applicable specifications prepared by OSHA related to earth resources consist of Section 29 CFR Part 1926, which are focused on worker safety in excavations.
- MM 4.3-6** If cranes and pile-driving equipment are required, adequate setbacks shall be observed from bulkhead areas to prevent failures due to increased lateral loads.
- MM 4.3-9** Conformance with the latest Uniform Building Code and County Ordinances can be expected to satisfactorily mitigate the effect of seismic groundshaking. Conformance with applicable codes and ordinances shall occur in conjunction with the issuance of building permits in order to insure that over excavation of soft, broken rock and clayey soils within sheared zones will be required where development is planned.

**MM 4.3-14** Engineering design for all structures shall be based on the probability that the Project area will be subjected to strong ground motion during the lifetime of development. Construction plans shall be subject to the County review and shall include applicable standards, which address seismic design parameters.

**MM 4.3-15** Mitigation of earthquake ground shaking shall be incorporated into design and construction in accordance with Uniform Building Code requirements and site-specific design.

**MM 4.3-19** Further investigation and detailed characterization of the existing fill conditions is required to identify the extent of the potential for liquefaction. Mitigation Measures shall include:

- Recommended new building setback distances from the quay wall ranging from 2 to 3 times the height of the bulkhead wall for localized liquefaction and lateral spreading failure to several times the height of the revetment slope and bulkhead system for global seismic instability, to be considered during the master planning and conceptual design phase of the Project;
- Supporting proposed structures on deep foundations extending into bedrock;
- Stiffened floor slab designs;
- Total or partial removal of the potentially liquefiable soils and replacement with compacted fill;
- Soil remediation and site improvement.

**MM 4.3-20** Further evaluation of lateral spreading potential is required. If it is found that the lateral spreading potential is high, then Mitigation Measures shall include:

- New building setback distances from the quay wall ranging from 2 to 3 times the height of the bulkhead wall;
- Repair or replacement of existing seawall for site containment;
- Total/partial removal of the potentially liquefiable soils and replacement with compacted fill; and/or
- Soil remediation and site improvement.

**Level of Significance after Mitigation.** No significant impacts related to Geology, Soils, or Seismicity were identified following implementation of Mitigation Measures and/or compliance with applicable standards and policies of the County Grading Code and Manual.

#### Marina Improvement Project Checklist Responses

Would the project:



- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
- (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidences of known fault? Refer to Division of Mines and Geological Special Publication 42.
  - ii) Strong seismic ground shaking?
  - iii) Seismic-related ground failure, including liquefaction?
  - iv) Landslides?

The following response applies to question a(i), (ii), (iii), and (iv), above.

**Potentially Significant Impact.** Dana Point Harbor, like the rest of the Southern California, is located in a seismically active area that has historically experienced earthquake activity. However, as stated in the Program FEIR, no known or active faults are mapped through the project area, and the project area is not located within a currently designated Alquist-Priolo Earthquake Zone. The nearest significant active fault to the project site is the Newport-Inglewood Fault, located approximately four miles to the southwest. One of the project's primary objectives is to renovate the deteriorating docks and slips, taking into account current codes and seismic requirements. All structures will comply with the seismic requirements of the Uniform Building Code and Standard Conditions of Approval, which would limit hazards from seismic ground shaking to less than significant levels. Due to the nature of the project being floating docks and slips, impacts to the dock facilities due to earthquakes are expected to be minimal. However, there is a potential for seismic-related liquefaction in the Island portions of the Harbor, within the Marina Improvement Project area. The potential for liquefaction in the Cove side areas is considered small due to the presence of underlying bedrock.

Soil liquefaction along the Island areas of the Harbor could potentially cause structural failure of the soil and migration of earthen materials along the land/water interface into the harbor, possibly affecting dock gangways, railings, and landside Harbor improvements. Therefore, due to the potential for liquefaction impacts, geological conditions will be further evaluated in the SEIR. A Geotechnical Investigation will be prepared to address geology and soil conditions, and the results of the study will be incorporated into the SEIR.

- b) Result in substantial soil erosion or the loss of topsoil?

**Less Than Significant Impact.** Construction of the proposed project would not result in grading of landside soils. However, limited soil disturbance could occur for the following purposes:

- Lighting improvements
- Utility connections
- Gangway/landside connections
- Possible seawall renovations where needed

The nature of the project is a redesign/reconstruction of the Marinas. No soil erosion or loss of topsoil is anticipated. Therefore, the impacts are considered less than significant, and further analysis in the SEIR is not required.

- c) **Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslides, lateral spreading, subsidence, liquefaction or collapse?**
- d) **Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?**

**The following response applies to questions c and d, above.**

**Potentially Significant Impact.** The renovation and replacement of the marina dock facilities will largely be undertaken in their present location, where they have been in operation for more than 35 years. As stated above, no significant landside grading will occur, and impacts related to unstable soil conditions are not anticipated. Although there are no geologic units or soils that would become unstable as a result of the proposed project, additional information is required regarding lateral spreading and liquefaction impacts related to the installation of new pilings in the Harbor. A Geotechnical Investigation will be prepared to address geology and soil conditions related to the marina seawalls and the replacement of guide piles (or alternate anchoring methods). The results of the study will be incorporated into the SEIR.

- e) **Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

**No Impact.** The proposed project includes the replacement and relocation of pumpout facilities on the docks. No septic tanks or alternate wastewater systems will be located in ground. Therefore, no impacts related to soil capabilities to support such systems will occur with project implementation. No further analysis is required in the SEIR.

### 3.5 HYDROLOGY AND WATER QUALITY

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that grading, excavation, and construction activities associated with the proposed Revitalization Project could impact water quality due to erosion of exposed soils and subsequent deposition of particles and pollutants in drainage areas. It was determined that the operation of the Revitalization Project could alter drainage patterns and increase erosion and runoff amounts, thereby causing long-term impacts on the quality of stormwater and urban runoff. Additionally, the Program FEIR stated that the project site could be subject to flood hazards from San Juan Creek. Cumulatively, the Revitalization Project, along with other future development, could increase hydrology and drainage impacts in the area. However, the Program FEIR analysis concluded that drainage and water quality impacts would be reduced to a less than significant level with incorporation of the Best Management Practices (BMPs), Project Design Features, Standard Conditions of Approval, and Mitigation Measures. It should be noted that additional information related to water quality and hydrology may develop during the analysis

conducted in the course of preparing the SEIR for the Marina Improvement Project. Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

**Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)**

- SCA 4.4-4** The County of Orange Dana Point Harbor Department shall obtain coverage under the NPDES Statewide Stormwater Permit for General Construction Activities from the State Water Resources Control Board. Evidence of receipt of permit approval must be presented to the Manager, RDMD/Subdivision and Grading prior to the issuance of a Grading Permit.
- SCA 4.4-5** Prior to the issuance of any grading or building permits, the County of Orange Dana Point Harbor Department shall demonstrate compliance under California's General Permit for Stormwater Discharges Associated with Construction Activity by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) Number or other proof of filing in a manner meeting the satisfaction of the Manager, RDMD/Building Permit Services. Projects subject to this requirement shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). A copy of the current SWPPP shall be kept at the Project site and be available for County review on request.
- SCA 4.4-8** Prior to the issuance of any grading or building permit (whichever comes first), and Coastal Development Permit, the County of Orange Dana Point Harbor Department shall submit for review and approval by the Manager RDMD/Inspection Services Division, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control predictable pollutant runoff. The WQMP shall follow the model WQMP as outlined in Exhibit 7.11 of the 2003 *Drainage Area Master Plan*, prepared by the County Flood Control District, July 1, 2003. This WQMP shall identify, at a minimum, the routine structural and non-structural measures specified in the current Drainage Area Management Plan (DAMP). The WQMP may include one or more of the following:
- Discuss regional water quality and/or watershed programs (if available for the Project);
  - Address Site Design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, and conserving natural areas;
  - Include the applicable Routine Source Control BMPs as defined in the DAMP;
  - Demonstrate how surface runoff and subsurface drainage shall be managed and directed to the nearest acceptable drainage facility (as applicable), via sump pumps if necessary.
- SCA 4.4-9** Prior to the issuance of any grading or building permit (whichever comes first) and Coastal Development Permit, the County of Orange Dana Point Harbor Department

shall include in the WQMP the following additional Priority Project information in a manner meeting the approval of the Manager, Inspection Services Division:

- Include post-construction Structural Treatment Control BMP(s) as defined in the DAMP;
- Include a conceptual Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for the post-construction Treatment Control BMP(s); (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced Treatment Control BMP(s); and (3) describes the proposed mechanism for funding the long-term operation and maintenance of the referenced Treatment Control BMP(s).

**SCA 4.4-10** Prior to the issuance of a certificate of use and occupancy, the County of Orange Dana Point Harbor Department shall demonstrate compliance with the WQMP in a manner meeting the satisfaction of the Manager, RDMD/Inspection Services Division, including:

- Demonstrate that all structural Best Management Practices (BMPs) described in the Project's WQMP have been implemented, constructed and installed in conformance with approved plans and specifications;
- Demonstrate that the County of Orange Dana Point Harbor Department has complied with all non-structural BMPs described in the Project's WQMP;
- Submit for review and approval an Operations and Maintenance (O&M) Plan for all structural BMPs for attachment to the WQMP; and
- Demonstrate that copies of the Project's approved WQMP (with attached O&M Plan) are available for each of the incoming occupants

**MM 4.4-1** During the design phase, the Project shall assess the potential impacts of inundation from a tsunami on the existing and proposed building structures along the seawall, and submit the assessment to the County RDMD, for verification.

**MM 4.4-2** During the design phase, the Project shall assess the potential of wave run-up from a seiche or tsunami near the Harbor during a major seismic event, and submit the assessment to the County RDMD, for verification.

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Hydrology and Water Quality were identified in the Program FEIR.

## Marina Improvement Project Checklist Responses

### Would the project:

#### a) Violate any water quality standards or waste discharge requirements?

**Potentially Significant Impact.** The proposed project is located within the Dana Point Coastal Streams Watershed. It is subject to the requirements of the State General Construction Activity National Pollutant Discharge Elimination System (NPDES) Permit issued by the State Water Resources Control Board (SWRCB), San Diego Region 9, as well as the Orange County Municipal Stormwater Permit, and a Coastal Development Permit (CDP) from the CCC. In addition, a discharge permit from the United States Army Corps of Engineers (Corps) may be required for potential discharges into navigable waters. Permits would also be required for any dredging activities necessary to accommodate the new docks for the Youth and Group Facility.

The Marina Improvement Project will not change the land use of the site and is not expected to increase capacity or add any significant amount of impervious surface to the project area. Long-term operations will not be significantly different than the current uses and are not expected to increase or introduce additional water quality pollutants. However, construction activities associated with the removal of docks and pilings and installation of the new facilities have the potential to produce pollutants of concern. Demolition of dock facilities and installation of the new guide piles (or alternate anchoring methods), docks, and gangways may result in disturbance of Harbor sediments and generation of debris. Due to the phasing and length of construction, temporary docks will be placed in the Harbor to house displaced boats. The installation of these temporary docks could also disturb sediments and introduce water pollutants in previously undisturbed areas of the Harbor. In addition, construction equipment being stored at various construction staging areas has the potential to affect the water quality of runoff.

Implementation of the proposed project would require the County to obtain an NPDES permit, prepare a Storm Water Pollution Prevention Plan (SWPPP), and implement BMPs detailed in the SWPPP during construction activities. Implementation of these BMPs would help reduce the temporary impacts of construction activities. In addition, in accordance with the Orange County municipal NPDES permit, the County must prepare a Water Quality Management Plan (WQMP) that includes site design and source control BMPs. The proposed project will also be implemented in compliance with objectives contained in the California Ocean Plan, as adopted by the State Water Resources Control Board (2001). Impacts to Hydrology and Water Quality resources will be analyzed further in the SEIR.

#### b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level (e.g., the production rate of preexisting nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?

**No Impact.** The proposed project would not deplete groundwater supplies or interfere substantially with groundwater recharge because the project does not add impervious surfaces nor create new demand for water resources. Therefore, no impacts to groundwater supply are anticipated. Further analysis is not required in the SEIR.

- c) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on or off site?**
- d) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site?**

**The following response applies to questions: c and d, above.**

**Less Than Significant Impact.** There are no streams or rivers located on site. The drainage pattern within the Marina Improvement Project area would not be substantially altered, and operation of the project would not substantially increase erosion, siltation, or storm water flows. Stormwater runoff on the docks will continue to discharge into the Harbor, similar to existing conditions. Because the site drainage and surface runoff will not be significantly altered, no further analysis is required in the SEIR.

It should be noted that the proposed project does not include improvements to the storm drain system since no facilities will be impacted by the Marina Improvement Project. Runoff on the landside areas adjacent to the dock facilities is collected by a series of grate inlets, catch basins, and roof drainage pipes, all of which discharge directly into the Harbor through a series of local outfall pipes, County-owned storm drains, and/or direct sheet flow from sloped sidewalks and hardscape areas. The drainage on the landside portions of the Harbor will not be affected by the Marina Improvements Project and therefore will not be addressed in the SEIR.

- e) **Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**
- f) **Have a significant adverse impact on groundwater quality or otherwise substantially degrade water quality?**

**The following response applies to questions e and f, above.**

**Potentially Significant Impact.** The drainage pattern on site would not be substantially altered, and the project would not substantially increase storm water flows because replacement of the existing dock facilities will not increase capacity. No impacts to groundwater quality are anticipated. As stated above, construction of the proposed project must comply with all construction and operational BMPs stipulated in the NPDES construction permit and WQMP required as part of the project. The WQMP will evaluate and implement BMPs to target anticipated pollutants in project runoff to reduce pollution in runoff to the maximum extent practicable. In addition, construction BMPs would be incorporated into the SWPPP required by the State permit. Impacts related to sources of polluted runoff and water quality will be further addressed in the SEIR.

- g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?
- h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?
- i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?

The following response applies to questions g, h and i, above.

**No Impact.** The project site in Dana Point Harbor is within the 100-year floodplain, as indicated in the Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM, No 06059C0504H, February 18, 2004). However, no housing or structures that would impede flood flows are proposed as part of the Marina Improvement Project; therefore, no flood-related impacts are anticipated. In addition, there are no dams located within the project site or adjacent to the project site whose failure would pose potential hazards to people or structures. Therefore, there are no impacts related to this issue, and no further analysis is required in the SEIR.

- j) Inundation by seiche, tsunami, or mudflow?

**Less Than Significant Impact.** The project site is not located in the vicinity of an upstream body of water that could inundate the site during a storm or seismic event; therefore, inundation by seiche is not anticipated. Because the site is not located in a hilly area, it is not considered to be at a high risk for inundation by mudflow. The project site is located in the Harbor adjacent to the Pacific Ocean and could potentially be affected by a storm surge associated with a tsunami. However, as stated above, the proposed project renovations do not include housing or habitable structures that would be affected by a tsunami. Due to the water-oriented nature and purpose of the project, the proposed improvements will be constructed to withstand inundation. Therefore, impacts related to the potential inundation of the facilities are considered less than significant, and no further analysis is required in the SEIR.

### 3.6 TRANSPORTATION/CIRCULATION

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that construction activities associated with the proposed Revitalization Project would generate additional vehicle trips on adjacent roadways and impact existing parking facilities, thus affecting the level of service at intersections and roadways and parking capacities. Operation of the Revitalization Project could generate additional trips on the adjacent roadways, thus affecting the level of service at intersections and roadways identified in the Program FEIR. The Program FEIR further concluded that operation of the Revitalization Project would also generate additional parking demand. However, the Program FEIR analysis determined that traffic and parking impacts would be reduced to a less than significant level with incorporation of the Project Design Features, Standard Conditions of Approval, and Mitigation Measures. Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

**Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)**

- PDF 4.5-1** The construction phasing plan for the Commercial Core includes early construction of the parking deck and ramp, augmenting parking for Harbor visitors and boaters.
- PDF 4.5-2** A seasonal water taxi service may be incorporated throughout the Harbor to reduce average daily trips (ADTs) during peak Harbor usage periods.
- PDF 4.5-4** Dedicated boater drop-off areas and parking are provided in the Commercial Core.
- SCA 4.5-1** Prior to the approval of any grading permit, the County of Orange Dana Point Harbor Department shall prepare a Parking Management Plan (PMP) that ensures public access will be retained and to reduce construction congestion/conflicts with access.
- MM 4.5-2** The County of Orange Dana Point Harbor Department shall provide a construction sign program to direct Harbor visitors and boaters to available parking.
- MM 4.5-3** The County of Orange Dana Point Harbor Department shall prepare a Construction Management Plan that includes the locations for shuttle drop-off areas, and the locations of boater parking, if existing spaces are impacted by construction. The Construction Management Plan shall also establish access locations for construction equipment, separate from those used by the general public.
- MM 4.5-7** The County of Orange Dana Point Harbor Department shall prepare a Traffic Management Plan (TMP) to include a provision for use of offsite locations for parking for peak Harbor use periods.

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Traffic and Circulation impacts were identified in the Program FEIR.

**Marina Improvement Project Checklist Responses**

**Would the project:**

- a) **Result in an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?**
- b) **Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?**

**The following response applies to questions a and b, above.**

**Potentially Significant Impact.** The Harbor Revitalization master planning process integrated circulation and parking improvements to benefit the Commercial Core/general Harbor recreation areas as well as the marina areas. The Program FEIR addressed the integrated plan for both the Commercial Core (landside) and the waterside areas. The previously approved Dana Point Harbor



Revitalization Project includes improvements to the circulation system in the commercial areas of the Harbor and limited changes to the parking and access to marina areas; the construction of a two-level parking deck for commercial, restaurant, and boating-related uses is planned as part of the Commercial Core project. Unlike the Revitalization project, the proposed Marina Improvement Project is limited to the replacement of the Marina docks and slip facilities and does not include any improvements or changes related to the traffic or circulation patterns in the project area. In addition, the proposed Marina Improvement Project does not increase the capacity of the Marinas and would therefore not result in a substantial increase in long-term traffic levels. Therefore, because the project does not increase capacity or include improvements to existing landside parking and circulation patterns, traffic impacts related to long-term operations will not be included in the SEIR.

However, the construction activities would involve use of the construction vehicles and construction equipment that may temporarily affect the existing traffic and parking in the project area. The location of the construction staging areas, although not determined at this time, may impact parking and circulation. In addition, cumulative effects of the project, combined with the landside or Commercial Core Revitalization Project, may significantly impact available parking throughout the Harbor during construction. The Marina Improvement Project's construction-related impacts to traffic and circulation will therefore be evaluated further in the SEIR. However, no analysis will be included in the SEIR regarding post-construction traffic because traffic impacts related to long-term operations of the Harbor were addressed in the Program FEIR.

- c) **Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**
- d) **Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

The following response applies to questions c and d, above.

**No Impact.** As stated in the Program FEIR, Dana Point Harbor, including the proposed Marina Improvement Project, is not located in the immediate vicinity of any airport and thus would not result in a permanent change to air traffic patterns. In addition, the replacement of the dock and slip facilities does not include any improvements to circulation or transportation facilities and would not create hazardous conditions related to transportation design features. Transportation and circulation design related to the Harbor Revitalization Project was addressed in the Program FEIR. No further analysis is required in the SEIR.

- e) **Result in inadequate emergency access?**
- f) **Result in inadequate parking capacity?**

The following response applies to questions e and f, above.

**Potentially Significant Impact.** Although the proposed replacement of docks and slip facilities would not result in a permanent change to emergency access or parking capacity, the use of construction vehicles and equipment and the locations of temporary docks or boater service facilities could temporarily impact parking capacity and emergency access during demolition and construction activities. However, the proposed improvements will bring the Marina docks and gangways into ADA

compliance and will improve emergency access to the waterside facilities. Short-term construction and project implementation impacts related to emergency access and parking during construction will be evaluated further in the SEIR. In addition, the SEIR Land Use discussion will include a consistency analysis to Coastal Act access policies.

**g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?**

**No Impact.** The project is not anticipated to conflict with any policies, plans, or programs supporting alternative transportation. In addition, no alternative transportation facilities such as bus turnouts or bicycle racks will be impacted with implementation of the proposed project. The renovated Marina slips will be constructed in compliance with current standards (including DBW design requirements) and ADA guidelines and will not increase capacity or require additional alternative transportation facilities. Therefore, no further analysis is required in the SEIR. However, construction staging and disruption of normal operations during construction may affect possible future seasonal water taxi service, ADA compliance, and alternative transportation/access services. These issues will be addressed in the SEIR.

### 3.7 AIR QUALITY

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that temporary construction-related dust and vehicle emissions will occur during site preparation and Revitalization Project construction. The Program FEIR concluded that despite implementation of Mitigation Measures (MM) and Project Design Features (PDFs), such as limitations on construction hours and adherence to South Coast Air Quality Management District (SCAQMD) Rules 402 and 403 (which require watering of inactive and perimeter areas, track-out requirements, etc.), impacts, although minimized, will not be at less than significant levels. As illustrated within the Program FEIR analysis, mitigation measures will reduce PM<sub>10</sub> emissions, but NO<sub>x</sub> emissions will not be reduced to less than significant levels. Construction emissions were predicted to exceed SCAQMD thresholds for NO<sub>x</sub>, resulting in a significant and unavoidable impact.

The Program FEIR concluded that the Revitalization Project will be consistent with the Air Quality Management Plan (AQMP). Operation of the Revitalization Project would add an overall increase in the local and regional pollutant load. However, the Program FEIR concluded that the increase in operational air emissions as a result of the Revitalization Project will not exceed SCAQMD thresholds. Although operational impacts are not anticipated to exceed SCAQMD thresholds, Mitigation Measures (MM) and Project Design Features (PDFs) are included in the Revitalization Project to support the reduction of any long-term operational impacts. Therefore, operational impacts were anticipated to be less than significant.

Cumulatively, the Revitalization Project along with other future development could increase air emissions within the surrounding areas, thereby decreasing ambient air quality. However, the Program FEIR analysis concluded that the Revitalization Project will contribute to less than 25 percent of the anticipated emissions from projects proposed within the area, and additional Mitigation Measures are not necessary.

Project Design Features, Standard Conditions of Approval, and Mitigation Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

**Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)**

- PDF 4.6-3** Reduction of vehicle trips is achieved by implementing the Transportation Management Plan, including:
- Seasonal water taxi service;
  - Visitor boat slips and dingy docks located near restaurants and retail areas; and
  - Phased construction of the Revitalization Plan Improvements will minimize the size of areas subject to disruption from construction activities.
- MM 4.6-1** Prior to the start of construction, the Chief Engineer or Director, DPHD, or his designee, in consultation with the Manager, RDMD/Environmental Planning, shall confirm that the plans and specifications stipulate that, in compliance with SCAQMD Rule 403, excessive fugitive dust emissions shall be controlled by regular watering or other dust preventive measures, as specified in the South Coast Air Quality Management Districts Rules and Regulations. In addition, SCAQMD Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off-site. Implementation of the following measures will reduce short-term fugitive dust impacts on nearby sensitive receptors:
- On-site vehicles speed shall be limited to 15 miles per hour (mph);
  - All on-site roads shall be paved as soon as feasible or watered periodically or chemically stabilized;
  - If dust is visibly generated that travels beyond the site boundaries, clearing, grading, earth moving, or excavation activities that are generating dust shall cease during periods of high winds (i.e., greater than 25 mph averaged over one hour) or during Stage 1 or Stage 2 episodes; and
  - All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.
- MM 4.6-2** Prior to approval of the Project plans and specifications, the Chief Engineer or Director, DPHD, or his designee, in consultation with the Manager, RDMD/Environmental Planning, shall confirm that the plans and specifications stipulate that, in compliance with SCAQMD Rule 403, ozone precursor emissions from construction equipment vehicles shall be controlled by maintaining equipment engines in good condition and in proper tune per manufacturer's specifications, to the satisfaction of the Resident Engineer. The County Inspector will be responsible for ensuring that contractors comply with this measure during construction.
- MM 4.6-6** In order to reduce operational energy usage and reduce energy production air emissions, the Project is required to comply with Title 24 of the California Code of

Regulations established by the California Energy Commission regarding energy conservations standards.

**Level of Significance after Mitigation.** Despite implementation of Project Design Features and Mitigation Measures, the Revitalization Project was found to result in significant and unavoidable impacts regarding construction emissions (nitrogen oxide [NO<sub>x</sub>] emissions).

### Marina Improvement Project Checklist Responses

Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?
- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

The following response applies to questions a and b, above.

**Potentially Significant Impact.** The proposed project site is located within the South Coast Air Basin (SCAB) and is within the jurisdiction of the SCAQMD. Basinwide air pollution levels are administered by the SCAQMD through the AQMP. The AQMP provides a program for obtaining attainment status for key monitored air pollution standards, based on existing and future air pollution emissions resulting from employment and residential growth projections. The proposed marina project will not result in increased capacity or an increase in traffic. Therefore, operation of the proposed project will not create additional emissions that would result in impacts associated with implementation of the AQMP. However, the construction phase of the proposed project will involve the use of heavy duty equipment and vehicles and would result in a temporary increase in fugitive dust emissions and diesel exhaust. Therefore, the proposed project's construction emission impacts related to the AQMP and applicable air quality standards will be evaluated further in the SEIR.

- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?

**Potentially Significant Impact.** Air pollution levels of criteria air pollutants are monitored by SCAQMD at various locations throughout the Basin. The entire Basin is a nonattainment area for the State one-hour O<sub>3</sub> (smog) standard, and for the federal and State PM<sub>10</sub> and federal PM<sub>2.5</sub> standards. In addition, the Basin is designated as nonattainment for carbon monoxide (CO) under the federal standard. Although the proposed project will not result in increased capacity or an increase in traffic and will not create additional long-term emissions, emissions from construction activities could exceed criteria air pollutant standards. Therefore, the cumulative impacts of criteria pollutants emissions generated by the proposed project during construction will be addressed in the SEIR.

- d) Expose sensitive receptors to substantial pollutant concentrations?
- e) Create objectionable odors affecting a substantial number of people?

The following response applies to questions d and e, above.

**Potentially Significant Impact.** Grading and construction activities on site will potentially expose on-site workers and sensitive receptors such as nearby residents to temporary increased levels of particulates and emissions from construction equipment. In addition, during construction, the various diesel-powered vehicles and equipment in use on site would create odors. Therefore, the SEIR will evaluate the significance of emissions and particulates created during demolition and construction, as well as address impacts associated with odors generated during construction of the project.

### 3.8 NOISE

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that grading and construction within the Revitalization Project area would result in temporary noise and/or vibration impacts on nearby noise-sensitive receptors. The Program FEIR concluded that although construction noise and vibration impacts would comply with Standard Conditions of Approval, and Mitigation Measures, impacts would be significant and unavoidable due to the duration of construction activities.

Operation of the Revitalization Project would increase vehicular activity along roadways within the Revitalization Project vicinity. The Program FEIR concluded that long-term mobile noise impacts would be less than significant for roadway segments under buildout traffic scenarios. The Program FEIR further concluded that operation of the Revitalization Project would generate on-site noise associated with commercial activities, which include loading and unloading activities, mechanical equipment operation, and activity in parking lots. The Program FEIR concluded that stationary source impacts would be reduced to less than significant levels with adherence to the County Zoning Code requirements relating to noise level standards.

Cumulatively, the Revitalization Project, along with other future development, could increase the ambient noise levels in the site vicinity. The Program FEIR concluded that these noise impacts would be significant and unavoidable.

Project Design Features, Standard Conditions of Approval, and Mitigation Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

- SCA 4.9-1      Prior to approval of the Project plans and specifications by the DPHD, Chief Engineer, or his designee, in consultation with the Manager, RDMD/Environmental Planning, shall confirm that the plans and specifications stipulate that construction activities shall be limited to 7:00 a.m. to 8:00 p.m. on weekdays, including Saturdays, and no construction on Sundays and holidays. The County inspector will be responsible for ensuring that contractors comply with this measure during construction.

- SCA 4.9-2** Prior to the issuance of any building or grading permits, the County of Orange Dana Point Harbor Department shall prepare or obtain an acoustical analysis report and appropriate plans which demonstrate that the noise levels generated by this Project during its operation shall be controlled in compliance with the Orange County Codified Ordinances, Division 6 (Noise Control). The report shall be prepared under the supervision of a County-certified Acoustical Consultant and shall describe the noise generation potential of the Project during its operation and the noise Mitigation Measures, if needed, which shall be included in the plans and specifications of the Project to assure compliance with Orange County Codified Ordinances, Division 6 (Noise Control).
- SCA 4.9-3** Prior to approval of the Project plans and specifications by the DPHD, Chief Engineer, or his designee, in consultation with the Manager, RDMD/Environmental Planning and County of Orange Dana Point Harbor Department, shall confirm that the plans and specifications stipulate that stockpiling and vehicle staging areas shall be located as far as practical from noise-sensitive receptors during construction activities.
- SCA 4.9-4** The County of Orange Dana Point Harbor Department shall submit a geotechnical soils report containing a drainage plan for review and approval by the Manager, RDMD/Subdivisions and Grading. The following notes shall be included:
- a. All construction vehicles and equipment, fixed or mobile operated within 1,000 ft of a dwelling, shall be equipped with properly operating and maintained mufflers.
  - b. All operations shall comply with the County's Noise Ordinance.
  - c. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.
- MM 4.9-2** For projects within 1,000 ft of sensitive receptors, impact equipment (e.g., jack hammers, pile drivers, and rock drills) used for construction shall be hydraulically or electrical powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used.
- MM 4.9-3** For projects within 1,000 ft sensitive receptors, sonic or vibratory pile drivers shall be used instead of impact pile drivers (sonic pile drivers are only effective in some soils) whenever possible. If sonic or vibratory pile drivers are not feasible, acoustical enclosures shall be provided as necessary to ensure that pile-driving noise does not exceed speech interference criterion at the closest sensitive receptor. Engine and pneumatic exhaust controls on pile drivers shall be required as necessary to ensure that exhaust noise from pile driver engines is minimized to the extent feasible. Where feasible, pile holes shall be pre-drilled to reduce potential noise and vibration impacts.

**Level of Significance after Mitigation.** Despite compliance with Standard Conditions of Approval, and Mitigation Measures, the proposed project would result in significant and unavoidable impacts regarding exposure to Construction Noise and Cumulative Noise.

### **Marina Improvement Project Checklist Responses**

**Would the project result in:**

- a) **Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

**Potentially Significant Impact.** Short-term noise impacts would be associated with demolition and replacement of the existing slips and docks within the Marinas. Construction-related noise levels would be higher than existing ambient noise levels in the project area but would cease upon project completion. Long-term operational noise levels are not anticipated to increase with project implementation because the project will not result in increased capacity or additional traffic. Potential construction-related noise impacts on live-aboard boaters and others will therefore be further evaluated in the SEIR.

- b) **Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?**

**Potentially Significant Impact.** Construction of the proposed project has the potential to create groundborne vibrations during piling activities associated with the replacement of guidepiles. Impacts related to groundborne noise and vibration will therefore be further evaluated in the SEIR.

- c) **A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?**

**Less Than Significant Impact.** Replacement of the existing dock and slip facilities will not result in increased capacity or additional operational traffic that could increase the ambient noise level in the project vicinity. Long-term permanent noise levels are therefore not anticipated to increase over existing noise levels. No additional analysis is required in the SEIR.

- d) **A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?**

**Potentially Significant Impact.** As discussed in response to question 3.8.a, temporary or periodic increases in ambient noise levels would occur during construction of the proposed project. Construction-related short-term noise levels would be higher than existing ambient noise levels in the project area but would cease upon the project completion. Potential increases in noise levels during construction activities will therefore be further evaluated in the SEIR for impacts to live-aboard boaters and others.

- e) **For a project located within an airport land use plan or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**

- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

The following response applies to questions e and f, above.

**No Impact.** According to the Dana Point Harbor Revitalization Project Program FEIR, the proposed project is not located within an airport land use plan, in the vicinity of a private airstrip, or within two miles of a public airport. Therefore, there are no impacts related to this issue, and this issue will not be discussed further in the SEIR.

### 3.9 BIOLOGICAL RESOURCES

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that the Revitalization Project would impact species identified as special-status and marine biological resources. Program FEIR analysis concluded that these impacts would be less than significant with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures. The Program FEIR further concluded that no riparian or wetland habitat exists within the Harbor or off-site areas, and therefore, the Revitalization Project would not result in impacts to riparian or wetland habitat. Cumulatively, the Revitalization Project along with other future development would not result in significant cumulative biological impacts. Project Design Features, Standard Conditions of Approval, and Mitigation Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

#### Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)

- MM 4.7-2** The following measures shall be utilized to protect the nesting habitat of the black-crowned night herons and snowy egrets:
- If construction activities are performed during the breeding season (February 1 through August 15), a preconstruction survey within 500 ft of the site for nests shall be performed by a qualified biologist to document the presence/absence of all these species;
  - If nesting black-crowned night herons or snowy egrets are identified, Project construction activities within 500 ft of the nest site must cease for the remainder of the breeding season unless a qualified acoustician can demonstrate that with or without noise attenuation measures, construction noise levels would not exceed 60 dBA within 500 ft of the occupied nests. The qualified biologist shall monitor active nest sites on a weekly basis. If the biologist notes that all young have fledged from the nest, then the noise restriction near the nest is no longer required.
- MM 4.7-3** The following measures shall be utilized to protect nesting habitat of the raptors (red tailed hawk, Cooper's hawk, osprey, etc):
- If work is scheduled to be performed during the breeding season of any raptor (February 1 through August 15), a preconstruction survey within 500 ft of the site



for raptor nests shall be performed by a qualified biologist to document the presence/absence of all nesting raptors; and

- If active raptor nests are found, a buffer of 500 ft in diameter should be established around the nest and no construction activity shall occur within that buffer until the young have fledged.

**MM 4.7-4** In order to minimize indirect impacts on biological resources that may be related to noise and construction activity, the County of Orange Dana Point Harbor Department shall implement the following Best Management Practices (BMPs) prior to or during construction activities.

- Limit construction and all Project activities to a well-defined area; and
- Construction limits shall be fenced or flagged adjacent to preserved trees and/or sensitive habitats to avoid direct impacts.

**MM 4.7-5** Future waterside improvements to the east and west breakwaters shall be reconstructed within the seaward footprint of the existing structures except as necessary to provide for public safety or public access. Construction activities taking place below the mean higher high water (MHHW) mark shall prepare a focused marine biological survey to determine if sensitive species are present.

**MM 4.7-6** The County of Orange Dana Point Harbor Department shall require that standard BMPs be utilized in order to ensure impacts to water quality and the marine environment are minimized. Standard BMPs include:

- Erosion to be controlled by landscaping (leave existing vegetation in place where possible), paving and drainage structures;
- Berms (sand bags) around all construction sites to catch run-off;
- Roads of gravel to minimize dirt being tracked into and out of the Project site;
- During wet weather, Harbor basin inlets shall be protected by placing a wire mesh and gravel filter to intercept debris and soil runoff; and
- Appropriate housekeeping activities to minimize the potential for pollutants from material storage or construction activities.

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Biological Resources were identified in the Program FEIR.

## Marina Improvement Project Checklist Responses

### Would the project:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The following response applies to questions a through d, above.

**Potentially Significant Impact.** Several species of birds, sea turtles, fish, plants, and other aquatic organisms that inhabit or occur in Dana Point Harbor are listed by the federal and State governments as endangered or threatened. All marine mammals are protected under the Marine Mammal Protection Act, bird species by the Migratory Bird Conservation Act, and endangered plants and animals by the federal and California Endangered Species Acts.

The proposed project does not increase the capacity of the marina or the operations associated with the dock facilities. Therefore, the long-term operation of the proposed project would not result in impacts to the marine wildlife and habitat that are significantly different or greater than existing conditions. However, construction activities could result in short-term habitat loss and potential impacts to a variety of marine species.

The proposed demolition and replacement of the docks, slips, and pilings, and renovations to quay walls and bulkheads in the marina would result in the direct loss of the intertidal community and other aquatic organisms (plankton, benthic organisms) that inhabit the underwater parts of the dock facilities. Construction activities such as dredging, if required, may also result in the increased turbidity of marine waters and the introduction of pollutants into the waters (residues of paints, foam from pontoons, debris, and airborne particulates). In addition, marine mammals could potentially be affected by underwater noise/vibration created during construction, especially pile driving activities. These impacts would be temporary, and upon completion of construction activities the communities of aquatic organisms are expected to inhabit the marina again.

Impacts related to marine biological resources will be analyzed further in the SEIR. The SEIR will also evaluate the proposed project's impact on migratory species of birds that use the Marinas during migration and for nesting purposes.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?

The following response applies to questions e and f, above.

**Less Than Significant Impact.** As stated in the Dana Point Harbor Revitalization Project Program FEIR, the project site is not located within a designated open space/conservation area. The proposed project does not interfere with local policies, ordinances, or adopted Habitat Conservation Plans (HCPs) protecting biological resources on site. However, because the project is planned to be undertaken in the Coastal Zone, an analysis of project consistency with the Coastal Act's provisions regarding protection of coastal zone habitats will be provided in the SEIR.

### 3.10 AESTHETICS

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that grading and construction activities associated with the Revitalization Project would temporarily affect the existing visual character and quality of the project site and its surroundings. However, analysis concluded that construction impacts are considered less than significant with implementation of the recommended mitigation measures. The Program FEIR concluded that the long-term operation of the Revitalization Project would affect views of the Harbor from surrounding roadways, parks, and State beaches; may create a new source of light and glare, which will adversely affect day and/or nighttime views in the area; and may obstruct scenic resources along State or local scenic highways. The Program FEIR concluded that impacts to scenic resources along State or local scenic highways and light and glare impacts were less than significant with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures. However, the impacts to views of the Harbor from surrounding roadways, parks, and State Beaches were found to be significant and unavoidable even with implementation of Project Design Features and Standard Conditions of Approval.

Cumulatively, the Revitalization Project, along with other future development, may result in alterations to the aesthetic character and quality of the Project area. The Program FEIR concluded that cumulative aesthetic impacts would be less than significant.

Project Design Features, Standard Conditions of Approval, and Mitigation Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

#### Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)

PDF 4.2-4 All fences and walls within the Harbor area will be designed to have a minimum impact on coastal and scenic views from public areas.

