

# Bay Bridge Pump Station and Force Mains Replacement Project

(Project No. 5-67)

## ENVIRONMENTAL IMPACT REPORT

FINAL | JANUARY 2021



Prepared for:  
**Orange County Sanitation District**

Prepared by:  
**Michael Baker International**



**FINAL  
ENVIRONMENTAL IMPACT REPORT**

**Bay Bridge Pump Station and  
Force Mains Replacement Project**

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State Clearinghouse No. 2016111031

**Lead Agency:**



**ORANGE COUNTY SANITATION DISTRICT**

10844 Ellis Avenue  
Fountain Valley, California 92708  
**Contact: Mr. Kevin Hadden**  
**Principal Staff Analyst**  
**714.962.2411**

**Prepared by:**

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**January 2021**

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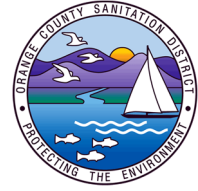


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## **1.0 INTRODUCTION**

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## 1.0 INTRODUCTION

In June 2017, the Orange County Sanitation District (OCSD), as the California Environmental Quality Act (CEQA) Lead Agency (defined herein pursuant to CEQA Guidelines Section 15367), considered a project proposing an upgrade to the existing pump station/force main infrastructure in the *Bay Bridge Pump Station and Force Mains Replacement Project Draft Environmental Impact Report* (2017 Bay Bridge EIR) (State Clearinghouse No. 2016111031). The 2017 Bay Bridge EIR analyzed a version of the project involving the demolition of the existing facility, construction of a new and larger facility adjacent to Bayside Drive, and installation of force main improvements beneath the Newport Bay Channel north of Bay Bridge. The 2017 Bay Bridge EIR was circulated for public review from June 21, 2017 through August 4, 2017. OCSD received 14 comment letters during the public review period and a Final EIR was prepared, which included responses to comments, revisions to the 2017 Bay Bridge EIR, and a mitigation monitoring and reporting program. However, the Final EIR was not certified due to conflicts with the planned development of the adjacent Back Bay Landing Project.

Since then, OCSD has been in negotiations with the City of Newport Beach and adjacent property owner (Bayside Village Marina, LLC) to identify potential site plan alternatives to the project analyzed in the 2017 Bay Bridge EIR. As a result, the 2019 Recirculated EIR was prepared, dated July 2019. The 2019 Recirculated EIR analyzed three conceptual site plans with two different construction methods. The 2019 Recirculated EIR was circulated for public review from July 3, 2019 through August 16, 2019. OCSD received 11 comment letters during the public review period. However, OCSD did not publish the Final EIR or approve the project at that time.

Upon further project evaluation by OCSD and negotiations with Bayside Village Marina, LLC, OCSD selected one conceptual site plan and one construction method to be analyzed under CEQA. A Recirculated Draft Environmental Impact Report (2020 Recirculated Draft EIR) analyzing the revised project was prepared and distributed to responsible and trustee agencies, interested groups, and organizations. The 2020 Recirculated Draft EIR was made available for a 45-day public review period. The public review period for the 2020 Recirculated Draft EIR, established by the *California Environmental Quality Act Guidelines* (CEQA Guidelines) Section 15105, commenced on August 7, 2020 and closed on September 21, 2020. In accordance with CEQA Guidelines Section 15088, OCSD, as the Lead Agency, has evaluated the comments received on the 2020 Recirculated Draft EIR.

The Final EIR consists of the following components:

- Section 1.0 – Introduction;
- Section 2.0 – Responses to Comments;
- Section 3.0 – Errata; and
- Section 4.0 – Mitigation Monitoring and Reporting Program.

Due to its length, the text of the 2020 Recirculated Draft EIR is not included in this Final EIR document; however, it is included by reference in this Final EIR. As explained in detail in this Final EIR, none of the corrections or clarifications of the 2020 Recirculated Draft EIR identified in this document constitute “significant new information” pursuant to Section 15088.5 of the CEQA Guidelines. As a result, recirculation of the 2020 Recirculated Draft EIR is not required.



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## 2.0 RESPONSES TO COMMENTS

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## 2.0 RESPONSES TO COMMENTS

### 2.1 CEQA REQUIREMENTS

Before approving a project, CEQA requires the Lead Agency to prepare and certify a Final Environmental Impact Report (Final EIR).

In accordance with CEQA Guidelines Sections 15120 through 15132 and Section 15163, the Orange County Sanitation District (OCSD), as the Lead Agency, prepared a 2020 Recirculated Draft Environmental Impact Report (2020 Recirculated Draft EIR) for the Bay Bridge Pump Station and Force Mains Replacement Project (State Clearinghouse No. 2016111031). This document includes all components required by CEQA Guidelines Section 15120. The Responses to Comments, combined with the Errata and Mitigation Monitoring and Reporting Program, comprise the Final EIR.

### 2.2 PUBLIC REVIEW PROCESS – DRAFT EIR

The 2020 Recirculated Draft EIR was circulated for review and comment to the public, agencies, and organizations. The 2020 Recirculated Draft EIR was also circulated to State agencies for review through the State Clearinghouse, Office of Planning and Research. The 45-day public review period ran from August 7, 2020 to September 21, 2020. Comments regarding the 2020 Recirculated Draft EIR, received in writing during this period, from the public, local, and State agencies have been incorporated into this section.

It should be noted that OCSD recirculated the entire Draft EIR and required reviewers to submit new comments on the 2020 Recirculated Draft EIR, pursuant to CEQA Guidelines Section 15088.5(f)(1). As provided by CEQA Guidelines Section 15088.5(f)(1), OCSD is not required to respond to those comments received during the earlier circulation period for the *Bay Bridge Pump Station and Force Mains Replacement Project Draft Environmental Impact Report* (2017 Bay Bridge EIR) or *Bay Bridge Pump Station and Force Mains Replacement Project Draft Recirculated Environmental Impact Report* (2019 Recirculated EIR). Although the prior comments are part of the administrative record, the previous comments do not require a written response in this Final EIR. Notwithstanding, it is acknowledged that the 2020 Recirculated Draft EIR was revised to address concerns raised during the public review period of the 2019 Recirculated EIR and also reflects concerns raised during the public review period of the 2017 Bay Bridge EIR. Further, where previous comment letters were resubmitted/attached and commented on as part of the 2020 Recirculated Draft EIR public review period, these comments have been responded to accordingly in the subsequent sections herein (Response to Comments A4-10, O4-1, and O4-7 below).

### 2.3 FINAL EIR

The Final EIR allows the public and OCSD (as the CEQA Lead Agency) an opportunity to review revisions to the 2020 Recirculated Draft EIR, the responses to comments, and other components of the EIR, such as the Mitigation Monitoring and Reporting Program, before project approval. The Final EIR serves as the environmental document to support a decision by the Lead Agency (in this case, OCSD) on whether to approve a proposed project.



After completing the Final EIR, and before approving the project, the Lead Agency must make the following three certifications as required by CEQA Guidelines Section 15090:

- That the Final EIR has been completed in compliance with CEQA;
- That the Final EIR was presented to the decision-making body of the Lead Agency, and that the decision-making body reviewed and considered the information in the Final EIR prior to approving the project; and
- That the Final EIR reflects the Lead Agency’s independent judgment and analysis.

These certifications and the Findings of Fact, are included in a separate Findings document. Both the Final EIR and the Findings of Fact will be considered by OCSD’s decision-making body.

## 2.4 WRITTEN COMMENT LETTERS AND RESPONSES

All written correspondence from those agencies or individuals commenting on the 2020 Recirculated Draft EIR is provided on the following pages. The individual comments on each letter have been consecutively numbered for ease of reference. Following each comment letter are responses to each numbered comment. A response is provided for each comment raising substantive environmental issues. (See, e.g., *Citizens for East Shore Parks v. State Lands Com.* (2011) 202 Cal.App.4th 549, 568, as modified on denial of reh'g (Jan. 27, 2012) [ “ ‘[A] lead agency need not respond to each comment made during the review process, however, it must specifically respond to the most significant environmental questions presented....’ ”].)

Responses to comments need not be exhaustive; they need only demonstrate a “good faith, reasoned analysis.” (*Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 378, as modified (Feb. 1, 2007).) The sufficiency of the lead agency's responses to comments on the draft EIR turns upon the detail required in the responses, and where a general comment is made, a general response is sufficient. (*Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 378, as modified (Feb. 1, 2007).) Satisfactory responses to comments may also be provided by reference to the EIR itself. (*Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 378, as modified (Feb. 1, 2007).)

Absolute perfection is not required; what is required is the production of information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned. It is only required that the officials and agencies make an objective, good-faith effort to comply. (*Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco* (1980) 106 Cal.App.3d 893, 910.) “CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors.” (CEQA Guidelines Section 15204(a).) A reviewing court does not decide whether the City acted wisely or unwisely, but simply determines “whether the EIR contained sufficient information about a proposed project, the site and surrounding area and the projected environmental impacts arising as a result of the proposed project or activity to allow for an informed decision.” (*Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 378, as modified (Feb. 1, 2007).)



Changes to the 2020 Recirculated Draft EIR text may be required in response to the comment letters received. Added or modified text is shown in double-underline, while deleted text is shown in ~~strike out~~; refer to Section 3.0, Errata, for a compilation of changes to the 2020 Recirculated Draft EIR.

## **COMMENT LETTERS**

A total of 14 comment letters were received by OCSD, as outlined below.

### **Agencies**

- A1. State Clearinghouse, State of California Governor's Office of Planning and Research, CEQAnet Database Summary, October 12, 2020.
- A2. Scott Shelley, Branch Chief, Regional-IGR-Transit Planning, State of California Department of Transportation, District 12, September 9, 2020.
- A3. Lijin Sun, J.D. Program Supervisor, CEQA IGR, Planning, Rule Development and Area Sources, South Coast Air Quality Management District, September 17, 2020.
- A4. Erinn Wilson-Olgin, Environmental Program Manager, South Coast Region, California Department of Fish and Wildlife, September 17, 2020.
- A5. Richard Vuong, Interim Deputy Director, OC Public Works Service Area/OC Development Services, September 21, 2020.
- A6. Jaime Murillo, Principal Planner, City of Newport Beach, September 21, 2020.

### **Tribes**

- T1. Brandy Salas, Admin Specialist, Gabrieleno Band of Mission Indians – Kizh Nation, August 25, 2020.

### **Organizations**

- O1. Patricia Martz, PhD, President, California Cultural Resource Preservation Alliance, Inc., September 4, 2020.
- O2. Jim Jordan, President, Linda Isle Community Association, September 16, 2020.
- O3. Jack Teal, President, Bayshores Community Association, September 21, 2020.
- O4. John P. Erskine, Nossaman LLP, September 21, 2020.
- O5. Jeffrey S. Davis, Irvine Company, September 21, 2020.



**Individual Persons**

- I1. Margo O'Connor, Resident, September 8, 2020.
- I2. Leann and David Benvenuti, Resident, September 21, 2020.



# Bay Bridge Pump Station and Force Mains Replacement Project

## Summary

<b>SCH Number</b>	2016111031
<b>Lead Agency</b>	Orange County Sanitation District
<b>Document Title</b>	Bay Bridge Pump Station and Force Mains Replacement Project
<b>Document Type</b>	EIR - Draft EIR
<b>Received</b>	8/6/2020
<b>Project Applicant</b>	Orange County Sanitation District
<b>Present Land Use</b>	Utility (Pump Station)

**Document Description** The proposed project would replace the existing Bay Bridge Pump Station and associated force mains owned and operated by the Orange County Sanitation District (OCSD). The project would bring the pump station facility and force mains to current design and reliability standards to ensure continuous service for the Newport Coast service area. The primary project components consist of pump station improvements and force main improvements.

- **Pump Station Improvements:** The pump station improvement would include the demolition of the existing pump station building and the construction of new pump station facilities including a pump station, generator, and odor control facilities within and adjacent to the existing facility. The new, expanded pump station facility would be approximately 14,500 square feet in site area, as opposed to approximately 4,800 square feet under existing conditions (an increase of approximately 9,700 square feet). In addition, the new pump station would require the replacement of portions of the existing OCSD gravity sewer system, which would be constructed to convey wastewater to the new pump station wet well.
- **Force Main Improvements:** The force main improvements would include the construction of 1,500 linear feet of dual force mains (up to 32 inches in diameter) across the Newport Bay Channel south of Bay Bridge to connect the new pump station to the existing OCSD force main system west of the Newport Bay Channel. The project would either microtunnel or open trench cut under East Coast Highway, to the southside of the bridge, where the project would dry dredge under Newport Bay Channel.