- PDF 4.2-7** Ground-level mechanical equipment, storage tanks, and other similar facilities shall be screened from view with dense landscaping and/or walls of materials and finishes compatible with the adjacent areas. In addition, service, storage, maintenance, utilities, loading, and refuse collection areas would be located generally out of view of public right-of-ways and uses adjacent to the development area.
- PDF 4.2-9** The design and layout of the future developments shall be consistent with the approved Dana Point Harbor Revitalization Plan and preserve views of the bluff area.
- PDF 4.2-19** All exterior lighting will be designed and located to avoid intrusive effects on the adjacent uses atop the bluffs and Doheny State Beach. New light fixtures will be designed to direct light on-site and away from other areas.
- MM 4.2-4** Prior to the issuance of a building permit, an Exterior Lighting Plan (including outdoor recreation areas) for all proposed improvements shall be prepared. The lighting plan shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The Lighting Plan shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property. The Lighting Plan shall be subject to review and approval by the County of Orange Dana Point Harbor Department.

**Level of Significance after Mitigation.** The Program FEIR concluded that despite compliance with Standard Conditions of Approval, and Mitigation Measures, the Revitalization Project would result in significant and unavoidable impacts to views of the Harbor from surrounding roadways, parks, and State beaches.

### Marina Improvement Project Checklist Responses

Would the project:

- a) Have a substantial adverse effect on a scenic vista?
- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?
- c) Substantially degrade the existing visual character or quality of the site and its surroundings?

The following response applies to questions a through c, above:

**Potentially Significant Impact.** The project site is located within the City of Dana Point, which contains several vantage points for scenic views of the Harbor and ocean. These vantage points from the coastal terrace and from other high points along the coastline are identified as Significant Public View Resources in the City's General Plan Conservation Element/Open Space Element. In addition, Dana Point Harbor Drive, located adjacent to the Harbor facilities, is designated as a Scenic Highway in the City's General Plan.

The proposed project involves the replacement of the slips, gangways, and docks in the Marinas in generally the same location as existing conditions. The viewsheds within the Harbor area will remain the same because the project proposes to replace docks and slips with similar facilities. In addition, no additional capacity is planned and the number of slips is expected to decrease, possibly resulting in a visibly less dense facility than currently exists. Although the proposed project is anticipated to improve the visual quality and character of the site by renovating the deteriorating marina with new facilities, the SEIR will address potential impacts to the visual character of the site and surroundings.

**d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**

**Potentially Significant Impact.** The existing uses within the Harbor area produce light and glare typical of a small-craft Harbor, with relatively limited high-intensity lighting. The proposed project would not substantially increase the amount of light and glare on site and would not increase the intensity of light to sensitive viewers in the surrounding area. However, because the proposed dock improvements include new lighting, the SEIR will address potential impacts associated with light spill on adjacent areas and lighting-related disturbances to wildlife.

### **3.11 CULTURAL/SCIENTIFIC RESOURCES**

#### **Program FEIR Overview**

**Impacts.** The Program FEIR concluded that implementation of the Revitalization Project would potentially impact archaeological, and/or historical resources located within the project area. The Program FEIR further concluded that the Revitalization Project may potentially impact paleontological resources that may exist on site but have not been documented and may potentially disturb unknown locations of human remains. However, the Program FEIR analysis concluded that with the incorporation of recommended Standard Conditions of Approval, impacts will be reduced to less than significant levels.

Cumulatively, the Revitalization Project along with other future development may potentially affect cultural resources in the project area. The Program FEIR concluded that cumulative cultural resources impacts would be evaluated and mitigated on a project-by-project basis and would result in a less than significant impact.

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Cultural/Scientific Resources were identified in the Program FEIR.

#### **Marina Improvement Project Checklist Responses**

**Would the project:**

- a) **Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?**

- b) **Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?**

**The following response applies to questions a and b, above.**

**No Impact.** The Dana Point Harbor Revitalization Project Program FEIR indicated that no archaeological and/or historical resources were expected to occur within the Harbor project area. There are no historic buildings or resources located on site that would be impacted by the proposed project. Therefore, the proposed project would not cause a substantial adverse change in the significance of a historical resource. In addition, the presence of prehistoric cultural material is unlikely because the waterside improvements involve the marina facilities in the Harbor waters, and no landside excavation is required to replace the dock facilities. The waterside improvements are in a location that has historically been covered by water, and no cultural resources are likely to be discovered in the Harbor waters. In addition, the area was dredged to create the original harbor and has subsequently been dredged for maintenance purposes since its inception. Impacts to historical and archaeological resources are not anticipated, and no further analysis is required in the SEIR.

- c) **Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

**No Impact.** The Dana Point Harbor Revitalization Project Program FEIR indicated that paleontologically sensitive soils do exist within the Harbor project area. However, the Marina Improvement Project would not require earthmoving or earth-disturbing activities on land and are therefore not anticipated to result in significant impacts to fossil remains. In addition, the project site does not contain any unique geologic features. Impacts to paleontological resources or unique geological features are therefore not anticipated, and no further analysis is required in the SEIR.

- d) **Disturb any human remains, including those interred outside of formal cemeteries?**

**No Impact.** The Dana Point Harbor Revitalization Project Program FEIR indicated that no Native American or other human remains were identified within the Harbor project area. In addition, it is unlikely that the proposed Marina Improvement Project would impact human remains because the project would not require earthmoving or earth-disturbing activities on land. Therefore, impacts related to the disturbance of human remains are not anticipated, and no further analysis is required in the SEIR.

### **3.12 RECREATION**

#### **Program FEIR Overview**

**Impacts.** The Program FEIR concluded that the Revitalization Project will improve the recreational facilities within the project area, thereby reducing impacts on surrounding recreational facilities. However, the Program FEIR found that implementation of the Revitalization Project may increase the use of existing neighborhood and regional parks and other recreational facilities, thereby creating the potential for the physical deterioration of each facility. The Program FEIR determined the Revitalization Project to be consistent with applicable plans and policies within the County of Orange Master Plan of Regional Recreation Facilities (Master Plan). The Program FEIR analysis concluded

that impacts to recreational resources would be less than significant with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures.

Cumulatively, the Revitalization Project, along with other future development, may potentially increase the use of existing recreational areas and facilities, thereby creating the potential for physical deterioration. Additionally, cumulative development may include recreational facilities (e.g., marina) that could have physical impacts on the environment. The Program FEIR concluded that cumulative recreation impacts would be less than significant with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures.

Project Design Features, Standard Conditions of Approval, and Mitigation Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

#### **Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)**

**PDF 4.12-3** Various amenities will be provided to the marina areas, including improved boater drop-off areas, dedicated boater parking, upgraded boater service buildings and restrooms, and convenient seasonal water taxi drop-off and pick-up areas throughout the Harbor.

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Recreation were identified in the Program FEIR.

#### **Marina Improvement Project Checklist Responses**

**Would the project:**

- a) **Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**
- b) **Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?**

**The following response applies to questions a and b, above.**

**Potentially Significant Impact.** The project site is a public recreational marina facility. The proposed project is the renovation and replacement of the docks, slips, and gangways that have deteriorated since they were originally constructed. The improvements to the existing marina are for the direct benefit of the public and would create ADA-compliant docks and gangways, add to the overall safety of the facility to better serve boaters, and would further the LCP policies to facilitate public use within the coastal zone. However, construction of the proposed project would temporarily obstruct access to the existing marina, which is used for recreational purposes. Therefore, impacts related to the phasing of the project and the potential impacts to access to recreational facilities will be analyzed further in the SEIR.

### 3.13 MINERAL RESOURCES

#### Program FEIR Overview

**Impacts.** In the course of preparing the Program FEIR, certain impacts were found to be less than significant due to the inability of the Revitalization Project to create such impacts or the absence of project characteristics producing such effects. Effects determined not to be significant were not addressed further in the Program FEIR. The Program FEIR determined that there were no mineral resources within or adjacent to the project site. Impacts related to mineral resources were therefore determined to be less than significant and were not discussed further in the Program FEIR.

#### Marina Improvement Project Checklist Responses

Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
- b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

This response applies to questions a and b, above.

**No Impact.** As stated in the Dana Point Harbor Revitalization Project Program FEIR, there are no known mineral resources within the Dana Point Harbor. The project does not involve the extraction of minerals and would not impact any known mineral resource recovery sites. Therefore, no impacts are anticipated, and no further analysis is required in the SEIR.

### 3.14 HAZARDS AND HAZARDOUS MATERIALS

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that the Revitalization Project implementation would have the potential to create a significant hazard to the public or the environment related to hazardous materials and would potentially create odors or foster disease vectors associated with the implementation of BMPs. Additionally, the Program FEIR stated that the Revitalization Project has the potential to create a significant hazard to the public or the environment through the release of asbestos-containing materials (ACMs) into the environment, primarily during the construction of the project, and would have the potential to create a significant hazard to the public or the environment through the release of lead-based paint (LBP) into the environment. The Program FEIR further found that the Revitalization Project could physically interfere with an adopted emergency response plan or emergency evacuation plan. However, the Program FEIR analysis concluded that with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures, no significant impacts are anticipated.



Cumulatively, the Revitalization Project along with other future development could increase exposure of the public to hazardous substances. However, the Program FEIR determined that compliance with federal, State, and local requirements on a project-by-project basis will reduce cumulative impacts to a less than significant level.

Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

**Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)**

- PDF 4.8-1** If asbestos-containing materials (ACMs) are located, abatement of asbestos shall be completed prior to any demolition activities that will disturb ACMs or create an airborne asbestos hazard.
- SCA 4.8-2** Prior to issuance of certificates of use and occupancy, the County of Orange Dana Point Harbor Department shall provide plans or identify measures to comply with standard County procedures for implementing the Uniform Fire Code in the use of any combustible and flammable liquids, aboveground or underground storage of such materials, welding and potential spark production, and building occupancy rating in a manner meeting the approval of the Fire Chief. Further, a copy of the approved "UFC Implementation Plan" shall be furnished to the Manager, RDMD/Building Inspection, prior to the issuance of any certificates of use and occupancy.
- MM 4.8-4** Any transformers to be relocated during site construction/demolition should be conducted under the purview of the local utility purveyor to identify property handling procedures regarding potential PCBs.
- MM 4.8-9** If unknown wastes or suspect materials are discovered during construction that the contractor believes may be or contain hazardous waste or materials, the contractor shall:
- Immediately stop work in the vicinity of the suspected contaminant, and remove workers and the public from the area;
  - Notify the Project Engineer of the implementing agency;
  - Secure the area as directed by the Project Engineer; and
  - Notify the implementing agency's hazardous waste/materials coordinator.
- MM 4.8-10** The County of Orange Dana Point Harbor Department or its designee shall store, manifest, transport, and dispose of all on-site generated waste that meets hazardous waste criteria in accordance with California Code of Regulations Title 22 and in a manner to the satisfaction of the Manager, HCA/Hazardous Materials Program. The County shall keep storage, transportation, and disposal records on site and open for inspection to any government agency upon request.

- MM 4.8-12** The National Emissions Standards for Hazardous Air Pollutants (NESHAP) mandates that building owners conduct an asbestos survey to determine the presence of asbestos containing materials (ACMs) prior to the commencement of any remedial work, including demolition. Prior to demolition or renovation work, it is recommended that areas be sampled as part of an asbestos survey. Any demolition of the existing buildings must comply with State law, which requires a contractor, where there is asbestos-related work involving 100 square ft or more of ACMs, to be certified and that certain procedures regarding the removal of asbestos be followed.
- MM 4.8-16** Lead-based paint removal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which provides for exposure limits, exposure monitoring, and respiratory protection, and mandates good working practices by workers exposed to lead.
- MM 4.8-17** Contractors performing lead-based paint removal shall provide evidence of certified training for lead-related construction work.
- MM 4.8-18** All finishing products used on site shall meet applicable SCAQMD regulations for solvent content, as required by SCAQMD Rules 1102 and 1171.
- MM 4.8-19** All uses of solvents shall be conducted in adherence to California OSHA regulations for exposure of workers during construction activities as required by CCR Title 8.

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Hazards and Hazardous Materials were identified in the Program FEIR.

### Marina Improvement Project Checklist Responses

Would the project:

- a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?
- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

This response applies to questions a and b, above.

**Potentially Significant Impact.** Development and operation of the proposed project may involve the routine use and transport of chemical agents, solvents, paints, and other hazardous materials. Project implementation will include the removal and replacement of the existing docks, gangways, piles, and boat slips. The construction activities may include the temporary use of some hazardous agents such as paints, oils, solvents, and cleansers as well as temporary storage of these materials and fuel on site. Although the amount of chemical agents typically used during construction would be limited and temporary, impacts related to the routine use and disposal of hazardous materials and fuel used in the

regular maintenance and operation of boats will be evaluated further in the SEIR. In addition, disposal of any dredged soils or docks or piles that have been treated with paints or chemicals shall be addressed in the SEIR.

- c) **Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

**No Impact.** As stated in the Dana Point Harbor Revitalization Project Program FEIR, there are no existing or proposed schools within 0.25 mile of the proposed project. Therefore, the operation and construction of the proposed project is not anticipated to emit hazardous emissions or handle hazardous substances within 0.25 mile of an existing or proposed school. No impacts related to this issue are anticipated, and no further analysis is required in the SEIR.

- d) **Be located on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, and as a result, would create a significant hazard to the public or the environment?**

**Less Than Significant Impact.** As stated in the Program FEIR, records research and site reconnaissance were conducted to determine whether any sites that have been reported as contaminated or that generate hazardous materials were located within the Dana Point Harbor Revitalization Project boundaries. Although public records identified 18 listed regulatory sites within the marina boundaries, no sites were located on the dock facilities. The Marina Improvement Project site is not identified or listed as a hazardous materials site, pursuant to Government Code Section 65962.5, nor would the project create a significant hazard to the public or environment. Therefore, impacts related to this issue are considered less than significant, and no further analysis is required in the SEIR.

- e) **For a project located within an airport land use plan or where such a plan has not been adopted within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?**
- f) **For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

The following response applies to questions e and f, above.

**No Impact.** According to the Program FEIR, the proposed project is not located within 2 miles of an airport or private airstrip or within an airport land use plan. The proposed project site is located approximately 20 miles south of John Wayne Airport in Santa Ana. Therefore, no impacts related to airport safety issues are anticipated, and no further analysis is required in the SEIR.

- g) **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

**No Impact.** The proposed project replaces and upgrades existing marina facilities and will comply with the current standards and ADA requirements. As explained in the transportation/traffic analysis earlier in this document, no changes to the Dana Point Marina circulation system or dock access locations are proposed as part of the Marina Improvement Project. The City's Emergency Plan

designates procedures that will be followed in responding to anticipated emergencies in the City of Dana Point. In addition, the City's General Plan illustrates evacuation routes for the City, including Pacific Coast Highway, Dana Point Harbor Drive, and Street of the Golden Lantern. The Marina Project area is accessed via Dana Point Harbor Drive. However, replacement of the dock facilities will not impair or physically interfere with these emergency plans. Therefore, no impacts are anticipated, and no further analysis is required in the SEIR.

- h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires including where wildlands are adjacent to urbanized areas or where residents are intermixed with wildlands?**

**No Impact.** Based on the City's General Plan Public Safety Element, there are no major fire hazard zones within the City, and the site is not located within a high fire hazard area. The project site is the marina, located within a Harbor area, largely surrounded by an urbanized environment, and is not adjacent to any wildlands. Therefore, no impacts related to wildland fires are anticipated, and no further analysis is required in the SEIR.

- i) Include a new or retrofitted storm water treatment control Best Management Practice (BMP), (e.g. water quality treatment basin, constructed treatment wetlands), the operation of which could result in significant environmental effects (e.g. increased vectors and odors)?**

**No Impact.** The proposed project does not include improvements to the storm drain system. Stormwater runoff on the docks will continue to discharge into the Harbor similar to existing conditions. Although BMPs will be required during the construction phases of the project, these are temporary measures to control sediment and erosion and would not result in increased vectors or odor conditions. Therefore, no impacts related to this issue are anticipated, and no further analysis is required in the SEIR.

### 3.15 PUBLIC SERVICES

#### Program FEIR Overview

**Impacts.** The Program FEIR concluded that the Revitalization Project would require fire protection services, but would not increase the need for fire protection beyond the capabilities of the Orange County Fire Authority (OCFA). Additionally, the Program FEIR stated that the Revitalization Project would not require new police facilities due to an increased need for police services. The Revitalization Project was further found not to impact existing educational facilities and would not result in additional roadway maintenance, library service, or public transportation needs that would exceed the existing capacity and levels of service. The Program FEIR concluded that with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures, no significant impacts are anticipated. Cumulatively, the Revitalization Project along with other future development could increase the need for public services in the area. However, the Program FEIR analysis concluded that public service impacts would be reduced to a less than significant level with incorporation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures. Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

**Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)**

- PDF 4.10-1** The Project is not located within the very high fire hazard severity zone per the OCFA maps. Additionally, automatic sprinklers shall be provided in all applicable structures, per OCFA requirements.
- SCA 4.10-4** Prior to the issuance of any grading permits or the issuance of a building permit (whichever occurs first), the County of Orange Dana Point Harbor Department shall provide evidence of adequate fire flow. The "Orange County Fire Authority Water Availability for Fire Protection" form shall be signed by the applicable water district and submitted to the Fire Chief for approval. If sufficient water to meet fire flow requirements is not available, an automatic fire extinguishing system may be required in each structure affected.
- SCA 4.10-12** Prior to the issuance of a grading or building permit, the County of Orange Dana Point Harbor Department shall submit to the Fire Chief a list of all hazardous, flammable, and combustible liquids, solids, or gases to be stored, used, or handled on site. These materials shall be classified according to the Uniform Fire Code and a document shall be submitted to the Fire Chief with a summary sheet listing the total amounts for storage and use for each hazard class.
- SCA 4.10-15** Prior to issuance of a certificate of use and occupancy, the County of Orange Dana Point Harbor Department shall provide plans or identity measures to comply with standard County procedures for implementing the Uniform Fire Code in the use of any combustible and flammable liquids, aboveground or underground storage of such materials, welding and potential spark production, and building occupancy rating in a manner meeting the approval of the Fire Chief. Further, a copy of the approved "UFC Implementation" shall be forwarded to the Manager, RDMD/Building Inspection Services, prior to the issuance of any certificates of use and occupancy.
- MM 4.10-4** The following items shall be considered for inclusion into the Project design:
- All applicable building plans shall indicate by note that the interior fire sprinkler system is required for the structure(s). Plans for the fire sprinkler systems shall be submitted for review and approval by the Fire Chief.
  - A supervised fire alarm system with an annunciator, per the requirements of the California Fire Code, shall be installed in an accessible location.
  - Access to and around all structures shall meet the OCFA and California Fire Code requirements.
  - A water supply system to supply fire hydrants and automatic fire sprinkler systems shall be installed.
  - Emergency access shall be maintained during construction.

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

**Level of Significance after Mitigation.** No unavoidable significant impacts related to Public Services were identified in the Program FEIR.

### Marina Improvement Project Checklist Responses

#### Would the Project:

- a) **Result in 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 any of the public services:**

i) **Fire protection?**

**No Impact.** Fire prevention, fire protection, and emergency medical services in the project area are provided by the OCFA, which operates two fire stations within the Dana Point city limits. Implementation of the project would not change response times and would not require new or physically altered governmental facilities. No additional marina capacity will be created with project implementation. Therefore, no impacts are anticipated, and no further analysis is required in the SEIR.

ii) **Police protection?**

**No Impact.** Law enforcement services within the City are provided by the Orange County Sheriff's Department. The Harbors and coast line of Orange County are also patrolled by the Orange County Sheriff's Department. The Harbor Patrol provides round-the-clock law enforcement, marine fire fighting, and search/rescue services within the Dana Point Harbor. The replacement of the marina's slips, docks, and gangways would not create additional demand for police staff, police services, or Harbor patrol facilities because the overall capacity of the marina will not be increased. In addition, implementation of the project would not change response times. Therefore, no impacts to police or Harbor patrol services are anticipated, and no further analysis is required in the SEIR.

iii) **Schools?**

**No Impact.** The proposed project does not include housing and would not contribute to the school-age population. The proposed Marina Improvement Project would have no impact on schools, and no further analysis is required in the SEIR.

**iv) Parks?**

**No Impact.** The proposed project is the improvement and replacement of marina docks and slips. The project would not increase the demand for additional parks and recreation services and would have no impacts on parks in the project vicinity. Therefore, no impacts related to park facilities are anticipated, and no further analysis is required in the SEIR.

**v) Other Public Facilities?**

**No Impact.** The proposed project is designed to reconfigure and replace the existing marina with new facilities in the same location and is not anticipated to impact any other public facilities. No further analysis is required in the SEIR.

### **3.16 UTILITIES AND SERVICE SYSTEMS**

#### **Program FEIR Overview**

**Impacts.** The Program FEIR concluded that the Revitalization Project would not result in any impact on reclaimed water facilities. The Program FEIR determined that the Revitalization Project would increase demand for natural gas facilities; would increase demand for water service; and would increase demand on sewer facilities. The Program FEIR concluded that with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures, no significant impacts are anticipated. Cumulatively, the Revitalization Project along with other future development could increase the need for utilities and service systems in the area. However, the Program FEIR analysis concluded that utilities and service system impacts would be reduced to a less than significant level with incorporation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures. Measures identified in the Program FEIR and applicable to the Marina Project are listed below.

Although the Revitalization Project would require installation of new electrical facilities, the Program FEIR anticipated that sufficient electrical service would be available for the project. It should be noted that impacts related to increased electrical demand for the Marina Project will be discussed further in the SEIR.

The Program FEIR did not address issues related to Greenhouse Gas Emissions (GHG). However, in compliance with Assembly Bill 32 (AB 32), passed in 2006, the SEIR will include a discussion of GHG emissions as they relate to increased energy uses.

#### **Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM)**

**PDF 4.10-2** Replacement of utilities or installation of new utilities shall be coordinated with the utility providers to ensure that service to adjoining utility customers is not interrupted.

## Marina Improvement Project Checklist Responses

Would the project:

- a) **Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?**

**Less Than Significant Impact.** The proposed project will renovate and reconfigure the slips and dock facilities in the Marinas and includes the replacement and relocation of pumpout facilities on the docks. However, no additional capacity will be created with implementation of the project. Although waste discharges include discharges of storm water and construction project discharges, the project does not include any storm water improvements or changes to any existing storm water facilities, and no landside excavation or disturbance would occur that would cause wastewater treatment requirements to be exceeded. Therefore, the project is not anticipated to exceed wastewater treatment requirements, and no further analysis is required in the SEIR. All construction-related impacts will be addressed in the Hydrology/Water Quality section of the SEIR.

- b) **Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**
- c) **Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

The following response applies to questions b and c, above.

**Less Than Significant Impact.** The proposed project does not include improvements to public water, wastewater, or storm drain systems. The dock replacement program, however, will include water line replacement as well as the replacement and relocation of pumpout facilities on the docks, but will not expand water service. Storm water runoff on the docks will continue to discharge into the Harbor, similar to existing conditions. Although BMPs will be required during the construction phases of the project, these are temporary measures to control sediment and erosion and would not result in increased vectors or odor conditions. Therefore, no impacts related to this issue are anticipated, and no further analysis is required in the SEIR.

- d) **Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?**
- e) **Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

The following response applies to questions d and e, above.

**Less Than Significant Impact.** The proposed project includes the provision of water within the new dock systems. However, water is currently provided to the slips, and no increase in demand is anticipated because no increased capacity in the marina is proposed. In addition, although replacement and relocation of pumpout facilities is included, no additional wastewater facilities are



proposed. Therefore, the proposed project is not anticipated to result in an increase in demand for water supply or wastewater services, and no addition or expansion of entitlements is needed. No further analysis is required in the SEIR.

- f) **Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**
- g) **Comply with federal, state, and local statutes and regulations related to solid waste?**

**The following response applies to questions f and g, above.**

**Less Than Significant Impact.** Because capacity is not increased with project implementation, waste generated is expected to be similar to existing conditions and will not require additional landfill capacity. In addition, the proposed project, including disposal of old docks, will be required to comply with applicable elements of AB 1327, Chapter 18 (California Solid Waste Reuse and Recycling Access Act of 1991) and other applicable local, State, and federal solid waste disposal standards. No further analysis regarding landfill capacity and solid waste regulations is required. Construction traffic related to disposal of construction waste and potentially hazardous waste materials will be addressed in the Traffic and Hazards sections of the SEIR.

### **3.17 MANDATORY FINDINGS OF SIGNIFICANCE**

- a) **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?**

**Potentially Significant Impact.** The proposed project does not increase the capacity of the marina or change any existing land uses. Therefore, the long-term operation of the proposed project would not result in impacts to the marine wildlife and habitat that are significantly different or greater than existing conditions. However, temporary construction activities and dredging activities, if required, could result in short-term habitat loss and potential impacts to a variety of marine species. In addition, the project has the potential to impact species of birds that use the marina during migration and for nesting purposes. The SEIR will further address these potential impacts to fish and wildlife habitats and communities.

No known historical, archaeological, or paleontological resources have been identified on site. In addition, the presence of prehistoric cultural material is unlikely because the Marina Improvement Project involves the marina facilities in the Harbor waters, and no landside excavation is required for project implementation. Therefore, no impacts to important examples of California history or prehistory are anticipated with project implementation.

- b) **Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)**

**Potentially Significant Impact.** As discussed in this IS, the proposed project does not increase the capacity of the marina or change any existing land uses, and the long-term operation would not result in impacts that are significantly different or greater than existing conditions. Therefore, the proposed project, in combination with past, present, and reasonably foreseeable projects, is not anticipated to contribute to long-term cumulative environmental effects. However, temporary cumulative impacts related to construction activities will be evaluated further in the SEIR. The proposed project's contribution to the cumulative effects of aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services and utilities, and transportation and traffic will be addressed in the SEIR. All other environmental effects of the proposed project were determined in this IS to be less than significant, or there was no impact.

**c) Does the project have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?**

**Potentially Significant Impact.** The potential for the proposed project to have substantial environmental effects on human beings, either directly or indirectly, will be addressed in the SEIR. Relevant topics include aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services and utilities, and transportation and traffic. Mitigation measures will be incorporated where possible to reduce potential environmentally adverse impacts to humans to less than significant levels.



ARNOLD SCHWARZENEGGER  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT

COPY



CYNTHIA BRYANT  
DIRECTOR

Notice of Preparation

November 27, 2007

To: Reviewing Agencies

Re: Dana Point Harbor Marina Improvement Project  
SCH# 2003101142

Attached for your review and comment is the Notice of Preparation (NOP) for the Dana Point Harbor Marina Improvement Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

**Brad Gross**  
Orange County, Dana Point Harbor Dept.  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan  
Project Analyst, State Clearinghouse

Attachments  
cc: Lead Agency

11-30-07P12:12 RCVD

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2003101142  
**Project Title** Dana Point Harbor Marina Improvement Project  
**Lead Agency** Orange County

**Type** NOP Notice of Preparation

**Description** The Dana Point Harbor Marina Improvement project renovations will include removal of nearly all floating docks and piles; reconstruction of portions of the degraded quay wall; installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and utilities. In addition, the reconfiguration of the Youth and Group docks may require dredging in the basin area on the northwest side of the facility. Other areas under the new slips may also require maintenance dredging not to exceed original design depths in the basin (this maintenance dredging is not a part of the Waterside project). Other marina project components include improved lighting on the docks and public access improvements, including gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines. At project completion the total number of boat slips under the County's preferred design would decrease from 2,409 to 2,035, resulting in a net loss of 374 slips. However, the average slip length would increase from 30 (29.85) ft. to 34 (33.96) ft.

**Lead Agency Contact**

**Name** Brad Gross  
**Agency** Orange County, Dana Point Harbor Dept.  
**Phone** (949) 923-2236 **Fax**  
**email**  
**Address** 24650 Dana Point Harbor Drive  
**City** Dana Point **State** CA **Zip** 92629

**Project Location**

**County** Orange  
**City** Dana Point  
**Region**  
**Cross Streets** Golden Lantern Street / Dana Point Harbor Drive  
**Parcel No.** Water Area  
**Township** **Range** **Section** **Base**

**Proximity to:**

**Highways** SR 1, I-5  
**Airports**  
**Railways** OCTA Metrolink  
**Waterways** San Juan Creek  
**Schools** Capistrano Valley Unified School District  
**Land Use** Present Land Use is recreational Marinas/Zoning: Dana Point Harbor Planned Community (City of Dana Point)/General Plan: Harbor Marine Water (City of Dana Point)

**Project Issues** Aesthetic/Visual; Air Quality; Biological Resources; Coastal Zone; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wildlife; Landuse; Cumulative Effects; Soil Erosion/Compaction/Grading

**Reviewing Agencies** Resources Agency; Department of Boating and Waterways; California Coastal Commission; Department of Conservation; Department of Parks and Recreation; Department of Fish and Game, Region 5; Department of Fish and Game, Marine Region; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; California Highway Patrol; Caltrans, District 12; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 9

**Date Received** 11/27/2007 **Start of Review** 11/27/2007 **End of Review** 12/26/2007

Note: Blanks in data fields result from insufficient information provided by lead agency.

# Notice of Completion & Environmental Document Transmittal

SCH# 2003101142

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 916/445-0613  
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

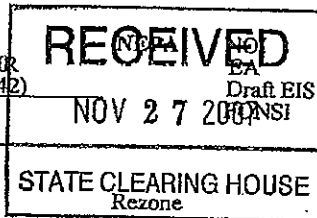
Project Title: Dana Point Harbor Marina Improvement Project  
 Lead Agency: County of Orange -- Dana Point Harbor Department Contact Person: Brad Gross, Director  
 Street Address: 24650 Dana Point Harbor Drive Phone: (949) 923-2236  
 City: Dana Point Zip: 92629 County: Orange

### Project Location:

County: Orange City/Nearest Community: Dana Point  
 Cross Streets: Street of the Golden Lantern / Dana Point Harbor Drive Zip Code: 92629  
 Assessor's Parcel No. Water Area Section: \_\_\_\_\_ Twp. \_\_\_\_\_ Range: \_\_\_\_\_ Base: \_\_\_\_\_  
 Within 2 Miles: State Hwy #: State Highway 1 & Interstate 5 Waterways: San Juan Creek  
 Airports: No Railways: OCTA MetroLink Schools: Capistrano Valley Unified School District

### Document Type:

CEQA: NOP \_\_\_\_\_ Draft EIR \_\_\_\_\_ Other: Joint Document  
 Early Cons \_\_\_\_\_ X Supplement/Subsequent EIR \_\_\_\_\_ Final Document  
 Neg Dec \_\_\_\_\_ (Prior SCH No 2003101142) \_\_\_\_\_ Other \_\_\_\_\_  
 Mit Neg Dec \_\_\_\_\_ Other \_\_\_\_\_



### Local Action Type:

General Plan Update \_\_\_\_\_ Specific Plan \_\_\_\_\_ Annexation \_\_\_\_\_  
 General Plan Amendment \_\_\_\_\_ Master Plan \_\_\_\_\_ Redevelopment \_\_\_\_\_  
 General Plan Element \_\_\_\_\_ Planned Unit Development \_\_\_\_\_ X Coastal Permit \_\_\_\_\_  
 Community Plan \_\_\_\_\_ X Site Plan \_\_\_\_\_ Land Division (Subdivision, etc.) \_\_\_\_\_ Other \_\_\_\_\_

### Development Type

Residential: Units \_\_\_\_\_ Acres \_\_\_\_\_  
 Office: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  
 Commercial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  
 Industrial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  
 Educational: \_\_\_\_\_  
 X Recreational: Harbor, Marinas  
 Total Acres (approx.) 169.7

X Water Facilities: \_\_\_\_\_ Type Marinas \_\_\_\_\_ MGD \_\_\_\_\_  
 Transportation: \_\_\_\_\_ Type \_\_\_\_\_  
 Mining: \_\_\_\_\_ Mineral \_\_\_\_\_  
 Power: \_\_\_\_\_ Type \_\_\_\_\_ Watts \_\_\_\_\_  
 Waste Treatment: \_\_\_\_\_ Type \_\_\_\_\_  
 Hazardous Waste: \_\_\_\_\_ Type \_\_\_\_\_  
 Other \_\_\_\_\_

### Project Issues Discussed in Document:

<input checked="" type="checkbox"/> Aesthetic/Visual	<input type="checkbox"/> Fiscal	<input checked="" type="checkbox"/> Recreation/Parks	<input checked="" type="checkbox"/> Vegetation
<input checked="" type="checkbox"/> Agricultural Land	<input checked="" type="checkbox"/> Flood Plain/Flooding	<input checked="" type="checkbox"/> Schools/Universities	<input checked="" type="checkbox"/> Water Quality
<input checked="" type="checkbox"/> Air Quality	<input checked="" type="checkbox"/> Forest Land/Fire Hazard	<input type="checkbox"/> Septic Systems	<input type="checkbox"/> Water Supply/Groundwater
<input checked="" type="checkbox"/> Archaeological/Historical	<input checked="" type="checkbox"/> Geologic/Seismic	<input type="checkbox"/> Sewer Capacity	<input type="checkbox"/> Wetland/Riparian
<input checked="" type="checkbox"/> Biological Resources	<input type="checkbox"/> Minerals	<input checked="" type="checkbox"/> Soil Erosion/Compaction/Grading	<input checked="" type="checkbox"/> Wildlife
<input checked="" type="checkbox"/> Coastal Zone	<input checked="" type="checkbox"/> Noise	<input checked="" type="checkbox"/> Solid Waste	<input type="checkbox"/> Growth-Inducing
<input checked="" type="checkbox"/> Drainage/Absorption	<input checked="" type="checkbox"/> Population/Housing Balance	<input checked="" type="checkbox"/> Toxic/Hazardous	<input checked="" type="checkbox"/> Land Use
<input type="checkbox"/> Economic/Jobs	<input checked="" type="checkbox"/> Public Services/Facilities	<input checked="" type="checkbox"/> Traffic/Circulation	<input checked="" type="checkbox"/> Cumulative Effects
			<input type="checkbox"/> Other _____

### Present Land Use/Zoning/General Plan Designation:

Present Land Use is recreational Marinas / Zoning: Dana Point Harbor Planned Community (City of Dana Point)/ General Plan: Harbor Marine Water (City of Dana Point)

### Project Description: (please use a separate page if necessary)

The Dana Point Harbor Marina Improvement Project renovations will include removal of nearly all floating docks and piles; reconstruction of portions of the degraded quay wall; installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and utilities. In addition, the reconfiguration of the Youth and Group docks may require dredging in the basin area on the northwest side of the facility. Other areas under the new slips may also require maintenance dredging not to exceed original design depths in the basin (this maintenance dredging is not a part of the Waterside project). Other marina project components include improved lighting on the docks and public access improvements, including gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines. At project completion the total number of boat slips under the County's preferred design would decrease from 2,409 to 2,035, resulting in a net loss of 374 slips. However, the average slip length would increase from 30 (29.85) ft. to 34 (33.96) ft.

**Reviewing Agencies Checklist**

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X."  
If you have already sent your document to the agency, please denote that with an "S."

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Air Resources Board                 | <input type="checkbox"/> Office of Historic Preservation                    |
| <input checked="" type="checkbox"/> Boating & Waterways, Department of  | <input type="checkbox"/> Office of Public School Construction               |
| <input type="checkbox"/> California Highway Patrol                      | <input checked="" type="checkbox"/> Parks & Recreation                      |
| <input checked="" type="checkbox"/> Caltrans District # 12              | <input type="checkbox"/> Pesticide Regulation, Department of                |
| <input type="checkbox"/> Caltrans Division of Aeronautics               | <input type="checkbox"/> Public Utilities Commission                        |
| <input type="checkbox"/> Caltrans Planning (Headquarters)               | <input type="checkbox"/> Reclamation Board                                  |
| <input type="checkbox"/> Coachella Valley Mountains Conservancy         | <input checked="" type="checkbox"/> Regional WQCB # 9                       |
| <input checked="" type="checkbox"/> Coastal Commission                  | <input checked="" type="checkbox"/> Resources Agency                        |
| <input type="checkbox"/> Colorado River Board                           | <input type="checkbox"/> S.F. Bay Conservation & Development Commission     |
| <input checked="" type="checkbox"/> Conservation, Department of         | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns Conservancy |
| <input type="checkbox"/> Corrections, Department of                     | <input type="checkbox"/> San Joaquin River Conservancy                      |
| <input type="checkbox"/> Delta Protection Commission                    | <input type="checkbox"/> Santa Monica Mountains Conservancy                 |
| <input type="checkbox"/> Education, Department of                       | <input checked="" type="checkbox"/> State Lands Commission                  |
| <input type="checkbox"/> Energy Commission                              | <input type="checkbox"/> SWRCB: Clean Water Grants                          |
| <input checked="" type="checkbox"/> Fish & Game Region # 5              | <input checked="" type="checkbox"/> SWRCB: Water Quality                    |
| <input type="checkbox"/> Food & Agriculture, Department of              | <input type="checkbox"/> SWRCB: Water Rights                                |
| <input type="checkbox"/> Forestry & Fire Protection                     | <input type="checkbox"/> Tahoe Regional Planning Agency                     |
| <input type="checkbox"/> General Services, Department of                | <input type="checkbox"/> Toxic Substances Control, Department of            |
| <input type="checkbox"/> Health Services, Department of                 | <input checked="" type="checkbox"/> Water Resources, Department of          |
| <input type="checkbox"/> Housing & Community Development                | <input type="checkbox"/> Other _____  |
| <input type="checkbox"/> Integrated Waste Management Board              | <input type="checkbox"/> Other _____  |
| <input checked="" type="checkbox"/> Native American Heritage Commission |   |
| <input type="checkbox"/> Office of Emergency Services                   |   |

**Local Public Review Period (to be filled in by lead agency)**

Starting Date Tuesday, November 27, 2007 Ending Date Wednesday, January 2, 2008

**Lead Agency (Complete if applicable):**

Consulting Firm: LSA Associates, Inc. Applicant: County of Orange - Dana Point Harbor Department  
 Address: 20 Executive Park, Suite 200 Address: 24650 Dana Point Harbor Drive  
 City/State/Zip: Irvine, CA 92614 City/State/Zip: Dana Point, California 92629  
 Contact: Mr. Rob Balen Phone: Brad Gross, Director (949) 923-2236  
 Phone: (949) 553-0666

Signature of Lead Agency Representative:  Date: 21 NOV 2007

Resources Agency	County	SCH#	Regional Water Quality Control Board (RWQCB)
<input type="checkbox"/> Fish & Game Region 2 Jeff Drongessen	<input type="checkbox"/> Public Utilities Commission Ken Lewis	<input type="checkbox"/> Caltrans, District 8 Dan Kopulsky	<input type="checkbox"/> RWQCB 1 Cathleen Hudson
<input type="checkbox"/> Fish & Game Region 3 Robert Floerke	<input type="checkbox"/> Santa Monica Bay Restoration Guangyu Wang	<input type="checkbox"/> Caltrans, District 9 Gayle Rosandar	<input type="checkbox"/> RWQCB 2 North Coast Region (1)
<input type="checkbox"/> Fish & Game Region 4 Julie Vance	<input checked="" type="checkbox"/> State Lands Commission Jean Satino	<input type="checkbox"/> Caltrans, District 10 Tom Dumas	<input type="checkbox"/> RWQCB 3 Environmental Document Coordinator
<input checked="" type="checkbox"/> Fish & Game Region 5 Don Chadwick	<input type="checkbox"/> Tahoe Regional Planning Agency (TRPA) Cherry Jacques	<input type="checkbox"/> Caltrans, District 11 Mario Orso	<input type="checkbox"/> RWQCB 4 San Francisco Bay Region (2)
<input type="checkbox"/> Fish & Game Region 6 Gabrina Gatchel	<u>Business, Trans &amp; Housing</u>	<input checked="" type="checkbox"/> Caltrans, District 12 Bob Joseph	<input type="checkbox"/> RWQCB 5 Central Coast Region (3)
<input type="checkbox"/> Habitat Conservation Program	<input type="checkbox"/> Caltrans - Division of Aeronautics Sandy Hesnard		<input type="checkbox"/> RWQCB 5F Central Valley Region (5)
<input type="checkbox"/> Fish & Game Region 6 I/M Gabrina Gatchel	<input type="checkbox"/> Caltrans - Planning Terri Pencovic		<input type="checkbox"/> RWQCB 5R Central Valley Region (5)
<input type="checkbox"/> Inyo/Mono, Habitat Conservation Program	<input type="checkbox"/> California Highway Patrol Shirley Kelly		<input type="checkbox"/> RWQCB 6 Fresno Branch Office
<input checked="" type="checkbox"/> Dept. of Fish & Game M George Isaac	<input type="checkbox"/> Office of Special Projects Shirley Kelly		<input type="checkbox"/> RWQCB 6V Lahontan Region (6)
<input type="checkbox"/> Marine Region	<input type="checkbox"/> Housing & Community Development Lisa Nichols		<input type="checkbox"/> RWQCB 7 Colorado River Basin Region (7)
<u>Other Departments</u>	<input type="checkbox"/> Housing Policy Division		<input type="checkbox"/> RWQCB 8 Santa Ana Region (8)
<input type="checkbox"/> Food & Agriculture Steve Shaffer	<u>Dept. of Transportation</u>		<input checked="" type="checkbox"/> RWQCB 9 San Diego Region (9)
<input type="checkbox"/> Dept. of Food and Agriculture Steve Shaffer	<input type="checkbox"/> Caltrans, District 1 Rex Jackman		<input type="checkbox"/> Other
<input type="checkbox"/> Dept. of General Services Public School Construction	<input type="checkbox"/> Caltrans, District 2 Marcelino Gonzalez		
<input type="checkbox"/> Dept. of General Services Robert Sleppy	<input type="checkbox"/> Caltrans, District 3 Jeff Pulverman		
<input type="checkbox"/> Environmental Services Section	<input type="checkbox"/> Caltrans, District 4 Tim Sable		
<input type="checkbox"/> Dept. of Health Services Veronica Malloy	<input type="checkbox"/> Caltrans, District 5 David Murray		
<input type="checkbox"/> Dept. of Health/Drinking Water	<input type="checkbox"/> Caltrans, District 6 Marc Birbaum		
<u>Independent Commissions/Boards</u>	<input type="checkbox"/> Caltrans, District 7 Cheryl J. Powell		
<input type="checkbox"/> Delta Protection Commission Debbie Eddy			
<input type="checkbox"/> Office of Emergency Services Dennis Castillo			
<input type="checkbox"/> Governor's Office of Planning & Research State Clearinghouse			
<input checked="" type="checkbox"/> Native American Heritage Debbie Treadway			
<input type="checkbox"/> Resources Agency Nadell Gayou			
<input type="checkbox"/> Dept. of Boating & Waterways David Johnson			
<input type="checkbox"/> California Coastal Commission Elizabeth A. Fuchs			
<input type="checkbox"/> Colorado River Board Gerald R. Zimmerman			
<input type="checkbox"/> Dept. of Conservation Sharon Howell			
<input type="checkbox"/> California Energy Commission Paul Richins			
<input type="checkbox"/> Cal Fire Allen Robertson			
<input type="checkbox"/> Office of Historic Preservation Wayne Donaldson			
<input type="checkbox"/> Dept. of Parks & Recreation Environmental Stewardship Section			
<input type="checkbox"/> Reclamation Board Mak Herald			
<input type="checkbox"/> S.F. Bay Conservation & Dev't. Comm. Steve McAdam			
<input type="checkbox"/> Dept. of Water Resources Nadell Gayou			
<input type="checkbox"/> Conservancy			
<u>Fish and Game</u>			
<input type="checkbox"/> Depart. of Fish & Game Scott Flint			
<input type="checkbox"/> Environmental Services Division Donald Koch			
<input type="checkbox"/> Fish & Game Region 1 Laurie Harnsberger			
<input type="checkbox"/> Fish & Game Region 1E Laurie Harnsberger			

COPY

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
e-mail: [da\\_nahc@pacbell.net](mailto:da_nahc@pacbell.net)



November 29, 2007

Mr. Brad Gross

**ORANGE COUNTY DANA POINT HARBOR DEPARTMENT**

24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Re: SCH#2003101142: CEQA Notice of Preparation (NOP); Draft Subsequent Environmental Impact Report (DSEIR) for the Dana Point Harbor Marina Improvement Project, Orange County, California

Dear Mr. Gross:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- √ Contact the appropriate California Historic Resources Information Center (CHRIS). Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278) <http://www.ohp.parks.ca.gov/1068/files/IC%20Roster.pdf> The record search will determine:
  - If a part or the entire APE has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded in or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- √ Contact the Native American Heritage Commission (NAHC) for:
  - \* A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
  - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).
- √ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- √ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
  - \* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the

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NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

√ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse



FILE



# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

November 30, 2007

Mr. Brad Gross, Director  
County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Dear Mr. Gross:

## **Notice of Preparation of a Draft Subsequent Environmental Impact Report (Draft SEIR) for the Dana Point Harbor Marina Improvement Project**

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft environmental impact report (SEIR). Please send the SCAQMD a copy of the Draft SEIR upon its completion. **In addition, please send with the draft SEIR all appendices or technical documents related to the air quality analysis and electronic versions of all air quality modeling and health risk assessment files. Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

### **Air Quality Analysis**

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. Alternatively, the lead agency may wish to consider using the California Air Resources Board (CARB) approved URBEMIS 2007 Model. This model is available on the SCAQMD Website at: [www.urbemis.com](http://www.urbemis.com).

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM<sub>2.5</sub> emissions from construction and operational activities and processes. In connection with developing PM<sub>2.5</sub> calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM<sub>2.5</sub> emissions and compare the results to the recommended PM<sub>2.5</sub> significance thresholds. Guidance for calculating PM<sub>2.5</sub> emissions and PM<sub>2.5</sub> significance thresholds can be found at the following internet address: [http://www.aqmd.gov/ceqa/handbook/PM2\\_5/PM2\\_5.html](http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html).

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November 30, 2007

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

It is recommended that lead agencies for projects generating or attracting vehicular trips, especially heavy-duty diesel-fueled vehicles, perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: [http://www.aqmd.gov/ceqa/handbook/mobile\\_toxic/mobile\\_toxic.html](http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html). An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

#### **Mitigation Measures**

In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: [www.aqmd.gov/ceqa/handbook/mitigation/MM\\_intro.html](http://www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html) Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/aqguide/aqguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

#### **Data Sources**

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD is willing to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. Please call Charles Blankson, Ph.D., Air Quality Specialist, CEQA Section, at (909) 396-3304 if you have any questions regarding this letter.

Sincerely,



Steve Smith, Ph.D.  
Program Supervisor, CEQA Section  
Planning, Rule Development and Area Sources

SS:CB:AK

ORC071127-06AK

Control Number



Linda S. Adams  
Secretary for  
Environmental Protection



**COPY**

## Department of Toxic Substances Control



Maureen F. Gorsen, Director  
5796 Corporate Avenue  
Cypress, California 90630

Arnold Schwarzenegger  
Governor

December 20, 2007

Mr. Brad Gross, Director  
Dana Point Harbor Department  
County of Orange  
24650 Dana Point Harbor Drive  
Dana Point, California 92629  
Marinaeir@dphd.ocgov.com

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT  
FOR THE DANA POINT HARBOR MARINA IMPROVEMENT PROJECT, GOLDEN  
LANTERN STREET AND DANA POINT HARBOR DRIVE, DANA POINT, ORANGE  
COUNTY, 92629 (SCH#2003101142)

Dear Mr. Gross:

The Department of Toxic Substances Control (DTSC) has received your submitted Notice of Preparation of a Draft Subsequent Environmental Impact Report (EIR) for the above-mentioned project. The following project description is stated in your document: "Previously certified Dana Point Harbor Revitalization Program FEIR No. 591 (SCH#2003101142) on January 31, 2006. The Dana Point Harbor Marina Improvement project renovations will include removal of nearly all floating docks and piles; reconstruction of portions of the degraded quay wall; installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and utilities. In addition, the reconfiguration of the Youth and Group docks may require dredging in the basin area on the northwest side of the facility. Other areas under the new slips may also require maintenance dredging not to exceed original design depths in the basin (this maintenance dredging is not a part of the Waterside project). Other marina project components include improved lighting on the docks and public access improvement, including gangways and docks in compliance with the American with Disabilities Act (ADA) guidelines. At project completion the total number of boat slips under the County's preferred design would decrease from 2,409 to 2,035, resulting in a net loss of 374 slips. However, the average slip length would increase from 30 ft. to 34 ft." Again, DTSC has these following comments; please address if applicable.

- 1) The EIR should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances.

Mr. Brad Gross  
December 20, 2007  
Page 2

- 2) The EIR should identify the known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:
  - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
  - Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
  - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
  - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
  - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
  - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
  - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
  - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 3) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents. Please see comment No. 17 below for more information.
- 4) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of

any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be clearly summarized in a table.

- 5) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports should be included in the EIR.
- 6) If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a Border Zone Property.
- 7) If buildings, other structures, or associated uses; asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies. Your document states on page 3-32: "Project Design Features (PDF), Standard Conditions (SC), and Mitigation Measures (MM) applicable to the Marina Project are listed (several listed). MM 4.8-4 Any transformers to be relocated during site construction/demolition should be conducted under the purview of the local utility purveyor to identify property handling procedures regarding potential PCBs. MM 4.8-9 If unknown wastes or suspect materials are discovered during construction that the contractor believes may be or contain hazardous waste or materials, the contractor shall notify the implementing agency's hazardous waste/materials coordinator."
- 8) The project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination. Your document states: "...impacts related to the routine use and disposal of hazardous materials and fuel used in the regular maintenance and operation of boats will be evaluated further in the SEIR. In addition, disposal of any dredged soils or docks or piles that have been treated with paints or chemicals shall be addressed in the SEIR."

- 9) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 10) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code; Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).
- 11) If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (714) 484-5423 to initiate pre-application discussions and determine the permitting process applicable to the facility.
- 12) If it is determined that hazardous wastes will be generated, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942.
- 13) Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 14) If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB).
- 15) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area would cease and appropriate health and safety procedures should be implemented.
- 16) If the site was used for agricultural, cattle ranching or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.
- 17) Envirostor (formerly CalSites) is a database primarily used by the California Department of Toxic Substances Control, and is accessible through DTSC's website. DTSC can provide guidance for cleanup oversight through an



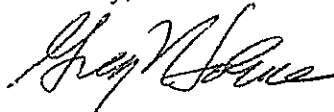
Mr. Brad Gross  
December 20, 2007  
Page 5

Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA please see [www.dtsc.ca.gov/SiteCleanup/Brownfields](http://www.dtsc.ca.gov/SiteCleanup/Brownfields), or contact Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489 for the VCA.

- 18) In future CEQA documents please provide contact person information, title, contact fax and e-mail address, and agency web address which contains the project information. Also, if the project title changes, please provide historical project title(s).

If you have any questions regarding this letter, please contact Ms. Teresa Hom, Project Manager, preferably at email: [thom@dtsc.ca.gov](mailto:thom@dtsc.ca.gov). Her office number is (714) 484-5477 and fax at (714) 484-5438.

Sincerely,



Greg Holmes  
Unit Chief  
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

CEQA Tracking Center  
Department of Toxic Substances Control  
Office of Environmental Planning and Analysis  
1001 I Street, 22<sup>nd</sup> Floor, M.S. 22-2  
Sacramento, California 95814  
[gmoskat@dtsc.ca.gov](mailto:gmoskat@dtsc.ca.gov)

CEQA#1968

From: <Howard L. Howell>  
To: <m.tuchman@cox.net>; <ywang@yvetzky.com>  
Sent: Monday, December 24, 2007 5:59 PM  
Subject: DPHPlan Website Contact Form

> Below is the result of your feedback form. It was submitted by  
Howard

> L. Howell () on Monday, December 24, 2007 at 20:59:19  
> -----  
> -  
> -----  
>  
> subject: DPHPlan Website Contact Form  
>  
> env\_report: REMOTE\_HOST,REMOTE\_ADDR,HTTP\_USER\_AGENT  
>  
> Email: hlhowell@pacbell.net  
>  
> boat\_owner: on  
>  
> comments: EIR is in serious error. Sections 1A, 2C,3A,3B,3C, 5H, 6B,  
> 6G,  
> 9E, and 11A are all misrepresented. The net loss of slips, and the  
> resultant impact on slip fees, loss of taxes to the county, loss of  
> live-aboards due to loss of slip count who are not well represented  
> due to  
> state regulations, and are an underrepresented minority with specific  
> rights all are impacted significantly, resulting in increased housing  
> pressures, increased costs to the boating public at large, and may  
> well be  
> actionable. I strongly suggest that the report be recalled, these  
> sections reviewed as to the specific impact on liveaboards, and the  
> resultant effect on a specific cultural feature of ocean side  
> communities.  
> This is a great loss, of individuals with great capacity for adding  
> specific character and value to the community. The loss of this  
> constituentancy is irreplaceable, and a loss of a special aspect of  
> harbor  
> life.  
>  
> Regards,  
> Les H

**ORIGINAL****DEPARTMENT OF TRANSPORTATION**

District 12  
3337 Michelson Drive, Suite 380  
Irvine, CA 92612-8894  
Tel: (949) 724-2267  
Fax: (949) 724-2592



*Flex your power!  
Be energy efficient!*

**December 26, 2007**

Mr. Brad Gross  
Orange County, Dana Point Harbor Department  
24650 Golden Lantern  
Dana Point, California 92629

File: IGR/CEQA  
SCH#: 2003101142  
Log #: 1327-B  
SR #: PCH

**Subjects: Dana Point Harbor Marina Improvement Project**

Dear Mr. Gross,

Thank you for the opportunity to review and comment on the **Dana Point Harbor Marina Improvement Project**. The improvements include removal of nearly all floating docks and piles; reconstruction of portions of the dredged quay wall; gangways, security gates, and utilities. Dana Point Harbor is County owned and operated facility located in the southern portion of the City of Dana Point. The nearest State Route to the project is Pacific Coast Highway (PCH).

**Caltrans District 12 is a commenting agency** on this project and we have no comments at this time. However, in the event of any activity in Caltrans' right-of-way, an encroachment permit will be required. Applicants are required to plan for sufficient permit processing time, which may include engineering studies and environmental documentation.

Please continue to keep us informed of this project and any future developments, which could potentially impact the transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Maryam Molavi at (949) 724-2267.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan P. Chamberlain".

Ryan Chamberlain, Branch Chief  
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research



**ORANGE COUNTY FIRE AUTHORITY**  
P.O. Box 57115, Irvine, CA 92619-7115 • 1 Fire Authority Rd., Irvine, CA 92602  

---

Chip Prather, Fire Chief (714) 573-6000

December 28, 2007

County of Orange  
Dana Point Harbor Dept  
Brad Gross, Director  
24650 Dana Point Harbor Dr  
Dana Point, CA 92629

Re: **Dana Point Harbor Subsequent EIR NOP**

Dear Mr. Gross,

Thank you for the opportunity to comment on the subject project. The Orange County Fire Authority does not believe this will be of any significant impact to our agency in regards to additional resources. Of concern to our agency is continued emergency access, fire lanes, and egress at the project and during the construction phases. We also wish to review the hydrant and water supply plans as early as possible.

For emergency access, we recommend the following mitigations:

- All traffic signals on public access ways that are a part of this project should include the installation of optical preemption devices.
- All electrically operated gates within the Project shall install emergency opening devices as approved by the Orange County Fire Authority. This includes the "man" gateways onto the docks.

While no additional public safety resources are needed as a result of this project, all standard conditions and guidelines will be applied to the project during the normal review process.

If you have any additional questions, please contact me at (714) 573-6199.

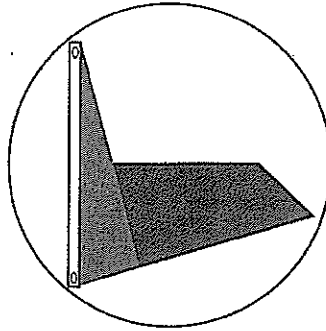
Sincerely,

A handwritten signature in black ink, appearing to read "Michele Hernandez".

Michele Hernandez  
[michelehernandez@ocfa.org](mailto:michelehernandez@ocfa.org)  
Management Analyst, Strategic Services

12-31-07A09:40 RCVD

*Dana Point  
Yacht Club*



*24399 Dana Dr. Dana Island  
Dana Point, Ca 92629  
949-496-2900  
Fax 949-496-1603  
dfyyc@dfyyc.org*

Brad Gross  
Director  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Dear Mr. Gross,

Dec. 28, 2007

Dana Point Yacht Club generally supports the intent of the Dana Point Harbor Revitalization Plan.

Having said that we feel that the latest placement of the temporary dock locations in the Proposed Layout R2 page 8/8 (see attached) "Proposed Harbor Layout Dana Point Harbor Marinas" Figure #3 Temporary Docks Labeled T-1, T-2 and T-3 present significant water and land-based issues. Until our very recent review of the above documents, the final proposed location of the temporary docks had not been revealed to Dana Point Yacht Club.

Having now reviewed these latest documents, we realize that these proposed locations will have the following significant water-based adverse impacts:

1. Decrease in safe navigable waters in an area historically impacted by shoaling; and
2. Impedance of egress and ingress of large and or deep drafted vessels combined with a reduction of the federal anchorage area.

In addition to waterway concerns, there are significant land-based considerations and impacts on parking and public facilities in that particular area of the island that are presently of concern without the additional impacts of the proposed location of these temporary docks.

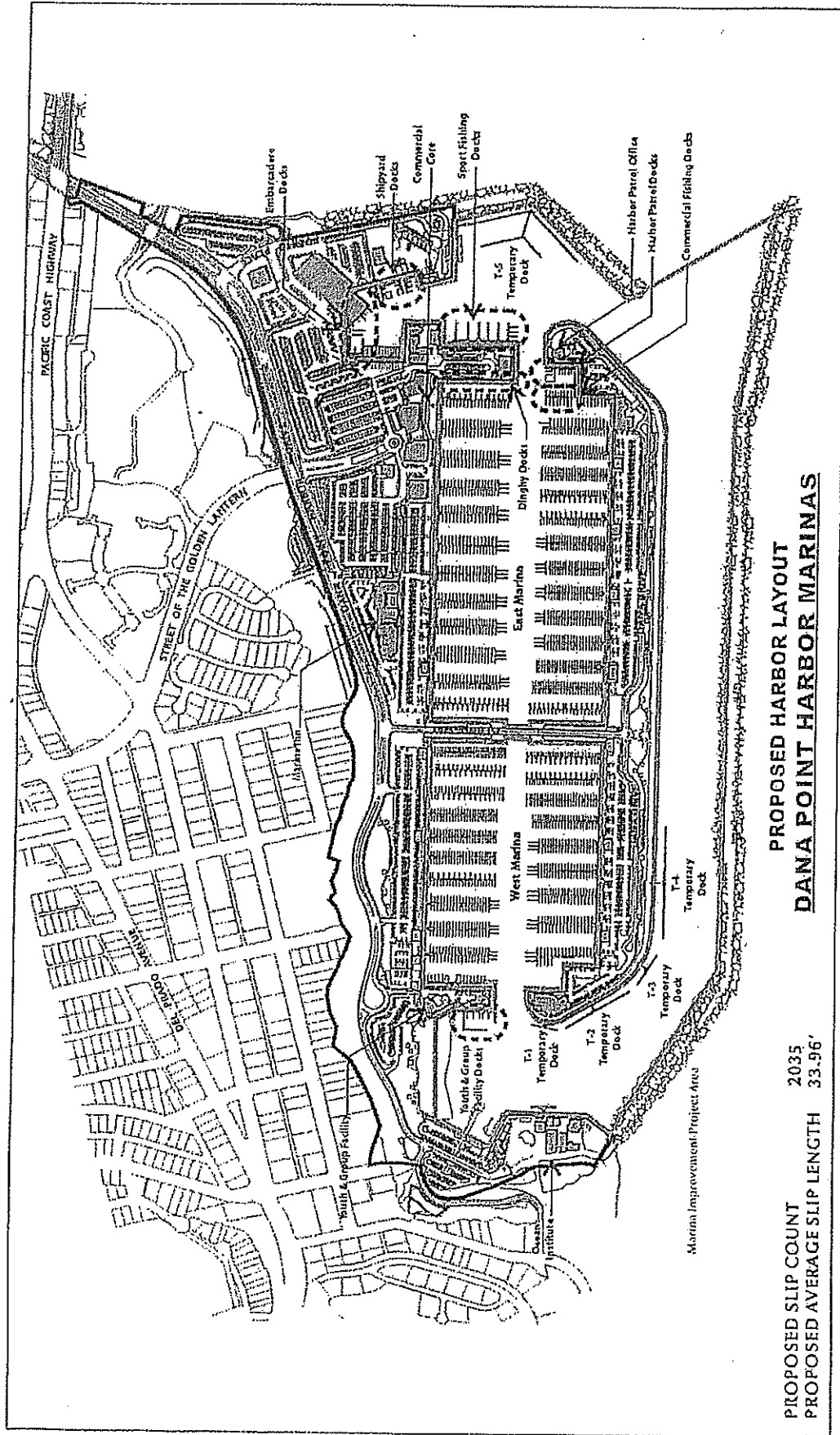
We feel that the placement of temporary docks needs further consideration, and we stand ready to work with the County to produce the most favorable plan for temporary docks in the Dana Point Harbor.”

I hope that this helps.

Sincerely,

A handwritten signature in black ink that reads "Suzanne Jones". The signature is written in a cursive style with a large, looping initial "S" and a long, sweeping tail that loops back under the name.



Suzanne Jones  
Commodore  
Dana Point Yacht Club



PROPOSED SLIP COUNT 2035  
 PROPOSED AVERAGE SLIP LENGTH 33.96'

LSA

LEGEND

-  Boundary
-  Marina Improvement Project Area

NOTE: Landslide areas are shown in accordance with the Dana Point Harbor Revitalization Plan and District Regulations Land Use Plan.



SOURCE: URS/Cash & Associates  
 I:\CA\B601\GR\Prop1.nymour2 10\_07.cdr (11/25/07)

FIGURE 3

Dana Point Harbor Marina Improvement Project  
 Proposed Harbor Layout



January 2, 2008

County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Subject: City of Dana Point Comments on NOP for a Draft Subsequent EIR for the Dana Point Harbor Marina Improvement Project

Attn: Brad Gross, Dana Point Harbor Director

The City of Dana Point appreciates the opportunity to comment on the County's plans for the Dana Point Harbor Marina Improvement Project. It is understood that at the time the Program FEIR was prepared for the Dana Point Harbor Revitalization Project, specific details were not available for the proposed water-side (Marina) improvements. With more project-specific information and more detailed design and engineering plans available for that portion of the Revitalization Plan (Marina Improvement Project), it was determined that a subsequent EIR would be required to further analyze the waterside improvements.

In response to the Notice of Preparation circulated by the County of Orange, Dana Point Harbor Department, the following are the City of Dana Point's comments on the proposed scope and content of information to be included in the subsequent EIR:

1. It should be recognized as acknowledged in the subsequent EIR that the Marina Improvement Project will be in substantial conformance with the Dana Point Harbor Revitalization Plan as reviewed and approved by the City of Dana Point and submitted to the Coastal Commission.
2. Marina Lighting: The City agrees with the recommendation that final lighting improvement plans for the Marina Improvement Project should take into account the appearance of the Marina, including light and glare emanating from the Harbor, to surrounding areas of the City.
3. Water Quality: As water quality is one of the City's primary strategic goals, it looks forward to further review of proposed improvements and implementation of innovative measures designed for the purpose of improving water quality in the Harbor. A water quality management plan (WQMP) which will identify the site design, source control and treatment control best management practices (BMPs) for the project will be reviewed by the City when available.
4. The City agrees that any construction-related impacts should be further evaluated to determine mitigation measures necessary to minimize those impacts on surrounding traffic patterns and neighborhoods throughout the City.



Mr. Gross  
January 2, 2008  
Page 2

The City looks forward to continued cooperation between the City and the County Harbor Department towards the mutual goal of an improved and revitalized Harbor for years to come. Thank you for this opportunity for the City to comment on the County's plans for the Marina portion of the Dana Point Harbor.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Butterwick". The signature is fluid and cursive, with a large initial "K" and "B".

Kyle Butterwick, Director  
Community Development

c: Douglas C. Chotkevys, City Manager  
A. Patrick Munoz, City Attorney  
Brad Fowler, Director of Public Works  
Mike Tope

January 2, 2008

To all whom it may concern,

Below is a list of my questions and concerns regarding the written materials referenced as available to the general public during a presentation by Brad Gross, the Director of Dana Point Harbor Department (DPHD) on December 8, 2007. The materials referenced then, and which my feedback pertain to are the Scoping Meeting (SM), Notice of Preparation (NOP) and Initial Study Documents (IS) as well as in certain cases, various previously published DPHD staff and consultant reports including the Dana Point LCP, LCPA as well as the FEIR.

Please be advised that I am a member of the Dana Point Yacht Club (DPYC) and I am Treasurer and serve on the Board of Directors for the Dana Point Boater Association (DPBA). However, this submittal be viewed only as a public commentary from a boat owner, tenant of Dana Point Marina and regular user of the parklands surrounding the various Dana Point Harbor facilities.

Please do not hesitate to contact me at the postal address or email address provided below as may be appropriate. I also respectfully request that I be included on the distribution list for all relevant downstream documents and reports provided to the general public and other interested parties on this and related matters.

Sincerely,  
Rodger Beard

27595 Via Montoya  
San Juan Capistrano, CA 92675-5366  
[RodgerBeard@gmail.com](mailto:RodgerBeard@gmail.com)

Reference	Document	Page	Paragraph	Question/Concern
1	SM IS	9 2-2	Drawing 3	<p>Concern: Plan Layout 2C.2 w/ Channel Encroachment calls out a narrowing of the existing main channel near the island access bridge (Island Drive) from 200' to 95', creating an encroachment (a channel width reduction) of 105 feet versus the existing channel width. However there is an existing dry storage boatyard in this same area, which is occupied almost exclusively by about 30+ small 14-24' sailboats. Most all of these sailboats are exclusively sail-powered.</p> <p>Access from the dry storage boat launch area up to the main channel and out to sea will become much more difficult and perhaps not even practical during the typical light air conditions from this lea of the wind location following marina reconstruction. Further, the trek may also be hazardous, particularly during peak periods. Hazardous because the plan calls for the entire main channel width to decrease by 20% and the immediate area of the dry storage boatyard to decrease by 53%. This while at the same time the plan calls for the size of the average boat berthed in slips to increase by 14%. In other words, there will be bigger boats navigating in a much smaller space with the existing and much smaller sail powered boats. These small sailboats, already difficult to maneuver in the existing light air will typically be faced with even lighter air following harbor reconstruction due to the much smaller channel (an open area where the wind is less obstructed).</p> <p>The DPHD consultants have recommended more boater education and the elimination of all existing self-powered boat traffic during peak periods. It should be noted that this recommendation itself produces a questionable outcome, as well as most certainly accomplishing a significant reduction in existing boater access.</p> <p>But regardless, it seems apparent that the plan should be revised. Either the planned 53% reduction in channel width in the boatyard area should be rolled back and/or the existing dry storage boatyard should be moved to a more accessible location within the Harbor.<sup>1</sup></p>

<sup>1</sup> I pointed these concerns briefly during an invitation only meeting that the previous DPHD director held to introduce Moffatt & Nichol, the outside consultants engaged to perform a water traffic study. Approximately 25 selected boaters attended within the Harbor. It was stated at the time that extensive follow up interviews were to occur in the following months. While my name was listed within the final report along with these other boaters, I was not contacted subsequently and my brief remarks were misstated within the final Traffic Study Report in a way that does not reflect my point of view on this matter. Specifically, I do not believe that the lack of boater education is a root problem, nor do I believe that availability of boater education in conjunction with enforcement of a previously unknown / legally ignored statute barring self-powered boats on week ends and holidays would solve the problems I have described.

Reference	Document	Page	Paragraph	Question/Concern
2	SM	8, 9, 10	Drawings	<p>Question: There is an on-the-water area at the foot of the main channel which provides access/egress to the west basin that is shown as being utilized in the drawing on page 8 (existing prior to construction) but is being shown as unutilized on the drawings on following pages (during construction). The area I'm referring to is on the island at the point; the docks currently leased to DPYC. What is the plan if any for this area.</p>
3	SM  IS	9  2-1	Drawing  9	<p>Concern: The plan calls for temporary docks to be installed along the outer channel in about 30' of relatively deep water, starting at the entrance /egress point for the west basin marina area, running across for the existing turning basin and anchorage and tall ships mooring pier and wrapping around to approximately half way to the island access bridge. There are several obvious issues with this plan:</p> <p>The slips at the point area occupy the deepest water in what is a very shallow area. So shallow that the area closest to the outer breakwater is currently an exposed, completely dry beach during low and mid tide. The amount of from at this point definitely would not provide enough room for safe navigation with the excessive traffic of mixed uses within this area. This area includes the tall ships arriving and leaving, visiting boats at anchor (as many as 50-75 during the summer week-ends and this is a favorite southern California anchorage, significant dinghy traffic associated with these anchored boats as well as access 900+ boats berthed in slips within the west basin. Last but not least, there are dozens of Capri 14 sailboats usually coming and going from the Youth and group facility and sailing within the protected turning basin area during high wind periods. Indeed, a check of available records will show numerous law suits during the past few years alone due to physical and property damages.</p> <p>Even if these facts were ignored however, the current plan would still be a no-go because there would be inadequate boater access to parking, shower, restroom and other boater accommodations within an acceptable distance of the point area.</p> <p>Fortunately there is a simple and I believe obvious solution: move the start point for the temporary docks from the point area to a respectful point before the start of the turn into the turning basin. In addition to improved safety, the just mentioned amenities would be more readily available following a shorter walk for most temporary slip tenants.</p>

Reference	Document	Page	Paragraph	Question/Concern
4	SM	8	Drawing	<p>NOP and IS documents profess to address all aspects of the Harbor Improvement Project, in other words any and all of on-the-water aspects of the Harbor Revitalization Project / Plan Program FEIR. This is appropriate because, among other things, the land-side equivalent project, known as the Commercial Core Redevelopment Project is being governed under a City of Dana Point administered Local Coastal Program which does not have jurisdiction over the water itself.</p> <p>So then, there appears to be a missing component in the scope of the NOP and IS documents: I am referring to the planned 400 boat, power boat barn or "stack". This building is planned to significantly protrude into the harbor waterway in the immediate area of the existing boat launch and existing shipyard. There are boater safety, water access, water quality questions and likely other questions (such as incremental police and fire protection requirements) that, while not necessarily an impediment to the planned construction, still must still receive California Coastal Commission review and approval. I'm guessing there may be other applicable government agencies which should have purview here as well.</p>
5				<p>Question: I did not feel from my fairly careful read of the NOP and IS that these reports demonstrated an adequate level concern for recreational boating safety so far. My previous two concerns serve to illustrate. This seems especially relevant because of legislative changes enacted since the harbor was originally constructed. Perhaps this is done at a later point but it would seem that there should be some consideration and specific written reporting prior to detailed engineering design, thereby to minimize the possibility of difficult to correct (and therefore costly mistakes being discovered later on.</p> <p>Please clarify how the process works here and /or otherwise address as appropriate.</p>

Reference	Document	Page	Paragraph	Question/Concern
6	SM	9	Drawing	<p>Concern: As is the case with legislative changes since original harbor construction that may have a potential impact upon recreational boating safety, so too have water quality status changes since the harbor was built originally. Beyond this, and as many know too well, Dana Point Harbor area has a very poor reputation for water quality, one of the worst reputations in Southern California. (Both Baby Beach and the outside anchorage area adjacent to and somewhat near the breakwater near Doheny Beach are recurring trouble spots.) DPHD and other government agencies have done commendable work in dealing with these problems so far. But claim the problems are solved. I believe has inadvertently been overlooked and should be addressed at is an opportune time.</p> <p>What I am referring to is adding a second pump out station in the harbor's East Basin. There are two out pump stations in the much smaller and less commercialized west basin today but only one today in the east basin. An important aside, the original harbor design called for two pump out stations in the East Basin (the second directly across the channel from the first) but somehow the second wasn't built for reasons which arguably would no longer apply if given appropriate consideration.</p> <p>I suggest that the project scope be amended to include a full and complete evaluation of this possibility.</p>
7				<p>Question: As a long time tenant within the harbor I have often been faced with what to do regarding storage of my auxiliary small boat or dinghy. In my case this is particular problem as I, like many others have a hard bottom dinghy which is quite bulky and heavy. There is limited storage available on racks in the parking lots near many of the boat docks but this storage is under utilized and were it utilized it would be insufficient. I believe there is an obvious reason why is true: there is no convenient means for a slip tenant to launch their dinghy, actually there is nowhere that is accessible within the harbor. So instead they store them on their docks, sometimes creating safety and access issues, or on their boats which is undesirable when a cruise is not in the offing, or worst case in the water where they typically act as a fairway obstruction.</p> <p>Won't this be an easy, relatively low or no cost problem to solve during harbor reconstruction? I believe this would also be a relatively significant revenue boating opportunity as there is clear perceived value.</p>

Reference	Document	Page	Paragraph	Question/Concern
8	IS	2-2	2 & 3	<p>Question: The IS verbiage implies that the 3' slip figure allowance is a recent accommodation due to overcrowding in the boat lengths which the plan calls to expand at the expense smaller lists. When was this "change in policy" introduced? My recollection is that it has been in place since at least the late 70's. I'm wondering whether it has been in place since the harbor was opened.</p>
9	IS	2-2	2 & 3	<p>Question: The IS discusses the planned increase in average slip size (an increase from 29.85 to 33.96' or 14%). The obvious implication is that this is good for recreational boating. Yet over 1100 boaters will be displaced (approximately ¾ of the boaters with a boat in this size category berthed within the harbor today) from their slips while the plan arranges for over 700 other boat owner to become new tenants in their place. In other words, the plan to eliminate the slips that certain boaters already in the harbor occupy today in order to make way for some slips desired by other boaters.</p> <p>Please provide a business case for why this is to be considered good for recreational boating, as well as why approximately 75% is the appropriate displacement percentage for boats under 30'. Please provide specific fact references and local California statistics supporting your conclusions.</p>
10	IS	2-6	3	<p>Question:</p> <p>The Environmental Analysis Checklist indicates under Population &amp; Housing that there is no impact or less than significant in each of three listed categories. Yet recreational boats, like their equivalent, mobile homes (on land), are considered second homes under California and federal law. Therefore, since they are second homes, the over 1100 boaters who are being displaced would definitely seem to fall into the classification "potentially significantly impacted".</p> <p>It appears that the lead agencies' position here is that not allowing new tenants for boats under 30' (new Dana Point Marina Company policy published publically 1/2/2008) will ultimately preclude eviction and thereby satisfy legal rights for homeowners in this class. Temporary use of large slips for smaller slip tenants following construction would also appear to be directed in this same direction.</p> <p>Has DPHD confirmed appropriate County and State governance supportive of this legal interpretation? If not, is there an intention to do so. If not, why not?</p>

Reference	Document	Page	Paragraph	Question/Concern
11	IS	3-30	1 & 2	<p>Question: Please describe specifically how the Program FEIR determines conclusively that the Revitalization Project (not the current project under consideration – was this a misstatement?) will improve recreational facilities standpoint when from a net service standpoint, less recreational boaters will be served.</p> <p>Please explain how the loss of 374 boater slips is considered “less than significant”.</p> <p>Please specifically explain your basis for the general statement: “Cumulatively, the Revitalization Project, along with other future development, may potentially increase the use of existing areas and facilities” as well as the rest of the subject paragraph. Please also specifically clarify your level off confidence regarding your prediction.</p>



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REFER TO FILE #  
290529-0001

January 2, 2008

**VIA U. S. MAIL AND ELECTRONIC MAIL**

Brad Gross, Director  
County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

**Re: Comments on the Notice of Preparation for the Dana Point Harbor Marina Improvement Project**

Dear Mr. Gross:

We represent Anchor Marine Repair Company ("Anchor Marine") regarding its interest in the Dana Point Harbor Marina Improvement Project ("Project"). Anchor Marine is the only shipyard in the Harbor. Anchor Marine plays a vital role in maintaining the functionality and safety of the harbor, and intends to continue that role, despite the fact that previous County plans (the Dana Point Harbor Revitalization Plan) reduced Anchor Marine's existing 2.6 acre site to approximately 1.6 acres. This change in the parcel currently leased from the County will: reduce the boatyard area, reduce the on-site building, eliminate any opportunity to expand to service the larger boats planned for the harbor and drastically reduce parking. Anchor Marine supports the Harbor Department's objective to improve water quality by: providing boat repair and maintenance services on land in an environmentally controlled facility, thus avoiding pollution impacts resulting from in the water repairs and travel to other harbor shipyards.