A1-1

**Contact Information** Kevin Hadden  
 Orange County Sanitation District  
 10844 Ellis Avenue  
 Fountain Valley, CA 92708  
 Phone : (714) 962-2411  
 CEQA@ocsd.com

## Location

<b>Coordinates</b>	33°37'0.58"N 117°54'3.74"W
<b>Cities</b>	Newport Beach
<b>Counties</b>	Orange
<b>Regions</b>	Southern California

**Cross Streets** East Coast Highway and Bayside Drive  
**Zip** 92660  
**Total Acres** 31.4  
**Parcel #** 440-132-60, 117-801-10  
**State Highways** Pacific Coast Highway  
**Railways** N/A  
**Airports** N/A  
**Schools** Numerous  
**Waterways** Newport Bay Channel  
**Township** 6S  
**Range** 10W  
**Section** 26  
**Base** SBBM

## Notice of Completion

**Review Period Start** 8/7/2020  
**Review Period End** 9/21/2020  
**Development Type** Other (Wastewater (Sewer) Pump Station Facilities)  
**Local Action** Site Plan Coastal Permit Local Coastal Permit Other Action  
**Project Issues** Aesthetic/Visual Air Quality Archaeologic-Historic Biological Resources Coastal Zone Drainage/Absorption Flood Plain/Flooding Geologic/Seismic Greenhouse Gas Emissions Noise Population/Housing Balance Public Services Recreation/Parks Sewer Capacity Soil Erosion/Compaction/Grading Solid Waste Toxic/Hazardous Traffic/Circulation Tribal Cultural Resources Vegetation Water Quality Wetland/Riparian Wildlife Growth Inducing Land Use Cumulative Effects Other  
**Reviewing Agencies** California Air Resources Board California Coastal Commission California Department of Conservation California Department of Fish and Wildlife, Marin Region 7 California Department of Parks and Recreation California Department of State Parks, Division of Boating and Waterways California Department of Water Resources California Governor's Office of Emergency Services California Highway Patrol California Native American Heritage Commission California Natural Resources Agency California Regional Water Quality Control Board, Santa Ana Region 8 California State Lands Commission Department of Toxic Substances Control Office of Historic Preservation State Water Resources Control Board, Division of Drinking Water State Water Resources Control Board, Division of Water Quality State Water Resources Control Board, Division of Financial Assistance California Department of Transportation, District 12 California Department of Fish and Wildlife, South Coast Region 5

A1-1  
cont'd

## Attachments

**Environmental Document** 11-01\_IS NOP Comment Letters PDF 14099 K 11-02\_Air Quality\_GHG\_Energy PDF 1342 K  
 11-03\_Biological Resources Reports PDF 72348 K  
 11-04\_Cultural\_Paleo Resources Assessment PDF 7181 K 11-05\_Geology Report PDF 6324 K  
 Bay Bridge NOA\_08-07-20 PDF 165 K Bay Bridge\_Draft 2020 REIR\_Aug2020 PDF 10769 K  
 Bay Bridge\_Summary Form PDF 418 K  
**NOC** Bay Bridge\_NOC PDF 383 K Bay Bridge\_NOC\_Page 2 PDF 118 K  
**State Comments** 2016111031\_\_CDFW Comment PDF 443 K 2016111031\_Caltrans Comment PDF 228 K  
 2016111031\_CDFW Comment PDF 1205 K

**Disclaimer:** The Governor’s Office of Planning and Research (OPR) accepts no responsibility for the content or accessibility of these documents. To obtain an attachment in a different format, please contact the lead agency at the contact information listed above. You may also contact the OPR via email at [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov) or via phone at (916) 445-0613. For more information, please visit [OPR’s Accessibility Site](#).



## **RESPONSE TO COMMENT LETTER A1**

State Clearinghouse

State of California Governor's Office of Planning and Research

October 12, 2020

- A1-1 This comment includes copy of the online State Clearinghouse CEQAnet database summary for the project (SCH No. 2016111031). The summary acknowledges that public review started on August 7, 2020 and ended on September 21, 2020. During the public review period, two State agency letters were received by the Office of Planning and Research (OPR) by the California Department of Transportation (Caltrans) and the California Department of Fish and Wildlife (CDFW). Refer to Comment Letters A2 and A4, respectively.

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 12  
 1750 EAST 4<sup>TH</sup> STREET, SUITE 100  
 SANTA ANA, CA 92705  
 PHONE (657) 328-6000  
 FAX (657) 328-6522  
 TTY 711  
 www.dot.ca.gov



Making Conservation  
 a California Way of Life.

September 9, 2020

Mr. Kevin Hadden  
 Orange County Sanitation District  
 10844 Ellis Avenue  
 Fountain Valley, CA 92708

File: IGR/CEQA  
 SCH#: 20161111031  
 IGR LOG #2017-01429  
 SR 1

Dear Mr. Hadden,

Thank you for including the California Department of Transportation (Caltrans) in the review of the 2020 Recirculated Environmental Impact Report Bay Bridge Pump Station and Force Mains Replacement Project. The proposed project would replace the existing Bay Bridge Pump Station and associated force mains owned and operated by the Orange County Sanitation District (OCSD). The project would bring the pump station facility and force mains to current design and reliability standards to ensure continuous service for the Newport Coast service area. The primary project components consist of pump station improvements and force main improvements.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. Caltrans is a responsible agency on this project and has the following comments:

**Traffic Operations**

1. Coordination with Traffic Operations Northwest during design phase and prior to construction is required. Please submit, the Traffic Management Plan, Construction Staging, Traffic Handling Plan and Lane Closure Chart for review and comment and to evaluate any potential traffic impact on Caltrans right of way.
2. Coordination with the City of Newport Beach regarding summer construction activities is recommended.

A2-1

A2-2

Mr. Kevin Hadden  
September 9, 2020  
Page 2

### Encroachment Permits

3. Any project work proposed within Caltrans right-of-way requires an Encroachment Permit and all environmental concerns must be addressed. If the environmental documentation for the project does not meet Caltrans requirements, additional documentation would be required before approval of the Encroachment Permit. For application forms and specific details on Caltrans Encroachment Permits procedure, please refer to Encroachment Permits Manual. The latest edition of the Manual is available on: <http://www.dot.ca.gov/trafficops/ep/apps.html>.

Please continue to coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, please do not hesitate to contact Maryam Molavi, at (657) 328-6280 or [Maryam.Molavi@dot.ca.gov](mailto:Maryam.Molavi@dot.ca.gov).

Sincerely,



Scott Shelley  
Branch Chief, Regional-IGR-Transit Planning  
District 12

A2-3



## RESPONSE TO COMMENT LETTER A2

Scott Shelley, Branch Chief, Regional-IGR-Transit Planning  
State of California Department of Transportation District 12  
September 9, 2020

A2-1 The commenter includes an introductory statement with a brief project description. The commenter goes on to state that the project is required to coordinate with Traffic Operations Northwest during the design phase and requests submittal of the Traffic Management Plan, Construction Staging, Traffic Handling Plan and Lane Closure Chart for review and comment and evaluation on these activities on California Department of Transportation (Caltrans) right-of-way.

As stated in the 2020 Recirculated Draft EIR, OCSD will comply with all Caltrans requirements related to construction activities affecting Caltrans right-of-way, including requirements during the design and construction phases. Specifically, on 2020 Recirculated Draft EIR page 5.11-7, Mitigation Measure TRA-1 requires that, prior to initiation of construction activities, engineering drawings and specifications, and/or contractor shop drawings shall be prepared by the Project Engineer, or designee, and submitted for review and approval by the Orange County Sanitation District, Caltrans, and the City of Newport Beach Public Works Department. This includes detailed information involving proposed traffic management/handling, construction staging, and lane closures during construction. As a result, the action requested in this comment is already required by Mitigation Measure TRA-1.

A2-2 Refer to Response to Comment A2-1.

A2-3 The commenter states that any work proposed within Caltrans right-of-way requires an Encroachment Permit and that all environmental documentation for the project is required to meet Caltrans requirements before approval of the Encroachment Permit. The commenter also provides a link to Caltrans' Encroachment Permits Manual for more details. The commenter concludes the letter by requesting continued coordination with Caltrans for future developments that could impact State transportation facilities and provides contact information for questions.

OCSD will adhere to the applicable Caltrans Encroachment Permit approval requirements as necessary. As stated in 2020 Recirculated Draft EIR page 3-16, the proposed project would be required to obtain a Caltrans encroachment permit. This comment does not specifically address significant environmental issues. No further response is necessary.



# South Coast Air Quality Management District

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

COMMENT LETTER A3

SENT VIA E-MAIL:

[CEQA@ocsd.com](mailto:CEQA@ocsd.com)

Kevin Hadden, Principal Staff Analyst  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708

September 17, 2020

## **Recirculated Draft Environmental Impact Report (Draft EIR) for the Proposed Bay Bridge Pump Station and Force Mains Replacement Project (SCH No.: 2016111031)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments include recommended air quality mitigation measures that the Lead Agency should include in the Final EIR.

### South Coast AQMD Staff's Summary of Project Description

The Lead Agency is proposing to demolish an existing 4,800-square-foot pump station facility and construct a new 14,500-square-foot pump station facility with an adjacent 1,300-square-foot odor control facility and a 760-square-foot backup generator facility (Proposed Project). The Proposed Project also includes installing force main and gravity sewer improvements. The Proposed Project is located northwest corner of North Bayside Drive and East Coast Highway at 300 East Coast Highway within the City of Newport Beach. Construction of the Proposed Project is anticipated to occur over a 36-month period, from 2023 through 2026<sup>1</sup>. Once operational, the Proposed Project will include operations of an odor control scrubber system and emergency backup generator<sup>2</sup>. Upon review of Table 5.2-2: *Sensitive Receptors* in the Recirculated Draft EIR, South Coast AQMD staff found that the closest residential sensitive receptors are located 25 feet south of the Proposed Project<sup>3</sup>.

### South Coast AQMD Staff's Summary of the Air Quality Analysis

In the Air Quality Analysis Section of the Recirculated Draft EIR, the Lead Agency quantified the Proposed Project's construction emissions and compared those emissions to South Coast AQMD's recommended regional and localized air quality CEQA significance thresholds. Based on the analyses, the Lead Agency found that the Proposed Project's regional and localized construction air quality impacts would be less than significant<sup>4</sup>. The Lead Agency also found that the Proposed Project would not result in net new mobile or stationary source emissions during operation and that operational air quality impacts would be less than significant<sup>5</sup>. No mitigation measures for construction or operation of the Proposed Project were included<sup>6</sup>. In the

<sup>1</sup> Draft EIR. Section 5.2 Air Quality. Page 17; Appendix 11.2 Air Quality/Greenhouse Gas Emissions/Energy Data.

<sup>2</sup> Draft EIR. Chapter 3 Project Description. Pages 8 to 12.

<sup>3</sup> Draft EIR. Section 5.2 Air Quality. Page 6.

<sup>4</sup> *Ibid.* Pages 13 to 17, 19 to 21.

<sup>5</sup> *Ibid.* Page 18.

<sup>6</sup> *Ibid.* Pages 13 to 25.

A3-1



Recirculated Draft EIR, the Lead Agency discussed applicable South Coast AQMD Rules<sup>7</sup> 402 – Nuisance<sup>8</sup>, 403 – Fugitive Dust<sup>9</sup>, and 1403- Asbestos Emissions from Demolition/Renovation Activities<sup>10</sup>.

**A3-1  
cont'd**

#### South Coast AQMD Rules and Permits

In addition to South Coast AQMD Rules 402, 403, and 1403, the Proposed Project may be subject to the requirements of the following South Coast AQMD rules and regulations, which should be discussed in the Final EIR to demonstrate that the Proposed Project will comply with them. Information on each of the rule and/or regulation is available on South Coast AQMD's website at: <https://www.aqmd.gov/home/rules-compliance/rules/scaqmd-rule-book>.

**A3-2**

- Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil
- Regulation 13 – New Source Review
- Rule 1401 – New Source Review of Toxic Air Contaminants

In the Recirculated Draft EIR, the Lead Agency identified South Coast AQMD as a Responsible Agency for the Proposed Project since implementation will require permits from South Coast AQMD<sup>11</sup>. It is important to note that the assumptions in the air quality analysis in the Final EIR will be used as the basis for evaluating the permits under CEQA and imposing permit conditions and limits. Question on permits should be directed to South Coast AQMD's Engineering and Permitting staff at (909) 396-3385. Since the Proposed Project will include the operation of an odor control scrubber system and a backup generator, the Proposed Project will be required to submit complete and timely permit applications to South Coast AQMD for the following equipment:

**A3-3**

- Applications for Permit to Construct and Permit to Operate will be required for the proposed odor control scrubber system.
- Applications for Permit to Construct and Permit to Operate will be required for any chemical storage tanks not exempted by Rule 219.
- Applications for Permit to Construct and Permit to Operate will be required for engines powering the pumps at the pump station, if the engines are rated above 50 brake horsepower (BHP).
- Applications for Permit to Construct and Permit to Operate will be required for engines powering the back-up electrical generator at the pump station, if the engine is rated above 50 BHP.

<sup>7</sup> Draft EIR. Section 5.2 Air Quality. Pages 15, 17.

<sup>8</sup> South Coast AQMD Rule 402 – Nuisance. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-402.pdf>

<sup>9</sup> South Coast AQMD Rule 403 – Fugitive Dust. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-403.pdf>

<sup>10</sup> South Coast AQMD Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1403.pdf>

<sup>11</sup> Draft EIR. Chapter 2 Introduction and Purpose. Pages 6 to 7.

Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project.

**A3-4**

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins, Air Quality Specialist, at [amullins@aqmd.gov](mailto:amullins@aqmd.gov) if you have questions or wish to discuss the comments.