We previously submitted comments on earlier and related projects, specifically, on September 13, 2006, we submitted comments to the City of Dana Point on the Dana Point Harbor Revitalization Plan & District Regulations.<sup>1</sup> Our previous comments are incorporated herein by reference and attached for your convenience. Anchor Marine continues to be concerned about the need to consider and evaluate the relationship between water side and land side issues in the Harbor in planning and environmental documents, and the continued piecemealing and segmentation of the various functions of the Harbor as the County moves

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<sup>1</sup> Anchor Marine also submitted written comments on the Draft EIR No. 591 on November 8, 2005 and presented verbal comments at the Board of Supervisors hearing on January 31, 2006.

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forward with implementing the Harbor Revitalization Plan. The two components, water side and land side, are integrally related, and changes in one of the components have the potential to result in secondary or indirect effects on the other component. This is especially true for boating related services, for example, normal boat maintenance and for emergency assistance.

The following are our comments on the Notice of Preparation for the Dana Point Harbor Marina Improvement Project, including comments on the scope and content of the environmental information to be included in the Subsequent Environmental Impact Report ("SEIR"):

1. The Project Description states that "the total number of boat slips ... would decrease from 2,409 to 2,035, resulting in a net loss of 374 slips." The Project Description, however, also states that the project will include a number of design measures "in an effort to limit the loss of slips." It is not clear whether the project includes a change in boat slips from 2,409 to 2,035, or if there is a different number of slips based on the efforts to limit the loss of slips. The Notice of Preparation ("NOP") does not state the number of boat slips that will be analyzed for purposes of analyzing impacts of the project and comparing those impacts to a "no project" alternative. The SEIR should be clear as to the number of boat slips analyzed as the after project condition.

2. The Project Description does not describe any change in overall Harbor operations related to the modified slip mix or other aspects of the Project. The Initial Study states that the land use of the site will not be changed, and the project "is not expected to increase capacity or add any significant amount of impervious surface to the project area. Long-term operations will not be significantly different than the current uses and are not expected to increase or introduce additional water quality pollutants." (Page 3-12).

Based on the NOP and Initial Study, it appears that the County is defining the project very narrowly, and is not planning a comprehensive analysis of the reasonably foreseeable operational consequences of the project. Changes in the slip mix, market demand and other factors, as referenced by the County on pages 3 and 4 of the NOP, would have reasonable foreseeable effects on the entire Dana Point Harbor. Foreseeable direct and indirect effects on both the landside and waterside environment, including water quality, traffic, noise and air quality effects should be evaluated.

3. In accordance with CEQA Guidelines section 15125, the SEIR must include a description of the physical environmental conditions as they exist at the time the NOP is published. While the NOP/Initial Study indicates no change in operations, it is unclear whether this is based on a factual description of current conditions. For example, the *Dana Point Harbor Boat Traffic Study* ("Boat Traffic Study"), November 2007 states that power boat usage is double sailboat usage (page 39). The Project Description references changes in the boating needs of the public, and that 400 boats presently exceed the policy allowing boats to be up to 3 ft. longer than their dock length. To the extent these trends and factors are present in the existing conditions at

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the harbor, the SEIR must describe them as part of the existing conditions. The environmental setting “will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.” (CEQA Guidelines § 15125, subd., (a).) *Save Our Peninsula Comm. v. County of Monterey*, (2001) 87 Cal. App. 4<sup>th</sup> 99, 125 (explaining that an EIR must adequately describe an existing land use because “the significance of a projects impacts cannot be measures unless the EIR first establish[es] the actual physical conditions on the property.”) Thus, it is important that the County identify those existing conditions and operations in order to provide a thorough assessment of any potential impacts associated with the project.

4. Although the project is framed simply as a dock replacement project, the dock replacement includes reconfiguration of the docks and also includes new dry stack storage staging docks and dinghy docks, among other changes. The new dry stack storage staging docks are presumably to service the new dry stack storage planned as part of the land side improvements. This highlights the close relationship between the land side and water side facilities and the importance of evaluating any direct, indirect or secondary effects of the Project on the rest of the Dana Point Harbor.

5. While framed as a dock replacement, it is unclear to what extent future use of the docks is expected to change based on the Dana Point Harbor Revitalization Plan or other trends. To the extent that the land side and water side changes are inconsistent and adequate support facilities are not provided, the marketplace will respond in ways that may have environmental impacts. The planned reduction in shipyard acreage may result in repair demand being met through freelance work. For example, it is reasonably foreseeable that additional freelance boat repair/painting work will be conducted in the water or from the docks, in close proximity to the water or in the water. Boat maintenance work at these locations can significantly degrade water quality. Work in the water may increase the release of potentially hazardous materials such as copper-based paints from boat hulls. Other maintenance that may occur without hauling out to a shipyard could include varnishing, topside painting, sanding and waxing. These types of maintenance might also increase the release of potentially hazardous materials into the water, including varnish, wax and paint and related debris. The water quality and other impacts of such repair work must be addressed in the SEIR.

6. The SEIR cannot evaluate water quality impacts within the Marina waterways without evaluating the critical issue of where boat maintenance and repair will occur.

The SEIR should take into account the effect the reduced Dana Point Shipyard service area will have on water quality, since a reduction of “on-land” boat service and maintenance area will potentially increase “in-water” repairs and maintenance.

7. The SEIR should evaluate the potential increase in the copper contamination of the Dana Point Harbor due to continuation of or increase in the current level of underwater

Brad Gross  
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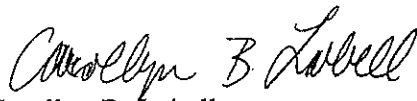
hull-cleaning (see Technical Report 483/March 2006 – “Extent and Magnitude of Copper Contamination in the Marinas of the San Diego Region.”)

8. As part of the reconfiguration of the docks, the Project also includes an increase in surface area of the floating docks and encroachments into the channels. This increase in encroachment was one of the reasons for conducting the Boat Traffic Study. While purportedly addressing existing and future boat traffic conditions, the Boat Traffic Study did not analyze such conditions in the basin between the East Basin and the easternmost basin where the dry stack storage staging docks would be located (Planning Area I1). Since the Project includes new and replacement facilities in Planning Area 11, boat traffic in Planning Area 11 should be addressed in a Boat Traffic Study and in the SEIR. Table 3-2 of the Boat Traffic Study references the Small Day-Use Vessel traffic as 44 % of the total watercraft observed, yet, the study did not evaluate conditions where such craft are launched, and did not evaluate future conditions with the new dry stack storage staging docks.

The NOP states that the Project also includes new dry stack storage staging docks. The Boat Traffic Study and the SEIR must also address existing and future conditions, including the types of boats expected to use the dry stack storage staging docks ramp and operations in the harbor based on those conditions.

If you have any questions, please feel free to call me at 949-833-7800.

Very truly yours,



Carolyn B. Lobell  
of NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

CBL/rst  
Enclosure

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September 13, 2006

REFER TO FILE NUMBER  
290529-0001

**VIA E-MAIL AND HAND DELIVERY**

Kyle Butterwick  
Director of Community Development  
33282 Golden Lantern  
Dana Point, California 92629

Re: Comments on the Dana Point Harbor Revitalization Plan & District Regulations

Dear Honorable City Council Members:

We represent Anchor Marine Repair Company (“Anchor Marine”) regarding its interest in the Dana Point Harbor Revitalization Plan and District Regulations, as modified by the Boat Storage Alternative (493) graphic proposed by the County of Orange (“Revitalization Plan” or “Plan”). The Revitalization Plan is proposed by the plan Proponent as an amendment to the city of Dana Point (“City”) Local Coastal Program (“LCP”), which, if approved by the City, would be included as part of the City’s General Plan and zoning code, and would constitute: (i) the LCP for the Dana Point Harbor area of the City; and (ii) the City’s local land use designations and zoning regulations, as well as LCP implementation actions, governing development and improvement of the Harbor area. This letter provides formal comments on the Plan as currently proposed by the County of Orange (“County” or “Plan Proponent”), and offers solutions to some of the land use planning issues with the current draft of the Plan.

Please include these comments in the administrative record for this matter. On June 7, 2006, we provided comments on this matter when it was before the City Planning Commission. On September 7, 2006 we provided the harbor Revitalization Plan Consistency Analysis with Planning Commission Resolution No. 06-06-21-22 and Preliminary Comments (the “Consistency Analysis”). Those comments in relevant part supplement this letter, and are incorporated herein by this reference.

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## 1. INTRODUCTION.

Anchor Marine has operated the Dana Point Shipyard (“Shipyard”) at its present location in Dana Point Harbor for approximately 30 years. Since that time, the Shipyard has been the only shipyard operation at Dana Point Harbor (“Dana Point Harbor” or “Harbor”). The Shipyard is the sole maintenance facility for boats that visit or are stored, anchored or moored at the Dana Point Harbor. The Shipyard provides necessary boat maintenance and repair operations, including, but not limited to: (a) painting and sanding of boat hulls; (b) removal and application of exterior/interior surface coating; (c) engine repair; and (d) general mechanical repairs. The Shipyard also provides secondary response emergency services at the request of emergency services authorities for boats in emergency situations, such as sinking, fuel tank rupture, and fire. Depending on circumstances such as weather, the Shipyard engages in such secondary emergency response services as many as twenty times a year.

Anchor Marine has been actively engaged with the Plan Proponent in trying to reach a design for the Harbor that not only revitalizes the Harbor in general, but also ensures that the Harbor is safe, capable of fully servicing the needs of the Harbor’s boating public, and avoids and reduces significant adverse environmental impacts, including aesthetic, land use, public health and safety, traffic and circulation, and water quality impacts.

We understand from our correspondence with the Plan Proponent, and our attendance at the August 24<sup>th</sup> Revitalization Plan Open House, that the Project Proponent has modified the Plan to remove the previously proposed second dry stack boat storage facility (“Dry Stack 2”). Anchor Marine supports that modification and replacement of Dry Stack 2 by consolidation and redesign of the first dry-stack storage unit, or relocation offsite.

Even with the proposed modification, however, the current Plan still falls short of resolving several key land use concerns and environmental issues affecting the Shipyard and the Harbor in general. Specifically, the Plan, as modified, still does not provide for an adequately sized Shipyard and still has the potential to result in significant environmental impacts not adequately analyzed or sufficiently mitigated for by Revitalization Plan project design features or mitigation measures under County of Orange Environmental Impact Report No. 591 (“EIR 591”), as required under the provisions of the California Environmental Quality Act (Pub. Resources Code §§ 21000-21178 et seq.) (“CEQA”), including CEQA provisions applicable to certified regulatory programs (CEQA § 21080.5(3)(A) and CEQA Guidelines § 15252(a) (California Code of Regulations, Title 14, Chapter 3).

Minor revisions to the Revitalization Plan as suggested in Attachment “A” to this letter would provide, at a program level, for a shipyard of adequate size, without limiting the Plan Proponent’s future site design flexibility. These revisions are derived from, and supported by the substantial evidence set forth in the Planning Report, prepared by Marina Business

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Associates and set forth in Attachment "B" to this letter. These revisions would assure a shipyard of adequate size, and would eliminate potentially significant, and currently unanalyzed impacts associated with the reduction in shipyard size proposed by the Revitalization Plan. We request that the City exercise its land use authority to require the revisions to the Revitalization Plan requested in Attachment "A," resulting in a land use plan that provides an adequate shipyard and full service Harbor, and eliminating the potentially significant, but unanalyzed environmental impacts associated with the County's proposed reduction in the are devoted to provision of shipyard services. With the amendments suggested in Attachment "A," Anchor Marine would support the approval of the Revitalization Plan as modified.

## **2. INSUFFICIENT NOTICE AND PLANNING INFORMATION.**

During review of the Plan and discussions with the Plan Proponent it has become clear that very little formal input or advice has been sought or incorporated into the Revitalization Plan from either boaters or experts in harbor or marina planning. With respect to input from boaters, the Plan Proponent and the City have not provided adequate information and notice to the boating public, including those boaters currently owning leasehold interests in the slips within the Harbor, whose interests will be directly affected by the approval of the Plan.

At Anchor Marine's request, notice of the September 13, 2006 City Council hearing was provided to boaters. However, notice of the City Council hearing was the first notice provided to the boaters renting slips in the Harbor. Further, the notice to the public and to the boaters, when sent, did not include a revised version of the Plan, or any information other than a single graphic labeled Boat Storage Alternative (493) that would allow the public to understand the Plan Proponent's version of the Plan as recently revised. As a result, the Plan Proponent and City have not given the boaters, or the public, ample opportunity to review the revised Revitalization Plan that the County is proposing and the City is considering. Further, the Plan Proponent and the City have not assured the public a sufficient and meaningful opportunity to comment on the final Revitalization Plan, as recently revised, or to participate in the public process.

In light of the failure to provide proper notice of the Revitalization Plan and approval hearings, the Plan's potential impacts, and administrative process associated with the Plan, we request that the City (1) distribute or make available to the public a revised version of the Revitalization Plan, including revisions to Plan text and district regulations, (2) provide additional time for boaters and the public to review the Revitalization Plan as proposed; and (3) solicit additional input from boaters prior to adopting the final Plan.

With respect to planning information, it appears that the County has not yet contracted with a harbor or marina planning specialist in preparing the Plan. As a result, Anchor Marine retained a team of land use, marina and harbor planning experts to develop solutions to inadequacies in the Plan. Those solutions are summarized herein and presented in detail in the

attached materials. Many of the issues that Anchor Marine's consultants have analyzed are related to the ability of the Harbor -- in its current condition and as proposed by the Revitalization Plan -- to serve as a full service Harbor, designed appropriately to accommodate current and anticipated boating traffic, and capable of providing sufficient boat services, including maintenance, repair and secondary response emergency salvage services, to current and anticipated boaters utilizing the Harbor.

In an effort to support good land use planning for the Harbor, we not only provide comments on the substantive and procedural inadequacies associated with adoption of the current draft of the Revitalization Plan, but we also offer for the City's consideration well-designed and sustainable Harbor solutions for the Shipyard parcel as recommended by the Anchor Marine harbor planning experts. Because the Plan is not only the Plan Proponent's proposal for an LCP amendment, but also constitutes the City's local land use regulations, we submit that it is critical to the City's ability to provide for the future orderly development of its Harbor area to address land use planning issues and potential significant environmental affects associated with the proposed Plan now.

**3. THE REVITALIZATION PLAN IS INTERNALLY INCONSISTENT, AND DOES NOT PROVIDE FOR AN ADEQUATELY SIZED SHIPYARD CAPABLE OF FULLY SERVICING THE CURRENT AND ANTICIPATED BOATING NEEDS OF THE HARBOR.**

There are approximately 3,000 boats in the Dana Point Harbor. There is one Shipyard. By contrast, Newport Bay Harbor (which the Plan Proponent has cited as a model for, and as anecdotal evidence supporting the shipyard design set forth in the Revitalization Plan) serves approximately 6,400 boats, with 5 shipyards. All 5 of the Newport shipyards indicated they have a waiting period and require reservations 2-4 months in advance for most regular shipyard service.

The existing Shipyard parcel is approximately 2.6 acres and contains a boat maintenance yard, dock systems, a 5,000 square foot parts and administrative office building, a travel-life boat hoist, water quality clarifications systems, boat storage areas and associated parking spaces for the Shipyard customers and employees.<sup>1</sup>

Despite obvious discrepancies between planned shipyard capacity and current and anticipated boating services demand, the May 2006 draft of the Revitalization Plan and EIR 591

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<sup>1</sup> A small portion of the site contains the Dana Point Jet Ski rental operation. It should be understood that the current boat storage and Jet Ski rental operations are not critical to providing marine repair and maintenance services to boaters in the Harbor. Currently, these operations serve as a source of "offset" revenue to fund ongoing operations despite the cyclical nature of the Dana Point Shipyard's business. If the Shipyard is provided with adequate space under the Revitalization Plan to service larger boats currently utilizing and anticipated to use the Harbor under the Plan, the need for "offset" revenue will be reduced, and these operations can be replaced with boater services.



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proposed the Shipyard parcel *be reduced* to approximately 1.0 acre by minimizing the boatyard area, reducing the on-site building to 2,500 square feet, eliminating boat storage and drastically reducing parking. (Revitalization Plan Statistical Table No. 17-A).

Under the Boat Storage Alternative (493), the modification to the Plan recently proposed by the County, the reduction of the Shipyard parcel *appears* to be less dramatic (*reduced to approximately 1.6 acres*). It is not entirely clear, however, absent a revised version of the Revitalization Plan, that a 1.6-acre area will be devoted to the provision of those services. Because the Plan Proponent has provided only the graphic labeled Boat Storage Alternative (493) to the public, and because that graphic conflicts with the text of the current draft of the Plan, which has not been revised, including land use statistic and zoning tables, district regulations and other critical components of the proposed local land use regulations within the Plan, the current Plan is internally inconsistent and lacks the clarity required to provide actual notice of the land use regulations proposed, and, if adopted, to be enforced by the City.

In addition, the County provides no planning information regarding the type of facilities or minimum appropriate space planning requirements for the Shipyard necessary to service the current and anticipated mix of boats using and anticipated to use the Harbor in support of the 1.6-acre shipyard services designation. As a result, the County's proposal for a single 1.6-acre area dedicated to providing shipyard services for the entire Harbor is not supported by any planning analysis or other substantial evidence that shows that the parcel will be adequate to meet the needs of the Harbor under the Revitalization Plan.

In verbal statements and presentations (but not within the Plan itself), the Plan Proponent has justified the reduction in the shipyard size based upon: (1) the size of other shipyards, particularly those in Newport Bay Harbor; and (2) the argument that the current 2.6-acre shipyard parcel is not *currently* used entirely for boat maintenance and repair activities and thus can be downsized.

Given the difference in the number of shipyards servicing Newport Harbor, comparisons to Newport Harbor shipyard sizes do not appear to present a valid basis for reducing the size of the Dana Point Shipyard. Similarly, the *current* uses of the shipyard, which are the result of economic, personal preference, and other non-land use planning factors, are not a sufficient basis for determining the appropriate size of a shipyard to service the Harbor under the Revitalization Plan. In accordance with good land use planning principles, the Plan must provide for a shipyard of sufficient size to accommodate the needs of both the current and anticipated mix of boats that will use and be stored within the Harbor.

To assist the Plan Proponent in using an appropriate land use planning approach to determining the appropriate area for shipyard uses, Anchor Marine provided the Plan Proponent with a report prepared by Marina Business Associates regarding current and

anticipated boat mix within the Harbor, and resulting shipyard minimum and appropriate requirements. See Attachment B.

As explained in detail in that Planning Report, boat sizes in general have been increasing in California harbors and marinas due to a variety of market related factors. Today, the average size of a small boat is larger than it was 10 to 15 years ago, and boat sizes are generally increasing. Today, the Harbor has a significant number of large boats that cannot be serviced because the Shipyard because, for economic rather than land use planning reasons (*e.g.*, local economic downturn, shipyard lease terms, *etc.*), the Shipyard is not outfitted with adequate equipment or space planning to accommodate these larger boats.

In addition, as discussed in the Planning Report, the Revitalization Plan increases the size and number of larger vessels in the Harbor so that approximately 200 vessels averaging 65 feet are added to the current boat population. This will create demands on the Shipyard that cannot be met by a facility operating under the space constraints proposed by the Plan. The 1.6 acre area to be designated for shipyard services under the Plan is simply insufficient to meet the service demands of the current and anticipated boat mix utilizing the Harbor. As concluded in the Planning Report, based on boat mix projections and site planning design alternatives analysis, the Plan must allow for a **2.5-acre shipyard area** to provide appropriately for full service shipyard for the entire term of the Plan. At a minimum, the plan must allow for a 2.1-acre area devoted to shipyard services to meet the current and anticipated need for boating services within the Harbor.

As demonstrated below, a truncated Shipyard will result in a number of potentially significant environmental impacts, and will conflict with the goals of the Coastal Act.

**4. THE CITY'S DISTRICT REGULATIONS AND UNDERLYING REVITALIZATION PLAN EIR ARE INADEQUATE TO SUPPORT APPROVAL OF THE PROPOSED LCP AMENDMENT.**

**A. The City Must Implement a Process Consistent with CEQA, including the CEQA Requirements for Functionally Equivalent Environmental Review, for Approval of the Proposed District Regulations and LCPA.**

As noted above, the Revitalization Plan is proposed by the Plan Proponent as an amendment to the City LCP, which, if approved by the City, would be included as part of the City's General Plan and zoning code, and would constitute: (i) the LCP for the Dana Point Harbor area of the City; and (ii) the City's local land use designations and zoning regulations, as well as LCP implementation actions, governing development and improvement of the Harbor area. Accordingly, the discretionary action to approve this proposed amendment to the LCP and local land use regulations must be analyzed under CEQA (Pub. Resources Code §§ 21000-21178 et seq.) ("CEQA"), including CEQA provisions applicable to certified regulatory programs

(CEQA § 21080.5(3)(A) and CEQA Guidelines § 15252(a) (California Code of Regulations, Title 14, Chapter 3).

With respect to functionally equivalent environmental review, CEQA provides that, in certain situations, a statutory exemption applies to “activities and approvals by any local government as necessary for the preparation and adoption of a local coastal program.” (Pub. Resources Code, § 21080.9). According to City Resolution No. 06-06-21-22, the City intends to rely on avail itself to this limited exemption in approving the Plan. Specifically, the Resolution states that “the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9”

The City’s reliance on the statutory exemption the Revitalization Plan does not allow the City to evade environmental review under CEQA. Further, because the Revitalization Plan constitutes not only an LCP amendment, but also the City’s local land use regulations governing development and improvement of the Harbor area, the City must consider the environmental consequences associated with adoption of the Plan. While ultimate approval authority for the LCP Amendment rests with the California Coastal Commission (“Commission”), the City will be bound by the Plan as its local land use regulation, and accordingly must assure that the Plan and EIR 591 sufficiently analyze potential significant adverse environmental affects associated with its implementation.

The Commission itself is subject to CEQA when it certifies or modifies the Plan under the California Coastal Act (“Coastal Act”). (Pub. Resources Code, § 21080.9). The statutory exemption upon which the City relies merely establishes that the Plan should be analyzed under CEQA as a “certified regulatory program,” requiring an environmental analysis document that is the *functional equivalent* of, in this case, an environmental impact report (EIR) under CEQA. (CEQA Guidelines, §§ 15251, subd. (g); 15252.) While functionally equivalent documents are exempt from Chapter 3 of CEQA, as well as certain other provisions of the statute related to challenging the lead agency’s determination pursuant to the document, the purpose and intent of CEQA, and, in general, the substantive requirements governing content and consideration of environmental impacts associated with a proposed LCP amendment must be satisfied. (Pub. Resources Code § 21080.5; CEQA Guidelines § 15250.)

CEQA §21080.5 does not grant qualifying agencies a blanket exception from all CEQA provisions. Instead, certified regulatory programs excuse certain aspects of CEQA mentioned above, but an agency operating pursuant to a certified regulatory program must comply with all of CEQA’s other requirements. (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal. 4<sup>th</sup> 105, 113-114). While a certified regulatory program may use its own plan or document in lieu of environmental document required by CEQA, it may do so only if the document includes a description of the proposed activity and its significant adverse impacts along with a discussion of alternatives and mitigation measures that will reduce those impacts. Pub. Resources Code §§ 21002; 21080.5(d)(2), (3). Thus, the environmental analysis and

documentation required of certified regulatory programs is subject to the broad policy goals and substantive standards of CEQA. See, *Sierra Club v. State Board of Forestry* (1994), 7 Cal. 4<sup>th</sup> 1215.

The California Supreme Court confirmed that CEQA's exemption for state agencies with certified regulatory programs is limited, rather than absolute. (*Sierra Club v. State Board of Forestry* (1994) 7 Cal.4<sup>th</sup> 1215). The agency must conform not only to the detailed and exhaustive provisions of the act governing it [here, the Coastal Act] but also those provisions of CEQA from which it has not been specifically exempted by the legislature. (*Id.* at p. 1228), including provisions requiring recirculation of environmental documentation and analysis for previously unanalyzed impacts associated with a proposed plan. (*Joy Road Area Forest and Watershed Association v. California Dept. of Forestry & Fire Protection*, No. A105421 (Cal. Ct. App. 1<sup>st</sup> Aug. 30, 2006)).

Moreover, the City has an important duty and interest in adopting local land use regulations to assure that environmental impacts have been adequately analyzed. Therefore, the City should adequately evaluate the adverse environmental effects of the Revitalization Plan in accordance with the substantive requirements of CEQA before the Plan is approved. Neither the Revitalization Plan nor EIR 591 have adequately analyzed potentially significant environmental effects associated with associated with reducing the Shipyard site as proposed by the Plan consistently with the purpose, intent or substantive requirements of CEQA or the Coastal Act. See Section 4.C. below.

**B. The Revitalization Plan is Inconsistent with the Coastal Act and Incapable of Supporting the Required Findings for Submittal of the Plan to the Coastal Commission.**

City Code 9.61.080 (e)(3) lists the required findings the City must make before submittal of an LCP amendment ("LCPA") to the Commission. The Plan and EIR 591 fail to provide the City with sufficient evidence to make the findings and determinations required by the City Code.

All policies, objectives and standards of an LCPA must conform to the requirements of the Coastal Act. (City Code 9.61.080(e)(3)(B)). As discussed below, the Revitalization Plan provisions do not conform to the Coastal Act with regard to the land use plan for the Shipyard parcel.

(1) **Non-Water Dependent Land Uses are Not Limited:** The Coastal Act states that increased recreational boating use of coastal waters "shall be encouraged" by, inter alia, limiting non-water dependent land uses that congest access corridors and preclude boating support facilities. (Public Resources Code, § 30224). The Revitalization Plan proposes that either dry stack storage or up to 93 surface storage spaces would occupy a portion of the current Shipyard parcel, both of which would reduce the Shipyard's size below that shown by

substantial planning evidence to be necessary to provide adequate shipyard services for the current and anticipated mix of boats utilizing the Harbor. Introduction of boat storage space in proximity to the main launch area will also congest auto and boat traffic, parking and the main boating access corridor to the Harbor. Therefore, the Revitalization Plan provisions are not consistent with the Coastal Act because they introduce non-water dependent land uses at the expense of a boating support facility.

**(2) Adverse Water Quality Effects Resulting from Wastewater and Discharges Are Not Minimized:** The Coastal Act also states that quality of coastal water shall be maintained through minimizing adverse effects of waste water discharges, controlling runoff and encouraging waste water reclamation. (Public Resources Code, § 30231). The reduction of the Shipyard site will result in the inability of the Shipyard to meet the demands of the boating community at the Harbor. Boating is inherently maintenance-intensive. If the Shipyard cannot service local demand for repair and maintenance work, there will be an increased likelihood that boaters will resort to self-help measures. Such work generally occurs in the slips, and is not subject to the environmental controls imposed by the Regional Water Quality Control Board ("RWQCB"). In contrast, the Shipyard's proposed improvements control site run-off using a water clarification systems that meet the requirements of its individual NPDES water quality control permit, thereby assuring that boat maintenance services are performed in a controlled, environmentally regulated environment protecting water quality.

**(3) The Potential for Increased Water Quality Impacts Resulting from Spillage of Crude Oil, Gas and Petroleum Products Is Not Addressed:** The Coastal Act requires that protection from spillage of crude oil, gas and petroleum products shall be provided in relation to any development. (Public Resources Code § 30232). The Shipyard regularly provides secondary response emergency services to sinking vessels under the direction of emergency authorities by removing them from the water, and mitigating environmental impacts resulting from the leakage of gas and oil into the Harbor. Under the proposed Revitalization Plan, the Shipyard's capacity will be limited, resulting in an increased likelihood of additional water quality impacts. Therefore, substantial reduction of the Shipyard site would result in conflict with the Coastal Act requirements for protection of the marine environment.

**(4) Recreational Boating Industries Must Be Protected:** The Coastal Act states that recreational boating industries "shall be protected and where feasible, upgraded." (Public Resources Code, § 30234). The Shipyard is key participant in the recreational boating industry. The Revitalization Plan reduces the Shipyard site, thereby reducing its ability to fully serve the recreational boating public. The Plan as proposed fails to provide for an adequate area to provide Shipyard services, and reduces the area designated for provision of shipyard services to the recreational boating industry. Further, Anchor Marine has proposed to upgrade its facility with private funding if the Revitalization Plan can be revised to provide for a shipyard area of adequate size to accommodate the current and anticipated mix of

boats utilizing the Harbor. Therefore, the Revitalization Plan provisions related to shipyard services are inconsistent with the Coastal Act.

**(5) Scenic and Visual Qualities Are Not Protected:** The Coastal Act states that scenic and visual qualities of the coastal areas shall be considered and protected as a resource of public importance. (Public Resources Code, § 30251). The Revitalization Plan has the potential to result in significant unavoidable impacts to beach users and views due to the construction of dry stack boat storage on or adjacent to the Shipyard parcel. The Boat Storage Alternative (493) made available to the public provides no information regarding the aesthetic or visual impacts associated with the site design proposed by that alternative, which includes the reconfiguration of the dry stack storage 1 facility, or the avoidance or mitigation of any remaining aesthetic impacts. Anchor Marine supports removal of the second dry stack as proposed by the County. However, the Revitalization Plan should be further revised to analyze the remaining visual resource impacts associated with the remaining dry stack storage building, and any available minimization and mitigation measures..

**(6) Coastal-Dependent Developments Have Priority:** The Coastal Act requires that coastal-dependent development shall have priority over other development on or near the shoreline. (Public Resources Code, § 30255). Coastal-dependent development or uses are defined as those uses that require a site on, or adjacent to the sea to be able to function at all. (*Id.* at § 30101.3). Due to the nature of Shipyard services, the facility must be located adjacent to the sea in order to access boats requiring service or emergency haul outs. The Revitalization Plan reduces the Shipyard site in favor of providing either parking or surface boat storage. Parking is not a coastal-dependent use, and several alternatives for both parking and storage have been presented to the Plan Proponent for consideration, but have not yet been analyzed. In addition, alternatives for preserving shipyard area in other locations within the Harbor currently proposed for non-coastal depended uses have been proposed to the Plan Proponent, but have not been evaluated.. Pending evaluation of alternatives that would provide a shipyard, which is a coastal-dependent land use, with adequate area to provide necessary Harbor services, the Revitalization Plan is inconsistent with the Coastal Act.

**(7) Coastal-Dependent Facilities are Assured Long-Term Growth on Existing Sites:** The Coastal Act states that coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth. (Public Resources Code, § 30260). Anchor Marine has proposed to privately fund expansion of the Shipyard services and equipment to accommodate the mix of boats in the Harbor and those anticipated under the Revitalization Plan. The Revitalization Plan reduces the size of the Shipyard from 2.6 acres to either 1.0 acre or 1.6 acres, depending on the alternative selected. This proposed reduction in shipyard services area not only precludes the Shipyard's long-term growth by reducing its site acreage, but also precludes the Shipyard from fully servicing the needs of current boats utilizing the Harbor. Therefore, the Revitalization Plan is inconsistent with the Coastal Act.

In light of the forgoing inconsistencies with the Coastal Act, we request that the City re-evaluate the size and land uses proposed for the Shipyard parcel and revise the current Revitalization Plan as suggested in Attachment A to assure that the Plan, as amended, provides for a shipyard of adequate size within the Harbor in accordance with the provisions of the Coastal Act discussed above.

**C. The City Must Consider the Unanalyzed Environmental Impacts Associated with the Revitalization Plan as Currently Proposed.**

To satisfy the requirements of CEQA, including those applicable to certified regulatory programs and the preparation of functionally equivalent environmental analysis discussed in Section 4.A. above, the City must include a discussion and analysis of any significant or potentially significant adverse effects on the environment as well as alternatives, design features and mitigation measures proposed to avoid or reduce such effects. (See, e.g., Pub. Resources Code, §§ 21002; 21080.5(d)(2), (3), CEQA Guidelines, § 15252, subd. (b)). Accordingly, the City must consider the following potential impacts, among others:

(1) **Water Quality Impacts:** The Commission produced a “California Clean Marina Toolkit” designed to help marina operators manage a “clean marina.” These practices should be implemented by the Dana Point Harbor operators. As a requirement, marina rules prohibit rebuilding, hull painting and other major repairs while the boat is moored at the marina. Rules also restrict sanding, painting and the use of chemicals on a boat moored in the marina. The Shipyard is the appropriate place to perform the aforementioned maintenance activities. The Shipyard is regulated by the RWQCB and equipped with water quality clarification systems that treat water before it is discharged from the site. If the Shipyard is reconfigured as proposed there will be substantially less space and capacity to perform such services. This will lead to an increase in the release of potentially hazardous materials to ocean waters due to in-water services. The Revitalization Plan and EIR 591 fail to address even a single potential adverse water quality impact associated with substantially reducing the service capacity of Harbor’s only Shipyard.

(2) **Public Safety and Fuel Spill Impacts:** The Revitalization Plan ignores impacts related to secondary response to boating emergencies. The Shipyard provides critical secondary response emergency services on a regular basis. The Shipyard is the only facility capable of assisting authorities in emergency response by hauling out sinking and fire-damaged boats, and providing safe harbor for malfunctioning boats that could endanger boat occupants, or result in additional water pollution from leaking fuels and other on-board toxic material releases. The Revitalization Plan and EIR 591 fail to analyze these significant and adverse public safety and water quality impacts.

(3) **Parking and Circulation Impacts:** The parking analysis supporting the Revitalization Plan contains errors, including errors relative to Shipyard parking assumptions and provisions, that render it inadequate. First, the parking analysis is required to

adequately describe existing parking. The County analysis indicates Shipyard site has only 6 existing parking spaces. There are currently 30 parking spaces on site, all of which are currently utilized during peak period by Shipyard employees and customers. Second, the parking analysis is required to forecast whether adequate parking would be provided upon build-out of the Revitalization Plan. The County analysis arrives at "required" parking spaces by assuming the Shipyard is a "motor vehicle sales & auto repair facility." The analysis further assumes that the parking demand is generated by the Shipyard building space alone, which is inaccurately calculated at 2,500 square feet. The Shipyard building is 5,000 square feet. The Shipyard site contains multiple indoor and outdoor marine repair activities and is not at all similar to a motor vehicle sales & auto repair facility. Proposed Boat Storage Alternative (493) does not offer any resolution or information regarding reduced parking for the shipyard, and parking impacts are not adequately analyzed by the Revitalization Plan or EIR 591.

**(4) Alternatives:** The Legislature has declared the policy of the state that public agencies shall not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. Pub. Resources Code, § 21002; 21080.5(d)(2), (3). Instead of using critical Shipyard space for parking or surface boat storage, several viable alternative locations for those uses have been suggested within the Harbor or in the immediate vicinity. These alternatives, discussed in the Consistency Analysis previously submitted to the Plan Proponent and the City must be evaluated prior to adopting the Revitalization Plan and reducing the area devoted to provision of shipyard services to a size that is inadequate in light of available planning information set forth in Attachment "B."

**(5) Improper Deferral and Piecemealing:** Analysis of environmental impacts and formulation of avoidance and mitigation measures may not be deferred until some future time if impacts are reasonably foreseeable now. (CEQA Guidelines, §15126.4 et. seq.). Reconfiguration of the Shipyard site would occur during Phase II of the project, which is subject to additional environmental review. However, adoption of the Revitalization Plan substantially reduces the area available for provision of shipyard services and eliminates the capacity shown by substantial planning evidence to be necessary for provision of such services for the current and anticipated mix of boats utilizing the Harbor. This reduction will result in foreseeable environmental impacts, which alternative Harbor designs and/or additional mitigation measures would reduce and mitigate as described above. Therefore, the potentially significant environmental impacts that would result from a reconfiguration must be analyzed now, mitigation must be proposed and considered to address them. CEQA §21080.5(d)(2), (3); CEQA Guidelines §15126.4 et. seq. Further, the public must have the opportunity to review these previously unanalyzed impacts and available alternatives and mitigation measures to reduce those impacts. *Joy Road Area Forest and Watershed Association v. California Department of Forestry & Fire Protection*, No. A105421 (Cal. Ct. App. 1<sup>st</sup> Aug. 30, 2006)). The Revitalization Plan environmental documentation does not provide any analysis of the environmental impacts associated with the reduction of the shipyard services area pursuant to the Revitalization Plan,



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nor does it propose or consider any alternatives, project design features or mitigation measures to avoid or reduce the potentially significant environmental impacts associated therewith. Thus, improper deferral of impact analysis and improper failure to identify and consider mitigation measures has occurred.

(6) **Harbor Functionality:** “Maintaining a full-service harbor” is stated as a key objective of the EIR and a priority of the Revitalization Plan. The reduced Shipyard configuration proposed by the Plan is incapable of supporting continued Shipyard operations, and specifically does not provide enough space to service the mix of large and small boats in the Harbor or envisioned under that Plan.

(7) **Aesthetics:** The County determined in EIR 591 that aesthetic impacts associated with the Revitalization Plan were significant and unavoidable due to the development of the dry stacked boat storage, which would obstruct views from surrounding roadways, parks and State Beaches. Along the same line, the City Planning Commission’s comment letter on EIR 591 and Resolution 06-06-021-022 request and recommend analysis of alternative designs for the dry stack boat buildings because the proposed location, size, massing and design of the proposed storage would conflict with Coastal Act § 30251 and result in unavoidable significant adverse affects. Anchor Marine supports deletion of the second dry stack, and the evaluation of visual and aesthetic impacts associated with the revised site design and available mitigation measures to reduce those impacts.

**D. The City Must Provide Adequate Notice of Hearings and LCPA Documents to Slip Owners and All Other Parties Affected by the Harbor Revitalization Plan.**

City Code 9.61.050(a)(3) provides in part that notice of hearings shall be mailed to property owners within 500 feet of the exterior boundary of the subject property. Rented boat slips in a marina can be considered real property. (*Smith v. Municipal Court* (1998) Cal.App.3d 685).

Minimal CEQA statutory notice requirements may sometimes be insufficient to satisfy constitutional mandates. Due process requires that notice must be reasonably calculated to afford affected persons the realistic opportunity to protect their interests. Whether merely posted notices or notices circulated in newspapers satisfy these requirements depends on the extent to which a particular landowner’s interests may be affected. (*Horn v. County of Ventura* (1979) 24. Cal.3d 605, 617-618). The boat slip owners in the Harbor will be clearly affected as the Revitalization Plan calls for reconfiguration and displacement of slips in the Harbor.