Sincerely,

*Lijin Sun*

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

LS:AM/AS  
ORC200811-03  
Control Number



### RESPONSE TO COMMENT LETTER A3

Lijin Sun, J.D. Program Supervisor, CEQA IGR, Planning, Rule Development and Area Sources  
South Coast Air Quality Management District  
September 17, 2020

- A3-1 This comment provides background information regarding the South Coast Air Quality Management District (SCAQMD) and provides a general summary of the proposed project and the 2020 Recirculated Draft EIR's air quality analysis. As acknowledged in the letter, SCAQMD Rule 402 – *Nuisance* and Rule 403 – *Fugitive Dust* were discussed under Impact Statement AQ-1 of the 2020 Recirculated Draft EIR (page 5.2-15) while Rule 1403 – *Asbestos Emissions from Demolition/Renovation Activities*, was discussed under Impact Statement HAZ-1 of the 2020 Recirculated Draft EIR (page 5.7-13). This comment does not identify a specific issue or comment specifically related to the 2020 Recirculated Draft EIR's environmental analysis. The commenter also lists applicable SCAQMD Rules. Responses to specific comments are provided below.
- A3-2 The commenter discusses additional SCAQMD Rules that the proposed project may be subject to, including Rule 1166 – *Volatile Organic Compound Emissions from Decontamination of Soil*; Regulation 13 – *New Source Review*; and Rule 1401 – *New Source Review of Toxic Air Contaminants*. The commenter also provides a link to SCAQMD's website for more details on each of the rules and/or regulations.

Rule 1166 governs the emission of volatile organic compounds (VOCs) from excavating, grading, handling, and treating VOC-contaminated soil as a result of leakage from storage or transfer operations, accidental spillage, or other deposition. The requirements for excavating an UST, transfer pipe, or VOC-contaminated soils include operating pursuant to an approved mitigation plan, notification, VOC monitoring, and procedure for handling and transporting contaminated soils.

As stated under Impact Statement HAZ-1 of the 2020 Recirculated Draft EIR (page 5.7-21), no known soil contamination has been reported within the project site, with the exception of soils present in the Newport Bay Channel bottom that have potentially elevated levels of DDT/DDE pesticide contamination (not classified as VOCs). Further, no evidence of the presence of USTs on the project site was found. As discussed on 2020 Recirculated Draft EIR page 5.7-3, one UST is located at 301 Coast Highway (a Mobil gasoline service station) not 301 East Coast Highway. As such, this UST was determined to be located off-site. Nonetheless, the 2020 Recirculated Draft EIR acknowledged that implementation of recommended Mitigation Measures HAZ-3 and HAZ-4 would minimize potential impacts in this regard by requiring a soil management plan and establishing procedures if potentially contaminated wastes are discovered during project construction. In addition, the project would be required to comply with all applicable Federal, State, and local standards and regulations, which may include SCAQMD Rule 1166, in order to reduce the potential for a hazardous materials incident.

SCAQMD Regulation 13 (Rules 1300 – 1325) establishes pre-construction review requirements for the installation or modification of a source facility (i.e., power plant, engine, equipment) which may cause the issuance of nonattainment air contaminant, ozone-depleting compounds (ODCs), or ammonia. Similarly, Rule 1401 governs any new, modified, or



relocation of permit units (article, machine, equipment, or facility) that emit toxic air contaminants. The rule establishes allowable risks (maximum individual cancer risk, cancer burden, and noncancer acute and chronic hazard index) from operating permit units.

As stated in Section 5.2, *Air Quality*, of the 2020 Recirculated Draft EIR, the project would be required to comply with all applicable SCAQMD rules and regulations, as well as National Emission Standards for Hazardous Air Pollutants (NESHAP) standards found in the Code of Federal Regulations (CFR) Title 40, Part 61, Subpart M. These regulations call for the maintenance of construction equipment, the use of non-polluting and non-toxic building equipment, and minimizing fugitive dust during construction activities. Further, all pumps (with the same capacity as the existing pumps) and generators associated with the project would be electrically-powered, and would not directly generate air emissions.

In addition, the proposed project would replace an existing emergency backup generator with a new 750-kilowatt diesel backup generator allowing the pump station to run on backup power for approximately 24 hours of operational redundancy. As the backup generator would be installed on-site permanently, OCSD would be required to obtain the applicable permits from SCAQMD for operation of such equipment. Overall, the project would be required to comply with all applicable regulations and standards, including the additional SCAQMD Rules discussed herein.

- A3-3 The commenter notes that SCAQMD has been identified as a Responsible Agency for the proposed project as implementation of the project will require permits from SCAQMD (2020 Recirculated Draft EIR page 2-7). It is noted that the air quality analysis in the 2020 Recirculated Draft EIR will be used as the basis for evaluating the permits under CEQA as well as imposing permit conditions and limits. The commenter directs questions on permits to appropriate staff. The commenter also provides a summary of all permits required for operation of an odor control scrubber system and a backup generator as currently proposed for the project. OCSD will comply with the applicable SCAQMD permit requirements. Nonetheless, a clarification has been made to Section 3.6, *Permits and Approvals* of the 2020 Recirculated Draft EIR (page 3-16).

### **Section 3.6, Page 3-16, Last Paragraph**

The applicable agency approvals and related environmental review/consultation requirements associated with the proposed project may include the following, among others. It is not anticipated that any other agencies would require use of the EIR in their decision making process.

- CEQA Clearance – OCSD;
- Site Development Review Permit – City of Newport Beach;
- Limited Term Permit – City of Newport Beach;
- Encroachment Permits – City of Newport Beach and Caltrans;
- Permanent/Temporary Easements – City of Newport Beach, Bayside Village Marina, LLC, The Irvine Company, and Bay Shores Community Association;



- Traffic Control Plan Approval – City of Newport Beach and Caltrans;
- Coastal Development Permit – California Coastal Commission and City of Newport Beach (as required under the California Coastal Act, Public Resources Code Division 20);
- California State Lands Commission – Consultation with the County of Orange regarding implementation of Newport Bay Channel force main crossing through tidelands and submerged lands;
- California Department of Fish and Wildlife – Consultation regarding implementation of Newport Bay Channel force main crossing;
- National Marine Fisheries Service – Dry dredging/shoring construction activities;
- Section 404 Permit – Army Corps of Engineers (required for dry dredging/shoring construction activities);
- Section 401 Permit – Santa Ana Regional Water Quality Control Board (required for dry dredging/shoring construction activities);
- Permit R8-2015-0004 – Santa Ana Regional Water Quality Control Board; ~~and~~
- General Construction Permit – Santa Ana Regional Water Quality Control Board (as required under National Pollutant Discharge Elimination System [NPDES] General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ [as amended by 2010-0014-DWQ and 2012-006-DWQ], NPDES Number CAS000002): ~~and~~
- Permit to Construct (P/C) and Permit to Operate (P/O) – South Coast Air Quality Management District

These changes provide a minor update, correction, or clarification and do not represent “significant new information” as defined in CEQA Guidelines Section 15088.5.

- A3-4 The commenter requests written responses to all comments contained in this letter prior to certification of the Final EIR. The commenter states that all issues raised in this comment letter shall be addressed in detail with reasoned analysis with no conclusory statements unsupported by factual information. The commenter concludes the letter by providing staff contact information for questions. This comment is acknowledged; it does not raise a significant environmental issue. As such, no further response is necessary.



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 South Coast Region  
 3883 Ruffin Rd.  
 San Diego, CA 92123  
 www.wildlife.ca.gov

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



September 17, 2020

Kevin Hadden  
 Orange County Sanitation District  
 10844 Ellis Avenue  
 Fountain Valley, CA 92708

Dear Mr. Hadden:

Bay Bridge Pump Station and Force Mains Replacement Project (PROJECT)  
 RECIRCULATED ENVIRONMENTAL IMPACT REPORT (REIR)  
 SCH# 2016111031

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a REIR from Orange County Sanitation District (OCSD) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Availability of a Draft Recirculated EIR.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

#### CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 *et seq.*) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

#### PROJECT DESCRIPTION SUMMARY

**Proponent:** Orange County Sanitation District (OCSD)

**Objective:** The objective of the Project is to replace the existing Bay Bridge Pump Station and associated force mains to bring the pump station facility and force mains to current design and reliability standards. The proposed Project involves demolishing the existing pump station building and constructing new pump station facilities including a pump station, generator, and odor control facilities within and adjacent to the existing facility. The Project will abandon existing force mains and install new force mains across the Newport Bay Channel south of Bay Bridge. The draft EIR which analyzed the original Project; (Michael Baker International 2017) was not certified due to conflicts with the planned development of the Back Bay Landing Project. Following negotiations and consideration of site plan alternatives, the *Bay Bridge Pump Station and Force Mains Replacement Project Draft Recirculated Environmental Impact Report* (2019) analyzed three conceptual site plans. In response to comments received during the public review period for the 2019 document, OCSD selected one conceptual site plan and one construction method to analyze in the 2020 Recirculated EIR. The concept originally labeled the, "South Pump Station" has been renamed the, "Adjacent Pump Station" and is the proposed Project analyzed in the 2020 REIR.

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 *et seq.* The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.



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Per the REIR, development of the Adjacent Pump Station would involve expanding the existing pump station facility site approximately 100 feet to the west, constructing a new pump station building, and installing force main improvements across the Newport Bay Channel south of Bay Bridge. The Adjacent Pump Station would connect to the existing OCSD force main system to the west by installing 1,500 LF of dual force mains (up to 32" in diameter) across the Newport Bay Channel south of Bay Bridge. The REIR indicates that the Project will either microtunnel or open trench cut under East Coast Highway toward the southside of the bridge, where the Project as proposed will then open trench dredge under Newport Bay Channel to install the force mains.

**Location:** The Project is located within the southwestern portion of the City of Newport Beach, within the County of Orange, California. The Project site is located at 300 East Coast Highway and is developed with an OCSD sewer pump station, associated improvements, and a recreational vehicle storage area. The Project site also includes sewer force main improvements that extend from the existing pump station westerly beneath the Newport Bay Channel (south of Bay Bridge) to connect an existing OCSD force main system and pipeline on the west side of Bay Bridge.

**Biological Setting:** Pump station improvements and portions of the force main improvements outside of the Newport Bay Channel would occur primarily in developed paved areas or areas with ornamental landscaping. No special-status plant species have been observed at the Project site due to the developed nature of the terrestrial portions of the Project site and lack of suitable habitat. An on-site terrestrial survey conducted on March 18, 2019 detected 18 common terrestrial wildlife species. No special-status wildlife species were observed on site.

The Project site contains suitable habitat to support a variety of nesting bird species. The Marine Resources Study Table 1 presented in the REIR identifies multiple sensitive bird species with the potential to occur in the Project area, including California brown pelican (*Pelecanus occidentalis californicus*; CDFW Fully Protected Species), osprey (*Pandion haliaetus*; CDFW Watch List), American peregrine falcon (*Falco peregrinus anatum*; CDFW Fully Protected Species), California least tern (*Sterna antillarum browni*; California Endangered Species Act (CESA)-listed Endangered and Endangered Species Act (ESA)-listed Endangered, CDFW Fully Protected Species), and light-footed ridgway's rail (*Rallus obsoletus levipes*; CESA-listed Endangered and ESA-listed Endangered, CDFW Fully Protected Species).

Upper and Lower Newport Bay is an estuary and supports not only extensive eelgrass beds, but also rare coastal lagoon habitats and wetlands; these wetland habitats are found within the Upper Newport Bay State Marine Conservation Area (SMCA) which are protected under the State Marine Life Protection Act. SMCAs protect tidal lands, wetlands up to the mean high tide line, fish and fish habitat for many fish species that are both state and federally managed from the bay bridge to the San Diego Creek Channel. The Project area is surrounded by sensitive areas to the north and south of the highway bridge including eelgrass beds (*Zostera marina* and/or *Zostera pacifica*) and shallow estuarine waters/wetland, which are essential foraging habitats for multiple species. Green sea turtles (*Chelonia mydas*; ESA-listed threatened) may be found foraging in this area and southern steelhead (*Oncorhynchus mykiss*; ESA-listed endangered) may be found during migration periods (calfish.ucdavis.edu, 2019).

As outlined in CDFW's comment letter on the Availability of a DREIR (2019), our continued recommendation is to select a force main alignment that is located outside of the upper Newport Bay SMCA, and CDFW thanks OCSD for selecting a conceptual site plan which follows this recommendation. CDFW also advocated for the use of microtunneling and/or horizontal directional drilling (HDD) in our 2019 comments.

**Timeframe:** Microtunneling is anticipated and assumed in the 2020 REIR to occur 24 hours per day and would take approximately two months to microtunnel across East Coast Highway. Dredging and trenching activities across Newport Bay Channel would take approximately four months. Force main improvements are anticipated to take approximately six months.

#### COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist OCSD in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

#### I. Project Description and Related Impact Shortcoming

##### COMMENT #1: Force Main Improvement Method Selection

A4-1  
 cont'd

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**Section 3.4, Page 3-13 and Section 5.3.4, Page 5.3-13**

**Issue:** The Project as proposed involves dredging and trenching across the Newport Bay Channel to install force mains between the new pump station and existing OCSD conveyance system. CDFW does not support dredging within the Newport Bay Channel and continues to recommend utilization of microtunneling or horizontal directional drilling (HDD) technologies to avoid impacts to eelgrass, wetlands, fish, birds, benthic habitat, and invertebrates.

**Specific impact:** Dredging would involve direct removal of eelgrass habitat and marine invertebrates, and habitat modification within the Newport Bay Channel. The REIR describes dredging as, “[p]lacement of a dredge (boat) with a submersible pump to suction out sediments at the bottom of the Newport Bay Channel (page 3-12).” The REIR goes on to state, “Dredging to install the force main improvements would require trenching approximately 580 feet long by 10 feet wide by 18 feet deep across the Newport Bay Channel, draining the trench, shoring of the trench walls, and possibly cofferdams within Newport Bay Channel. Accordingly, dredging would result in disturbance to the Newport Bay Channel within the immediate vicinity of the dredged area. Potential biological resource impacts associated with dredging may include construction-related turbidity, light and noise, and increased workboat activity.”