Moreover, there are special noticing requirements for hearings and documentation related to Local Coastal Plan (“LCP”) documents. City Code 9.61.080(e)(4) provides in part that notice of availability of public review drafts of LCPC materials and transmittal of said

documents shall be made as soon as public drafts are available, but at a minimum at least six weeks prior to any final action on the documents by the City.

The City is required to make a finding that adequate notice of interested persons was made prior to submittal of the LCPA to the Commission. (City Code, § 9.61.080, subd. (e)(3)(E). Proposed City Resolution No. 06-06-21-22 concludes that “a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA in that proper notice in accordance with the LCP Amendment procedures has been followed.” However, notice of the Revitalization Plan has not satisfied City Code requirements.

Upon Anchor Marine’s recent request, the City did generally not notify slip owners in the Harbor regarding the September 13, 2006, City Council hearing on this matter. However, neither the Plan Proponent nor the City adequately notified this obviously affected group of people during the environmental review process for EIR 591, prior to Planning Commission hearings, or six weeks in advance of the City Council hearing or any other hearings associated with this matter.

Further, the public must be given ample opportunity to participate in the LCPA process and have adequate time to review the proposed LCPAs in their final form, or in some form that provides adequate information as to the content of the proposed amendment. (City Code, § 9.61.080, subd. (e)(3)(A). Thus, any substantial changes to the Revitalization Plan, such as those that may be effectuated by removing the second dry stack building, must be incorporated into the document and provided to the public for meaningful review and comment. Provision of a single graphic does not provide adequate information and notice as to the content of the Revitalization Plan as revised, and instead provides only a land use graphic that is inconsistent with land use designations, statistics, district regulations and other crucial text of the Plan. Failure to provide adequate notice of the Plan and an ample opportunity for boaters to participate violates the notice provisions of the City’s Code and CEQA, and the requirements of due process.

Anchor Marine therefore requests that: (1) all boat slip owners in the Harbor continue to be notified by personal mail of any and all hearing dates regarding this matter; (2) a revised Revitalization Plan be prepared made available for public review and comments in accordance with the functional equivalence requirements of CEQA and in compliance with LCPA provisions of the City Code; and (3) pursuant to City Code section 9.61.080 subdivision (e)(4) the City not take any final action on the District Regulations until at least six weeks after the final draft -- incorporating all design alternatives -- of the District Regulations is properly noticed and recirculated.

**5. INCLUDING AN ADEQUATELY SIZED SHIPYARD RESOLVES KEY LEGAL AND PLANNING ISSUES ASSOCIATED WITH THE REVITALIZATION PLAN AND DISTRICT REGULATIONS.**

**A. Factual Justification for Retention of Adequate Shipyard Site.**

Marina Business Associates (“MBA”) and Planning Research Network (“PRN”) prepared the Planning Report, which is an in-depth analysis of the site planning requirements for a Shipyard capable of fully servicing the Harbor. See Attachment B.

The assessment was prepared based on analysis of Harbor and Shipyard operations, existing and projected marine market conditions, and the proposed Revitalization Plan and District Regulations. Given current market conditions and projected increases in the demand for Shipyard services in the future, it is evident that, at a minimum, the Plan must provide for a Shipyard of approximately 2.1 acres in size, equipped with appropriate facilities. The Report further concludes that a 2.6 acre area must be retained for shipyard services to provide sufficient space to fully service the demand for boat service and maintenance in Harbor now and as anticipated under the Revitalization Plan.

Justifications for a 2.1-acre Shipyard include, but are not limited to:

- (1) Very limited current capability to service the number of vessels in the Harbor over 41 feet in length;
- (2) Revitalization Plan will introduce a substantial number of larger boats that will be incapable of obtaining service in the Harbor;
- (3) The Shipyard is the only full service operation within a 15-plus mile radius; and
- (4) Environmental regulations and clean marina best management practices require most major vessel maintenance be performed in the Shipyard.

Accordingly, even putting aside the Coastal Act and CEQA compliance issues, implementation of the Revitalization Plan will create substantial operational constraints that will negatively impact the Harbor’s ability to attract, retain, and safely service the boating public. In short, adoption of the Revitalization Plan will not provide an adequate land use plan, unless and until the Plan is amended as set forth in Attachment A

**B. Resolution of Legal and Planning Issues Associated with Shipyard Site.**

If the Revitalization Plan is revised to include a Shipyard of adequate size the CEQA and Coastal Act compliance issues discussed herein are eliminated.

First, retaining an adequately sized Shipyard would resolve inconsistency with the Coastal Act because: (1) provision of a parcel of adequate size for shipyard services assures the Shipyard's ability to provide adequate boating support services; (2) water quality would be improved by minimizing contaminated discharges related to unregulated in-water maintenance services; (3) protection from additional spillage of oil, gas and petroleum from damaged boats would be enhanced due to Shipyard capacity for secondary response emergency haul outs of boats in the Harbor; (4) the Shipyard as a recreational boating industry would be protected and upgraded; and (5) existence and expansion of a coastal-dependent land use the Shipyard would be protected.

Second, retaining an adequately sized Shipyard would resolve CEQA compliance issues because: (1) water quality impacts would decrease as more boats obtain service at the strictly regulated Shipyard site; (2) public safety would be enhanced based on the Shipyard's ability to continue providing critical assistance to emergency response plans and personnel; (3) onsite parking would be sufficient; (4) additional analysis of alternatives and mitigation measures would be unnecessary because land use would remain intact; and (5) the Revitalization Plan would be far more consistent with its own primary objectives.

Third, retaining a Shipyard of adequate size also improves the long-term sustainability of the Harbor and facilitates obtaining final approval of the LCPA by the Commission.

Hence, we request the District Regulations be revised in accordance with the site planning requirements and performance standards provide herein, and as reflected in Attachment "A" to this letter.

**6. PROPOSED PERFORMANCE STANDARDS TO ASSURE ADEQUATE SHIPYARD SIZE AND RETAIN FLEXIBILITY FOR FUTURE PROJECT-LEVEL PLANNING.**

Anchor Marine understands additional project-level environmental review will be necessary before any modifications can be made to the Shipyard parcel under the Revitalization Plan. At this time we believe it is appropriate to incorporate a land use design in the District Regulations that is capable of supporting an adequately sized Shipyard facility.

Therefore, language has been developed to accomplish the concurrent goals of retaining an appropriate and adequate Shipyard site, while also providing the City and County with enough planning flexibility to accommodate future site planning and configuration of Harbor land uses consistently with the Plan and the Coastal Act.

Among other conforming changes (set forth in full in Attachment A), we request the following rather minor, but important change to Section 4.5, at Page II-4.5, of the

Revitalization Plan resulting in the inclusion of minimum land use standards for a Harbor shipyard:

Page II-4.5, end of Section 4.5 Development Standards and Requirements

Add item p), as follows:

*p) Shipyard Performance Standards. Adequate land and water area shall be maintained to ensure a full-service boat repair facility that accomplishes the following objectives:*

- ❖ Support Harbor's "full service" objective by providing a comprehensive range of boat repair and maintenance services for all types and sizes of sail and engine-powered boats stored and/or moored at Dana Point Harbor*
- ❖ Support Harbor's objective to improve water quality by providing boat repair and maintenance services on land, in an environmentally controlled facility, to avoid pollution impacts resulting from in-water repairs and travel to other harbor ship yards*
- ❖ Provide boat lift(s) to pull distressed (on fire, sinking, inoperable) vessels out of the water and onto safe land area*

*Any substantial modifications to the shipyard shall ensure that the following performance standards are satisfied:*

- a) Provide at least a 2.1 acre-land area within Planning Area 1 to be designated for shipyard uses, and sufficient water area in close proximity to the shipyard area to retrieve/return, store and perform maintenance and repair on a mix of boat types and sizes representative of the overall mix of boat types and sizes in the harbor during peak season.*
- b) Provide sufficient on-site parking for shipyard employees, regular vendors and customers.*
- c) Provide a surface drainage control system that incorporates structural, non-structural, mechanical, biological, good housekeeping and/or other Best Management Practices to contain water pollutants from all sources in the shipyard within a drainage and filtration system that treats runoff and removes solid and liquid waste materials to current RWQCB standards, prior to discharge to the sanitary sewer system. The drainage system shall be designed and maintained in accordance with any applicable shipyard NPDES*

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*Permit, and the Conceptual Water Quality Management Plan for the Harbor, which shall be prepared in accordance with County of Orange Drainage Area Master Plan (DAMP).*

- d) *Restrict public pedestrian and vehicular access to outdoor repair and maintenance areas and related storage and mechanical repair facilities through fencing, electronically-controlled gates, and/or other access controls.*
- e) *Permit use of cranes, boat lifts and other commercially reasonable shipyard equipment within the area designated for shipyard and marine services uses.*

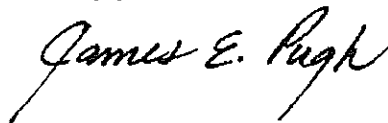
Page II-17.3, Dana Point Harbor Revitalization Plan Statistical Table, under Marine services:

- *Delete Dry-Stack Boat Storage Facility -2*
- *Boat Yard Building(s)--change estimated square footage to 6,000 and Maximum square footage to 6,000*
- *Shipyard services—shall be provided on a minimum of 2.1 acres within Planning Area 1.*

In consideration of all the issues raised herein and the need to substantially revise and recirculate the Revitalization Plan, we are requesting that the City either exercise its land use authority to require the changes recommended in Attachment A, or continue this matter and require and provide for the necessary analysis of impacts, alternatives and mitigation measures, and public review and comment thereon. Anchor Marine offers the full support of its planning and legal team to assist in the resolution of the remaining land use and legal issues associated with the Shipyard parcel.

If you have any questions regarding this matter, please do not hesitate to contact us.

Very truly yours,



James E. Pugh  
for NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

JEP1

Attachments

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

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cc: Douglas C. Chotkevys, City Manager  
Bobbi Ogan, Planning Secretary  
Laura Anderson, Mayor  
Russ Chilton, Mayor Pro Term  
Wayne Rayfield, Council Member  
James V. Lacy, Council Member  
Diane L. Harkey, Council Member  
J. Scott Schoeffel, Chairman  
Steven Weinberg, Vice-Chairman  
April O'Connor, Commissioner  
Norman Denton, III, Commissioner  
Liz Fitzgerald, Commissioner  
Lisa Smith, County of Orange  
George Caravahlo, Director, Dana Point Harbor Dept.  
Carolyn McInerny, County of Orange  
Tom Wilson, County of Orange

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**Attachment A**  
Proposed Revisions to the Revitalization Plan



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**Attachment B**  
Marina Business Associates  
Harbor Planning Report

**Jon Conk**

**From:** April Salem [notetoapril@cox.net]  
**Sent:** Wednesday, January 02, 2008 4:23 PM  
**To:** MarinaEIR  
**Cc:** bruceheyman@cox.net  
**Subject:** Comments regarding the SEIR

Date: January 2, 2008  
Subject: SEIR

Attention: Brad Gross, Director  
(949) 923-2236  
[Marinaeir@dphd.ocgov.com](mailto:Marinaeir@dphd.ocgov.com)

Dear Mr. Gross,

I have read the Initial Study Dana Point Harbor Marina Improvement Project and the Dana Point Harbor Water Project. There are several factors that I believe were not considered or covered in the study. I ask that you examine these factors and then weigh the study.

My name is April Salem and I am active at the Marina as a boat owner, member of a yacht club and as a volunteer worker for a large youth program. All 4 of my daughters have been involved in the youth programs in our Marina for boating education and leadership. I greatly value the gifts of our harbor and all those who work together to make it the charming small harbor we see today.

I believe the water study was a good initial study, however I do not believe it can be statistically significant for a variety of reasons. One day in the summer cannot give one significant data when comparing all days of the year and last summer threw some great variables. My daughter Chelsea (former Quartermaster in the Sea Scout program) came home from New Zealand on July 9th, she was ill and it was so cold there she could not get better... we joked that she brought the horrible weather back to California. She returned to New Zealand for her year of study abroad without a "California Tan"

Indeed July 14, was a dreary day. I contacted NOAA and it stated that we had a high of 67 and low of 65 with drizzle but worst of all...NO WIND. Let me present an outline of the issues with regard to the Water Study done on July 14, 2007.

1. The Water Traffic date July 14, was not statistically significant with regard to several factors:

- a. We had an unusually cold July.
  - i. July 14, from NOAA states that there was no wind, temperatures were 67 for the high and 65 for the low
  - ii. In fact I know that it drizzled
- b. July 14<sup>th</sup> was the day that DWYC held its annual Boater's Swap Meet (Daily usage levels were lower than historical trends)
  - i. Boaters were involved in this activity from two yacht clubs and it was open to the public
  - ii. The typical boating community on the water was not represented
- c. The fact that the water study showed that less than 1% of sailing vessels were on the water (stated low usage levels of sail boats)
  - i. Probably due to the fact that there was NO WIND
  - ii. Also many not only manned booths at the swap meet but also were looking for "sailor's deals"
- d. The week long youth programs hold back on sending out small sailing craft on weekends—(small day vessels 44% of total watercraft observed)
  - i. There is usually more traffic on weekends and the youth can sail during the week.
  - ii. There is no point to sending a child out in a small sailing craft with no wind as they are not as maneuverable and one must chase them in a chase boat!
2. The Evaluation of the of the over-all statistical traffic and potential congestion issues relative the proposed new slip count and configuration cannot be assessed without a larger amount of data due to the nature of the study.
  - a. The weather plays a great part in the use of the harbor.
  - b. Youth are a large part of the small craft day use as well as the boaters who also kayak from their boats in their slips... both groups were under represented on water.
  - c. Harbor Events such as the DWYC Boaters Swap Meet are used to enhance relationships among boaters they encourage participation both off the water and then on the water:
    - i. While the consultants used a weekend cold dreary day during a boater participation land event:
      1. They did not consider the three days of races for ONLY sail boats during the week
        1. Wednesdays: afternoon races
        2. Thursdays: often two races beginning at 12 pm
        3. Fridays: Aventura sponsored races

Mr. Gross, I would like to comment on several areas with regard to potentially affected environmental areas:

- i. Using this probably flawed traffic data several conclusions were made with regard to mitigation of traffic caused by small craft.
  - a. It was stated that the original LUP and LCPA has an existing statute that is NOT ENFORCED which prohibits using the Inner channels for recreational activities.
    - a. There is conflict here.
      - i. In other areas of Initial Study it is stated that more use will be encouraged: ie: small docks and dinghy docs for small craft at or near restaurants are planned to decrease traffic
        1. Not only boaters with small craft available but the general public will also jump in to access these docks (a great idea by the way!)

2. Since we currently DO use the waterways and openly disregard the “statute” Shouldn’t that statute be removed?
3. With regard to response that we will not need increased services ie Harbor Patrol, Emergency Crew etc...
  - a. How can one know, The greatest mitigating factor for small craft traffic is use of these very people
    - i. To enforce statutes that we do not enforce now
    - ii. To educate the public
    - iii. To educate boaters re: rules of the road
    - iv. Monitor flow of traffic
  1. To enforce STOPPING??? Prior to entrance of the channel?
  2. To enforce NO STOPPING in the Channel
- b. It would appear that there would be an impact with regard to our current use of service groups.
  - i. We will have more youth in the basin in rowing vessels as made public by the Ocean Institute
  - ii. There will be less space in the basin as there will be increased growth of the pier
  - iii. If the only way to access kayaks is at baby beach, then the basin will be very full as currently the use is dispersed
  - iv. There will be more small craft using the facilities that the Renovation plan has for them at shopping and restaurants
  - v. There will be more “water taxis” on the water to assist in the traffic while construction is underway

On a general level I have issue with certain points made in the Initial Study, there is stated no impact upon the Revitalization Plan with regard to noise:

The plan calls for a change in the layout of the slips with an additional number of gates. From what I can see there will be 44+ metal gates in the Harbor rather than the current 16 or so... the noise of those gates cannot be ignored!  
The noise in the harbor vibrates due to the cliffs acting as a bowl. Noise may be GREATER!

Pollution due to less small vessels and more larger vessels may be an issue. Larger vessels require larger engines, sometimes more engines, bow thrusters etc... this is something to consider.

Scenic impacts may be huge: Replacing current ocean going vessels in lieu of a concrete parking garage surely must be considered.

With regard to impact upon recreation if this initial study uses its various forms of mitigation there will be less recreational use as stated above. It may not be consistent with regard to the previous Recreational Facility Master Plan. Is there a protection of youth services in this new plan, as there were in the old plan?

I also inquire about the potential significant impact to public use of the facilities. The Sea Scouts have been a part of the Harbor for 30 years. They rely upon membership to maintain their vessels. If they do not have access to facilities they will greatly suffer and membership will be affected. Will we decrease the access of the harbor for children to allow for larger boats? I would like to see the youth programs be protected under the new plan. We have a unique harbor, it serves a large variety of citizens, I would hate to see it provide less for youth and families and more for large vessels and the "professional crew" that they will require.

Thank you for this opportunity to voice my concerns, I ask that you please review and consider some of these concerns.

Sincerely,

April Salem

34300 Lantern Bay #4  
Dana Point, CA 92629



**Lantern Bay Ltd.  
Charters**

U.S. Coast Guard Licenses #801016 / 801019  
e-mail [daysailor@earthlink.net](mailto:daysailor@earthlink.net)

01-02-08P12:04 RCVD

Phone (949) 240-8682  
Fax (949) 240-8688

January 2, 2008

County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Please allow me to comment on the Initial Study for the proposed Marina Changes in the Dana Point Harbor. It is my opinion that the entire Revitalization plan has not been to benefit the harbor, or the boating community. Below is a list of a few things that are not beneficial to boaters.

From the IS figures, it is virtually impossible to determine what changes are being proposed in the Youth and Group – Dana Wharf Sportfishing – Harbor Patrol Docks – Commercial Docks – Dingy Docks – Guest Docks – and Dry Stack Docks! Those areas just seem to be circled, not re-drawn. How can we comment on these?

Guest Docks – do we need them on both ends of the harbor, thus taking more docks away from slip renters?

One of the improvements is listed as dock boxes. The ones that we have now are pathetically small – particularly in the East Basin. Boaters have a great need for storage and most harbors provide larger boxes, along with lockers at the head of the docks, especially for live-aboards.

The dredging plan isn't addressed in this IS – but is mentioned in the NOP. With your insistence on attracting larger boats, why aren't you going to dredge to accommodate them? The new 38-40' sailboats now have keels that reach 9'. My keel is 10' and I am aground in my slip at low tide, with the keel down to its maximum depth. Fortunately, I can retract it to a depth of 6' but most boats aren't built that way. Dredging plans are inadequate. The entire harbor needs to be dredged back to its design depths.

The scariest part of this whole plan is the encroachment into the inner channel. Although the DBW (Cal Boating) letter states that it defers to your engineering firm, Moffat and Nichol, and the Harbor Department letter states that they will go along

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with your plan, as long as Section 7 and the Mitigation section are enforced, I seriously disagree. We have a harbor with designs and channel widths that could be compared to a Cadillac, and your proposal is changing it to a Chevrolet. Why would you want to lose the benefit of this wider channel?

Your traffic study is seriously flawed, as was the auto traffic study done for the original EIR! Observations on only one day? Then models drawn upon that? The study was done on current conditions. It plainly states that there will be fewer boats, so that crowding won't be quite as prevalent. There will not be fewer boats - because of the boat barn. The boats in the slips will be larger, thus creating a different problem than what has been analyzed.

In short, this analysis seems to have been done by someone who has not driven a boat in the harbor. . . . even on a non-crowded day.

Please alter your plan to narrow the channels, and leave them the width that they are.

Cordially,



Barbara Merriman

949-240-8682

## Initial Study – Public Comments

Thank you for the opportunity to submit the following comments to the NOP, IS and the proposed Subsequent Environmental Impact Report:

### Procedural

1. The Dana Point Harbor Department should not be the Lead Agency for the Subsequent Environmental Impact Report.
  - a. Discussion
    - i. The California Environmental Quality Act is a “self-executing statute”
    - ii. Which is enforced, as necessary, by the public through litigation and the threat thereof
    - iii. As the Dana Point Harbor Department has declared itself the “Lead Agency”
    - iv. In this case the Dana Point Harbor Department is also the “Applicant”.
    - v. While there is significant precedent where the “Lead Agency” and the “Applicant” are the same governmental organization there is an expectation that there will be the required safeguards to insure the “Applicant” is doing a thorough job
    - vi. Furthermore the “Lead Agency” is required to perform such duties that are required to insure the validity of the “Applicant’s” submittal
    - vii. In this case the “Lead Agency”, Dana Point Harbor Department has shown a clear desire to politicize the process while also demonstrating a serious lack of reverence for the Subsequent Environmental Impact Report process at the Scoping Meeting
    - viii. Many of the participants and speakers were there at the behest of the Dana Point Harbor Department to state, for the record, their desire to see the “Revitalization of the Harbor” to move forward as already planned. Most made these comments with no discussion of environmental issues.
    - ix. The Dana Point Boaters Association was asked by the Dana Point Harbor Department to minimize speakers so as to allow others time to talk
    - x. The Dana Point Boaters Association was also asked by the Dana Point Harbor Department to help keep boaters focused on environmental issues as opposed to slip design issues
    - xi. The Dana Point Harbor Department encouraged proponents of the plan; brokers, restaurant owners/operators, harbor merchants and marina operators (agents of the Dana Point Harbor Department) to provide as many speakers as possible and did not encourage them to speak to environmental issues



- xii. Public involvement in the process was envisioned to be a vital element of the California Environmental Quality Act
  - xiii. Statements made by the Dana Point Harbor Department at the beginning of the Scoping Meeting implied that public comments and participation in the process will result in unnecessary delays, and increased costs.
- b. Recommendation
- i. The County of Orange should appoint a new “Lead Agency” to provide proper oversight of the Dana Point Harbor Department, “Applicant”.
    - 1. This will help to insure the validity of the Subsequent Environmental Impact Report
    - 2. Reduce the possibility of avoidable delays due to litigation or the threat there of
    - 3. Insure the optimal use of funds and resources
2. Work on the Subsequent Environmental Impact Report should be place on hold until the Waterside Design has been completed.
- a. Discussion
- i. Design must be completed enough to insure all environmental impacts are studied
  - ii. The Final Environmental Impact Report approved by the County Board of Supervisors on 1/31/06 was Programmatic with respect to the Waterside Project because the design was not yet complete
  - iii. The Waterside design is still not complete
  - iv. It is likely that the final design will have a different number of slips/boats from the County’s currently stated favored plan
  - v. It is very possible that these changes will not accommodate a “Negative Declaration” in effect negating the bulk of the work required to complete the Subsequent Environmental Impact Report
  - vi. County stated at the Scoping Meeting that the design can still be changed but failed to articulate a process or procedure for these possible changes
- b. Recommendation
- i. Suspend all work (time and money) on the Subsequent Environmental Impact Report and
  - ii. Establish a process to collaboratively conclude the design phase

### Initial Study Comments

3. The Subsequent Environmental Impact Report must deal with the offsite as well onsite locations affected by this project.
- a. Discussion
- i. {IS Page 2-4 item 2} “all answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

- ii. As a result of the Waterside Project there will be Displace Boats (approximately 1100 boats displaced to accommodate approximately 750 to move in) [some of this displacement is already happening as a result of policies implemented by the Dana Point Harbor Department and their agents].
  - iii. The approximately 1100 boats will have to go somewhere,
    - 1. Some will be allowed to stay as a result of “right sizing” provided the families can afford this choice long term
    - 2. Given that there are already over 600 dry storage boats in the “Commercial Core” being forced into the dry stack (400) and mast up storage (93) there will not be enough space available for this boats within the already approved Commercial Core Final Environmental Impact Report
    - 3. The South Coast Water District is on record stating that they will not sell their property on Stone Hill Rd.
    - 4. Use of the South Coast Water District property as mitigation for displacing boat storage in the Harbor must be considered speculative at this point given the current state of boater acceptance and where South Coast Water District is in the process of the proposed site build out
    - 5. Dry storage, under the management of Vintage Marina Partners has been allowed to implement massive storage fee increases (10% for each of the last three years). This is distorting true demand for in harbor storage.
  - iv. {IS Page 3-12 item a} new offsite boat storage areas will/may likely have “impervious surfaces” whose impacts must be studied
  - v. {Page 2-7 #4 and page 3-8} Geology and Soils
  - b. Recommendation
    - i. The Dana Point Harbor Department must identify all locations where the displaced boats will likely be stored
    - ii. The Dana Point Harbor Department must study the environmental impacts of these storage areas as part of this Subsequent Environmental Impact Report
    - iii. The Dana Point Harbor Department must study geology and soil conditions of all areas where displaced boats are going
4. Consultation – The Dana Point Boaters Association is requesting Consultation
- a. Discussion
    - i. Article 7. EIR Process Section 15086. Consultation Concerning Draft EIR
    - ii. The Lead agency may consult directly with:
    - iii. 2) any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body.
  - b. Recommendation

- i. Dana Point Harbor Department will consult directly with Dana Point Boaters Association on the Subsequent Environmental Impact Report
  5. The Final Environmental Impact Report needs to be refreshed as a part of this Subsequent Environmental Impact Report.
    - a. Discussion
      - i. {IS Page 2-6 1 b)} Applicable Land Use Plan
      - ii. Final Environmental Impact Report approved 1/31/2006
      - iii. Dana Point City Council approve the Commercial Core Local Coastal Plan Amendment on 10/06
      - iv. Material differences (dry stack, # and size of restaurant/store expansion) that affect boaters that now need to be re-studied.
      - v. 53% increase in commercial core and significant reduction in every element of recreational boating (dedicated boater parking, trailer/tow vehicle parking, ship yard, rest room access, mast up storage, and number of locations for storing boats.)
      - vi. {IS page 3-3 item b} County of Orange should not be allowed to category this area as a "Regional Recreation Area" given the displacement of recreational boating activities in favor of expanded commercial interests
    - b. Recommendation
      - i. Re-examine all relevant issues within the Final Environmental Impact Report that were affected by changes made since 1/31/06 approval:
        1. Due to Dana Point City's LCPA process
        2. Impacts due to the waterside development that were not adequately covered
6. Channel Narrowing will required proper study
  - a. Discussion
    - i. {IS Page 2-9 d} Increased Hazards
    - ii. Channel Narrowing will present a Potentially Significant Impact
  - b. Recommendations
    - i. Initial Study Item 6 d) must be coded as Potentially Significant Impact and handled/studied appropriately
7. The statement is made, without explanation, that the "...future LCPA will improve overall Coastal Act compliance" {IS Page 3-2}
  - a. Discussion
    - i. Changes to the plan should be considered from a base line of the existing Local Coastal Programs and not from the current situation
    - ii. Many changes have occurred without the benefit of Environmental Impact Reports or California Coastal Commission oversight.

- iii. Why is base line for this SEIR not the official LCP vs what the County and City has allowed to be taken away from boaters without formal process
  - iv. Why has compliance to existing LCP not been managed by County and City?
    - 1. East Cove (small slips eliminated for larger)
    - 2. Several areas in West (small eliminated for larger)
    - 3. Significant non compliance with dedicated boater parking requirements
    - 4. Significant takeaways from Trailer/Tow Vehicle parking
    - 5. Elimination of 100's of smaller slips in favor of larger (right sizing implemented by marina companies)
    - 6. Increase in broker slips
    - 7. Increase commercial activity out side of Sports Fishing area.
  - v. Why has the LCP not audited as required by law?
  - b. Recommendation
    - i. Reset baseline for all Environmental impacts to existing Local Coastal Programs
8. The Final Environmental Impact Report under stated the potential impact from slip and dry storage loss on local transportation
- a. Discussion
    - i. {IS Page 3-14} Transportation Final Environmental Impact Report
    - ii. By only examining the "Macro" delta numbers the true impact of the change is lost
      - 1. Approximately 620 dry storage boats competing for 493 storage locations in the new plan
      - 2. Approximately 1400 boats competing for approximately 261 slips in the 29' and under category
      - 3. Expectation that these displaced boaters, approximately 1100 will be come trailer boaters
    - iii. Trailer boaters place a heavier load on local roads.
  - b. Recommendation
    - i. Examine traffic loading along roads in and adjacent to Harbor based on new estimate of trailer boaters.
9. Mischaracterization of Design Implication due to change in slip configuration
- a. Discussion
    - i. {IS Page 2.1 Section 9} County states that average slip size will be "Slightly Larger"
    - ii. 13.77% is not a slight increase
    - iii. This issue is further confused by the County's use of "finger" size of slip vs. the size of boat that will be allowed in the slip
    - iv. Issue c. above understates the average slip size by at least 3'

- v. Use of the word “Slightly Larger” does not set the right frame of reference for agency and public evaluation
  - b. Recommendations
    - i. Restate numbers in a non-distorting manner
      - 1. Do not limit published numbers to the Dana Point Harbor Departments 4 size categories
      - 2. Use at least 9 size categories
      - 3. Articulate all slip configuration changes from original Harbor Design, not current or estimated actual
    - ii. Using restated numbers re-evaluate impacts identified and studied in the Final Environmental Impact Report
    - iii. Using restated numbers re-evaluate impacts identified for study in the Subsequent Environmental Impact Report
- 10. Local and County Public Services may be affected by this plan
  - a. Discussion
    - i. {IS page 2-13 # 15} Public Services
    - ii. Pushing 1100+ boats out of the Harbor and into the community may adversely affect the provision of services (police, fire, EMT, water, sewer, maintenance....)
  - b. Recommendation
    - i. Evaluate Public Services impact as a result of this waterside project
- 11. Population & Housing will be affected by this project
  - a. Discussion
    - i. {IS Page 2-6 #3. B & C Also Page 3-5 b and c} Live-A-Boards
    - ii. Boats are considered second homes
    - iii. Over 1100 boats in the water will be displaced
    - iv. Over 100 boats on the land are being displaced
    - v. Live aboard policy in the Harbor has become more restrictive since the Dana Point Harbor Department took the leases back
    - vi. The target 3% live-a-boards are not being achieved due to the restrictive policies
    - vii. Harbor safety is less than it could be with a more robust live-a-board program
  - b. Recommendations
    - i. Evaluate Environmental Impact of
      - 1. Achieving 3% Live-A-Board
      - 2. Achieving 10% Live-A-Board
    - ii. Evaluate Environmental Impact of over 1100 water side and over 100 potential second homes being eliminated
- 12. Introduction of new purposes for Revitalization Design
  - a. Discussion

- i. {IS Page 1-3} Dana Point Harbor Department is introducing new language for goals
    - ii. Task Force was formed to identify 12 Goals of Project
    - iii. This Initial Study adds new goals "...and expand existing landside Harbor facilities to meet current and projected needs of the merchants and Harbor visitors..."
    - iv. Final Environmental Impact Report was approved by County Board of Supervisors on 1.31.06
    - v. Local Coastal Program Amendment was approved by Dana Point City Council in October of 2006
  - b. Recommendation
    - i. Drop, unapproved, new purposes.
- 13. Inundation by seiche, tsunami or mudflow
  - a. Discussion
    - i. {A – IS Page 2-8 J} Inundation by seiche, tsunami, or mudflow?
    - ii. Recent modest rain has shown that water run off in Harbor can be significant
    - iii. City and County have identified tsunami escape routs that will be affected by:
      - 1. construction within the harbor
      - 2. increase commercial traffic due to commercial expansion
      - 3. increased trailer/tow vehicle traffic due to increased numbers of trailer boaters
  - b. Recommendation
    - i. Acknowledge possible impacts and include in study for Subsequent Environmental Impact Report
- 14. Communities will be Physically Divided
  - a. Discussion
    - i. {A – IS Page 2-6 1 a)} Physically divide an established community
    - ii. West marina will be layout out in a similar format to the east marina.
    - iii. Many Boaters feel their community or "neighborhood" will be disrupted
  - b. Recommendation
    - i. Potential impact level should be increased and studied as part of the Subsequent Environmental Impact Report
- 15. Land Use Mischaracterization
  - a. Discussion
    - i. {IS Page 3-2} Land Use Changes Mischaracterization of Facts
    - ii. Significant land use changes and allocations are occurring on the land as a result of this project.
      - 1. Boat storage
      - 2. Boater Parking

3. Access to bathroom facilities
      4. Trailer/tow vehicle parking
      5. Ship yard size
    - b. Recommendation
      - i. Provide detailed land use, in terms of acres or square feet, of planning areas one and two.
      - ii. Re-examine Final Environmental Impact Report and examine Subsequent Environmental Impact Report implications of these significant Land Use Plan Changes.
16. Boat Slip License Agreement
- a. Discussion
    - i. The Dana Point Harbor Department has implemented an overly restrictive Boat Slip License Agreement
    - ii. This Agreement significantly reduces tenant access to their boats
    - iii. This policy will hopefully be remediated in the future
  - b. Recommendation
    - i. Prepare the Subsequent Environmental Impact Report based on a roll back to a less constrained tenant usage of their boats.



DEPARTMENT OF PARKS AND RECREATION  
Orange Coast District  
3030 Avenida del Presidente  
San Clemente CA 92672  
(949) 492-0802

Ruth G. Coleman, Director

January 7, 2007

Brad Gross  
Orange County, Dana Point Harbor Dept.  
24650 Dana Point Harbor Drive  
Dana Point CA 92629

Subject: Dana Point Harbor Marina Improvement Project  
SCH# 2003101142

Dear Mr. Gross:

Thank you for the opportunity to review the Notice of Preparation for the Dana Point Harbor Marina Improvement Project. California State Parks owns and manages Doheny State Beach for the benefit of the citizens of California. Because Dana Point Harbor shares a common boundary with Doheny State Beach and its waters, California State Parks recognizes that the general environment and visitorship are closely aligned. California State Parks has reviewed the Initial Study (IS) for the proposed waterside Marina Improvement Project, and has determined that a Subsequent Environmental Impact Report (SEIR) is required.

Renovation of the marinas and other facilities in the Dana Point Harbor includes removal of nearly all floating docks and piles, reconstruction of quay walls, and installation of new docks, guide piles (or other anchoring method), gangways, gates, dock boxes, and supporting utilities. California State Parks is most concerned with any potential environmental degradation that could affect the health of its approximate 1 million annual visitors. Of greatest concern is the potential for waterborne bacteria, turbidity, or demolition debris to come in contact with our water recreation enthusiasts. In particular, we see no analysis in the IS for the potential of bacteria in sediments to become suspended and distributed with tides and currents. The potential for sediment disruption comes with demolition and installation of piles and docks, and with dredge operations.

California State Parks has previously commented on impacts to viewshed and aesthetics from Doheny State Beach by dry stack storage facilities. And, while new dry stack storage staging docks and dinghy docks are planned, there remains no detailed description of their placement within this project. These storage facilities, as well as



Mr. Gross  
January 7, 2007  
Page 2

temporary docks along the inner jetty adjacent to Doheny State Beach are of concern within this category. The construction of these nearby docks is a concern for noise.

The proposal for dredging in the basin adjacent to the Youth and Group facility, and in other areas under the new slips makes no mention of sediment quality, testing, disposal destination, or potential for contamination. This clearly needs further analysis in the SEIR.

We appreciate this opportunity to respond to this significant project, and if there are questions that arise from these comments, please contact David Pryor, District Environmental Scientist at (949) 497-1421.

Sincerely,



Richard Rozzelle  
District Superintendent

BRAD

**In response to your invitation for comments concerning the SEIR at the December Harbor Redevelopment Meeting, mine are as follows:**

The plan will cause an increase in fossil fuel usage and impact the environment at the waterside and landside components:

- Increased landside parking and traffic from vehicles entering a large mall type structure. The waterside should be dedicated to boating access for tenants, their guests and maintenance activities, including dry storage. Move the Shopping Mall, (give it a Maritime Theme), up to the area proposed for increased dry storage. This will improve freeway access while reducing congestion at the harbor proper. Tie the two together with a small electric trolley or the like, what fun!

- The change of mix in slip sizes to favor larger vessels will bring more fuel into the harbor, more emissions and related pollution. The length to volume ratio is NOT linear, a 25 foot vessel holds 1/10th the tankage of a 40 foot vessel.

- This, by the Coastal Commission definition, is a SMALL BOAT HARBOR. The State of California is imposing strict emission standards of the Automotive Industry, smaller is better!!! Let's all get with the program.

- Thank you Brad Gross for the temporary docks. Now please drop the New Marina Slip Assignment Guidelines (Attrition Policy) and let the small boater back into the Small Boat Harbor.

Thank you for your attention, Tom Kulp, 949.586.9661

**Above contents of email sent and response below, another example of my frustration dealing with this issue.**

**In an attempt to mail a hard copy I could not locate an address in the AT&T phonebook, or the City of Dana Point website for the Dana Point Harbor Department. Why not?**

**From:** MAILER-DAEMON@banquo.ocgov.com  
**Subject:** failure notice  
**Date:** December 30, 2007 8:24:36 PM PST  
**To:** tomkulp@cox.net

Hi. This is the qmail-send program at banquo.ocgov.com.  
I'm afraid I wasn't able to deliver your message to the following addresses.  
This is a permanent error; I've given up. Sorry it didn't work out.

<bradgross@dphd.ocgov.com>:  
172.26.3.1 does not like recipient.  
Remote host said: 550 Mailbox unavailable or access denied -  
<bradgross@dphd.ocgov.com>  
Giving up on 172.26.3.1.

**Brad Gross**

---

**From:** Brad Gross  
**Sent:** Wednesday, January 02, 2008 12:59 PM  
**To:** 'tomkulp@cox.net'  
**Cc:** Brad Gross; Lisa Smith; Paul Lawrence; Mariene Mrozek  
**Subject:** Your SEIR letter

Dear Mr. Kulp,

Thank you for your letter received in our office today. I just wanted to drop you a line so you have the correct email for me and SEIR comments. You do not need to email comments also as your letter will suffice. Just for information sake, that email address is, [marinaeir@dphd.ocgov.com](mailto:marinaeir@dphd.ocgov.com), and my email address is [brad.gross@dphd.ocgov.com](mailto:brad.gross@dphd.ocgov.com) (you missed the . between my first and last name in your attempt). Finally, the reason you could not find us via the City's website, may be because we are County of Orange, Dana Point Harbor Department. We are linked on the City's webpage, <http://www.danapoint.org/>, at the bottom right of the home page, the link takes you right to our home page at, <http://www.dphplan.com/>.

I am not sure why we are not listed in the AT&T phone book but we will make all attempts to see that we are in their next edition.

Thank you for your comments.

Brad Gross, Director  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629  
949-923-3798  
949-923-3791 Fax  
[www.dphplan.com](http://www.dphplan.com)



COMMENT SHEET

PROPOSED DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

Please use the space below to provide comments to help the County of Orange identify the environmental effects that should be analyzed in the draft Subsequent Environmental Impact Report. This form should be completed and returned to the address on the back. All comments must be postmarked no later than Wednesday, January 2, 2008.

PLEASE PRINT

Regarding the environmental effects of the proposed Dana Point Harbor Marina Improvement Project,

WHEN CONSTRUCTION BEGINS IN THE COMMERCIAL CORE  
PLEASE GIVE AMPLE NOTICE TO CUSTOMERS, VISITORS AND  
MERCHANTS TO THE NOISE AND CONSTRUCTION THAT  
WILL BE IN PROGRESS. ALSO NOTE TIME LINE OF  
EXPECTED DISRUPTION -

Please provide your mailing address below:

JIM MILLER  
34531 GOLDEN LARK  
DANA PT. CA 92629

Sincerely,

Jim Miller

Please print your name clearly above

EMAIL: MOKANW@COX.NET

Check the box if you wish to be added to the project mailing list.

Check all that apply:

- Boater
- Merchant
- Agency
- Dana Point Resident
- Other \_\_\_\_\_



### COMMENT SHEET

## PROPOSED DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

Please use the space below to provide comments to help the County of Orange identify the environmental effects that should be analyzed in the draft Subsequent Environmental Impact Report. This form should be completed and returned to the address on the back. All comments must be postmarked no later than Wednesday, January 2, 2008.

### PLEASE PRINT

Regarding the environmental effects of the proposed Dana Point Harbor Marina Improvement Project,

THE RECONFIGURATION FAVORING LARGER BOATS MEANS MORE FUEL CONSUMPTION, FUEL SPILLAGE, MORE TRASH GENERATED BY LARGER CREW/MORE GUESTS. THE LARGER HULLS MEAN MORE TOXIC ANTI-FOWLING PAINT IN CONTACT WITH THE WATER, LARGER TOP SIDES REQUIRING MORE CLEANING PRODUCTS, WHICH WILL GET RINSED OFF INTO THE HARBOR. ALL THE ABOVE, SAVE FUEL CONSUMPTION IS FIXED REGARDLESS OF HOW OFTEN THE BOAT OPERATES. JUST SITTING IN THE WATER, THESE LARGER BOATS ARE GOING TO NEGATIVELY IMPACT WATER QUALITY MORE THAN SMALLER BOATS, ESPECIALLY SAILBOATS WHICH ARE MUCH "GREENER" THAN POWERBOATS, AND WHICH WILL DROP IN NUMBER AS LARGER POWERBOATS TAKE THEIR PLACE.

Please provide your mailing address below:

27758 SANTA MARGARITA PIKE,  
PMB #230  
MISSION VIEJO, CA 92691

Sincerely,

MITCH KRONOWIT

Please print your name clearly above

EMAIL: MITCH@KRONOWIT.COM

Check the box if you wish to be added to the project mailing list.

Check all that apply:

- Boater     Merchant     Agency     Dana Point Resident     Other \_\_\_\_\_

Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: Bob Kroke k-noke  
Street: 21573 Campine Dr  
City/State/Zip: San Juan Capistrano, CA 92675  
Phone: 949 373 1249 Cell: 949 373 1249  
Organization: San Juan Capistrano Harbor Improvement Project  
Topic: Water Quality

Date: 12/07

Purpose of the Card:

- For minutes taking - Proper spelling of speaker's name.
- For distribution of contact information to follow up if necessary.
- Efficient meeting decision.

Speaking Rules:

- Speaker will have 3 minutes to address the subject.
- An additional 3 minutes may be requested if speaking on behalf of an organization.
- Speaker will be called upon by the Director.

Card received at: [www.CPHMPlan.com](http://www.CPHMPlan.com)

Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: Diana Fuchs (Parker)  
Street: 3382 Sea Point Dr  
City/State/Zip: Dana Point, CA 92629  
Phone: 949 243 1891 Cell: 949 243 1891  
Organization: San Juan Capistrano Harbor Improvement Project  
Topic: Support of Harbor Rehabilitation

Date: 12/07

Purpose of the Card:

- For minutes taking - Proper spelling of speaker's name.
- For distribution of contact information to follow up if necessary.
- Efficient meeting decision.

Speaking Rules:

- Speaker will have 3 minutes to address the subject.
- An additional 3 minutes may be requested if speaking on behalf of an organization.
- Speaker will be called upon by the Director.

Card received at: [www.CPHMPlan.com](http://www.CPHMPlan.com)

San Francisco Harbor Marine Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: BRYAN DUNN  
Street: 30073 DEL GADO ROAD 5152 EMBASSY BLVD  
City/State/Zip: ROSELAND, CA 94629 FOUNTAIN VALLEY, CA 92728  
Phone: (916) 457-2118 Fax: None Available  
Organization you are representing, if other than self: VINTAGE HUNTING INDUSTRIES LP  
Subject: WE ARE NOT ON THIS PROJECT AND WE WOULD NOT WANT TO BE INVOLVED

Date: 12/11/07

Purpose of the Card

- For identification - Proper spelling of speaker's name
- Provide basic contact information for follow-up, if necessary
- Efficient meeting decorum

Speaking Rules

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be allowed for speaking on behalf of an organization
- Speakers will be called upon by the Director

Please refer to all items as "the project"

San Francisco Harbor Marine Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: E. L. Abbott  
Street: 29493 Golden Gate  
City/State/Zip: DAVA, CA 94629  
Phone: (916) 257-7225 Fax: None Available  
Organization you are representing, if other than self: None Available  
Subject: Marine Resource - power

Date: 12/11/07

Purpose of the Card

- For identification - Proper spelling of speaker's name
- Provide basic contact information for follow-up, if necessary
- Efficient meeting decorum

Speaking Rules

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be allowed for speaking on behalf of an organization
- Speakers will be called upon by the Director

Please refer to all items as "the project"



Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: John Hicks  
Street: 312 N Boca Raton M  
City/State: Laguna Hills, CA 92653  
Phone: 949 249 6629 E-mail: GHICKS@CER.NET  
Organization you are representing: Anchor Grill Restaurant  
Subject: I would urge the Department to make the process smooth without delay

DATE: 10/11/07

Purpose of the Card:

- For minutes taking - Preceding agenda items
- Provides contact information for follow-up discussion
- Efficient meeting document

Speaking Rules:

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be extended if speaking on behalf of an organization
- Speakers will be called upon by the Director

Revised 10/11/07 by JPH

Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: Monette Williams  
Street: 208 27 Camino  
City/State: Mission Viejo CA 92691  
Phone: 949 541 5157 E-mail: monette@cox.net

Organization you are representing: Anchor Grill Restaurant

Subject:

DATE: 10/11/07

Purpose of the Card:

- For minutes taking - Preceding agenda items
- Provides contact information for follow-up discussion
- Efficient meeting document

Speaking Rules:

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be extended if speaking on behalf of an organization
- Speakers will be called upon by the Director

Revised 10/11/07 by JPH



Delta Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: Marla Sherman  
Street: 516 E. Gooden, Lowell SE  
City, State, Zip: Lowell, WA 98520  
Phone No. (Home) 509-852-1450 Cell: 509-852-1401  
Organization you are representing (other than self): Golden Gate Inn, Washington State  
Street: London Northway in Skagway, Alaska

Date: 1/25/11

Purpose of the Card:

- Formally Sking - Proper spelling of speaker's name
- Provide contact information for follow up if necessary
- EIR scoping meeting

Speaking Rules:

- Speakers will have 3 minutes to address the issues.
- An additional 3 minutes may be allowed if speaking on behalf of an organization.
- Speakers will be called upon by the Director.

and hereby certify that I am:

Delta Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: Donna J. White Donna White  
Street: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone No. (Home) \_\_\_\_\_ Cell: \_\_\_\_\_  
Organization you are representing (other than self): \_\_\_\_\_  
Street: Support the Plans

Date: 1/25/11

Purpose of the Card:

- Formally Sking - Proper spelling of speaker's name
- Provide contact information for follow up if necessary
- EIR scoping meeting

Speaking Rules:

- Speakers will have 3 minutes to address the issues.
- An additional 3 minutes may be allowed if speaking on behalf of an organization.
- Speakers will be called upon by the Director.

and hereby certify that I am:

Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name

R. DIETMEIER (Richard)

Street

30130 CAMBRIDGE

City/State/Zip

DANA POINT

Phone No.

949 253

in electronic format

Subject/Agency/Issue/Concerning/Topic/Issue/Item

MANAGEMENT AND WATER  
MANAGEMENT

Date: 3/11/04

Purpose of the Card

- For initial scoping - For providing information only
- For additional information to be provided - For scoping or behalf of an organization
- Efficient meeting session

Speaking Rules

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be extended - For scoping or behalf of an organization
- Speakers will be called upon by the Director

Form provided by www.DP-Plan.com

Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name: Fred Bevilacqua

Street: 418 Laguna

City/State/Zip: Dana Point, CA 92629

Phone No.: 949 253-8311

in electronic format

Subject/Agency/Issue/Concerning/Topic/Issue/Item

subject: impact of the proposed construction of the public  
harbor at DP-DM on the harbor water table. Concern  
is that the water table is being lowered in some

Purpose of the Card

- For initial scoping - For providing information only
- For additional information to be provided - For scoping or behalf of an organization
- Efficient meeting session

Speaking Rules

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be extended - For scoping or behalf of an organization
- Speakers will be called upon by the Director

Form provided by www.DP-Plan.com

Dana Point Harbor Marine Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name Ricardo Bermudez

Street 3902 Serrano St

City/State/Zip Costa Mesa CA 92626

Phone No. (714) 438-7373 E-Mail Ricardo3851@gmail.com

Organization you are representing (If other than self)

Subject Environment

Date 1/20/11

Purpose of the Card:

- For a meeting agenda (under heading of speaker's name)
- For a desk card with information on table, if necessary
- For a meeting document

Speaking Rules:

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be requested if speaking on behalf of an organization
- Speakers will be called upon by the Director

Return information to: [www.DPHPR.com](http://www.DPHPR.com)

Dana Point Harbor Marine Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name R. Gonzalez

Street

City/State/Zip Costa Mesa

Phone No. (714) E-Mail

Organization you are representing (If other than self)

Subject

Date 1/20/11

Purpose of the Card:

- For a meeting agenda (under heading of speaker's name)
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- Speakers will be called upon by the Director



Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name Kelly Rindermann  
Street 39308 Vanover Bay Dr #94  
City/State DP CA 92629  
Phone 949 456 1111 Fax 949 456 1111  
Organization and Address of the Contact West Coast  
Title Plan Support

DPH 12887

Purpose of the Card:

- For contact during interpretation of speaker's name
- Provides contact information for follow-up if necessary
- Efficient meeting document

Speaking Rules:

- Speaker will have 3 minutes to address the subject
- An additional 3 minutes may be extended if speaking on behalf of an organization
- Speakers will be called upon by the Director

Card returned to www.DPH-tri.com

Dana Point Harbor Marina Improvement Project  
Subsequent EIR Scoping Meeting  
SPEAKER'S CARD (Please Print)

Name Jim Young  
Street 34321 GREENYARD LANE  
City/State LEBANON, CA 92425  
Phone 916 452 1773 Fax 916 452 1773  
Organization and Address of the Contact Dana Point Harbor Marina  
Title Manager, Marina

DPH 12887

Purpose of the Card:

- For contact during interpretation of speaker's name
- Provides contact information for follow-up if necessary
- Efficient meeting document

Speaking Rules:

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- An additional 3 minutes may be extended if speaking on behalf of an organization
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Card returned to www.DPH-tri.com



COMMENT SHEET

PROPOSED DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

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PLEASE PRINT

Regarding the environmental effects of the proposed Dana Point Harbor Marina Improvement Project,

WHEN CONSTRUCTION BEGINS IN THE COMMERCIAL CORE  
PLACES GIVE AMPLE NOTICE TO CUSTOMERS, VISITORS AND  
MERCHANTS TO THE NOISE AND CONSTRUCTION THAT  
WILL BE IN PROGRESS. ALSO NOTE TIME LINE OF  
EXPECTED DISRUPTION -

Please provide your mailing address below:

JIM MILLER  
34531 GOLDEN CANYON  
DANA PT. CA 92629

Sincerely,

Jim Miller

Please print your name clearly above

EMAIL: MOKANW1@COX.NET

Check the box if you wish to be added to the project mailing list.

Check all that apply:

- Boater
- Merchant
- Agency
- Dana Point Resident
- Other \_\_\_\_\_



## COMMENT SHEET

### PROPOSED DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

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TOXIC ANTI-FOULING PAINT IN CONTACT WITH THE WATER, LARGER  
TOP SIDES REQUIRING MORE CLEANING PRODUCTS, WHICH WILL GET  
"RINSED OFF" INTO THE HARBOR. ALL THE ABOVE, SAVE FUEL CONSUMPTION,  
IS FIXED REGARDLESS OF HOW OFTEN THE BOAT OPERATES. JUST  
SITTING IN THE WATER, THESE LARGER BOATS ARE GOING TO  
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ESPECIALLY SAILBOATS WHICH ARE MUCH "GREENER" THAN POWERBOATS,  
AND WHICH WILL DROP IN NUMBER AS LARGER POWERBOATS TAKE THEIR PLACE.

Please provide your mailing address below:

27758 SANTA MARGARITA PIKE  
PMB #230  
MISSION VIEJO, CA 92691

Sincerely,

MITCH KRONOWIT

Please print your name clearly above

EMAIL: MITCH@KRONOWIT.COM

Check the box if you wish to be added to the project mailing list.

Check all that apply:

- Boater     Merchant     Agency     Dana Point Resident     Other \_\_\_\_\_



**TOM DALY**  
Clerk-Recorder

ORANGE COUNTY  
HALL OF RECORDS AND FINANCE  
12 CIVIC CENTER PLAZA, ROOM 101 P.O. BOX 238  
SANTA ANA, CALIFORNIA 92702-0238  
Web: [www.ocrecorder.com](http://www.ocrecorder.com)  
PHONE (714) 834-2248 FAX (714) 834-2675

COUNTY OF ORANGE  
24650 DANA POINT HARBOR DRIVE  
DANA POINT, CA 92629

**SUBJECT: NOTICE OF INTENT**

**NOV 26 2007**

The attached notice was received, filed and a copy was posted on \_\_\_\_\_

It remained posted for 30 (THIRTY) days.

Tom Daly  
County Clerk-Recorder  
In and for the County of Orange

By: \_\_\_\_\_ Deputy

Public Resource Code 21092.3

The notices required pursuant to Sections 21080.4 and 21092 for an environmental impact report shall be posted in the office of the County Clerk of each county in which the project will be located and shall remain for a period of 30 days. The notice required pursuant to Section 21092 for a negative declaration shall be so posted for a period of 20 days, unless otherwise required by law to be posted for 30 days. The County Clerk shall post notices within 24 hours of receipt.

**Public Resources Code 21152**

All notices filed pursuant to this section shall be available for public inspection, and shall be posted within 24 hours of receipt in the office of the County clerk. Each notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than nine months.

12-31-07A11:16 RCVD

## Jon Conk

---

**From:** Lisa Smith [Lisa.Smith@dphd.ocgov.com]  
**Sent:** Monday, December 31, 2007 8:36 AM  
**To:** Jon Conk; rhm@cashassociates.com; Ashley Davis  
**Subject:** FW: Dana Point Harbor Department, Subsequent Environmental Impact Report

**From:** Thomas Kulp [mailto:tomkulp@cox.net]  
**Sent:** Sunday, December 30, 2007 8:24 PM  
**To:** BradGross@dphd.ocgov.com  
**Cc:** Bates, Pat [CEO]; Lisa Smith; Vincent Gin; bruceheyman@cox.net  
**Subject:** Dana Point Harbor Department, Subsequent Environmental Impact Report

In response to your invitation for comments concerning the SEIR at the December Harbor Redevelopment Meeting, mine are as follows:

The plan will cause an increase in fossil fuel usage, "carbon footprint", and impact the environment at the waterside and landside components:

- Increased landside parking and traffic from vehicles entering a large mall type structure. The waterside should be dedicated to boating access for tenants, their guests and maintenance activities, including dry storage. Move the Shopping Mall, (give it a Maritime Theme), up to the area proposed for increased dry storage. This will improve freeway access while reducing congestion at the harbor proper. Tie the two together with a small electric trolley or the like, what fun!!

- The change of mix in slip sizes to favor larger vessels will bring more fuel into the harbor, more emissions and related pollution. The length to volume ratio is NOT linear, a 25 foot vessel holds 1/10th the tankage of a 40 foot vessel.

- This, by the Coastal Commission definition, is a SMALL BOAT HARBOR. The State of California is imposing strict emission standards of the Automotive Industry, smaller is better!!! Let's all get with the program.

- Thank you Brad Gross for the temporary docks. Now please drop the New Marina Slip Assignment Guidelines (Attrition Policy) and let the small boater back into the Small Boat Harbor.

Thank you for your attention, Tom Kulp



## Jon Conk

---

**From:** Bob Terpening  
[bobterpening@roadrunner.com]  
**Sent:** Wednesday, January 02, 2008 5:30 PM  
**To:** MarinaEIR  
**Subject:** Dana Point Harbor Plan

The state is facing a deficit of  
\$14,000,000,000.00. Please consider other places to  
spend our tax dollars. Bob terpening

## Jon Conk

---

**From:** Doug Heim [snoopdoug@cox.net]  
**Sent:** Wednesday, January 02, 2008 1:47 PM  
**To:** MarinaEIR  
**Subject:** FW: eir comment

---

**From:** Doug Heim [mailto:snoopdoug@cox.net]  
**Sent:** Wednesday, January 02, 2008 1:06 PM  
**To:** 'marinaeir@dphd.ocgov.org'  
**Subject:** FW: eir comment

---

**From:** Doug Heim [mailto:snoopdoug@cox.net]  
**Sent:** Wednesday, January 02, 2008 12:38 PM  
**To:** 'marinaeir@dphd.oogov.com'  
**Subject:** FW: eir comment

---

**From:** Doug Heim [mailto:snoopdoug@cox.net]  
**Sent:** Wednesday, January 02, 2008 11:24 AM  
**To:** 'marinaeir@dphdocgov.com'  
**Subject:** eir comment

Dear People,

The Harbor in Dana Point was designed and should continue to be a small boat Harbor. Reconfiguration of the West Basin to add larger boats will provide fewer

1/3/2008

small slips than it does in its current layout. When the Harbor opened the West Basin boating traffic did not have to contend with the added usage by the Marine Institute, Youth and Group sailing programs, the Outrigger club, Dolphin Dave's safaris, and Dana Point Yacht / Dana West Yacht Club race traffic with two junior sailing programs that race year round in the West Basin and outer channel. Also the kayak revolution that launches hundreds of boats from Baby Beach did not exist. All of these "Groups" represent thousands of people enjoying a small boat Harbor in Dana Point along with the current mix of small boats docked in the Harbor.

To replace small boats with larger boats will result in the displacement of the above "Groups" as safety becomes an issue. The County is currently involved in litigation involving on the water collisions and the frequency of these collisions will increase with the replacement of small boats with larger vessels.

I have sailed in this Harbor and lived in Dana Point since 1977 and ask you to keep the Harbor a small boat Harbor for all citizens of the County of Orange.

Thank you,  
Doug Heim  
25331 Yacht Dr.  
Dana Point, Ca

## Jon Conk

---

**From:** Steve Carpenter  
[scsystems@flash.net]  
**Sent:** Wednesday, January 02, 2008 4:54 PM  
**To:** MarinaEIR  
**Cc:** scsystems@flash.net  
**Subject:** Comments for Proposed Dana Point Harbor Marina Improvement Project  
**Importance:** High  
**Attachments:** January 2, 2008 Final IS Study Comments.doc

Dear Brad Gross,

Please find attached my comment for the above mentioned subject. I have attached a MS Word document with two pages of comments. I have also listed these comment in the body of this email incase the attached MS Word document become detached. I thank you in advance for your time and help with this comment period, I also wish you and your staff a Very Happy New Year!

January 1, 2008

Steve Carpenter  
26716 Calle Los Alamos  
Capistrano Beach, Ca 92624

County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, Ca 92629

1/3/2008

January 1, 2008

Steve Carpenter  
26716 Calle Los Alamos  
Capistrano Beach, Ca 92624

County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, Ca 92629  
Phone (949) 923-2236

Attn: Brad Gross, Director

Subject: Comments, Proposed Dana Point Harbor Marina Improvement Project.

Dear Mr. Gross,

Please find listed below my comments regarding the IS Dana Point Harbor Marina Improvement Project of the SEIR. I have listed my comments in order, stating page number of report and section numbers. As a citizen of Dana Point, I am very concerned that my comments are incorporated and included into the Draft EIR report for the completed SEIR.

1. Page 2-3, Environmental Factors Potentially Affected:
  - a. There is a **significant impact**; why were Public Services excluded for the IS report? There will be impacts to boating services and public tourist service with the proposed waterside plan.
2. Page 2-4, Section 2) Evaluation of Environmental Impacts:
  - a. There is a **significant impact**; any and all, prior or existing traffic, air quality, travel, and road studies did not take into account the elimination of boats and people from the previous approved Landside LCPA.
3. Page 2-6, Section 1b) Land Uses & Planning:
  - a. There is a **significant impact**; conflict with existing Landside LCPA, also takes into account Page 2-4, Section 2, All answers must take account of the whole action involved, including off-site as well as on-site cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
4. Page 2-6, Section 3b&c), Population & Housing:
  - a. There will be a **significant impact**; of housing, according to the IRS, a boat is considered a second home. There will be a loss of housing for 374 boats from slip loss and 100+ boat storage spaces from existing hard storage.
  - b. There will be a **significant impact**; to people during and after the marine improvement project. There will be a permanent displacement to more than 474 people and their families.

5. Page 2-8, Section 5g&h):
  - a. There will be a **significant impact**; the possible relocation of 474 plus boats (second homes) to a location that is stated in these two sections.
  
6. Page 2-9, Section 6d&g):
  - a. There will be a **significant impact**; the location of the new dry storage building launching areas and temporary dry storage building day use docking. This area of the Boat Traffic Study does not address the immense traffic congestion that will be occurring within the existing launch ramp and new dry storage building docks. This is for both sections.
  
7. Page 2-13, Section 15v):
  - a. There will be a **significant impact**; there is no guaranteed off-site boat storage (guaranteed by the County of Orange, Dana Point Harbor Department) for the loss of 474 plus displaced boaters. In all Boaters' Meeting Workshops, the Dana Point Harbor Department stated, there will be a guaranteed minimum 500 boater's off-site storage.
  
8. Page 3-3&4, Section 3.1b):
  - a. There is a **significant impact**; there is no mention of any updating to the existing LCP held by the City of Dana Point. It is my understanding that the California Coastal Commission requires that the LCP be recertified every 5 years; I have not found any recertification for the City of Dana Point LCP.
  
9. Page 3-6, Section 3.3b&C):
  - a. There is a **significant impact**; in both sections there will be a significant impact. First, the answers within the IS report are incorrect; answer to b) is in section c), the answer to c) is in b). There will be a significant impact for the loss of 474 plus boats from the water and landside storage. These losses are permanent not temporary; it is a loss of housing and for people and their families.
  
10. Page 3-17, Section 3.7):
  - a. There is a **significant impact**; there is nothing stated or listed, for the permanent air quality impact by removing the 474 plus boats from Dana Point Harbor. This will be a significant impact to air quality, since these boats will now have to travel form an off-site parking storage facilities, to the launch ramps and having to find parking for the boater's vehicle and trailer.

I thank you in advance for your time and help with the proposed IS report, Dana Point Harbor Marina Improvement Project. I may be contacted at the following email address listed below.

Sincerely,  
Steve Carpenter  
[scsystems@flash.net](mailto:scsystems@flash.net)

## Jon Conk

---

**From:** Mollie Bennell-Lazarus [lazarus4@cox.net]  
**Sent:** Wednesday, January 02, 2008 11:22 AM  
**To:** MarinaEIR  
**Cc:** President@dpba.org  
**Subject:** RE: Dana Point Harbor Renovation

Dear Mr. Brad Gross,

We are writing to you regarding our concerns about the harbor renovation project as a current slip renter in Dana West Marina. While we understand the aging factor of the existing docks and a need to refresh the complex with the next 50 years in mind, we think this project is being driven by a desire to squeeze more money out of the harbor setting for the county.

**Dana Point has been a lovely, historical and family friendly setting, where real people, not just CEO's can engage in recreational boating with their friends and families.**

Right now the parking situation is okay except on very busy holiday weekends and during the hottest part of the summer.

**We do not need more shops and restaurants. This is a place for boaters not the Mission Viejo Mall!**

**Why turn this into another ugly Mega Marina for the very rich and ruin a wonderful place that all can enjoy at a more humane level!**

We are concerned about the plan to reduce 26-30ft boat slips, which is where we find ourself currently moored. We are not a particular fan of double wide slips which make you side tie to the dock, but would of course prefer that the number of slips not be reduced in any category. If it takes double wide slips to accomplish that, then so be it.

And no, we don't want to keep our boat in dry dock and have to launch it every time we want ot use it!

**Let's keep this a family friendly marina!**

**We'd like the Dana Point Harbor & Marina to remain a small boating and fishing village atmosphere that respects it's historical setting.**

Dr. Stephen & Mrs. Mollie Lazarus,  
San Clemente California

## Jon Conk

---

**From:** eric.gritzmacher@worldvestcm.com  
**Sent:** Saturday, December 15, 2007 2:05 PM  
**To:** MarinaEIR  
**Cc:** TRUMP SECURITIES  
**Subject:** Dana Point Harbor Plans

I have been unable to access the NOP, IS or the Boat Study Traffic websites. It comes back to me as not found. I used the links in Pate Bates 5<sup>th</sup> district newsletter and then entered them directly to no avail. Could you help me get to those sites? Thank you.

Eric Gritzmacher  
Managing Director  
WorldVest Capital Markets  
(949) 273-6462 (office)  
(949) 632-2378 (mobile)  
[eric.gritzmacher@worldvestcm.com](mailto:eric.gritzmacher@worldvestcm.com)

*Forward Looking Statements - Cautionary Language: Certain statements made in these documents may contain information that includes or is based upon forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements give expectations or forecasts of future events. You can identify these statements by the fact that they do not relate strictly to historical or current facts. They use words such as "anticipate," "estimate," "expect," "project," "intend," "plan," "believe," and other words and terms of similar meaning in connection with a discussion of future operating or financial performance. In particular, these include statements relating to future actions, prospective services or products, future performance or results of current and anticipated services or products, sales efforts, expenses, the outcome of contingencies such as legal proceedings, trends in operations and financial results. Any or all forward-looking statements may turn out to be wrong. They can be affected by inaccurate assumptions or by known or unknown risks and uncertainties. Many such factors will be important in determining our actual future results. These statements are based on current expectations and the current economic environment. They involve a number of risks and uncertainties that are difficult to predict. These statements are not guarantees of future performance.*



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**HOFFMAN**  
CALIFORNIA - INTERNATIONAL  
**FABRICS**  
ESTABLISHED 1924

December 14, 2007

County of Orange  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, Ca. 92629

Attention Brad Gross, Director:

Regarding: The narrowing of the Main Channel - CC-071-07


As we are all very well aware, Dana Point Harbor was designed to be a small boat harbor and this harbor is still in better shape in comparison to all the other harbors in Southern California.

- 1) In my opinion I feel that nothing should be changed!
- 2) It is a money making harbor.
- 3) You do not need to incur more debt.
- 4) Put the money to better use.

The existing traffic in the main inside channel is already very busy. It gets a lot of inflatable dinghies, kayak paddling, kayak fishing, single outrigger paddling, stand-up paddling (big trend) prone paddling and fishing from inflatable inner-tubes. I know of two separate incidents where people have been run over because the boaters have been unable to detect them low down in the water. One is in the process of suing the boat owner and the county!

I have duly read the report from the Harbor Department and what they have not addressed is the traffic problem in the main inside channel. For safety reasons alone, I feel that the narrowing of the inside channel will be more of a liability and the removal of all the docks will no doubt incur a huge expense. One can only predict that the overall return on such and investment will be miniscule.

Regards,



Philip Hoffman  
Slip # A133

Rube P. Hoffman Co.

25792 OBRERO DRIVE • P.O. BOX 2009 • MISSION VIEJO, CA 92691-3140 • 949-770-2922 • 800-547-0100 • FAX 949-770-4022

E-mail: HoffmanFab@AOL.com • Website: <http://www.HoffmanFabrics.com>

## Jon Conk

---

**From:** pfnangle@aol.com  
**Sent:** Wednesday, January 02, 2008 4:03 PM  
**To:** MarinaEIR  
**Cc:** notetoapril@cox.net; pfnangle@aol.com  
**Subject:** Traffic study input

Pete Nangle  
Orange County Resident- Dana Point Boater  
[pfnangle@aol.com](mailto:pfnangle@aol.com) 949-322-8814

To: Brad Gross Director

Overview- Upon review of the recently submitted “Dana Point Boat Traffic Study” Nov 2007, I was called to write this critique to bring up some serious anomalies in the study. While the study is professionally presented, and looks to have been submitted by a competent consulting firm, there are some serious omissions and misleading findings and conclusions. I submit that a study done by locals and serious Dana Point boaters instead of Paid consultants would have come to different conclusions.

### Findings-

a. Page 1- Executive Summary- This page refers to the fact that only one single day (July 14, 2007) data points were used for this study. Any statistical analysis of this importance should have more data points. This is unacceptable evidence that any of this data is properly representative of the true utilization. The day in question was a gloomy Saturday that is fresh in my mind because the annual Marine Swap Meet was held in the parking lot. A lot of boaters showed up, and spent the day selling and shopping, instead of boating. I also remember that there was absolutely no wind that day, that would have had the effect of eliminating most sailboaters from

venturing out. This has a major effect on the accuracy of the data. The opposite effect would occur if data had been collected on the next Thursday, when the weekly “beer can race” is held and a group of 30+ sailboats would leave and return twice.

Issue- There needs to be a statistically significant number of days and times studied.

b. Page 6- Footnotes- This data is so outdated it is unusable. Fuel costs alone have altered the “use” of the average boater. Kayaks, and human powered boats are now outnumbering the gas and diesel powered boats.

c. Page 37- “ The design intent never included using the inner channels for recreational areas....” This needs to be seriously looked at from today's needs and uses. Rarely are the kayakers and stand-up paddlers even a factor in navigation in the channels and the popularity of this activity should necessitate a change in policy. To exclude these folks by suddenly enforcing a ridiculous law would be really bad. The Heart and Soul of Dana Point is the boating that is done on this level and not the Giant Powerboaters that the consultants seem to want. Outlaw Kayaks?? Absurd !! We'll tell our sons fighting for freedom in Iraq that I just threw out their kayaks because the Dana Point Harbor Department deemed them a menace.

d. Small Day Use Boats are generally used by kids that utilize the channels as well as the basins. These assets are priceless, and narrowing the channels will significantly impact the availability of free water to sail on. I don't see any reference to this group or the huge impact that this project will have. Our Children are the future, and need open water to carry on the traditions. Programs such as Mariners, Westwind, and Yacht club youth groups regularly use these passages, and need our protection.

Summary This study needs to be re-written with community input.

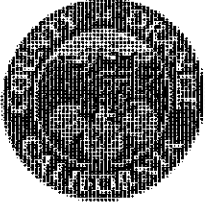
Pete

1/3/2008

Cell 949-322-8814

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**COPY**

**NOTICE OF PREPARATION  
NOTICE OF SCOPING MEETING  
SUBSEQUENT ENVIRONMENTAL IMPACT REPORT**

Date: November 27, 2007  
Subject: Notice of Intent to Prepare a Draft Subsequent Environmental Impact Report  
Project Title: Dana Point Harbor Marina Improvement Project  
Applicant: County of Orange – Dana Point Harbor Department

The Orange County Dana Point Harbor Department (County) has prepared an Initial Study (IS) for the proposed waterside Marina Improvement Project in the City of Dana Point (City) and has determined that a Subsequent Environmental Impact Report (SEIR) is required. The County is the lead agency for the project and will prepare the SEIR in accordance with the requirements of the California Environmental Quality Act (CEQA) and the CEQA implementing guidelines (Guidelines).

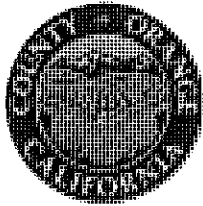
The project proposes renovation of the marinas and other facilities in the Dana Point Harbor. The Marina Improvement Project (Project) renovations include removal of nearly all floating docks and piles in the West and East Marinas; reconstruction of portions of the quay wall; and installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, and supporting utilities within both marina areas. Additionally, new dry stack storage staging docks and dinghy docks, along with renovations to the Youth and Group docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed Project. Other Project components include improved lighting on the docks and public access improvements, including gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines. In order to accommodate boaters during the renovations, the Project also includes the construction of temporary docks to be located in the Harbor's Main Channel and along the breakwater adjacent to Doheny State Beach.

This Notice of Preparation (NOP) is being circulated pursuant to California Public Resources Code Section 21153(a) and CEQA Guidelines Section 15082. Public agencies and the public are invited to comment on the proposed scope and content of the environmental information to be included in the SEIR. Potential Responsible Agencies, federal agencies involved in funding or approving the project, and Trustee Agencies responsible for natural resources affected by the project areas are invited to comment regarding the scope and content of the environmental information relevant to your agency's statutory responsibilities in connection with the proposed project. The project location map is included with this NOP. Based on the analysis contained in the IS, the probable environmental effects of the project to be analyzed in the DSEIR, include but are not necessarily limited to the following: aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, recreation, transportation and traffic, and utilities. Responses received to this NOP may modify or add to the preliminary assessment of potential issues addressed in the SEIR.

A public SEIR scoping meeting will be held on Saturday, December 8, 2007, at 11:00 a.m. to 1:00 p.m. at the Dana Point Youth and Group Facility, Dana Point, California 92629. A complete copy of the Orange County Dana Point Harbor Department's Initial Study is available for review at the facility or online at [www.dphplan.com](http://www.dphplan.com). Because of the earliest possible date but not later than 30 days after the date of this notice, comments from agencies and others regarding this notice must be submitted in writing to the

COUNTY OF ORANGE  
Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

*Flood program does not have a need to comment on this note from Kevin Oruma*



## RE-ISSUED NOTICE OF PREPARATION SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

Date: December 21, 2009  
Subject: Re-Issue Notice of Intent to Prepare a Draft Subsequent Environmental Impact Report  
Project Title: Dana Point Harbor Marina Improvement Project SCH No. 2003101142  
Applicant: OC Dana Point Harbor

This Notice of Preparation (NOP) is being re-issued by OC Dana Point Harbor (County) for the proposed waterside Marina Improvement Project in the City of Dana Point (City). The original NOP was circulated from November 27, 2007 to January 2, 2008 to inform Responsible and Trustee Agencies, and the interested public that a Subsequent Environmental Impact Report (SEIR) was being prepared for the Marina Improvement Project. Due to the length of time that has passed, this NOP is being re-issued. The County is the lead agency for the project and will prepare the SEIR in accordance with the requirements of the California Environmental Quality Act (CEQA) and the CEQA implementing guidelines (Guidelines). This NOP is being circulated pursuant to California Public Resources Code Section 21153(a) and CEQA Guidelines Section 15082.

The Land Use Plan component of the Local Coastal Program Amendment (LCPA) for the proposed Dana Point Harbor Revitalization Project was approved with suggested modifications by the California Coastal Commission (Commission) on October 8, 2009. The waterside portion of the project is now proceeding through a separate, independent process for environmental clearance and approval. As part of the Commission's approval, a suggested modification was included to establish a goal for any dock replacement to attempt to achieve a "no net loss" of slips harborwide, but to limit the loss of boat slips to a maximum of 155 slips with an average slip length not to exceed 32 feet. In the event that the replacement of docks requires a reduction in the quantity of slips in existing berthing areas, the policy revision also provides that those slips should be replaced, if feasible in new berthing areas elsewhere in the harbor. No other changes in the project description for the Marina Improvement Project have occurred since the circulation of the previous NOP in November 2007.

The Marina Improvement Project (Project) renovations include removal of nearly all floating docks and piles in the West and East Marinas; potential repair and/or reconstruction of portions of the quay wall; and installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, improved lighting on the docks and supporting utilities within both marina areas. Additionally, new dry stack storage staging docks and dinghy docks, along with renovations to the OC Sailing and Event Center docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed Project. The project also includes public access improvements to gangways and docks in compliance with the Americans with Disabilities Act (ADA) guidelines, and construction of temporary docks the along the breakwater adjacent to Doheny State Beach.

Potential Responsible Agencies, federal agencies involved in funding or approving the project, and Trustee Agencies are invited to comment regarding the scope and content of the environmental information to be included in the SEIR, relevant to your agency's statutory responsibilities in connection with the proposed project. The project location map is included with this NOP. Based on the analysis contained in the IS, the probable environmental effects of the project to be analyzed in the DSEIR, include but are not necessarily limited to the following: aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, recreation, transportation and traffic, and utilities. Responses received to this NOP may modify or add to the preliminary assessment of potential issues addressed in the SEIR.