**A4-1  
 cont'd**

**Why impact would occur:** In addition to direct removal of eelgrass habitat and marine invertebrates, dredging can result in underwater noise, causing behavioral responses such as interruption of species movements between Lower Newport and Upper Newport Bay. Dredging may also result in turbidity and sedimentation that could be carried by currents into the SMCA resulting in indirect impacts. This may lead to poor water quality and indirect impacts to birds, marine plants, fish, animals, and marine habitats.

**A4-2**

**A4-3**

**Evidence impact would be significant:** In alignment with our 2019 comments, CDFW is concerned about potential impacts to the SMCA, as well as potential impacts to eelgrass due to its historical presence throughout Upper and Lower Newport Bay. Eelgrass habitat areas are designated Habitat Areas of Particular Concern (HAPC) under the federal Magnuson-Stevens Fishery Conservation and Management Act, the primary law governing marine fisheries management in U.S. waters. The National Marine Fisheries Service, in collaboration with CDFW and other agencies, developed a statewide California eelgrass mitigation policy (CEMP, 2014) that incorporates a “no net loss of habitat” to help conserve eelgrass resources in California. Eelgrass habitat is present within the project area and would likely be impacted by dredging. Additionally, the importance of eelgrass protection and restoration, as well as the ecological benefits of eelgrass is identified in the California Public Resources Code (PRC Section 35630).

**A4-4**

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

**Mitigation Measure #1 and #2: “Adjacent Pump Station with Microtunneling” Alternative Selection and Associated Mitigation**

**To minimize significant impacts:** CDFW recommends the use of microtunneling or HDD rather than dredging to install force main improvements across the Newport Bay Channel, as well as incorporation of a mitigation measure to address associated impacts.

The REIR analyzes multiple Project Alternatives, including the, “Adjacent Pump Station with Microtunneling” Alternative (Alternative) examined in Section 7.2. As described in the REIR, the only difference between the proposed Project and this alternative is that installation of the force main improvements across Newport Bay Channel would be executed via microtunneling rather than dredging with the Alternative. The REIR describes microtunneling as, “[a] remote-controlled, continuously supported pipe jacking method. Microtunneling operations are managed by an operator in an above ground control container alongside of the shaft. Soil excavation takes place by way of infusing the soil with slurry at the face of the bore and cuttings are forced into slurry inlet holes in the Microtunneling Bore Machines crushing cone for circulation to and from a separation plant through a closed system. Areas where the pipe is microtunneled may require a casing pipe as large as 72 inches in diameter, which has been evaluated throughout this EIR as a worst-case scenario (page 3-12).”

**A4-5**

CDFW concurs with the biological analysis provided in Section 7.2 of the REIR, concluding that the microtunneling Alternative would reduce the Project’s impacts on marine wildlife species and thus is environmentally superior to the proposed Project. Although trenchless technologies such as microtunneling and HDD create fewer impacts than traditional dredging, associated impacts from potential hydrofractures would still be considered significant. As indicated in our 2019 letter and reiterated in the REIR, microtunneling could result in potential hydrofractures, or “frac-outs” when



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utilizing clay lubricants (i.e., bentonite slurry), which could adversely impact benthic invertebrates, aquatic plants, fish, and their eggs if bentonite is discharged into waterways on accident.

In addition to selection of the "Adjacent Pump Station with Microtunneling" Alternative described above, CDFW recommends incorporating the below language into a mitigation measure:

*"To minimize significant impacts associated with microtunneling:*

- a. drilling shall halt immediately when a hydrofracture is detected, and hydrofractures shall be cleaned immediately after they occur, if feasible. Necessary response equipment shall be readily accessible and in good working order;*
- b. borehole pressures should be monitored during gall drilling, boring, and reaming activities. The monitor should be independent of and work closely with the drill operator during operations. The drill operator and/or monitors shall have the authority to halt HDD without reprisal;*
- c. all field personnel shall understand their responsibility for timely reporting of hydrofractures; and,*
- d. techniques to reduce potential for hydrofracture and inadvertent returns such as:
 
  - i. sufficient earth cover for the given substrate should be used to increase resistance to hydrofracture;*
  - ii. an adequately dense drilling fluid should be used to avoid travel of drilling fluid in porous sands;*
  - iii. the bore should be conducted in a manner that avoids collapse;*
  - iv. borehole pressure should be maintained low enough to avoid hydrofracture;*
  - v. reaming and pullback rates should be maintained at rates slow enough to avoid over-pressurization of the bore;*
  - vi. the surface above the vicinity of the drill head should be visually monitored for surface evidence of hydrofracture;*
  - vii. drilling methods should be modified to suit site conditions such that hydrofracture does not occur; and,*
  - viii. Non-toxic dyes or markers should be utilized to aid hydrofracture detection."**

A4-5  
cont'd

**COMMENT #2: Notification for Channel Impacts**

**Issue:** The Project does not suitably address notification for impacts to the bed and bank of Newport Bay Channel, per Fish & G. Code, section 1600 *et seq.*

**Specific impact:** Dredging and trenching as described involves direct impacts to the bed and bank of Newport Bay Channel. If microtunneling is adopted in lieu of traditional trenching technologies, per CDFW recommendation, then accidental frac-outs could possibly warrant notification (see Comment 1).

**Why impact would occur:** The REIR addresses the need for notification in terms of jurisdictional wetlands for the proposed Project stating that, "All proposed improvements have been designed to remain outside of the top of active banks and the canopy/drip line of any associated riparian vegetation, whichever is greater. Therefore, a Streambed Alteration Agreement (SAA) from CDFW is not required for the proposed project (page 5.3-10)." However, CDFW does not regulate wetlands. Instead, CDFW regulates the bed, bank, and channel of the stream.

**Evidence impact would be significant:** Fish & G. Code, section 1600 *et seq.* requires any person, state or local government agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following: divert or obstruct the natural flow of any river, stream, or lake; or deposit or dispose of material into any river, stream, or lake.

A4-6

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

**Mitigation Measure #3: Notification for Channel Impacts**

**To minimize significant impacts:** While CDFW acknowledges that it is the responsibility of the Applicant and the Lead Agency under CEQA (e.g., OCSD) to ascertain as to whether the Project activities described in the REIR are subject to wetland permitting requirements, we strongly recommend that OCSD notify for impacts to Newport Bay Channel under Fish & G. Code, section 1600 *et seq.*

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CDFW also recommends incorporating the below language into a mitigation measure:

*“OCSD will notify for impacts to Newport Bay Channel per Fish & G. Code, section 1600 et seq. All wetland permitting requirements, including those which satisfy the United States Army Corps of Engineers and the Regional Water Quality Control Board, will be in place prior to the commencement of construction.”*

A4-6  
cont'd

**II. Coordination with CDFW**

We appreciate OCSD’s consideration of impact avoidance to biological resources through incorporation of Mitigation Measure’s BIO-1, BIO-2, BIO-3, and HWQ-4. If any additional impacts to the SMCA are anticipated, or if pre-construction surveys identify eelgrass, kelp, or any special-status species, we request that the marine biologist coordinate with CDFW to establish a mitigation plan. As indicated in our 2019 letter, should eelgrass mitigation and transplanting be required, CDFW requires a Scientific Collecting Permit to collect eelgrass, and a Letter of Authorization for eelgrass translocations. CDFW requests to be provided with any pre- and/or post-project survey reports, and draft mitigation and monitoring plans, with an opportunity to comment and collaborate prior to finalization.

A4-7

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

A4-8

**FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

**CONCLUSION**

CDFW appreciates the opportunity to comment on the REIR to assist OCSD in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist at (858) 636-3159 or [Jessie.Lane@wildlife.ca.gov](mailto:Jessie.Lane@wildlife.ca.gov). For marine species, Marine Protected Areas and eelgrass, please contact Loni Adams, Environmental Scientist at (858) 627-3985 or [Loni.Adams@wildlife.ca.gov](mailto:Loni.Adams@wildlife.ca.gov).

A4-9

Sincerely,

DocuSigned by:  
*Erinn Wilson-Olgin*  
B8E58CFE24724F5...  
Erinn Wilson-Olgin  
Environmental Program Manager  
South Coast Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento  
Eric Wilkins, CDFW, [Eric.Wilkins@wildlife.ca.gov](mailto:Eric.Wilkins@wildlife.ca.gov)  
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Attachments  
A. Draft MMRP (CDFW 2020)

**REFERENCES**

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cont'd**

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**Attachment A:**

**CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations**

<b>Biological Resources</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Responsible Party</b>
MM BIO-1	The "Adjacent Pump Station with Microtunneling" Alternative as analyzed in the REIR shall be selected.	Before Construction	Orange County Sanitation District
MM BIO-2	<p>To minimize significant impacts associated with microtunneling:</p> <ul style="list-style-type: none"> <li>a. drilling shall halt immediately when a hydrofracture is detected, and hydrofractures shall be cleaned immediately after they occur, if feasible. Necessary response equipment shall be readily accessible and in good working order;</li> <li>b. borehole pressures should be monitored during gall drilling, boring, and reaming activities. The monitor should be independent of and work closely with the drill operator during operations. The drill operator and/or monitors shall have the authority to halt HDD without reprisal;</li> <li>c. all field personnel shall understand their responsibility for timely reporting of hydrofractures; and,</li> <li>d. techniques to reduce potential for hydrofracture and inadvertent returns such as:               <ul style="list-style-type: none"> <li>i. sufficient earth cover for the given substrate should be used to increase resistance to hydrofracture;</li> <li>ii. an adequately dense drilling fluid should be used to avoid travel of drilling fluid in porous sands;</li> <li>iii. the bore should be conducted in a manner that avoids collapse;</li> <li>iv. borehole pressure should be maintained low enough to avoid hydrofracture;</li> <li>v. reaming and pullback rates should be maintained at rates slow enough to avoid over-pressurization of the bore;</li> <li>vi. the surface above the vicinity of the drill head should be visually monitored for surface evidence of hydrofracture;</li> <li>vii. drilling methods should be modified to suit site conditions such that hydrofracture does not occur; and,</li> <li>viii. Non-toxic dyes or markers should be utilized to aid hydrofracture detection.</li> </ul> </li> </ul>	During Construction	Orange County Sanitation District
MM BIO-3	OCSD will notify for impacts to Newport Bay Channel per Fish & G. Code, section 1600 et seq. All wetland permitting requirements, including those which satisfy the United States Army Corps of Engineers and the Regional Water Quality Control Board, will	Prior to Construction	Orange County Sanitation District

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	be in place prior to the commencement of construction.		
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**A4-10  
cont'd**





State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201  
www.wildlife.ca.gov

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



August 16, 2019

Mr. Kevin Hadden  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708  
CEQA@ocsd.com

**Subject: Comments on the Availability of a Draft Recirculated Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Replacement Project, Newport Beach, CA (SCH# 2016111031)**

Dear Mr. Hadden:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Draft Recirculated Environmental Impact Report (DREIR) for the Bay Bridge Pump Station and Force Mains Replacement Project, dated June 2019. The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines §15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code § 2050 et seq.) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning program.

The DREIR proposes modification of the Bay Bridge Pump Station (Northeast Station) locations, creation of a new South Pump Station, and new alternative alignments for the replacement/installation of one new force main across Newport Bay Channel. Two basic force main alignments (south and north of the Bay Bridge) are presented, and one will be chosen. Three feasible force main installation technologies and two pump station locations are described for consideration, and one final force main construction technology and pump station location will be chosen. Pump station locations are located within an entirely developed area on the east side of the channel. Horizontal directional drilling (HDD) will be used to install a new force main underneath the existing Newport Bay Channel if the north alignment is chosen. If the south alignment is chosen, either dredging, microtunneling, or a combination of the two will be used. Construction is estimated to take place over nine to twelve months.

Upper and Lower Newport Bay is an estuary and supports not only extensive eelgrass beds, but also rare coastal lagoon habitats and wetlands; these wetland habitats are found within the Upper Newport Bay State Marine Conservation Area (SMCA) which are protected under the State Marine Life Protection Act. SMCAs protect tidal lands, wetlands up to the mean high tide line, fish and fish habitat for many fish species that are both state and federally managed from the bay bridge to the San Diego Creek Channel. The project area is surrounded by sensitive areas to the north and south of the highway bridge including eelgrass beds (*Zostera marina* and/or *Zostera pacifica*) and shallow estuarine waters/wetlands, which are essential foraging habitats for multiple species. Green sea turtles (*Chelonia mydas*; Endangered Species Act (ESA) listed- threatened) may be found foraging in this area and southern steelhead (*Oncorhynchus mykiss*; ESA-listed endangered) may be found during migration periods

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(calfish.ucdavis.edu, 2019). Marine mammals may occasionally be found near the project area. The shallow waters and eelgrass are also important for the resident and migratory bird species. The California least tern (*Sterna antillarum browni*; ESA-listed endangered; California fully protected species) and many other sensitive seabirds and shorebirds may forage and nest in the vicinity between April and September.

Pre-construction surveys are proposed for nesting birds (BIO-1), marine mammals in the case of dredging (BIO-2), and eelgrass and/or kelp species habitats (BIO-3). The Department has identified additional biological resources issues that are of concern. We offer the following comments and recommendations to assist the Orange County Sanitation District (OCSD) in avoiding or minimizing potential project impacts to biological resources.

1. The Department recommends that the selected force main alignment be located outside of the Upper Newport Bay SMCA. Feasible methods should be used to avoid and minimize any residual impacts to the SMCA habitats and species. No net loss of wetlands within the SMCA should occur per the California Fish and Game Commission's Wetland Resources Policy (2019). If complete avoidance of direct and indirect impacts to the SMCA is not feasible, OCSD should collaborate further with the Department prior to finalizing the force main alignment/technology.
2. Dredging alternatives described in the DREIR would involve the direct removal of eelgrass habitat and marine invertebrates. Dredging can result in underwater noise, causing behavioral responses such as interruption of species movements between Lower Newport Bay and Upper Newport Bay. Proposed dredging activities may result in turbidity and sedimentation that could be carried by currents into the SMCA resulting in direct impacts. This may lead to poor water quality, and indirect impacts to birds, marine plants, animals, and SMCA. Because of potentially significant impacts associated with dredging, the Department recommends utilizing HDD technologies to avoid impacts to eelgrass, wetlands, fish, birds, benthic habitat, and invertebrates.
3. Conceptually, HDD methods create fewer impacts than traditional dredging; however, the use of a clay lubricant, specifically bentonite slurry, can permanently impact aquatic species and their habitats when hydrofractures (commonly referred to as "frac-outs") occur. Bentonite is often considered non-toxic; however, benthic invertebrates, aquatic plants, fish, and their eggs can be smothered by fine particles of bentonite if it is discharged into waterways. Accordingly, the Department recommends the DREIR adopt a mitigation measure focusing on minimizing direct, indirect, and cumulative impacts that may occur from hydrofractures associated with HDD operations. At a minimum, the mitigation measure should include the following:
  - a. drilling shall halt immediately when a hydrofracture is detected, and hydrofractures shall be cleaned immediately after they occur, if feasible. Necessary response equipment shall be readily accessible and in good working order;
  - b. borehole pressures should be monitored during all drilling, boring, and reaming activities. The monitor should be independent of and work closely with the drill operator during operations. The drill operator and/or monitors shall have the authority to halt HDD activities without reprisal;
  - c. all field personnel shall understand their responsibility for timely reporting of hydrofractures; and,

A4-10  
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- d. techniques to reduce potential for hydrofracture and inadvertent returns, such as:
  - i. sufficient earth cover for the given substrate should be used to increase resistance to hydrofracture;
  - ii. an adequately dense drilling fluid should be used to avoid travel of drilling fluid in porous sands;
  - iii. the bore should be conducted in a manner that avoids collapse;
  - iv. borehole pressure should be maintained low enough to avoid hydrofracture;
  - v. reaming and pullback rates should be maintained at rates slow enough to avoid over-pressurization of the bore;
  - vi. the surface above the vicinity of the drill head should be visually monitored for surface evidence of hydrofracture;
  - vii. drilling methods should be modified to suit site conditions such that hydrofracture does not occur; and,
  - viii. Non-toxic dyes or markers should be utilized to aid hydrofracture detection.
4. The Department thanks OCSD for their consideration of avoidance of impacts to biological resources through the incorporation of HDD and microtunneling techniques; however, as stated above, these techniques are not entirely without risk (e.g., hydrofractures). Given that it is possible for hydrofractures to substantially adversely impact the Newport Bay Channel, we encourage the OCSD to consult further with the Department regarding the possible submittal of a streambed notification package to the Lake and Streambed Alteration Program, per Fish and Game Code section 1600 *et seq.*
5. The Department is concerned for potential impacts to eelgrass due to its historical presence throughout Upper and Lower Newport Bay. Eelgrass habitat areas are designated Habitat Areas of Particular Concern (HAPC) under the federal Magnuson-Stevens Fishery Conservation and Management Act, the primary law governing marine fisheries management in U.S. waters. The National Marine Fisheries Service, in collaboration with the Department and other agencies, developed a statewide California eelgrass mitigation policy (CEMP, 2014) that incorporates a “no net loss of habitat” in order to help conserve eelgrass resources in California. Eelgrass habitat is present within the project area and will need to be addressed if the project includes dredging. Should eelgrass mitigation and transplanting be required, the Department requires a Scientific Collecting Permit to collect eelgrass, and a Letter of Authorization for eelgrass translocations. The Department requests to be provided with any pre- and/or post-project survey reports, and draft mitigation and monitoring plans, with an opportunity to comment and collaborate prior to finalization.
6. The protection and restoration of oysters and eelgrass is critical to the health and resiliency of the Newport Bay ecosystem. Because both species provide many ecosystem services for our coastal wetlands, the Department recommends that additional surveys be conducted for other species such as Olympia oysters (*Ostrea lurida*) during the pre-construction eelgrass surveys. Oysters may be present in the project area and should be avoided if identified. Oysters increase the abundance of fish and wildlife through their creation of complex habitat and improvement of water quality through filter feeding. Oysters also stabilize sediments, buffer erosion, and wave energy, which can reduce the impacts of sea level rise (coastkeeper.org, July 2019). We recommend that pre-construction surveys be incorporated into a mitigation measure in the DREIR.



7. The Department recommends construction impacts to sensitive species and foraging habitat be avoided completely, when feasible (e.g., avoiding construction during the California least tern breeding/nesting season). Measures to minimize direct and indirect impacts to marine life resources may include monitoring, halting construction activities, and installing silt curtains to reduce turbidity/sedimentation effects. Risk of environmental contamination releases due to accidental hydrofractures during drilling should also be reduced by best available practices (see Comment 3).

The Department appreciates the opportunity to comment on the DREIR for this project and to assist OCSD in further minimizing and mitigating project impacts to biological resources. The Department requests that a written response to our comments be provided in the final EIR, as required per CEQA Guidelines section 15088(d). If you have any questions or comments regarding this letter, for land species please contact Jennifer Turner of the Department at (858) 467-2717 or [jennifer.turner@wildlife.ca.gov](mailto:jennifer.turner@wildlife.ca.gov). For marine species, Marine Protected Areas and Eelgrass, please contact Loni Adams of the Department at (858) 627-3985 or [loni.adams@wildlife.ca.gov](mailto:loni.adams@wildlife.ca.gov).

Sincerely,



Gail K. Sevens  
Environmental Program Manager  
South Coast Region

ec: Becky Ota, CDFW, [becky.ota@wildlife.ca.gov](mailto:becky.ota@wildlife.ca.gov)  
Bryant Chesney, NOAA, [bryant.chesney@noaa.gov](mailto:bryant.chesney@noaa.gov)  
Christine Medak, USFWS, [Christine\\_Medak@fws.gov](mailto:Christine_Medak@fws.gov)  
Scott Morgan, State Clearinghouse

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A4-10  
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## RESPONSE TO COMMENT LETTER A4

Erinn Wilson-Olgin, Environmental Program Manager, South Coast Region  
California Department of Fish and Wildlife  
September 17, 2020

A4-1 The commenter has attached a California Department of Fish and Wildlife (CDFW) Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations, and a previous comment letter submitted as part of the 2019 Recirculated Draft EIR (enclosed herein as Comment A4-10). The Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations, would apply to microtunneling activities under Newport Bay Channel. However, the proposed project does not call for any microtunneling activities under Newport Bay Channel. As such, the Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations would not apply to the proposed project.

It should be noted that OCSD recirculated the entire Draft EIR and required reviewers to submit new comments on the 2020 Recirculated Draft EIR, pursuant to CEQA Guidelines Section 15088.5(f)(1) (2020 Recirculated Draft EIR page 2-4, first paragraph). OCSD is not required to respond to those comments received during the earlier circulation period for the *Bay Bridge Pump Station and Force Mains Replacement Project Draft Recirculated Environmental Impact Report* (2019 Recirculated EIR). Although the prior comments are part of the administrative record, the previous comments do not require a formal written response in this Final EIR, unless otherwise specified in the Response to Comments A4-1 through A4-9. Nonetheless, it is acknowledged that the 2020 Recirculated Draft EIR was revised to address concerns raised during the public review period of the 2019 Recirculated EIR and also reflects concerns raised during the public review period of the 2017 Bay Bridge EIR. This information is included in 2020 Recirculated Draft EIR Section 5.3, *Biological Resources*. Refer to Response to Comment A4-5.

The commenter provides a description of the California Department of Fish and Wildlife (CDFW) roles and responsibilities, a brief project description summary, as well as a summary of the biological setting of the project site. The commenter states that the project site contains suitable habitat to support nesting bird species, and identifies Upper and Lower Newport Bay as an estuary that supports extensive eelgrass beds, coastal lagoon habitats and wetlands, and multiple sensitive species.

The commenter expresses appreciation that OCSD has selected a force main alignment that is located outside of the Upper Newport Bay State Marine Conservation Area (SMCA). The commenter then recommends the use of microtunneling or horizontal directional drilling (HDD) instead of dredging to install the proposed force main improvements across the Newport Bay Channel. The commenter states that dredging would involve direct removal of eelgrass habitat and marine invertebrates, and habitat modification within the Newport Bay Channel. Potential biological resource impacts associated with dredging may include construction-related turbidity, light and noise, and increased workboat activity. OCSD responds to these comments as follows.



## Removal or Modification of Habitat and Marine Invertebrates

Impacts to special status plant or wildlife species associated with dredging activities are analyzed under Impact Statements BIO-1 (page 5.3-13) and BIO-2 (page 5.3-17) of the 2020 Recirculated Draft EIR. As stated under Impact Statement BIO-1 of the 2020 Recirculated Draft EIR, impacts to marine mammals and fish from potential dredging activities would be reduced to less than significant levels with implementation of Mitigation Measure BIO-1. Specifically, Mitigation Measure BIO-1 would require contractor awareness training for all personnel working in the marine environment to educate contractor personnel on the identification of marine wildlife in the project area and what procedures to take, should any sensitive marine wildlife be encountered during project construction activities.

As stated under Impact Statement BIO-2 of the 2020 Recirculated Draft EIR, impacts to eelgrass within the project site and vicinity from potential dredging activities would be reduced to less than significant levels with implementation of Mitigation Measures BIO-3. Mitigation Measure BIO-3 would require a qualified marine biologist to conduct a pre-construction survey for presence of eelgrass and kelp species prior to the commencement of in-water construction operations. In the event that pre-construction survey results indicate eelgrass or kelp presence within the project site, OCSDD would be required to incorporate additional avoidance, protection, and/or replacement mitigation measures (e.g., reseeded) to achieve California Eelgrass Mitigation Policy's (CEMP's) "no net loss" standard (2020 Recirculated Draft EIR pages 5.3-8 and 5.3-18 [Mitigation Measure BIO-1]), and reduce impacts to eelgrass or kelp species to the maximum extent practicable during project construction. As such, impacts to eelgrass and kelp habitats during dredging activities would be minimized with implementation of Mitigation Measure BIO-3 along with all applicable regulations.

- A4-2 As stated in the 2020 Recirculated Draft EIR Impact Statement BIO-1, impacts associated with dredging may include construction-related noise. Page 5.3-14 goes on to state marine mammals and fish located near the dredging activities are anticipated to avoid the area of construction due to the increased noise/vibration and nighttime lighting levels from the trenching machinery; refer to page 13 of the *Updated Biological Resources Assessment for the Bay Bridge Pump Station and Force Mains Replacement Project – Newport Beach, Orange County, California* (Biological Resources Assessment), prepared by Michael Baker International, dated April 15, 2020, provided in 2020 Recirculated Draft EIR Appendix 11.3, *Biological Resources Reports*). Nonetheless, the 2020 Recirculated Draft EIR acknowledges the sensitivity of marine wildlife in the project area and includes Mitigation Measure BIO-1, which requires contractor awareness training for all personnel working in the marine environment. The purpose of the training is to educate contractor personnel on the identification of marine wildlife in the project area and what procedures to take, should any sensitive marine wildlife be encountered during project construction activities. The training would include identification of common types of marine wildlife; potential activities which could affect the marine wildlife; an overview and procedures to follow during waterside construction activities; and reporting requirements if marine wildlife are injured. As such, with implementation of Mitigation Measure BIO-1, noise-related impacts to marine mammals and fish from dredging activities within the Newport Bay Channel would be reduced to less than significant levels.
- A4-3 Construction-related impacts to water quality associated with dredging activities are analyzed under Impact Statements BIO-1 and HWQ-1 of the 2020 Recirculated Draft EIR. Based on





this analysis, impacts to turbidity associated with potential dredging activities would be reduced to less than significant levels with implementation of Mitigation Measure HWQ-4.

Mitigation Measure HWQ-4 requires OCSD to obtain Department of the Army permit(s) from the U.S. Army Corps of Engineers (Corps) in compliance with the Clean Water Act, which may involve obtaining an individual or nationwide permit. Standard best management practices (BMPs) for dredging operations and Federal permit requirements as required under Mitigation Measure HWQ-4 would minimize water quality impacts and turbidity resulting from dredging operations. Examples of standard BMPs to reduce turbidity include silt curtain deployment around active dredging, reduction in dredging rate, modification of clamshell operation, use of favorable tidal conditions to minimize spread of turbidity plumes, and temporary suspension of dredging when necessary.

As such, implementation of Mitigation Measure HWQ-4 along with all applicable regulations would minimize water quality impacts and turbidity resulting from dredging operations to less than significant levels.

- A4-4 The commenter reiterates the CDFW's concerns regarding potential impacts to the Upper Newport Bay SMCA and to the eelgrass community. The commenter provides information regarding eelgrass habitat, its designation as Habitat Areas of Particular Concern (HAPC), its protection under the Federal Magnuson-Stevens Fishery Conservation and Management Act, applicable California Eelgrass Mitigation Policy (CEMP) "no net loss of habitat" standards established by the National Marine Fisheries Services (NMFS), and the ecological benefits of eelgrass as identified in the California Public Resources Code Section 35630.