A complete copy of the original NOP prepared for the proposed project may be reviewed at OC Dana Point Harbor office located at, 24650 Dana Point Harbor Drive, Dana Point, California 92629, or online at [www.dphplan.com](http://www.dphplan.com). Because of time limits mandated by State law, your response must be sent at the earliest possible date but *not later than 30 days* after receipt of this notice. The County will accept comments from agencies and others regarding this notice through the close of business on **January 20, 2010**. All comments to this notice must be submitted in writing to the following address, or by e-mail as indicated below:

**OC Dana Point Harbor**  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Attention: Brad Gross, Director  
Phone: (949) 923-2236  
[Marinaeir@dphd.ocgov.com](mailto:Marinaeir@dphd.ocgov.com)

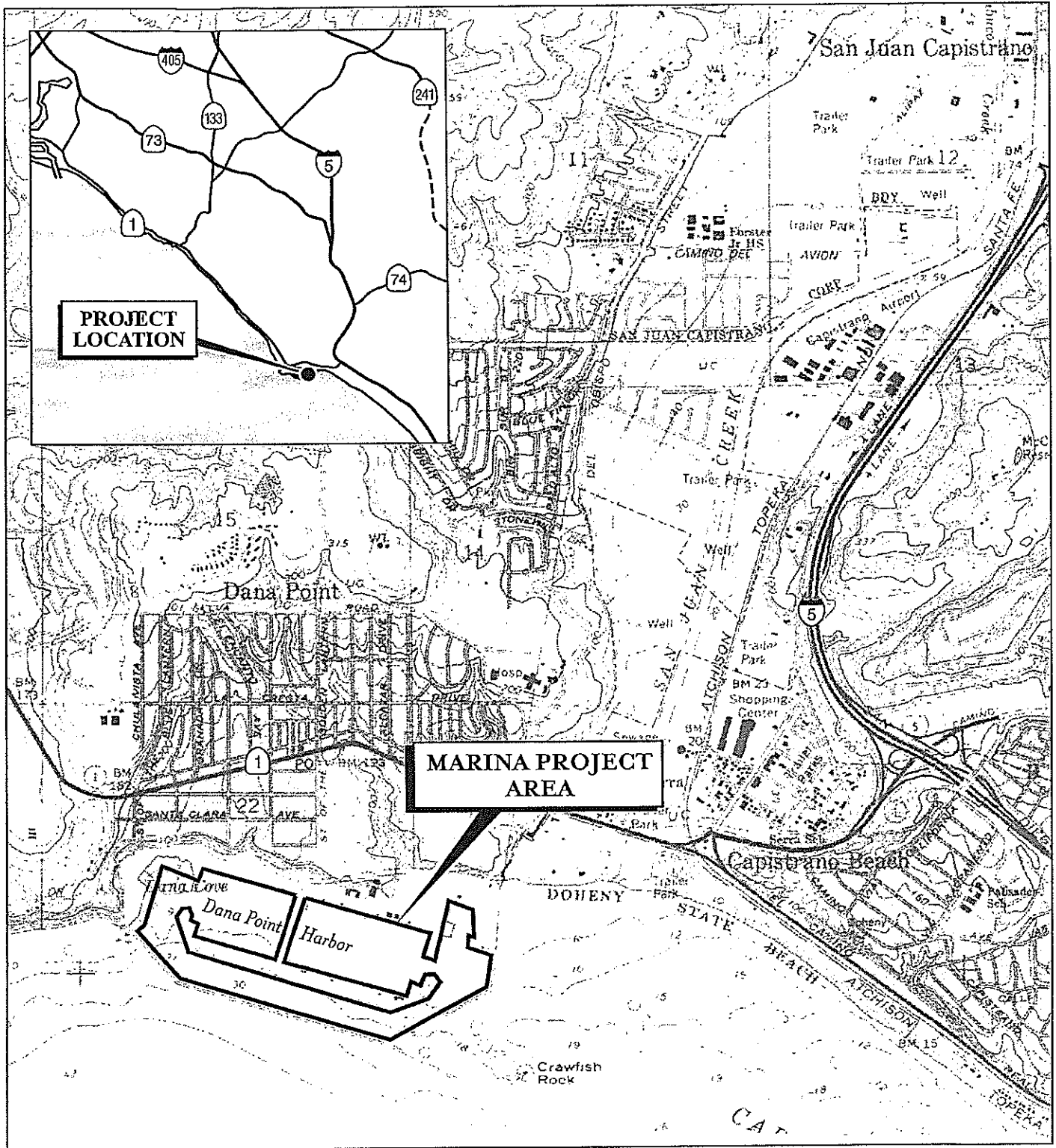
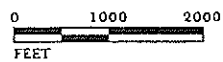


FIGURE 1

LSA



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

Dana Point Harbor Marina Improvement Project  
Project Location





# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

January 8, 2010

Mr. Brad Gross, Director  
County of Orange  
OC Dana Point Harbor  
24650 Dana Point Harbor Drive  
Dana Point, CA 92629

01-25-10A09181 REV0

Dear Mr. Gross:

## **Notice of Preparation of a Draft Subsequent Environmental Impact Report (Draft SEIR) for the Dana Point Harbor Marina Improvement Project**

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft environmental impact report (SEIR). Please send the SCAQMD a copy of the Draft SEIR upon its completion. **In addition, please send with the draft SEIR all appendices or technical documents related to the air quality analysis and electronic versions of all air quality modeling and health risk assessment files. Electronic files include spreadsheets, database files, input files, output files, etc., and does not mean Adobe PDF files. Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

### **Air Quality Analysis**

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. Alternatively, the lead agency may wish to consider using the California Air Resources Board (CARB) approved URBEMIS 2007 Model. This model is available on the SCAQMD Website at: [www.urbemis.com](http://www.urbemis.com).

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM<sub>2.5</sub> emissions from construction and operational activities and processes. In connection with developing PM<sub>2.5</sub> calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM<sub>2.5</sub> emissions and compare the results to the recommended PM<sub>2.5</sub> significance thresholds. Guidance for calculating PM<sub>2.5</sub> emissions and PM<sub>2.5</sub> significance thresholds can be found at the following internet address: [http://www.aqmd.gov/ceqa/handbook/PM2\\_5/PM2\\_5.html](http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html).

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

In the event that the proposed project generates or attracts vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the lead agency perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: [http://www.aqmd.gov/ceqa/handbook/mobile\\_toxic/mobile\\_toxic.html](http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html). An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

#### **Mitigation Measures**

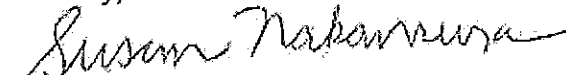
In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: [www.aqmd.gov/ceqa/handbook/mitigation/MM\\_intro.html](http://www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html) Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/agguide/agguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

#### **Data Sources**

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD is willing to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. Please call Daniel Garcia, Air Quality Specialist, CEQA Section, at (909) 396-3304 if you have any questions regarding this letter.

Sincerely,



Susan Nakamura  
Planning Manager  
Planning, Rule Development and Area Sources

SN:DG:AK  
ORC100106-04AK  
Control Number

From: Tom S [mailto:[deboatman@sbcglobal.net](mailto:deboatman@sbcglobal.net)]  
Sent: Tuesday, January 12, 2010 9:07 PM  
To: MarinaEIR  
Cc: \ 'Rodger Beard\  
Subject: Comments on NOP Project SCH 2003101142

Dear Sirs,

I would like to comment on the proposed waterside improvement project in Dana Point Harbor.

I have concerns regarding the limited plan options that have been presented to the boaters in the past. All of the options included both channel narrowing and 1/3 double wide slips. Why were there no options that included no channel narrowing or no double wide slips? I voted on the 4 plans presented last year, but none of the designs were my preference since I really think double wide slips are a mistake and do not give you any benefit for the amount of inconvenience that all the boaters will receive. When initially polled, 84% of the boaters opposed double wide slips. So the DPHD is still ignoring this and including this in all design options. When I had communications with the waterside project consultant (Jon Conk) , he explained that there would be about a 9-10% savings for the double wides. So you would inconvenience 300 boaters forever to save 30 slips? The cost / benefit does not seem to make much sense. The same goes for channel narrowing. If you are in the harbor on any summer weekend, you would see how crowded the main channel is and how hard it is to navigate. The reality is that narrowing the channel would create many dangerous situations for boaters, kayakers and paddle boarders alike.

Please expand the options presented to the boaters to exclude these designs for our fine harbor. Very few want them, but you have continually included them in every one of your past plan options to the boaters.

Thank you.

Tom Smith  
slip renter  
East Basin

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 384  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
e-mail: [de\\_nahc@pacbell.net](mailto:de_nahc@pacbell.net)



January 26, 2010

Mr. Brad Gross

**COUNTY OF ORANGE****DANA POINT HARBOR DEPARTMENT**

24650 Dana Point Harbor Drive  
Dana Point, CA 92629

Re: SCH#2003101142 CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Dana Point Harbor Marina Improvement Project; located in the City of Dana Point, Orange County, California

Dear Mr. Gross:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3<sup>rd</sup> 604) The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were not identified within one-half mile of the APE - City Boundaries. However, there are Native American cultural resources in close proximity.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11..

Consultation with tribes and interested Native American tribes and individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f]) et se),

36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected the under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C, 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

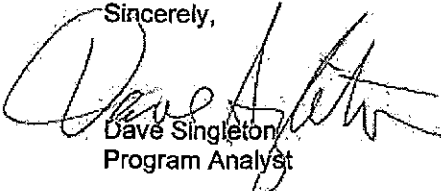
CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contacts  
Orange County  
January 26, 2010

Juaneno Band of Mission Indians Acjachemen Nation  
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This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106, and federal NAGPRA.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2003101142; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Dana Harbor Marina Improvement Project; located in the City of Dana Point; Orange County, California.



## Department of Toxic Substances Control

Linda S. Adams  
Secretary for  
Environmental Protection

Maziar Movassaghi  
Acting Director  
5796 Corporate Avenue  
Cypress, California 90630

Arnold Schwarzenegger  
Governor

January 27, 2010

Mr. Brad Gross, Director  
Orange County, Dana Point Harbor Department  
24650 Dana Point Harbor Drive  
Dana Point, California 92629

### RE-ISSUED NOTICE OF PREPARATION FOR A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE DANA POINT HARBOR MARINA IMPROVEMENT PROJECT (SCH# 2003101142), ORANGE COUNTY

Dear Mr. Gross:

The Department of Toxic Substances Control (DTSC) has received your submitted re-issued Notice of Preparation (NOP) for a draft Environmental Impact Report (EIR) for the above-mentioned project. The following project description is stated in your document: "The Dana Point Harbor Marina Improvement Project (Project) is located within the City of Dana Point (City) at Dana Point Harbor (Harbor) in Capistrano Bay on the Southern Orange County (OC) coastline, between Los Angeles and San Diego Counties. The Project includes the removal of nearly all floating docs and piles in the West and East Marinas; potential repair and/or reconstruction of portions of the quay wall; and installation of new docks, guide piles (or alternate anchoring methods), gangways, security gates, dock boxes, improved lighting on the docks and supporting utilities within both marina areas. Additionally, new dry stack storage staging docks, star moorings and dinghy docks, along with renovations to the OC Sailing and Event Center docks, guest docks, Harbor Patrol docks, commercial fishing docks, and sport fishing docks are included in the proposed Project. The Harbor is bordered by the Pacific Ocean to the south; Dana Point Headlands and Old Cove Marine Preserve to the west; Doheny State Beach to the east; and a variety of commercial, hotel, residential, and park uses to the north". DTSC has the following comments:

- 1) The EIR should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances, and any known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the pertinent regulatory agencies:

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Mr. Brad Gross, Director  
January 27, 2010  
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- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
  - EnviroStor: A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
  - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
  - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
  - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
  - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
  - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
  - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 2) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents. Please see comment No.11 below for more information.
- 3) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.



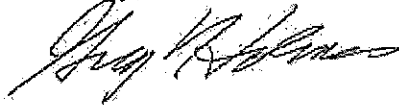
- 4) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the EIR.
- 5) If buildings or other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 6) Project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 7) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.

Mr. Brad Gross, Director  
January 27, 2010  
Page 4

- 9) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented.
- 10) DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties under CERCLA, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see [www.dtsc.ca.gov/SiteCleanup/Brownfields](http://www.dtsc.ca.gov/SiteCleanup/Brownfields), or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

If you have any questions regarding this letter, please contact Mr. Rafiq Ahmed, Project Manager, at [rahmed@dtsc.ca.gov](mailto:rahmed@dtsc.ca.gov) or by phone at (714) 484-5491.

Sincerely,



Greg Holmes  
Unit Chief  
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

CEQA Tracking Center  
Department of Toxic Substances Control  
Office of Environmental Planning and Analysis  
1001 I Street, 22nd Floor, M.S. 22-2  
Sacramento, California 95814  
[ADelacr1@dtsc.ca.gov](mailto:ADelacr1@dtsc.ca.gov)

CEQA # 2781

**From:** Michael Murphy [mailto:[mpmurphy@moranandco.com](mailto:mpmurphy@moranandco.com)]  
**Sent:** Monday, January 11, 2010 2:46 PM  
**To:** MarinaEIR  
**Subject:** re-issued NOP

I received your notice of preparation for the SEIR dated January 5, 2010. Although the notice states that the re-issued NOP is available at [www.dphplan.com](http://www.dphplan.com), I am finding it difficult to find a clear link to the document(s) from the main website. Can you please send me a direct link to the document so that I may review?

Thank you,

Michael Murphy  
Director

Moran & Company  
2211 Michelson Drive, Suite 1170  
Irvine, CA 92612

949.242.4050 x8404  
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## Initial Study – Public Comments

As this is an update Boaters for Dana Point Harbor are resending an earlier document with track changes on. In the spirit of making work as easy as possible for everyone we hope that the County will extend a similar courtesy. Thank you for the opportunity to submit the following comments for:

Re-Issue Notice of Intent to Prepare a Draft Subsequent Environmental Impact Report,

Project: Dana Point harbor Marina Improvement Project SCH No. 2003101142.

The Notice of Preparation states that the Draft Subsequent Environmental Impact Report will be available in area libraries and in OC DPH offices. We respectfully ask that the Draft Subsequent Environmental Impact Report be release electronically and not locked down as images. This will facilitate maximum public involvement.

Regards,  
Boaters for Dana Point Harbor  
Bruce Heyman  
949 289-8400  
[BruceHeyman@cox.net](mailto:BruceHeyman@cox.net)

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### Procedural

1. The Dana Point Harbor Department (now OC DPH) should not be the Lead Agency for the Subsequent Environmental Impact Report.
  - a. Discussion
    - i. The California Environmental Quality Act is a “self-executing statute”
    - ii. Which is enforced, as necessary, by the public through litigation and the threat thereof
    - iii. As the Dana Point Harbor Department has declared itself the “Lead Agency”
    - iv. In this case the Dana Point Harbor Department is also the “Applicant”.
    - v. While there is significant precedent where the “Lead Agency” and the “Applicant” are the same governmental organization there is an expectation that there will be the required safeguards to insure the “Applicant” is doing a thorough job
    - vi. Furthermore the “Lead Agency” is required to perform such duties that are required to insure the validity of the “Applicant’s” submittal
    - vii. In this case the “Lead Agency”, Dana Point Harbor Department has shown a clear desire to politicize the process while also

- demonstrating a serious lack of reverence for the Subsequent Environmental Impact Report process at the Scoping Meeting
- viii. Many of the participants and speakers were there at the behest of the Dana Point Harbor Department to state, for the record, their desire to see the “Revitalization of the Harbor” to move forward as already planned. Most made these comments with no discussion of environmental issues.
  - ix. The Dana Point Boaters Association was asked by the Dana Point Harbor Department to minimize speakers so as to allow others time to talk
  - x. The Dana Point Boaters Association was also asked by the Dana Point Harbor Department to help keep boaters focused on environmental issues as opposed to slip design issues
  - xi. The Dana Point Harbor Department encouraged proponents of the plan; brokers, restaurant owners/operators, harbor merchants and marina operators (agents of the Dana Point Harbor Department) to provide as many speakers as possible and did not encourage them to speak to environmental issues
  - xii. Public involvement in the process was envisioned to be a vital element of the California Environmental Quality Act
  - xiii. Statements made by the Dana Point Harbor Department at the beginning of the Scoping Meeting implied that public comments and participation in the process will result in unnecessary delays, and increased costs.
- b. Recommendation
- i. The County of Orange should appoint a new “Lead Agency” to provide proper oversight of the Dana Point Harbor Department, “Applicant”.
    - 1. This will help to insure the validity of the Subsequent Environmental Impact Report
    - 2. Reduce the possibility of avoidable delays due to litigation or the threat there of
    - 3. Insure the optimal use of funds and resources

~~2. Work on the Subsequent Environmental Impact Report should be place on hold until the Waterside Design has been completed.~~

~~a. Discussion~~

- ~~i. Design must be completed enough to insure all environmental impacts are studied~~
- ~~ii. The Final Environmental Impact Report approved by the County Board of Supervisors on 1/31/06 was Programmatic with respect to the Waterside Project because the design was not yet complete~~
- ~~iii. The Waterside design is still not complete~~
- ~~iv. It is likely that the final design will have a different number of slips/boats from the County’s currently stated favored plan~~

- ~~v. It is very possible that these changes will not accommodate a “Negative Declaration” in effect negating the bulk of the work required to complete the Subsequent Environmental Impact Report~~
- ~~vi. County stated at the Scoping Meeting that the design can still be changed but failed to articulate a process or procedure for these possible changes~~
- ~~b. Recommendation~~
  - ~~i. Suspend all work (time and money) on the Subsequent Environmental Impact Report and~~
  - ~~ii. Establish a process to collaboratively conclude the design phase~~

### Initial Study Comments

~~3-2.~~ The Subsequent Environmental Impact Report must deal with the offsite as well onsite locations affected by this project.

- a. Discussion
  - i. {IS Page 2-4 item 2} “all answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
  - ii. As a result of the Waterside Project there will be Displace Boats (approximately ~~1100-???~~ boats displaced to accommodate approximately ~~750-???~~ to move in) [some of this displacement is already happening as a result of policies implemented by the Dana Point Harbor Department and their agents].
  - iii. The approximately ~~1100-???~~ boats will have to go somewhere,
    - 1. Some will be allowed to stay as a result of “right sizing” provided the families can afford this choice long term
    - 2. Given that there are already over ~~600-683~~ dry storage boats in the “Commercial Core” being forced into the dry stack (400) and mast up storage (93) there will not be enough space available for this boats within the already approved Commercial Core Final Environmental Impact Report
    - 3. The South Coast Water District is on record stating that they will not sell their property on Stone Hill Rd.
    - 4. Use of the South Coast Water District property as mitigation for displacing boat storage in the Harbor must be considered speculative at this point given the current state of boater acceptance and where South Coast Water District is in the process of the proposed site build out
    - 5. Dry storage, under the management of Vintage Marina Partners has been allowed to implement massive storage fee increases (10% for each of the last three years). This is distorting true demand for in harbor storage.
  - iv. {IS Page 3-12 item a} new offsite boat storage areas will/may likely have “impervious surfaces” whose impacts must be studied
  - v. {Page 2-7 #4 and page 3-8} Geology and Soils

~~v.~~vi. Additonal Traffic considerations must be accommodated as it was not fully accounted for in FEIR 541

b. Recommendation

- i. The Dana Point Harbor Department must identify all locations where the displaced boats will likely be stored
- ii. The Dana Point Harbor Department must study the environmental impacts of these storage areas as part of this Subsequent Environmental Impact Report
- iii. The Dana Point Harbor Department must study geology and soil conditions of all areas where displaced boats are going
- ~~iii.~~iv. The OC Dana Point Harbor must study the traffic issues associated with any changes in circulation and storage locations.

~~4.3.~~ Consultation – ~~The Dana Point Boaters Association~~Boaters for Dana Point Harbor ~~are~~is requesting Consultation

a. Discussion

- i. Article 7. EIR Process Section 15086. Consultation Concerning Draft EIR
- ii. The Lead agency may consult directly with:
- iii. 2) any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body.

b. Recommendation

- i. Dana Point Harbor Department will consult directly with ~~Dana Point Boaters Association~~Boaters for Dana Point Harbor on the Subsequent Environmental Impact Report

~~5.4.~~The Final Environmental Impact Report needs to be refreshed as a part of this Subsequent Environmental Impact Report.

a. Discussion

- i. {IS Page 2-6 1 b)} Applicable Land Use Plan
- ii. Final Environmental Impact Report approved 1/31/2006
- iii. Dana Point City Council approve the Commercial Core Local Coastal Plan Amendment on 10/06
- iv. Material differences (dry stack, # and size of restaurant/store expansion) that affect boaters that now need to be re-studied.
- v. 53% increase in commercial core and significant reduction in every element of recreational boating (dedicated boater parking, trailer/tow vehicle parking, ship yard, rest room access, mast up storage, and number of locations for storing boats.)
- vi. {IS page 3-3 item b} County of Orange should not be allowed to category this area as a “Regional Recreation Area” given the displacement of recreational boating activities in favor of expanded commercial interests

b. Recommendation

- i. Re-examine all relevant issues within the Final Environmental Impact Report that were affected by changes made since 1/31/06 approval:
  - 1. Due to Dana Point City's LCPA process
  - 2. Impacts due to the waterside development that were not adequately covered

~~6.5.~~ Channel Narrowing will required proper study

- a. Discussion
  - i. {IS Page 2-9 d} Increased Hazards
  - ii. Channel Narrowing will present a Potentially Significant Impact
- b. Recommendations
  - i. Initial Study Item 6 d) must be coded as Potentially Significant Impact and handled/studied appropriately

~~7.6.~~ The statement is made, without explanation, that the "...future LCPA will improve overall Coastal Act compliance" {IS Page 3-2}

- a. Discussion
  - i. Changes to the plan should be considered from a base line of the existing Local Coastal Programs and not from the current situation
  - ii. Many changes have occurred without the benefit of Environmental Impact Reports or California Coastal Commission oversight.
  - iii. Why is base line for this SEIR not the official LCP vs what the County and City has allowed to be taken away from boaters without formal process
  - iv. Why has compliance to existing LCP not been managed by County and City?
    - 1. East Cove (small slips eliminated for larger)
    - 2. Several areas in West (small eliminated for larger)
    - 3. Significant non compliance with dedicated boater parking requirements
    - 4. Significant takeaways from Trailer/Tow Vehicle parking
    - 5. Elimination of 100's of smaller slips in favor of larger (right sizing implemented by marina companies)
    - 6. Increase in broker slips
    - 7. Increase commercial activity out side of Sports Fishing area.
  - v. Why has the LCP not received the 5 year reviews audited as required by Coastal law?
- b. Recommendation
  - i. Reset baseline for all Environmental impacts to existing Local Coastal Programs including this SEIR

~~8.7.~~ The Final Environmental Impact Report under stated the potential impact from slip and dry storage loss on local transportation



- a. Discussion
  - i. {IS Page 3-14} Transportation Final Environmental Impact Report
  - ii. By only examining the “Macro” delta numbers the true impact of the change is lost
    - 1. Approximately ~~620-683~~ dry storage boats competing for 493 storage locations in the new plan
    - 2. Approximately ~~1400-???~~ boats competing for approximately ~~261-???~~ slips in the 29’ and under category
    - 3. Expectation that these displaced boaters, approximately ~~1100-???~~ will be come trailer boaters
  - iii. Trailer boaters place a heavier load on local roads.
- b. Recommendation
  - i. Examine traffic loading along roads in and adjacent to Harbor based on new estimate of trailer boaters.

9.8. Assume that these sections will be updated per the Coastal Commission Action taken on October 8, 2009 Mischaracterization of Design Implication due to change in slip configuration

- a. Discussion
  - i. {IS Page 2.1 Section 9} County states that average slip size will be “Slightly Larger”
  - ii. 13.77% is not a slight increase
  - iii. This issue is further confused by the County’s use of “finger” size of slip vs. the size of boat that will be allowed in the slip
  - iv. Issue c. above understates the average slip size by at least 3’
  - v. Use of the word “Slightly Larger” does not set the right frame of reference for agency and public evaluation
- b. Recommendations
  - i. Restate numbers in a non-distorting manner
    - 1. Do not limit published numbers to the Dana Point Harbor Departments 4 size categories
    - 2. Use at least 9 size categories
    - 3. Articulate all slip configuration changes from original Harbor Design, not current or estimated actual
  - ii. Using restated numbers re-evaluate impacts identified and studied in the Final Environmental Impact Report
  - iii. Using restated numbers re-evaluate impacts identified for study in the Subsequent Environmental Impact Report

10.9. Local and County Public Services may be affected by this plan

- a. Discussion
  - i. {IS page 2-13 # 15} Public Services
  - ii. Pushing ~~1100-???~~+ boats out of the Harbor and into the community may adversely affect the provision of services (police, fire, EMT, water, sewer, maintenance....)
- b. Recommendation

- i. Evaluate Public Services impact as a result of this waterside project

~~11.10.~~ Population & Housing will be affected by this project

a. Discussion

- i. {IS Page 2-6 #3. B & C Also Page 3-5 b and c} Live-A-Boards
- ii. Boats are considered second homes
- iii. Over ~~1100~~???? boats in the water will be displaced
- iv. Over ~~100~~??? boats on the land are being displaced
- v. Live aboard policy in the Harbor has become more restrictive since the Dana Point Harbor Department took the leases back
- vi. The target 3% live-a-boards are not being achieved due to the restrictive policies
- vii. Harbor safety is less than it could be with a more robust live-a-board program

b. Recommendations

- i. Evaluate Environmental Impact of
  - 1. Achieving 3% Live-A-Board
  - 2. Achieving 10% Live-A-Board
- ii. Evaluate Environmental Impact of over ~~1100~~????water side and over ~~100~~??? potential second homes being eliminated

~~12.11.~~ Introduction of new purposes for Revitalization Design

a. Discussion

- i. {IS Page 1-3} Dana Point Harbor Department is introducing new language for goals
- ii. Task Force was formed to identify 12 Goals of Project
- iii. This Initial Study adds new goals "...and expand existing landside Harbor facilities to meet current and projected needs of the merchants and Harbor visitors..."
- iv. Final Environmental Impact Report was approved by County Board of Supervisors on 1.31.06
- v. Local Coastal Program Amendment was approved by Dana Point City Council in October of 2006

b. Recommendation

- i. Drop, unapproved, new purposes.

~~13.12.~~ Inundation by seiche, tsunami or mudflow

a. Discussion

- i. {A – IS Page 2-8 J} Inundation by seiche, tsunami, or mudflow?
- ii. Recent modest rain has shown that water run off in Harbor can be significant
- iii. City and County have identified tsunami escape routs that will be affected by:
  - 1. construction within the harbor
  - 2. increase commercial traffic due to commercial expansion

3. increased trailer/tow vehicle traffic due to increased numbers of trailer boaters

- b. Recommendation

- i. Acknowledge possible impacts and include in study for Subsequent Environmental Impact Report

~~14.13.~~ Communities will be Physically Divided

- a. Discussion

- i. {A – IS Page 2-6 1 a)} Physically divide an established community
- ii. West marina will be layout out in a similar format to the east marina.
- iii. Many Boaters feel their community or “neighborhood” will be disrupted

- b. Recommendation

- i. Potential impact level should be increased and studied as part of the Subsequent Environmental Impact Report

~~15.14.~~ Land Use Mischaracterization

- a. Discussion

- i. {IS Page 3-2} Land Use Changes Mischaracterization of Facts
- ii. Significant land use changes and allocations are occurring on the land as a result of this project.
  1. Boat storage
  2. Boater Parking
  3. Access to bathroom facilities
  4. Trailer/tow vehicle parking
  5. Ship yard size

- b. Recommendation

- i. Provide detailed land use, in terms of acres or square feet, of planning areas one and two.
- ii. Re-examine Final Environmental Impact Report and examine Subsequent Environmental Impact Report implications of these significant Land Use Plan Changes.

~~16.15.~~ Boat Slip License Agreement

- a. Discussion

- i. The Dana Point Harbor Department has implemented an overly restrictive Boat Slip License Agreement
- ii. This Agreement significantly reduces tenant access to their boats
- iii. This policy will hopefully be remediated in the future

- b. Recommendation

- i. Prepare the Subsequent Environmental Impact Report based on a roll back to a less constrained tenant usage of their boats.

16. Re-Issued Notice of Preparation Notice

- a. Discussion

- i. The California Coastal Commission ruled on October 8, 2009 that the goal of a slip redesign project should have a goal of zero slip loss
- ii. Boaters for Dana Point Harbor have provided a possible solution for the waterside design that would achieve zero slip loss
- iii. Boaters for Dana Point Harbor have provided a possible solution for water sided design that will allow for larger slips
- iv. The county states that "...the total number of boat slips under the County's preferred design would decrease from 2,409 to 2,254, resulting in a net loss of 155 slips

b. Recommendation

- i. The County should adopt the Coastal Commission's directive as the preferred plan for the Subsequent Environmental Impact Report, namely zero slip loss.

17. Wind Shadow

a. Discussion

- i. The Dana Point Revitalization requires the construction of a 65' tall dry stack building to be constructed at the water's edge.
- ii. The Dry Stack will be leeward of the prevailing winds
- iii. The Dana Point Revitalization requires the construction of many 60' buildings\
- iv. These 60' buildings will cast a prevailing wind shadow over water areas
- v. The Dana Point Revitalization requires that a two story parking deck be constructed at the end of the launch ramp apron
- vi. The City of Dana Point is requiring that the parking deck be constructed such that it can be converted to a three story parking garage in the future
- vii. The two story parking deck or three story parking garage will create a wind shadow over the water if constructed in the currently planned location
- viii. Wind shadows create winds that are shifty both in direction and angle and hence
- ix. Can create a hazard to navigation for beginning, novice and even experienced sailors
- x. Vessel Assist often is required to help sail vessels past the existing, lower impact, wind shadows in the launch ramp area.

b. Recommendation

- i. A professional analysis of the impact of building height and location must be performed to properly evaluate the environmental factors associated with the waterside layout.

**memo**

**DATE:** February 5, 2010  
**TO:** Brad Gross, Director, Dana Point Harbor Department  
**FROM:** Manager, Environmental Resources  
**SUBJECT:** Review of Reissued NOP for Subsequent EIR 591 for Dana Point Harbor Marina Improvement Project

In response to your request for input on the subject project, OC Watersheds has reviewed the subject document. It is recommended the following be addressed in the Subsequent EIR for the Proposed Dana Point Harbor Marina Improvement Project:

- 1) Synthesize the previous material related to water quality into one section in the new document, with respect to:
  - Final EIR 591 text dated 01/06
  - Appendix Water Quality Management Plan dated 12/20/05
  - Appendix Program Water Quality Management Plan dated 12/20/05
  - Related Project Design Features (4.4-1 – 4.4-3), Standard Conditions (4.4-4 – 4.4-14), and Mitigation Measures (none), as identified in the Final EIR text.
- 2) Note that as written the Standard Conditions currently require that a harbor-wide or site specific Water Quality Management Plan (WQMP) follow the County Local WQMP dated August 13, 2003. The Local WQMP is Exhibit A-7.VI of the County's Stormwater Local Implementation Plan and is the guidance document which applies to all new development and significant redevelopment projects in County controlled/unincorporated areas within the San Diego Regional Water Quality Control Board's (San Diego Regional Board) jurisdiction.

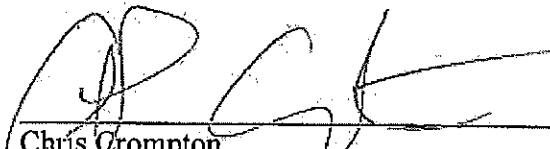
With the adoption of a fourth term Municipal Separate Storm Sewer System (MS4) Permit for south Orange County on December 16, 2009, the WQMP requirements will soon be significantly different. The fourth term MS4 Permit for the San Diego Region mandates that the permittees (cities and County) prepare and submit for Regional Board review, a "Model WQMP", within 12 months of permit adoption (by December 16, 2010). Within 180 days of the Regional Board's determination that the "Model WQMP" is in compliance with the permit, the permittees must update their "Local WQMP". Therefore, it is likely that by mid to late 2011, a new Local WQMP for the County will be in place and applicable for projects within Dana Point Harbor.

The new proposed WQMP program is currently under development by the permittees and it is difficult at this time to ascertain exactly what the impact to the Dana Point Harbor revitalization project will be. However, the following low impact development (LID) or "site design" concepts listed below will be required to be incorporated into the design where applicable and feasible:

- (a) Conserving natural areas, including existing trees, other vegetation, and soils.
- (b) Constructing streets, sidewalks, or parking lot aisles to the minimum widths necessary, provided that public safety is not compromised.
- (c) Minimizing the impervious footprint of the project.
- (d) Minimizing soil compaction to landscaped areas.
- (e) Minimizing disturbances to natural drainages (e.g., natural swales, topographic depressions, etc.);
- (f) Disconnecting impervious surfaces through distributed pervious areas; and
- (g) Where feasible, draining runoff from impervious areas (rooftops, parking lots, sidewalks, walkways, patios, etc) into pervious areas prior to discharge into the storm drains.

The most significant change when the new WQMP requirements become applicable in mid to late 2011 is that the on-site capture of the volume of runoff generated by the 24hr 85<sup>th</sup> percentile storm event will be required using LID BMPs which promote infiltration, evapotranspiration, and runoff harvest/re-use. The use of conventional structural treatment control BMPs to remove pollutants and discharge stormwater runoff from the 85<sup>th</sup> percentile storm event will only be permitted after conducting an exhaustive infeasibility determination. Even then, a waiver from the Regional Board and payment into an "in-lieu" program or water quality credit fund may be required. Unless a WQMP is approved for the project prior to these new requirements taking effect in mid to late 2011, there is no grandfathering of projects.

Thank you for the opportunity to comment on this document. If you require any further information on our response, please contact Grant Sharp at (714) 955-0674.



Chris Crompton



## **1.0 EXECUTIVE SUMMARY**

### **1.1 PURPOSE OF THE EIR**

The County of Orange (County) is the Lead Agency under the California Environmental Quality Act (CEQA), and is responsible for preparing the Program EIR for the Dana Point Harbor Revitalization Project (the "Revitalization Plan") (State Clearinghouse Number 2003101142). The purpose of this Program Environmental Impact Report (EIR) is to review the existing conditions, analyze potential environmental impacts of the proposed Project, and suggest feasible Mitigation Measures and/or alternatives to reduce potentially significant effects of the proposed Dana Point Harbor Revitalization Project. For the purposes of this EIR, "Project" refers to all aspects and phases of the proposed Project, including subsequent discretionary actions by the County and other agencies, construction, and operations. This EIR has been prepared as a Program EIR for Planning Areas 1 through 12 of the Revitalization Project in accordance with §15168 of CEQA, while serving as a project-level analysis for Planning Areas 1 (except for the southern portion) and 2 in accordance with §15161 of CEQA.

The County as Lead Agency, landowner, and project proponent, has the principal responsibility for approving and implementing the Dana Point Harbor Revitalization Project. The County was designated over 30 years ago by the Tidelands Act as the trustee of the Harbor for the people of the State of California. The County is therefore acting as the Lead Agency in the preparation of the Environmental Impact Report for the Dana Point Harbor Revitalization Project to address the future use and operation of the Harbor and its facilities. The County, as Lead Agency, will use this EIR for Project approval deliberations, and for subsequent discretionary and ministerial approvals, such as grading and building permits. The City of Dana Point, the California Coastal Commission, and other Responsible Agencies will use this EIR for discretionary permits or approvals under their respective jurisdictions (for the City, this is for the forthcoming Local Coastal Plan Amendment and future Coastal Development Permits in landslide areas of the Harbor. The Coastal Commission is responsible for issuing CDP's for all waterside areas. Similarly, Trustee Agencies, such as the State Lands Commission and California Department of Fish and Game, will use this EIR for Project-related permits and approvals. These are discussed in more detail in Section 3.6, [Agreements, Permits, and Approvals Required]).

### **1.2 PROJECT SUMMARY**

#### **1.2.1 EXISTING CONDITIONS**

Dana Point Harbor (Harbor) is approximately 276.8 acres, owned and operated by the County of Orange (County), and located entirely in the southern portion of the City of Dana Point (City). The general configuration of the Harbor has three components: a landside area adjacent to the bluffs (consisting of open space, park, marine services, and commercial uses); the Island (consisting of marine services and restaurant/recreation uses); and the East and West Marina areas (consisting of commercial and small-craft boat slips and side tie dock facilities, federal anchorage areas, a fuel dock, and bait receiver). Off-site, on top of the bluffs to the northwest and north, restaurant, residential, and hotel uses overlook the site. The land uses



above the site, along the coastal bluffs, are generally Harbor-oriented commercial and residential properties for which the views of the Pacific Ocean and Dana Point Harbor play an important role. Adjacent land uses to the north and east include City and County parks, Doheny State Beach, and the Old Cove Marine Preserve. Refer to Exhibit 1 (Existing Conditions).

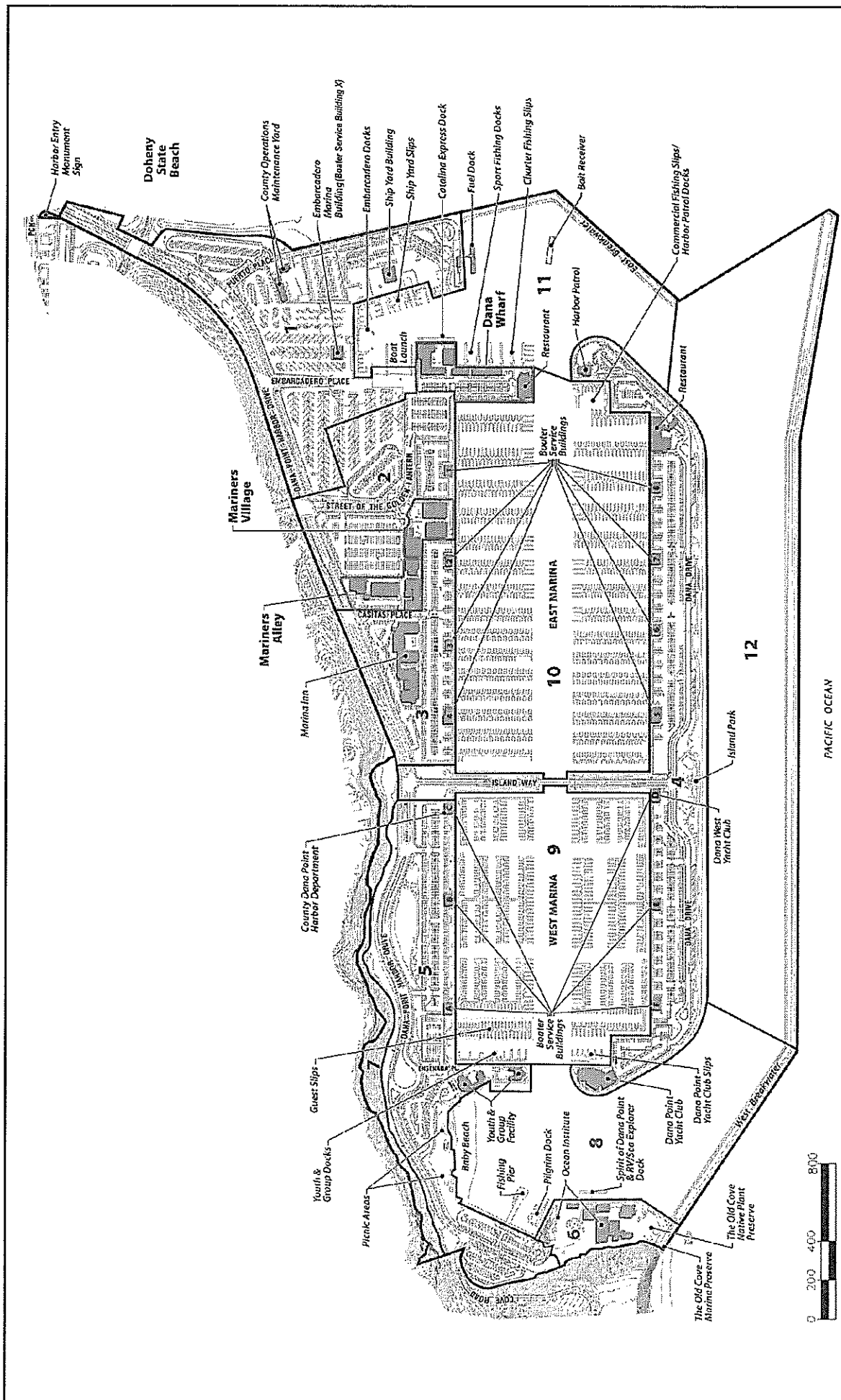
### 1.2.2 PROPOSED PROJECT

The Dana Point Harbor Revitalization Project (Revitalization Plan) will establish a Commercial Core (Planning Areas 1 and 2) at a schematic level of architectural elements and provide for the replacement and/or remodeling of all existing retail and restaurant buildings. The Commercial Core redevelopment (Phase I) also includes the reconfiguration of all existing surface parking areas to provide additional parking, new boater loading and drop-off areas, new dry-stack boat storage spaces and improvements to boater service and public restroom buildings. The first phase of the proposed Revitalization Plan will provide for the relocation of certain yacht brokerage firms and other harbor-related offices uses to the Commercial Core area. Outside the Commercial Core area (Phase II), the Revitalization Plan provides for a number of future improvements (Planning Areas 3 through 7 [landside] and 8 through 12 [waterside]). Plans for Planning Area 4 allow for the future renovation and/or expansion of the Dana Point and Dana West Yacht Clubs, restaurant renovations and modifications to the Harbor Patrol Offices to provide additional meeting rooms or staff office space. Additional work is anticipated to be performed to reconfigure and/or reconstruct the marina docks and portions of the seawall, subject to a separate permitting and environmental review process to add additional guest boater slips closer to the Commercial Core and to construct a dinghy dock area adjacent to Dana Wharf.