As stated by the commenter, as well as noted in Response to Comment A4-1, the project site is located outside of SMCA. Further, the 2020 Recirculated Draft EIR includes Mitigation Measure BIO-3, which requires OCSD to retain a qualified marine biologist to conduct a comprehensive pre-construction survey for the presence of eelgrass and kelp species prior to commencement of in-water construction operations. Such survey would be consistent with current NMFS California Eelgrass Mitigation Policy survey guidelines.

In the event that pre-construction survey results indicate eelgrass or kelp presence within the project site, OCSD would be required to incorporate additional avoidance, protection, and/or replacement mitigation measures (e.g., reseeded) to achieve CEMP's "no net loss" standard and reduce impacts to eelgrass or kelp species to the maximum extent practicable during project construction. Specifically, in cases where avoidance and minimization of effects to eelgrass have been implemented and further mitigation is required, the NMFS recommends compensatory mitigation for vegetated and unvegetated eelgrass habitat to be completed at a ratio of at least 1.2:1 (mitigation area to impact area).

Additionally, OCSD and the qualified marine biologist would be required to consult with appropriate regulatory agencies, including the CDFW, NMFS, Corps, U.S. Fish and Wildlife Service (USFWS), California Coastal Commission (CCC), and other resource and regulatory agencies, as necessary, to ensure compensatory mitigation is established if the project results in the loss of eelgrass or kelp habitat.



Although the 2020 Recirculated Draft EIR identifies potential impacts involving species of concern, noise, and turbidity, the 2020 Recirculated Draft EIR concluded that with recommended mitigation applied and compliance with existing Federal, State, and local laws and regulations, these impacts would be reduced to less than significant levels. Nonetheless, an alternative to the proposed project (the “Adjacent Pump Station with Microtunneling” Alternative) was analyzed by the 2020 Recirculated Draft EIR in order to compare potential impacts associated with dredging (the proposed project) versus microtunneling across the Newport Bay Channel for the proposed force main improvement (as discussed in Section 7.2, “*Adjacent Pump Station with Microtunneling*” Alternative, of the 2020 Recirculated Draft EIR); refer to Response to Comment A4-5 below.

- A4-5 The commenter reiterates CDFW’s preference in the use of microtunneling or HDD as compared to dredging for the proposed force main improvement across the Newport Bay Channel, as well as incorporation of a mitigation measure to address associated impacts. The commenter summarizes “Adjacent Pump Station with Microtunneling” Alternative (as discussed in Section 7.2, “*Adjacent Pump Station with Microtunneling*” Alternative, of the 2020 Recirculated Draft EIR) and indicates that CDFW concurs with the conclusion regarding such alternative as detailed in the 2020 Recirculated Draft EIR. The commenter then raises concerns regarding potential hydrofractures that could occur when utilizing clay lubricants (i.e., bentonite slurry) during microtunneling activities. Hydrofractures, or “frac-outs”, could adversely impact benthic invertebrates, aquatic plants, fish, and their eggs, if bentonite is discharged into waterways on accident. As such, CDFW recommends incorporating the mitigation measure regarding hydrofractures, as written in their comment letter (enclosed herein as Comment A4-10), to minimize significant impacts associated with microtunneling.

As stated in the 2020 Recirculated Draft EIR page 3-12, the project proposes to microtunnel (or open trench cut) under East Coast Highway to the southside of Bay Bridge. South of the bridge, the project would dredge under Newport Bay Channel to install the proposed force main pipes. As microtunneling would not occur in-water (in Newport Bay Channel), there is no potential for “frac-outs” associated with the proposed project and the recommended mitigation measures are not applicable.

Environmental impacts associated with the proposed dredging activities across Newport Bay Channel have been analyzed throughout the 2020 Recirculated Draft EIR. All impacts associated with the dredging technique employed under Newport Bay Channel were determined to be less than significant with mitigation incorporated; refer to Section 1.4, *Environmental Issues/Mitigation Summary* of the 2020 Recirculated Draft EIR for a summary of mitigation measures proposed. Refer to Response to Comment A4-1 above for discussions on specific biological impacts associated with the proposed dredging activities.

- A4-6 The commenter states that the 2020 Recirculated Draft EIR does not suitably address requirement for notification to CDFW regarding impacts to the bed and bank of Newport Bay Channel, per Fish and Game Code Section 1600 et seq. However, 2020 Recirculated Draft EIR page 2-7 and 3-17 identify the CDFW as a Responsible Agency for permits requiring consultation regarding implementation of the Newport Bay Channel force main crossing. The 2020 Recirculated Draft EIR goes on to state that the CDFW regulates activities under California Fish and Game Code Sections 1600-1607 (pages 5.3-4 and 5.3-18), which



includes any notification requirements per existing law. OCSD will comply with all applicable legal and permitting requirements, including any required consultation.

- A4-7 Refer to Response to Comment A4-3 for a discussion on SMCA, eelgrass, kelp, and other special status species. Further, it is acknowledged that the 2020 Recirculated Draft EIR Mitigation Measure BIO-3 requires that a qualified marine biologist, defined as an individual with a bachelor's degree or above in marine biology, zoology, or a closely related area and demonstrated field experience, shall coordinate with the appropriate regulatory agencies including CDFW, as necessary, and OCSD, or designee, shall implement compensatory mitigation, as required by the appropriate regulatory agencies, should the project result in the loss of eelgrass and kelp habitat.
- A4-8 The commenter indicates that information developed in EIRs and negative declarations would be incorporated into a database which may be used to make subsequent or supplemental environmental determinations pursuant to Public Resources Code, Section 21003, subdivision (e). Additionally, the commenter requests that any special status species and natural communities detected during project surveys shall be reported to the California Natural Diversity Database (CNDDDB) by completing the CNDDDB field survey form and submitted to a specific email address provided in the letter. As acknowledged in Response to Comment A4-7, the CDFW will be consulted, as appropriate during dredging activities (as required pursuant to 2020 Recirculated Draft EIR Mitigation Measure BIO-3).
- A4-9 The commenter indicates that payment of a filing fee to the CDFW is necessary as the project would have an impact on fish and/or wildlife, and that payment of such fee is required by State Law. The commenter concludes the letter by providing staff contact information for further questions. This comment is acknowledged; no further response is necessary.
- A4-10 The commenter has attached a CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations, and a previous comment letter submitted as part of the 2019 Recirculated Draft EIR (enclosed herein as Comment A4-10). Mitigation and associated recommendations listed on the attached CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations table are referenced by the commenter throughout the letter and particularly, in Comment A4-5; thus, refer to Response to Comments A4-5 and A4-6.

In regard to the attached previous comment letter submitted as part of the 2019 Recirculated Draft EIR, it should be noted that OCSD recirculated the entire Draft EIR and required reviewers to submit new comments on the 2020 Recirculated Draft EIR (refer to the 2020 Recirculated Draft EIR page 2-3), pursuant to CEQA Guidelines Section 15088.5(f)(1). OCSD is not required to respond to those comments received during the earlier circulation period for the 2019 Recirculated EIR. Although the prior comments are part of the administrative record, the previous comments do not require a written response in this Final EIR. It is acknowledged that many of these comments made no longer pertain to the proposed project, as the project would no longer impact the channel north of Bay Bridge and would no longer propose microtunneling under the Newport Bay Channel. Notwithstanding, the 2020 Recirculated Draft EIR was revised to address concerns raised during the previous public review periods for the 2019 Recirculated EIR and 2017 Bay Bridge EIR. CDFW comments from the 2019 Recirculated Draft EIR pertaining to eelgrass impacts and applicable



mitigation have been incorporated into the 2020 Recirculated Draft EIR. Comments pertaining to microtunneling under Newport Bay Channel have been incorporated into the 2020 Recirculated Draft EIR Section 7.0, *Alternatives*.



September 21, 2020

NCL-20-0009

Kevin Hadden  
Principal Staff Analyst  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708

**Subject:** Bay Bridge Pump Station and Force Mains Replacement Project

Dear Kevin:

The County of Orange has reviewed the proposed 2020 Recirculated Draft Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Replacement Project and has no comments at this time. We would like to be advised of further developments on the project. Please continue to keep us on the distribution list for future notifications related to the project.

A5-1

If you have any questions, please contact Steven Giang at (714) 667-8816 in OC Development Services.

Sincerely,

Richard Vuong, Interim Deputy Director  
OC Public Works Service Area/OC Development Services  
601 North Ross Street  
Santa Ana, California 92701  
[Richard.Vuong@ocpw.ocgov.com](mailto:Richard.Vuong@ocpw.ocgov.com)



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 [OCPublicWorks.com](http://OCPublicWorks.com)





**RESPONSE TO COMMENT LETTER A5**

Richard Vuong, Interim Deputy Director  
OC Public Works Service Area/OC Development Services  
September 21, 2020

- A5-1 This letter acknowledges that the Orange County Public Works received and reviewed the 2020 Recirculated Draft EIR and has no comments. The commenter requests continued communication of further developments and future notifications related to the project. An Orange County Public Works' staff contact information is provided. This comment is acknowledged; no further response is necessary.



September 21, 2020

Via Electronic & Regular Mail  
[CEQA@ocsd.com](mailto:CEQA@ocsd.com)

Kevin Hadden, Principal Staff Analyst  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708

**Re: The 2020 Recirculated Draft Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Rehabilitation Project**

Dear Mr. Hadden,

Thank you for the opportunity to comment on the 2020 Recirculated Draft Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Rehabilitation Project. The City of Newport Beach ("City") submits the following comments:

**1. Preferred Sewer Force Main Alignment**

In response to the newly proposed sewer force main alignment, which is generally acceptable, the City recommends the configuration be refined to reflect the prepared exhibit attached. The consequence of the City's preferred alignment would be fewer construction impacts to adjacent property owners.

A6-1

**2. Lower Castaways**

Lower Castaways is a 4-acre, bayfront, open space area owned by the City located at the northeast corner of West Coast Highway and Dover Drive.

- a) Throughout the 2020 recirculated DEIR, references to Lower Castaways suggest the assumption the site is available for the project's construction staging. However, the City has plans to improve Lower Castaways as a public park in the foreseeable future and the project could inhibit its use and/or availability. Because of this, the City will likely neither support a permanent nor temporary easement through Lower Castaways. Discussion of construction staging and other project activities proposing the potential utilization of Lower Castaways should acknowledge the City's plans to improve the site as a public park and also convey that the City will not likely endorse the use of Lower Castaways for purposes of the project. See Exhibits 3-4, -6 and pages 1-26, -27; 3-12; 5.1-6, -14 -17; 5.3-2; 5.5-2; 7-20; 8-9.

A6-2

### **3. County Tidelands**

- a) The County of Orange is responsible for managing tidelands and submerged lands in the area south of the Bay Bridge, where a majority of the project's force mains dredging is proposed. (See attached excerpt of tidelands map and reference location on Exhibit 3-6 of the DEIR.) As the project will extend through their tidelands and submerged lands, the County of Orange should be consulted and listed as an applicable agency. (See page 2-6.)

**A6-3**

### **4. Land Use and Relevant Planning**

- a) Page 3-5. Under Table 3-1 "Existing Land Uses," the description for the Back Bay Landing project is out of date, since the City has already approved this project's land use amendments. Now pending is the site development review and coastal development permit for the final project design.
- b) Exhibit 5.1-1c. The updated Adjacent Pump Station Layout repositions the electrical room more south, closer to East Coast Highway, and more west, toward Bay Bridge that could block views of the coastal bluffs when traveling northwest on East Coast Highway. Coastal Land Use Policy 4.4.1-6 directs for the protection of public coastal views from these road segments of Bay Bridge and East Coast Highway. To this end, provide a view analysis traveling west on East Coast Highway, looking northwest towards Upper Newport Bay Bluffs to thoroughly analyze potential public view impacts to the Upper Newport Bay viewshed. (See comment 3.c.ii below for more information.)
- c) Pages 5.1-15.
  - i. Clarify if the proposed 31-foot high building will have a flat roof or sloped. The Back Bay Landing Planned Community Development Plan (BBL PCDP) allows 30 feet height limit for flat roofs and 35 feet for sloping roofs.
  - ii. Impact analysis assesses views of Upper Newport Bay bluffs, but the supporting exhibit of View Corridor 1 is taken from the corner an of intersection and does not support the discussion. Along portions of East Coast Highway, the current pump station blocks views of the bluffs, but once traveling west past the pump station, these views begin to open up. Provide a corridor view analysis from the point in the attached clarification analyzing impacts of expanded pump station location.
- d) Page 5.1-19 (AES-2). Revise Mitigation Measure AES-2 to include that a Site Development Review will be required from City of Newport Beach to ensure consistency with surrounding development and the Back Bay Landing Planned Community Development Plan.
- e) Page 5.9-24.
  - i. Development Standards discussion references heights limits from the outdated version of BBL PCDP. Maximum height limits within Planning Area 1 is 30 feet for flat roofs and 35 feet for sloping roofs with at least a 3:12 pitch.

**A6-4**

**A6-5**

**A6-6**

**A6-7**

**A6-8**

**A6-9**

- ii. Design Guidelines discussion references architectural theme from old version of BBL PCDP. The current adopted version requires a Coastal architectural theme, not Mediterranean.

A6-10

## 5. Transportation/Traffic

It does not appear all City comments from the prior letter were incorporated in the recirculated 2020 DEIR.

- a) Page 1-22. Revise description regarding damage from hauling operations to with the following underlined text: “If hauling operations cause any damage to existing pavement, streets, curbs, and/or gutters along the haul route, the contractor shall be fully responsible for repairs and shall obtain an encroachment permit from the City of Newport Beach or CalTrans depending on location. The repairs shall restore the damaged property to its original condition.”

A6-11

Please feel free to contact me at 949-644-3209 or [jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov) if you have any questions.

Sincerely,

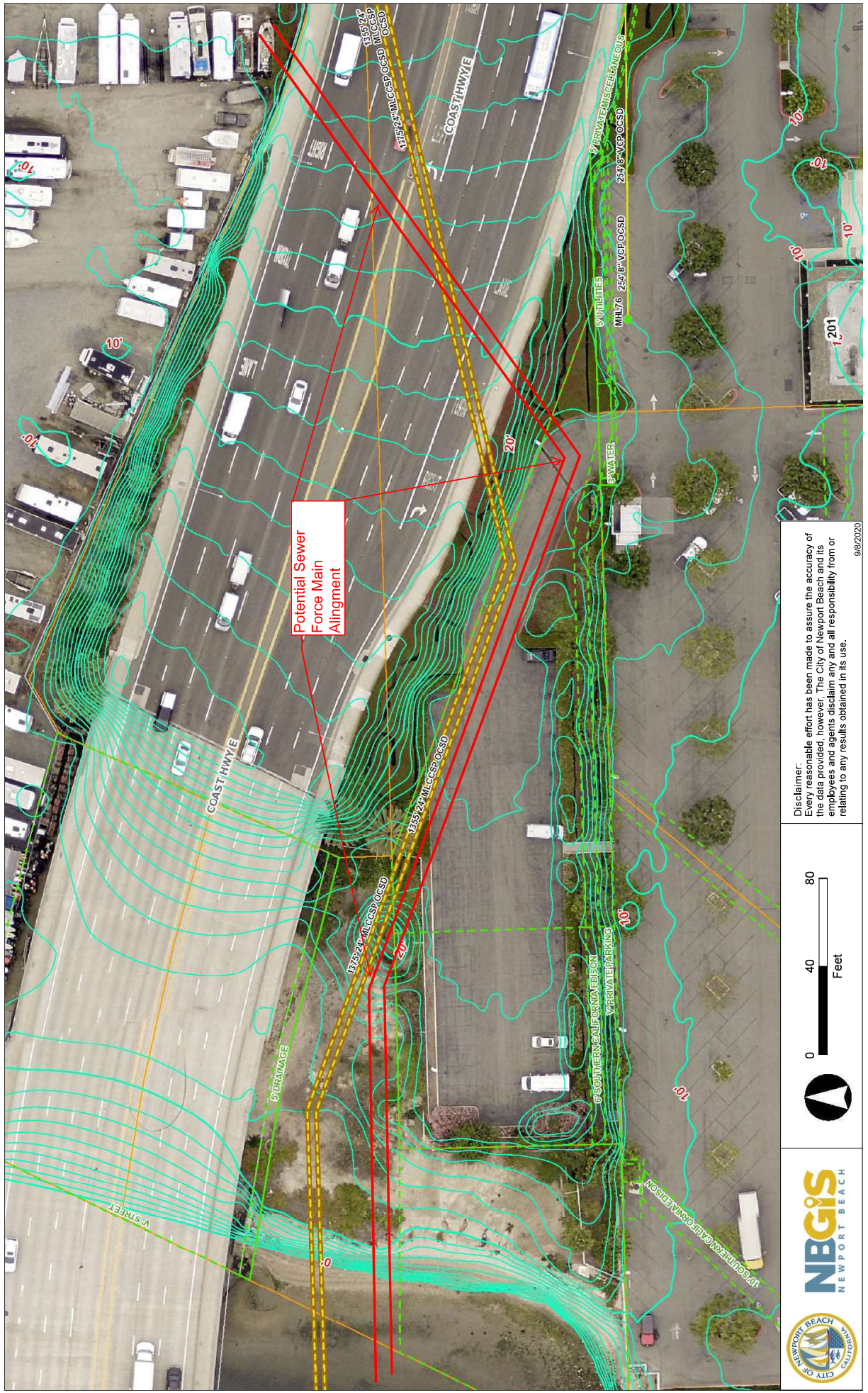


Jaime Murillo  
Principal Planner

Exhibits  
City's Preferred Sewer Force Main Alignment  
Excerpt of Tidelands Survey  
View Corridor Clarification

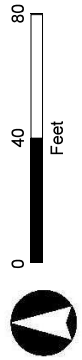


# City's Preferred Sewer Force Main Alignment



Potential Sewer Force Main Alignment

Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach, and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use. 9/8/2020



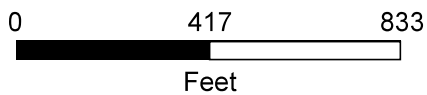
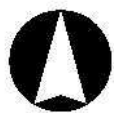
NBGIS  
NEWPORT BEACH

CITY OF NEWPORT BEACH





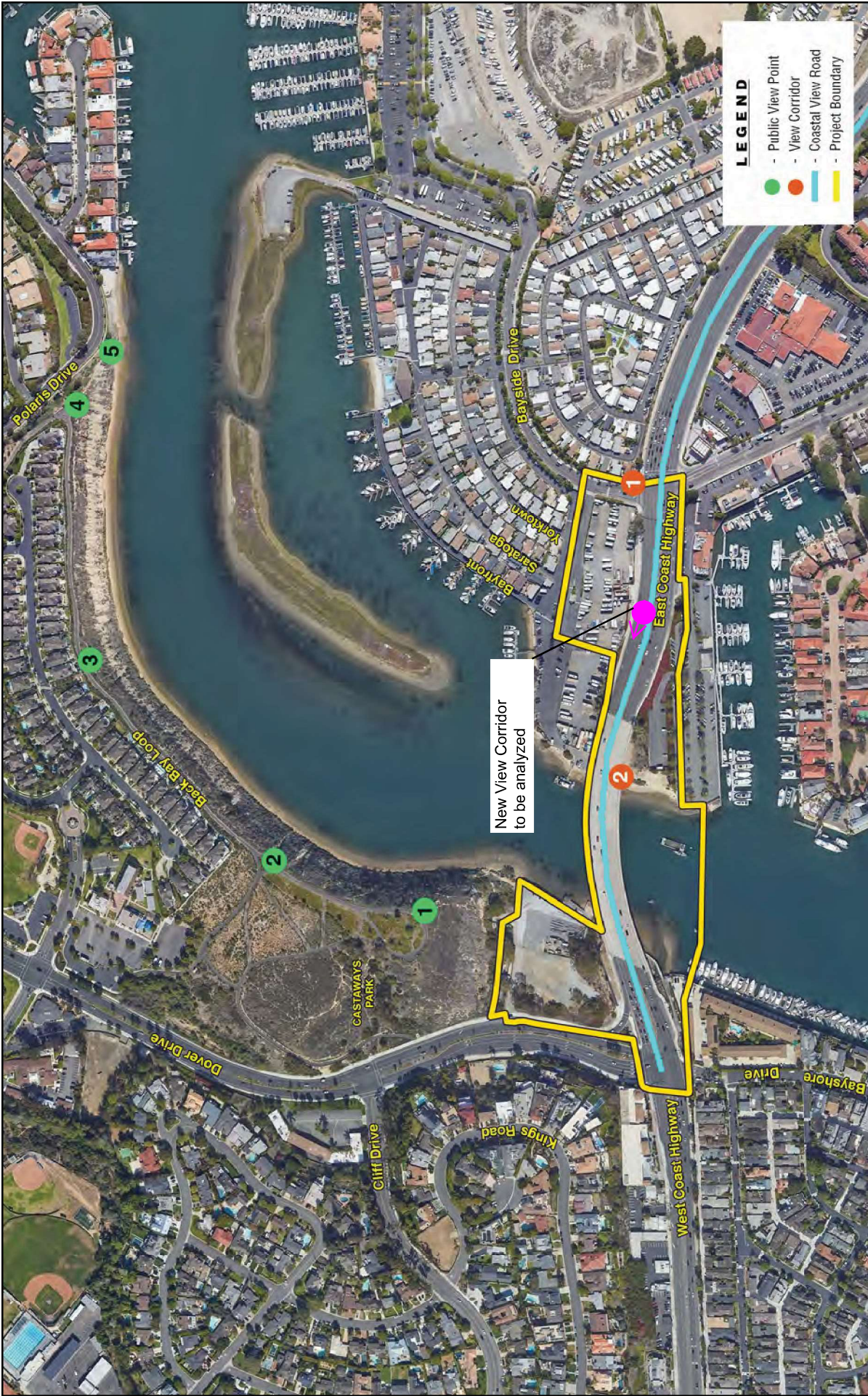
**NBGiS**  
NEWPORT BEACH



County of Orange Tidelands  
and Submerged Lands in  
Newport Bay



# View Corridor Clarification



**LEGEND**

- - Public View Point
- - View Corridor
- - Coastal View Road
- - Project Boundary

Source: Google Earth, 2020

NOT TO SCALE



**Michael Baker**  
INTERNATIONAL

2020 RECIRCULATED ENVIRONMENTAL IMPACT REPORT  
BAY BRIDGE PUMP STATION AND FORCE MAINS REPLACEMENT PROJECT

## Coastal Views Within Project Vicinity

08/20 JN 168975

Exhibit 5.1-1a



# View Corridor Clarification



Street view of new View  
Corridor to be analyzed



## RESPONSE TO COMMENT LETTER A6

Jaime Murillo, Principal Planner  
City of Newport Beach  
September 21, 2020

- A6-1 The commenter has attached several exhibits including the City's Preferred Sewer Force Main Alignment, excerpt of tideland map, reference location on Exhibit 3-6 of the 2020 Recirculated Draft, and a view corridor clarification photograph to supplement the City's comments. All attachments are enclosed herein as Comment A6-12.

The commenter states that the proposed force main alignment is generally acceptable. However, the commenter recommends an alternative force main alignment, as illustrated on Letter A6's first attachment, that the commenter alleges would result in fewer construction impacts to adjacent property owners.

OCSO will consider this comment when finalizing project design and construction plans. It should be noted that in the event that these suggested alternative force main alignment adjustments are made during project design by OCSO, such alignment is similar to the force main alignment currently proposed (refer to Exhibit 3-4, *Proposed Conceptual Site Plan* of the 2020 Recirculated Draft EIR) and these changes provide a minor update, correction, or clarification and do not represent "significant new information" as defined in CEQA Guidelines Section 15088.5. As this comment does not raise an issue specifically related to the 2020 Recirculated Draft EIR's environmental analysis, no further response is required.

- A6-2 The commenter states that the City will likely not support the use of Lower Castaways Park as a construction staging area for the project based on the City's plans to improve Lower Castaways as a public park in the foreseeable future. The commenter requests that discussion of construction staging and other project activities proposing the potential utilization of Lower Castaways should acknowledge the City's plans to improve the site as a public park and also convey that the City will not likely endorse the use of Lower Castaways for purposes of the project.

The potential impacts of proposed construction staging at Lower Castaways were analyzed, should this property be available from the City of Newport Beach. Temporary construction impacts were assessed based on the existing condition of the Lower Castaways. Future plans for Lower Castaways, as a park, are not listed on the City of Newport Beach, Cumulative Projects List, as of March 19, 2020 (2020 Recirculated Draft EIR page 4-4). Thus, these future activities were not considered in the 2020 Recirculated Draft EIR. Nonetheless, the 2020 Recirculated Draft EIR page 3-12 acknowledges that Lower Castaways Park would only be utilized for construction staging if this area is available during construction. Should Lower Castaways not be available, construction staging would occur within other proposed areas of disturbance (as identified in the project boundary shown on 2020 Recirculated Draft EIR Exhibit 3-4).

- A6-3 The commenter indicates that the project would extend through County of Orange's tidelands and submerged lands in the area south of the Bay Bridge. As detailed on page 3-17 of the 2020 Recirculated Draft EIR, implementation of the proposed force main crossing would require consultation with the California State Lands Commission and CDFW, which could



identify other required permit/approvals, including an easement to cross the Newport Bay tidelands. As such, the requested clarification has been made to Section 2.5, *Responsible and Trustee Agencies* (page 2-6) and Section 3.6, *Permits and Approvals* (page 3-16) of the 2020 Recirculated Draft EIR.

### Section 2.5, Page 2-6, Last Paragraph

Responsible and Trustee Agencies and other entities that may use this 2020 Recirculated Draft EIR in their decision-making process or for informational purposes include, but may not be limited to, the following:

- City of Newport Beach;
- California Department of Transportation;
- Santa Ana Regional Water Quality Control Board;
- State Water Resources Control Board;
- California Department of Fish and Wildlife;
- California Coastal Commission;
- California State Lands Commission/County of Orange;
- South Coast Air Quality Management District;
- U.S. Army Corps of Engineers; and
- National Marine Fisheries Service.

### Section 3.6, Page 3-16, Last Paragraph

The applicable agency approvals and related environmental review/consultation requirements associated with the proposed project may include the following, among others. It is not anticipated that any other agencies would require use of the EIR in their decision making process.