The proposed Revitalization Plan will occur within two phases over approximately 22 years. Phase I will take approximately 7 years to complete and consists of the development of Planning Areas 1 and 2 which would include the "Commercial Core" area of the Harbor ("Marine Services" – the Embarcadero and Shipyard area and "Day Use Commercial" – The Dana Wharf and Mariners Village area). Phase II will commence as funding sources are identified and approvals are obtained. Potential future improvements in Planning Areas 3-12 include renovations to structures and street improvements on the Island and reconfiguration of the Marinas. Future improvements may also occur in the southern portion of Planning Area 1 and may include Dry Stack Boat Storage Building #2, reconfiguration of the shipyard as well as the construction of a lighthouse facility near the end of Puerto Place.

A summary of Planning Areas 1 through 12 are as follows. Refer to Exhibit 3 (Dana Point Harbor Revitalization Proposed Plan).



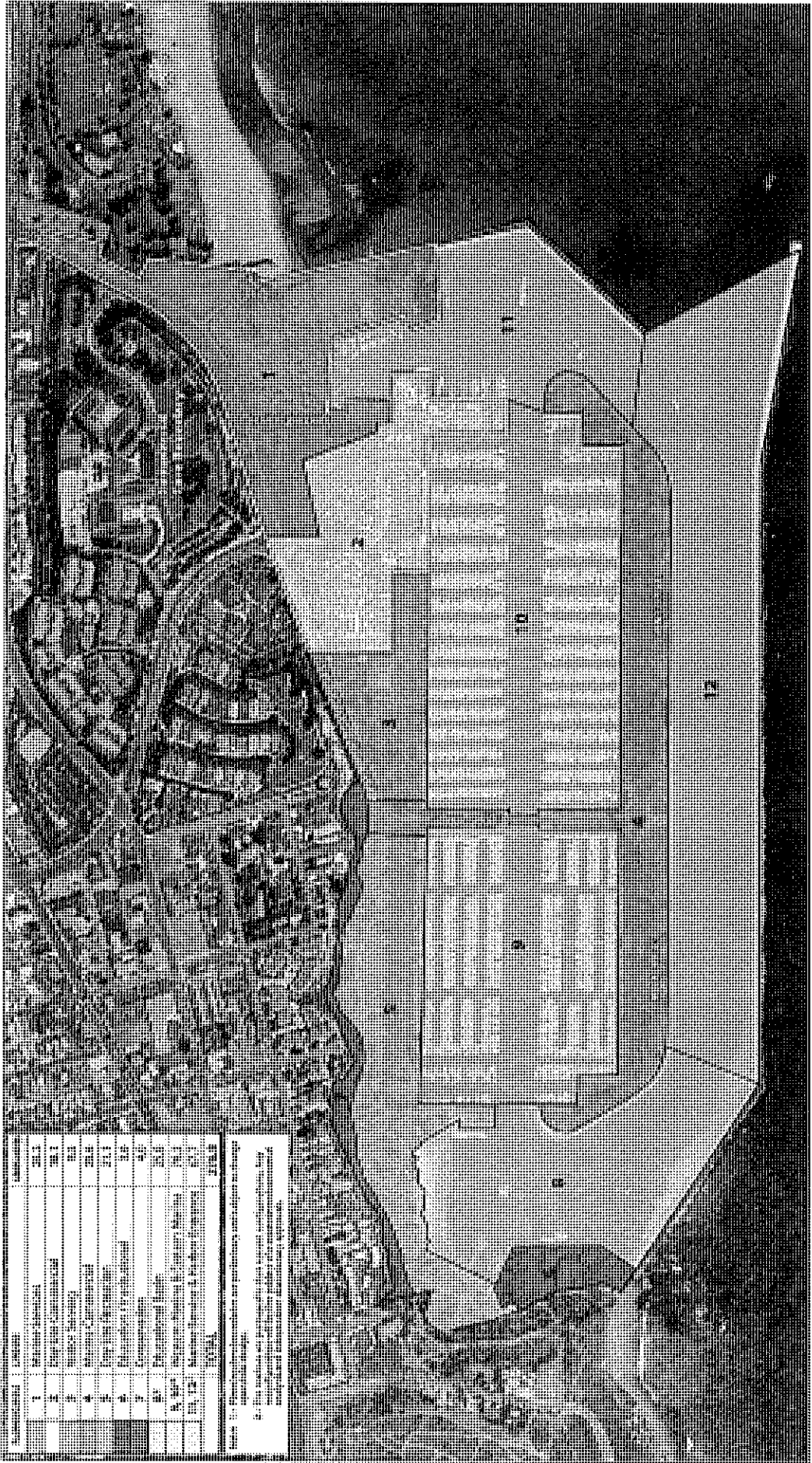


**EXISTING CONDITIONS**  
 DANA POINT HARBOR REVITALIZATION PROJECT  
 PROGRAM ENVIRONMENTAL IMPACT REPORT  
**EXHIBIT 1**



Area	Area (Acres)	Area (Hectares)	Area (Square Feet)
1	10.0	4.0	1,080,000
2	10.0	4.0	1,080,000
3	10.0	4.0	1,080,000
4	10.0	4.0	1,080,000
5	10.0	4.0	1,080,000
6	10.0	4.0	1,080,000
7	10.0	4.0	1,080,000
8	10.0	4.0	1,080,000
9	10.0	4.0	1,080,000
10	10.0	4.0	1,080,000
11	10.0	4.0	1,080,000
12	10.0	4.0	1,080,000
13	10.0	4.0	1,080,000
14	10.0	4.0	1,080,000
15	10.0	4.0	1,080,000
16	10.0	4.0	1,080,000
17	10.0	4.0	1,080,000
18	10.0	4.0	1,080,000
19	10.0	4.0	1,080,000
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92	10.0	4.0	1,080,000
93	10.0	4.0	1,080,000
94	10.0	4.0	1,080,000
95	10.0	4.0	1,080,000
96	10.0	4.0	1,080,000
97	10.0	4.0	1,080,000
98	10.0	4.0	1,080,000
99	10.0	4.0	1,080,000
100	10.0	4.0	1,080,000

Figure 1-1: Planning Area Overview Map. The map shows the planning area divided into 100 numbered parcels. The parcels are arranged in a grid pattern, with some parcels being larger than others. The map is oriented vertically on the page.



**PLANNING AREA OVERVIEW**  
 DANA POINT HARBOR REVITALIZATION PROJECT  
 PROGRAM ENVIRONMENTAL IMPACT REPORT  
**EXHIBIT 2**







#### **1.2.2.1 PLANNING AREA 1 (MARINE SERVICES) 25.2 ACRES**

The Revitalization Plan will add two dry stack boat storage facility buildings in the northeast marine services area (near the intersection of Puerto Place and Dana Point Harbor Drive) with a capacity to store up to 800 boats, when both buildings are completed, ranging in size from 20 to 40 feet as well as provide boat launching capabilities directly into the water. At full buildout, Planning Area 1 will include an expansion of marine retail uses, reconfiguration of Embarcadero boat storage/launch and dock facilities, consolidation of the shipyard area, a designated boat washdown area, and demolition of the existing County Maintenance Yard (to a location remaining to be determined). The marine services area parking will include 458 vehicle parking spaces. There will be approximately 93 surface boat storage spaces and 230 car with trailer parking spaces. This reallocation results in the addition of 170 parking spaces and 47 car with trailer spaces, within Planning Area 1. However, there will be a decrease of 130 car with trailer spaces currently located within Planning Area 2. Surface boat parking will decrease by approximately 423 spaces, but will be partially off-set by the dry stack boat storage. Additional alterations to Planning Area 1 would include development of a 5,600 square foot Administrative offices/boater lounge; relocation and expansion of the marine retail uses from Planning Area 2 of 3,387 square feet to 9,100 square feet in Planning Area 1; new lighting and signage; reconfiguration/relocation of the rental docks; demolition of Boater Services Building X; and downsizing the shipyard building from 5,000 square feet to 2,500 square feet.

In addition to the boater services, a lighthouse may be constructed at the southern area of Planning Area 1 and will include a structure of up to 2,500 square feet, housing a nautical museum, a small retail gift shop, a meeting room, kitchen, and restrooms.

#### **1.2.2.2 PLANNING AREA 2 (DAY USE COMMERCIAL) 18.1 ACRES**

The Dana Point Harbor Revitalization Plan establishes a large, centralized outdoor Festival Plaza, located at the southern terminus of Street of the Golden Lantern, within the central portion of the Harbor's Commercial Core. The Festival Plaza provides direct views across the Commercial Core area to the Harbor by creating an open plaza area along the waterfront. The Festival Plaza adds a central gathering space for Harborwide events, activities, and celebrations throughout the year. The Festival Plaza area will compromise approximately 35,000 square feet, with a combination of landscaping, paving, and seating areas. A Pedestrian Promenade will extend from Casitas Place, west to Dana Wharf, and will vary in width from 15 feet to 50 feet. Adjacent to the commercial area is a two-level parking deck, which will provide an estimated 610 parking spaces on two levels. The lower level of the parking deck is set slightly into the ground, affording direct access from Street of the Golden Lantern to the upper and lower deck levels. Also, Planning Area 2 will replace and/or rehabilitate 26,600 sq. ft. of existing retail uses and 51,300 sq. ft. of existing restaurant uses, create a net additional 6,200 sq. ft. of retail and 27,100 sq. ft. of restaurant uses, provide new boater service facilities, relocate certain yacht brokers, and reconfigure surface parking. Additional alterations to Planning Area 2 include the addition of a Catalina Terminal Building of 1,000 square feet and the relocation and expansion of Boater Service Building 1 to total 8,000 square feet; a



linear park; adding public restrooms; and comprehensive lighting signage improvements.

#### **1.2.2.3 PLANNING AREA 3 (VISITOR SERVING) 9.5 ACRES**

The Dana Point Harbor Revitalization Plan provides for the potential future replacement of the Marina Inn with a new facility located in the present hotel location or relocated closer to the waterfront to promote a stronger pedestrian connection with the promenade and Festival Plaza in front of the new Commercial Core area. Although not yet designed, the new hotel is planned to consist of a multi-story building with a maximum height of 50 feet which provides up to a maximum of 220 guest rooms with full-service amenities, including expanded lobby area with guest services, food and beverage facilities, 12,000 square feet of function and meeting room areas, 500 square feet of ancillary retail space, a 2,750 square foot specialty restaurant, health and fitness club, pool, and other outdoor activity facilities (sand volleyball court, etc.). The new hotel facility may be built by the County or developed as a joint venture partnership with a hotel partner that would build and manage the facilities under a long-term lease agreement. In the event the hotel is relocated closer to the waterfront, Boater Service Buildings 3 and 4 may be relocated and/or replaced with new facilities that are designed with the hotel. Boater parking areas may also be reconfigured or a parking deck constructed to allow for the re-siting of the hotel.

#### **1.2.2.4 PLANNING AREA 4 (MARINE COMMERCIAL) 25.6 ACRES**

The Revitalization Plan includes an improved turn-around for the eastern part of the Island, resolving a major visitor and emergency response constraint. The Harbor Patrol facility is proposed to be expanded from 6,000 square feet to 7,500 square feet. Additionally, a potential seasonal water taxi is being considered that may have pick-up/drop-off locations along the Harbor Patrol facility, Island Park, and the Dana Point Yacht Club. The improvements at the Dana Point Yacht Club and Dana West Yacht Club will provide storage for kayaks, rowboats, and other small craft used by the yacht clubs, as well as an increase in the overall square footage. Additional alterations to Planning Area 4 would include the future expansion of all Boater Service Buildings between 2,000 square feet and 3,000 square feet; expansion of the Dana Point Yacht Club by approximately 5,600 square feet; expansion of the Dana West Yacht Club by approximately 5,000 square feet; reconfiguration of Dana Drive to provide pedestrian access and additional parking and/or boater parking for the Channel Side Tie Docks; and expansion of an existing restaurant by 5,000 square feet.

#### **1.2.2.5 PLANNING AREA 5 (DAY USE RECREATION) 21.1 ACRES**

Planning Area 5 will include an expansion of the Youth and Group Facility, which currently offers meeting rooms for recreational activities, community events, and private parties, as well as sailing and ocean-related educational programs. The Youth and Group Facility may increase by approximately 6,000 square feet to a total of 17,000 square feet. A seasonal water taxi pick-up/drop-off station may be located adjacent to the facility. Dana Point Harbor Drive will be slightly realigned adjacent to the facility to remove the existing traffic circle to improve traffic circulation and large vehicle access (including emergency vehicles and buses). Also included will be the



expansion of boater service buildings by 2,000 square feet each. Additional enhancements will include picnic area improvements, upgraded restrooms, and reconfigured parking areas. Additional improvements to Planning Area 5 include development of a water quality filter to assist with the development of the Headlands project.

#### **1.2.2.6 PLANNING AREA 6 (EDUCATIONAL/INSTITUTIONAL) 3.6 ACRES**

The Ocean Institute consists of a series of buildings devoted to creating unique marine laboratory environments that serve as learning centers for the At Sea, Ecology, and SurfScience/Overnight programs. Other support buildings house a bookstore (Campus Store), a multipurpose room, a main lobby, an exhibit area, student services, administration, a library and conference room, and other support spaces. Recreational uses within the vicinity of the Ocean Institute include the old Cove Native Plant Preserve and the Old Cove Marine Preserve. To facilitate access to the Ocean Institute, a seasonal water taxi stop may be located adjacent to the Ocean Institute's Tall Ship dock area. No additional facilities are presently contemplated.

#### **1.2.2.7 PLANNING AREA 7 (CONSERVATION) 4.0 ACRES**

The Revitalization Plan preserves the coastal bluff Area of the Harbor as an important coastal resource. In addition to its visual significance, Planning Area 7 includes a small amount of coastal sage scrub, which is a sensitive plant species that provides habitat for other sensitive plant and animal species. Only limited maintenance-related improvements to surface drainage facilities are contemplated.

#### **1.2.2.8 PLANNING AREA 8 (EDUCATIONAL BASIN) 25.8 WATERSIDE ACRES**

The Revitalization Plan would provide for the limited future renovation of the marine portions of Baby Beach ranging from on-going water quality Best Management Practices (BMPs) to provide artificial water circulation devices to enhance water circulation in this area of the Harbor if determined feasible.

#### **1.2.2.9 PLANNING AREAS 9 AND 10 (WEST MARINA AND EAST MARINA) 76.2 WATERSIDE ACRES**

Proposed as part of a subsequent phase of the Revitalization Plan are provisions for the reconfiguration and/or reconstruction of the East and West Marinas and seawall repairs. To meet boater needs, reconfiguration of the slips is being contemplated to accommodate larger boats. Proposed plans for the East Marina include the addition of visitor slips and dinghy docks adjacent to the Commercial Core and, improving visitor access.

#### **1.2.2.10 PLANNING AREAS 11 AND 12 MARINE SERVICES AND HARBOR ENTRANCE 67.7 WATERSIDE ACRES**

To improve circulation within the Harbor, the Revitalization Plan contemplates the modernization of the docks in the shipyard area, sportfishing docks and charter fishing slips, and the potential reorientation of the existing fuel dock facility to improve the efficiency for vessels fueling there. The construction of the Channel



Side Tie Docks and access paths are also being considered on a temporary basis to provide facilities for the storage of boats during construction of the marina improvements. Following completion of the marina reconfiguration projects, the long-term use of the side-tie docks will be evaluated to determine the feasibility of their permanent use.

#### **1.2.2.11 OFF-SITE AREAS**

To minimize the disruption of the Harbor facilities for marina users and visitors during construction operations, the County proposes implementation of a Construction Parking Management Plan. This plan will provide a combination of on- and off-site parking areas will be used for the temporary storage of boats and vehicles, and for employee parking. Two potential off-site parking locations, presently under consideration, include the South Coast Water District (SCWD) property, located north of Pacific Coast Highway and east of San Juan Creek; and the County operated Selva Parking Lot, located near the southern terminus of Selva Road (approximately 1.5 miles west of the Harbor). Up to 250 boats could be stored at the SCWD Lot during the intermediate phase of the Revitalization Plan. The Selva Parking Lot will be utilized as an alternative site should overflow parking be needed.

### **1.3 PROJECT IMPACTS**

This Environmental Impact Report analyzes the potential environmental impacts associated with the proposed Project. Where impacts are identified as potentially significant, Mitigation Measures are recommended to avoid or reduce impacts to a less than significant level. The analysis included in Section 4.0 (Environmental Analysis), concludes that potentially significant impacts may occur as a result of Project implementation for the following types of environmental impacts.

Project elements evaluated at a program level (Planning Areas 3-12 and the southern portion of Planning Area 1) are anticipated to require further environmental review. For more detailed information regarding the location and nature of the proposed Project, refer to Section 3.0 (Project Description).

#### **1.3.1 LAND USE AND RELEVANT PLANNING**

No unavoidable significant impacts related to Land Use have been identified related to consistency with the California Coastal Act, County of Orange General Plan and other relevant planning policies and plans, upon implementation of Project Design Features and Standard Conditions of Approval. Implementation of the Dana Point Harbor Revitalization Plan will require a series of subsequent approvals by the City of Dana Point and the California Coastal Commission to modify existing regulatory documents to include the proposed Harbor improvements. Refer to Section 4.1 (Land Use and Relevant Planning), for a complete analysis of the land use and relevant planning impacts.

#### **1.3.2 AESTHETICS, VISUAL, AND GLARE**

Grading and construction activities will temporarily affect the existing visual character and quality of the Project site and its surroundings. The incorporation of the Mitigation Measures will reduce short-term impacts to a less than significant level.



Long-term aesthetic impacts include obstruction of Harbor views from the east (including Doheny State Beach) and from Lantern Bay Park due to the proposed height of the dry stack boat storage buildings. Views from the Commercial Core and the Street of the Golden Lantern will also be altered. These impacts will be reduced to the maximum extent possible with the implementation of landscaping improvements along the northern and eastern sides of the facilities and incorporating architectural design features to break up the effects of building massing. A comprehensive signage program will be implemented in order to inform the public of the availability of, and provide direction to, public parking areas, coastal access and on-site recreational amenities. Despite Mitigation Measures, visual impacts to off-site areas to the east (including Doheny State Beach), views from public roadways, and views from parks and open space will be considered significant and unavoidable impacts due to the development of dry stack boat storage structures that would obstruct scenic vistas. The proposed Project also includes development of a Master Lighting Plan that would reduce night lighting impacts and provide better safety to Harbor users. The incorporation of the Mitigation Measures will reduce on-site and other off-site visual impacts to a less than significant level and implementation of the Project Design Features would ensure that lighting and glare impacts would remain below a level of significance. Refer to Section 4.2 (Aesthetics), for a complete analysis of the aesthetic impacts and the recommended Mitigation Measures.

### **1.3.3 GEOLOGY, SOILS, AND SEISMICITY**

Mitigation measures will be required to ensure that all structures are designed to withstand anticipated ground shaking caused by future earthquakes. In addition, the potential effects of seismic settlement, liquefaction, and lateral spreading may require mitigation. Development on-site will be subject to the standards and policies of the County of Orange Zoning Code, the Uniform Building Code, site-specific standard conditions of approval, and Project Design Features. No significant impacts related to geology, soils, and seismicity are anticipated following implementation of Mitigation Measures and/or compliance with applicable standards and policies of the County of Orange Grading Manual. Refer to Section 4.3 (Geology, Soils, and Seismicity), for a complete analysis of the geology and soils impacts and the recommended Mitigation Measures.

### **1.3.4 DRAINAGE AND WATER QUALITY**

Short-term water quality impacts could occur in construction areas due to sheet erosion of exposed soils. Long-term drainage and water quality impacts are anticipated to be similar to existing conditions, except in the commercial core area of the Harbor, due to the quality of stormwater and urban runoff, the alteration of drainage patterns, increased erosion and runoff amounts, flood hazards from San Juan Creek, and increased sedimentation. No significant impacts related to hydrology and drainage are anticipated following implementation of Best Management Practices (BMPs), Mitigation Measures, and compliance with applicable County, State, and Federal standards. Refer to Section 4.4 (Drainage and Water Quality), for a complete analysis of the impacts to drainage and water quality and the recommended Mitigation Measures. Appendix F contains the Program and Project level WQMP.

### **1.3.5 TRAFFIC AND PARKING**





Construction activities will affect the level of service at intersections and roadways as well as parking capacities. Development on-site will be subject to a Construction Management Plan. Implementation of Mitigation Measures, Project Design Features, and Standard Conditions of Approval will reduce short-term impacts to less than significant levels. Long-term impacts will include greater levels of service at intersections and roadways as well as additional parking demand. Development on-site will be subject to preparing a Traffic Management Plan (TMP) to include operational strategies to reduce vehicle trips within the Harbor (i.e., seasonal water taxi service, shuttle bus service to off-site overflow parking areas and boat storage facilities), manage on-site parking. Additionally, a queuing analysis for the parking deck located at Street of the Golden Lantern and Dana Point Harbor Drive will be conducted. Implementation of Mitigation Measures, Project Design Features, and Standard Conditions of Approval will reduce long-term traffic, circulation, and parking impacts to a less than significant level. No significant and unavoidable traffic and parking impacts will occur. Refer to Section 4.5 (Traffic and Parking), for a complete analysis of the impacts to traffic and parking and the recommended Mitigation Measures.

### **1.3.6 AIR QUALITY**

Temporary construction-related dust and vehicle emissions will occur during site preparation and Project construction. Despite implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures, construction emissions are predicted to exceed SCAQMD thresholds for NO<sub>x</sub>, resulting in a significant and unavoidable impact. Operational impacts would be below the SCAQMD thresholds, and thus are considered less than significant. Therefore, the proposed Project will be inconsistent with the AQMP also resulting in significant and unavoidable impacts. Refer to Section 4.6 (Air Quality), for a complete analysis of the impacts to air quality and the recommended Mitigation Measures.

### **1.3.7 BIOLOGICAL RESOURCES**

Implementation of the proposed Project could impact special status plants, wildlife species, and/or marine biological resources. Development on-site will be subject to BMPs. Mitigation measures require that focused surveys be conducted to identify the presence of any sensitive species on-site. If sensitive species are determined to occur on-site, Mitigation Measures will be required to reduce impacts to biological resources to a less than significant level. Implementation of BMPs, Mitigation Measures, Project Design Features, and Standard Conditions of Approval will reduce impacts to biological resources to a less than significant level. Refer to Section 4.7 (Biological Resources), for a complete analysis of the impacts to biological resources and the recommended Mitigation Measures.

### **1.3.8 PUBLIC HEALTH AND SAFETY**

Implementation of the proposed Project will have the potential to create a significant hazard to the public or the environment in relation to hazardous materials, odors or foster disease vectors associated with the implementation of BMPs, a significant hazard to the public or the environment through the release of asbestos-containing materials (primarily during construction activities), as well as a significant hazard to the public or the environment through the release of lead-based paints (LBPs) into



the environment. Implementation of Mitigation Measures, Project Design Features, and Standard Conditions of Approval will reduce impacts to public health and safety to a less than significant level. Development of the proposed Project could physically interfere with an adopted emergency response plan or emergency evacuation plan, however, a less than significant impact will occur in this regard. Refer to Section 4.8 (Public Health and Safety), for a complete analysis of the impacts to public health and safety and the recommended Mitigation Measures.

### **1.3.9 NOISE**

Short-term impacts will occur with regard to temporary noise and/or vibration impacts on nearby noise-sensitive receptors. Despite compliance with Standard Conditions of Approval and Mitigation Measures, impacts will be significant and unavoidable due to the duration of construction activities. Long-term (mobile) noise impacts will be less than significant for roadway segments under buildout traffic scenarios. Long-term (stationary) impacts will generate on-site noise associated with commercial activities, which include loading and unloading activities, mechanical equipment operation, and activity in parking lots. Analysis has concluded that stationary source impacts will be reduced to less than significant levels with adherence to the County of Orange Noise Ordinance requirements. Refer to Section 4.9 (Noise), for a complete analysis of the noise impacts and the recommended Mitigation Measures.

### **1.3.10 PUBLIC SERVICES AND UTILITIES**

Implementation of the proposed Project will incrementally increase the demand for natural gas facilities, domestic water, electricity, sewer facilities, additional telephone facilities, and additional cable television facilities. Impacts related to Public Services and Utilities will be less than significant with the implementation of the Project Design Features, Standard Conditions of Approval, and recommended Mitigation Measures. Refer to Section 4.10 (Public Services and Utilities), for a complete analysis of the impacts to public services and utilities and the recommended Mitigation Measures.

### **1.3.11 CULTURAL RESOURCES**

Implementation of the proposed Project is not anticipated to impact archaeological and/or historical resources located within the SCWD Lot, impact paleontologically sensitive soils within the Project area, or potentially disturb unknown locations of human remains within the Project area. However, implementation of the Standard Conditions of Approval and Mitigation Measures are recommended in order to ensure impacts related to cultural resources remain below a level of significance. Refer to Section 4.11 (Cultural Resources), for a complete analysis of the impacts to cultural resources and the recommended Mitigation Measures.

### **1.3.12 RECREATION**

Implementation of the proposed Project will improve the recreational facilities within the Project area, thereby reducing impacts on surrounding recreational facilities. In addition, implementation of the Standard Condition of Approval (SCA) will ensure adequate access to the proposed recreational facilities. Implementation of the Project Design Features, Standard Conditions of Approval, and Mitigation Measures will reduce impacts in this regard to a less than significant level. Refer to Section



4.12 (Recreation), for a complete analysis of the impacts to recreational facilities and the recommended Mitigation Measures.

## **1.4 CUMULATIVE IMPACTS ANALYSIS**

### **1.4.1 BASIS OF CUMULATIVE IMPACTS ANALYSIS**

Related projects include primarily only those determined to be at least indirectly capable of interacting with the Dana Point Harbor Revitalization Project (Project) within a one-mile radius. Doheny State Beach Preliminary General Plan, Dana Point Town Center Plan, and the Dana Point Headlands are related projects or other possible development in the area, which were determined as having the potential to interact with the proposed Project to the extent that a significant cumulative effect may occur. The cumulative impacts analysis was based upon the development of the abovementioned projects. However, cumulative impacts for traffic were based upon the Project traffic volumes with the addition of a one percent growth rate per year and the Dana Point Headlands traffic volumes. Forecast traffic was generated for year 2012 and 2030. The cumulative noise impacts were then based on the cumulative projected traffic volumes.

### **1.4.2 IMPACTS ANALYSIS**

Implementation of the proposed Project will not result in significant land use impacts with the incorporation of the Project Design Features. Implementation of the proposed Project may result in alterations to the aesthetic character and quality of the Project area due to greater urbanization, increased short-term geological impacts such as erosion and sedimentation, and long-term seismic impacts within the area, increased hydrology and drainage impacts in the area, potentially affect cultural resources, and increase the use of existing recreational areas and facilities, thereby creating the potential for physical deterioration, which may include recreational facilities (e.g., marina) that could have physical impacts on the environment as well. All cumulative impacts referenced above will be mitigated to less than significant levels on a project-by-project basis.

The proposed Project will generate additional trips on the adjacent roadways, thus affecting the level of service at intersections and roadways. Impacts related to traffic trip generation, distribution, and assignment will be reduced to less than significant with implementation of Project Design Features, Standard Conditions of Approval, and Mitigation Measures. The proposed Project will also generate a greater parking demand. Conformance with Project Design Features and Mitigation Measure 4.5-7 will ensure that impacts will be less than significant. The proposed Project, including other cumulative projects, will incrementally increase air emissions within the surrounding areas. Cumulative development (including the proposed Project) in the Harbor and Off-Site areas will impact the area's biological resources; however, analysis has concluded that Project implementation will not result in significant cumulative biological impacts with implementation of Mitigation Measures. The proposed Project, including other cumulative projects, will increase exposure to the public of hazardous substances; compliance with Federal, State, and local requirements will reduce cumulative impacts to a less than significant level. Implementation of the proposed Project, including other cumulative projects, will not



result in a significant impact on the demand of public services and utilities. Implementation of Standard Conditions of Approval, Project Design Features, and Mitigation Measures will reduce impacts to a less than significant level.

Implementation of the proposed Project, including other cumulative projects, will increase the ambient noise levels in the site vicinity. Analysis has concluded that these noise impacts will be significant and unavoidable; no feasible mitigation within the purview of the lead agency exists to reduce this impact to a less than significant level.

## **1.5 ALTERNATIVES ANALYSIS**

### **1.5.1 NO PROJECT/NO DEVELOPMENT**

The No Project and No Development Alternative assumes the Revitalization Plan will not be implemented and that land uses and other improvements identified in the Revitalization Plan will not be constructed. Additionally, no infrastructure improvements (such as water, wastewater, drainage and circulation facilities) will be constructed. The No Project and No Development Alternative is considered neither environmentally superior nor inferior with regards to land use and relevant planning. The No Project and No Development Alternative will be considered environmentally superior to the proposed Project with regards to aesthetics, visual, and glare; geology, soils, and seismicity; air quality; biological resources; noise; public services and utilities; and cultural resources. Finally, the No Project and No Development Alternative can be considered environmentally inferior to the proposed Project with regards to traffic and parking; drainage and water quality; public health and safety; and recreation. The No Project and No Development Alternative will not fulfill the Project objectives.

### **1.5.2 REDUCED DENSITY**

The Reduced Density Alternative will include limited expansion of existing uses, but will not develop any additional retail or commercial space, nor will it demolish and reconstruct existing Commercial Core buildings. In addition, this alternative will not develop a parking deck but instead will utilize a Parking Management Plan and restriping in order to improve parking and traffic distribution throughout the Harbor. The Reduced Density Alternative will not develop dry stacked-boat storage, nor expand the hotel. Infrastructure improvements will involve only reconstruction of currently deficient utilities, and will not include providing additional capacity. The Reduced Density Alternative will be considered neither environmentally superior nor inferior to the proposed Project with regards to cultural resources. The Reduced Density Alternative is considered environmentally superior to the proposed Project with regards to land use and relevant planning; aesthetics, visual, and glare; geology, soils, and seismicity; air quality; biological resources; noise; and public services and utilities. The Reduced Density Alternative can be considered environmentally inferior to the proposed Project with regards to traffic and parking; public health and safety; drainage and water quality; and recreation. This Alternative will not fulfill the Project objectives to the full extent of the proposed Project.

### **1.5.3 COMMERCIAL CORE ONLY**



This alternative consists of a phased demolition of the existing facilities; construction of the Commercial Core retail area and parking deck; construction of a dry-stacked boat storage building; remodel of existing commercial/restaurant buildings; Catalina Express Service facility improvements; construction of new boater service facilities; modification of the boat slips to be in conformance with ADA requirements, street and infrastructure improvements; and implementation of all required Mitigation Measures (on and off-site) involving construction of improvements. This alternative will have similar impacts as the Project as the demolition, renovation, and expansion it proposes for the Commercial Core is almost as great as with the proposed Project. There will be slightly less overall buildout square footage because it will not have certain "Program-level" elements described above. This alternative will have similar construction-related impacts, and slightly less long-term operational impacts. As this will achieve some of the Project objectives while generating slightly less air quality and noise impacts, it is considered Environmentally Superior and may be considered by the decision-makers.

#### **1.5.4 INFRASTRUCTURE ONLY**

This alternative consists of projects that are contemplated either by the County or other utility and service agencies as part of ongoing maintenance operations throughout the Harbor, and excludes all proposed commercial renovation and new building construction (i.e., no changes in existing buildings, and no new or renovated buildings). The impacts of this alternative will be identical to those identified in Section 6.2, No Project/No Development Alternative; therefore no analysis is required for each environmental impact area. Compared to the proposed Project, this alternative will substantially reduce or avoid many of the significant impacts, particularly those related to building demolition, renovation and construction. In addition, this alternative will avoid the potentially significant visual impacts associated with the addition of dry stack boat storage facilities. This alternative will have fewer operational impacts due to not including the additional 6,200 square feet of retail and 27,100 square feet of restaurant uses and other Project-related structures. This alternative is considered the environmentally superior alternative, however, this alternative may not be feasible, due to limited funding available for Harbor improvements, as well as failure to meet several key Project objectives.

#### **1.5.5 ALTERNATIVE SITE**

The purpose and goal of the proposed Project is to enhance the specific existing facilities and services provided at Dana Point Harbor. Therefore, any alternative sites proposed will not fulfill the objectives of the Project. In addition, Dana Point is already heavily developed; no additional area exists to increase marina services and provide additional commercial opportunities within the City. Any alternative site will have greater construction-related air quality and noise impacts because it will require construction within developed areas that will require greater demolition and construction. Finally, enhancement of the proposed Project site will limit the environmental impacts associated with developing an undeveloped area. Therefore, this alternative will be considered environmentally inferior to the proposed Project.

### **1.6 AREAS OF CONTROVERSY AND ISSUES TO BE RESOLVED**



The Dana Point Harbor Revitalization Plan has been subject to extensive public outreach, beginning in 1997 with the Dana Point Harbor Task Force and continuing through the current process with numerous meetings with various stakeholders and the City of Dana Point. In addition, the Program EIR included a formal public scoping meeting as part of the Notice of Preparation public review process. The Project has been designed to address the 1998 Task Force goals as well as respond to stakeholder input regarding important issues such as:

- Adequacy of parking;
- Construction phasing that minimizes business impacts; and
- Improving Harbor water quality.

As the Project includes various conceptual design elements (referred to as "Phase II", addressed at a programmatic level in the EIR), these potential future improvements will require separate environmental review, and may be modified from the conceptual descriptions noted in this Program EIR. In addition, through the normal course of final engineering and construction, certain Project improvements, even for the more detailed Phase I (Commercial Core) area, may be refined from the description contained in this Program EIR. In addition, a key approval needed by the Project is a Local Coastal Plan Amendment, which requires approval from the City of Dana Point and California Coastal Commission certification. It should also be noted that the settlement agreement between the County and City of Dana Point regarding ownership and maintenance of facilities in the Harbor (including roads, traffic signals, and drainage improvements, etc.) is scheduled to expire next year. Issues related to the implementation of the Revitalization Plan improvements may require negotiation and result in an amendment agreement.

Significant irreversible environmental changes that would result from the proposed Project, should it be implemented, consist of the following. Construction-related (temporary) air quality impacts due to building demolition, asphalt, grading, and related construction activities; long-term air quality impacts associated with construction of new buildings, due to exceedance of SCAQMD thresholds; construction-related (temporary) noise impacts due to building demolition and related construction activities; cumulative off-site traffic noise impacts would exceed the 65 dBA CNEL level; construction-related (temporary) impacts on parking and circulation within the Harbor area; long-term parking impacts during peak Harbor events; and aesthetic impacts on views at certain locations.

Pg #1



COMMENT SHEET

PROPOSED DANA POINT HARBOR MARINA IMPROVEMENT PROJECT

Please use the space below to provide comments to help the County of Orange identify the environmental effects that should be analyzed in the draft Subsequent Environmental Impact Report. This form should be completed and returned to the address on the back. All comments must be postmarked no later than Wednesday, January 2, 2008.

PLEASE PRINT

Regarding the environmental effects of the proposed Dana Point Harbor Marina Improvement Project,

Approx. 17 people spoke @ Sat. meeting. Approx. 12 were county employees of retailers. One of the above mentioned water quality (Jim Miller). Approx. 5 non retailers/boaters spoke. 4 of those spoke to the issues of the environment very specifically. 1 spoke to do nothing to marina. All others spoke generally in favor of revitalization which was not a topic of this meeting?? (cont.)

Please provide your mailing address below:

Jim Montrella  
127122 Cypress  
Mission Viejo CA  
92692

Sincerely,

Jim Montrella

Please print your name clearly above

EMAIL: bevandjim1@sbcglobal.net

Check the box if you wish to be added to the project mailing list.

12-11-07P02:11 RCVD

Check all that apply:

- Boater
- Merchant
- Agency
- Dana Point Resident
- Other \_\_\_\_\_

Pg. #2

Dear Brad

Based on what I heard you were very patient and kind to those people who spoke to issues that you said, at the beginning, were not on the table. My congratulations on your patience.

I hope you sincerely analyze the concerns of those I who stayed on the subject.

Thanks

Jim  
Montali

P.S. One a different but related issue, please get dredging done ASAP.