- CEQA Clearance – OCSD;
- Site Development Review Permit – City of Newport Beach;
- Limited Term Permit – City of Newport Beach;
- Encroachment Permits – City of Newport Beach and Caltrans;
- Permanent/Temporary Easements – City of Newport Beach, Bayside Village Marina, LLC, The Irvine Company, and Bay Shores Community Association;
- Traffic Control Plan Approval – City of Newport Beach and Caltrans;
- Coastal Development Permit – California Coastal Commission and City of Newport Beach (as required under the California Coastal Act, Public Resources Code Division 20);



- California State Lands Commission – Consultation with the County of Orange regarding implementation of Newport Bay Channel force main crossing through tidelands and submerged lands;

These changes provide a minor update, correction, or clarification and do not represent “significant new information” as defined in CEQA Guidelines Section 15088.5.

- A6-4 Please refer to Response to Comment O4-2 regarding consideration of existing baseline conditions and cumulative considerations involving the Back Bay Landing Project as part of the 2020 Recirculated Draft EIR.
- A6-5 The commenter indicates that the proposed electrical room could block views of the coastal bluffs when travelling northwest on East Coast Highway. The commenter requests a view analysis travelling west on East Coast Highway and looking northwest towards Upper Newport Bay bluffs to thoroughly analyze potential public view impacts to the Upper Newport Bay viewshed.

The 2020 Recirculated Draft EIR acknowledges that, in addition to designated public viewpoints, Coast Highway is recognized as a coastal view road in the City’s General Plan and is designated as an eligible State Scenic Highway (page 5.1-2). Within the project area, Coast Highway provides motorists, pedestrians, and bicyclists views of the Pacific Ocean, Newport Bay, coastal bluffs, and the San Joaquin Hills to the east. 2020 Recirculated Draft EIR page 5.1-16 considers potential view impacts of the proposed project to the public views along Coast Highway.

The Back Bay Landing Planned Community Development Plan (PCDP) establishes the permissible building heights in this area. As shown on the Bay Back Landing PCDP Exhibit 2-3, *Building Heights*, and discussed on page 2-16, the central portion of PA 1 is identified as a 35-foot Building Height Zone, with the maximum allowable building height of 35 feet for structures with flat roofs and 40 feet for structures with sloped roofs (measured from a finished baseline elevation of 14 feet). The environmental impacts of the PCDP, including the building heights allowed by the PCDP, were analyzed in the Back Bay Landing Draft EIR which was certified in February 2014. The Back Bay Landing Draft EIR analyzed the proposed building heights presented in the PCDP and found that impacts in this regard to public views of coastal bluffs were less than significant. Building heights considered in this EIR included a range from 20 to 35 feet (or 40 feet with rooftop architectural elements) as well as an allowed coastal public view tower up to 65 feet in height, pursuant to Back Bay Landing PCDP Section B, *Permitted Height of Structures*, and Exhibit 3, *Building Heights*. As such, the permitted building heights allowed by the City of Newport Beach are included in the findings presented in the Back Bay Landing EIR. The City of Newport Beach concluded in the Back Bay Landing Draft EIR that although future development within the PCDP could obstruct short-, mid-, and long-range views of scenic resources from some locations in the project area, such obstructions would not represent a significant portion of the overall panoramic views currently available from public viewpoints.

As discussed, the only aboveground feature proposed by the project is the new 31-foot high (from finished grade) pump station facility. As illustrated in 2020 Recirculated Draft EIR





Exhibit 5.1-1c, the proposed pump station facility would not result in any increased view blockage to coastal bluffs compared to existing conditions given that the site is located at a lower elevation than East Coast Highway. Upon completion of the project, the existing western public views of the bluffs from East Coast Highway would remain, as the majority of these views are experienced west of the project site. Further, the proposed 14,500-square foot building (31 feet in height from finished grade and 34 feet in height from existing grade) is consistent with the City of Newport Beach's allowed building heights for the surrounding area (allowed heights ranging from 20 to 35 feet [or 40 feet with rooftop architectural elements] as well as an allowed coastal public view tower up to 65 feet in height) pursuant to Back Bay Landing PCDP Section B, *Permitted Height of Structures*, and Exhibit 3, *Building Heights*). Therefore, the proposed maximum pump station height of 34 feet from existing grade would be consistent with the permitted height for the central portion of PA 1 as established in the Back Bay Landing PCDP and as analyzed in the Back Bay Landing Draft EIR. As the building would not exceed established building heights for the project site, the proposed building would not significantly affect views along this corridor, including the coastal bluffs, Newport Bay Channel, and Pacific Ocean.

The City of Newport Beach recently used similar vantage points to consider the view impacts of the Back Bay Landing Project (Back Bay Landing Draft EIR Exhibits 4.A-2, *Existing Views*, page 4.A-7, and 4.A-3, *Existing Views*, page 4.A-8), which completely surrounds the existing pump station on all sides, except for the southern boundary that adjoins East Coast Highway. Further, the City of Newport Beach included the existing pump station in the Back Bay Landing PCDP, including regulations such as building heights for the project site. As shown on Back Bay Landing Draft EIR Exhibits 4.A-2 and 4.A-3, the existing westward and northward views, including the pump station facility, are depicted on references "D" and "E". As shown in Reference "G", where visual resources are prominent at the Bay Bridge, the pump station facility is not readily visible. Back Bay Landing Draft EIR Exhibits 4.A-6, *View Simulation #1*, page 4.A-17, and 4.A-12, *View Simulation #7*, pages 4.A-17 and 4.A-23, respectively, further illustrate the vantage points of the project site in relation to the coastal bluffs. The City of Newport Beach concluded in the Back Bay Landing Draft EIR that although future development at the project site could obstruct short-, mid-, and long-range views of scenic resources from some locations in the project area, such obstructions would not represent a significant portion of the overall panoramic views currently available from public viewpoints. Most substantial view obstructions would occur along a limited segment of East Coast Highway immediately adjacent to the project site and would only obscure views northward for a limited time as one travels along the roadway. As such, future development at the project site would not have a substantial adverse effect on a scenic vista, and impacts in this regard would be less than significant (Back Bay Landing Draft EIR page 4.A-25).

With regards to the commenter's request to conduct additional viewshed analysis, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors." (CEQA Guidelines Section 15204(a).) CEQA states that absolute perfection in the analysis is not required so long as environmental impact analyses sufficient to permit a reasonable choice of alternatives is provided. Additionally, it is only required that the officials and agencies make an objective, good-faith effort to comply. (*Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco* (1980) 106 Cal.App.3d 893, 910.) As such, similar to findings made by the City of Newport Beach in the Back Bay Landing Draft EIR, OCSB has determined that the





proposed pump station building would not result in significant view impacts of the nearby coastal bluffs, as seen from the wider Coast Highway view corridor. Impacts in this regard would be less than significant (2020 Recirculated Draft EIR page 5.1-16).

- A6-6 The commenter indicates the Back Bay Landing PCDP has a 30-foot height limit for structures with flat roofs and 35-foot limit for structures with sloping roofs. The commenter requests clarification on whether the project proposes a flat roof or sloped roof. The proposed project, considered in the 2017 Bay Bridge EIR and the 2019 Recirculated EIR included site plans within the building height restrictions referenced in the comment. However, the revised project, presented in the 2020 Recirculated Draft EIR is not situated within this height zone. Based on the Back Bay Landing PCDP Figure 2-3, *Planning Areas*, the project site is located in the central portion of Planning Area 1 (PA 1), one of the five planning areas under the Back Bay Landing PCDP. As shown on the Bay Back Landing PCDP Exhibit 2-3, *Building Heights*, and discussed on page 2-16, the central portion of PA 1 is identified as a 35-foot Building Height Zone, with the maximum allowable building height of 35 feet for structures with flat roofs and 40 feet for structures with sloped roofs (measured from a finished baseline elevation of 14 feet). As discussed in Response to Comment 6-5, as well as on 2020 Recirculated Draft EIR page 5.9-24, *Development Standards*, the proposed pump station would have a maximum building height of 31 feet from finished grade. The finished grade is anticipated to be approximately three feet higher than the existing building pad. Thus, the proposed building would have a maximum height of 34 feet from existing grade. As such, the proposed maximum pump station height of 34 feet from existing grade would be consistent with the permitted height for the central portion of PA 1 as established in the Back Bay Landing PCDP, whether or not a flat or sloped roof is proposed. The specific architectural design of the new pump station will be conducted as part of the Site Development Review Permit process with the City of Newport Beach (2020 Recirculated Draft EIR page 3-19). At this time, the City of Newport Beach will have an opportunity to comment on the roof design.
- A6-7 Refer to Response to Comment A6-5.
- A6-8 The proposed project would be required to comply with all existing Federal, State, and local laws and regulations, including existing permitting requirements imposed by the City of Newport Beach. As obtaining a Site Development Review Permit with the City of Newport Beach is already a regulation imposed on the project, which would ensure design standard consistency, compliance with these permit requirements are not required to be included in a mitigation measure. As such, these requested changes have not been made. Please note 2020 Recirculated Draft EIR page 3-16 states that the proposed project would be required to obtain a Site Development Review Permit from the City of Newport Beach.
- A6-9 Refer to Response to Comment A6-6.
- A6-10 As discussed on 2020 Recirculated Draft EIR, page 5.1-13, *Design Guidelines, A. Architectural Theme*, the development (within the Back Bay Landing PCDP, as amended April 26, 2016) shall be designed with a Coastal architectural theme. (Back Bay Landing PCDP Section IV, *Design Guidelines*) This architectural theme is influenced by the marine climate of the California coastline, with varied historical vernacular and casually elegant palette, with building forms and massing that define and create unique and often seamless indoor/outdoor spaces. The project would follow principles of quality design, exhibiting a high level of architectural



standards and shall be compatible with the surrounding area, sensitive to scale, proportion, and identity with a focus on place-making. Massing offsets, variation of roof lines, varied textures, openings, recesses, and design accents on all building elevations shall be provided to enhance the architectural design. The intent is not to select a historically specific or rigid architectural style for the project, but to create an active, mixed-use village.

As discussed on 2020 Recirculated Draft EIR pages 5.1-18 and 5.1-19, the project would be consistent with the Back Bay Landing PCDD design guidelines, particularly those involving architectural theme, façade treatments, and public view considerations. Compliance with the Site Development Review Permit from the City of Newport Beach would ensure the proposed project is generally consistent with the design requirements for the site (including the architectural theme). With compliance with the Site Development Review Permit, impacts in this regard would be less than significant. Nevertheless, it is acknowledged that page 5.1-18 and page 5.9-24 of the 2020 Recirculated Draft EIR referenced “coastal Mediterranean architectural theme” with “textured walls and terracotta colors”. As such, clarifications have been made to pages 5.1-18 and 5.9-24 of the 2020 Recirculated Draft EIR.

#### Section 5.1.4, Page 5.1-18, Last Paragraph

As discussed in Section 5.9, *Land Use and Relevant Planning*, project development would be consistent with the zoning and regulations governing scenic quality. The new facility would be similar in character to the existing pump station facility. The new pump station structure (up to 31 feet high from finished grade) would have nighttime security lighting, consistent with the Back Bay Landing PCDD Height Limitation Zone requirements and lighting standards (e.g., design parameters for shielding, light spill, and fixtures). The project would also be consistent with the Back Bay Landing PCDD design guidelines, particularly those involving architectural theme, façade treatments, and public view considerations. The new pump station would include aspects of the future Back Bay Landing development’s ~~coastal Mediterranean architectural theme (e.g., textured walls and terracotta colors)~~ Coastal architectural theme (i.e., varied historical vernacular and casually elegant palette) to be consistent with its coastal urban village character. All proposed pump station infrastructure and mechanical equipment would be screened from public right-of-way views, and the new pump station building would not obstruct existing coastal views and would be consistent with the Back Bay Landing Height Limitation Zone requirements and PCDD design guidelines. Therefore, the proposed project would not conflict with any applicable zoning or regulations governing scenic quality within an urbanized area. Less than significant impacts would occur in this regard.

#### Section 5.9.4, Page 5.9-24, Last Paragraph

- *Design Guidelines:* The Back Bay Landing PCDD includes design guidelines covering a range of design features, including architecture, site planning, building massing, façade treatments, landscaping, and hardscaping. The new pump station would include aspects of the future Back Bay Landing development’s ~~coastal Mediterranean architectural theme (e.g., textured walls and terracotta colors)~~ Coastal architectural theme (i.e., varied historical vernacular and casually elegant palette) to



be consistent with its coastal urban village character. All proposed pump station infrastructure and mechanical equipment would be screened from public right-of-way views, and the new pump station building would not obstruct existing coastal views and would be consistent with the Back Bay Landing Height Limitation Zone requirements and PCDD design guidelines.

These changes provide a minor update, correction, or clarification and do not represent “significant new information” as defined in CEQA Guidelines Section 15088.5.

A6-11 OCSD would adhere to the City of Newport Beach Encroachment Permit approval requirements as applicable. As stated in 2020 Recirculated Draft EIR page 3-16, the proposed project would be required to obtain an encroachment permit from the City of Newport Beach. This comment does not raise a significant environmental issue. No further response is necessary.

A6-12 Refer to Response to Comment A6-1.

**From:** Gabrieleno Administration <[admin@gabrielenoindians.org](mailto:admin@gabrielenoindians.org)>  
**Sent:** Tuesday, August 25, 2020 12:02 PM  
**To:** CEQA <[cega@ocsd.com](mailto:cega@ocsd.com)>  
**Subject:** EXTERNAL: Bay Bridge Pump Station and Force Mains Replacement project

**Warning:** This email originated from outside OCSD. Do not click links or open attachments unless you recognize the sender and are expecting the message.

Hello Kevin Hadden

Thank you for your letter dated August 7, 2020. Our Tribal government would like to consult with you regarding the above project.

T1-1

Thank you

Sincerely,

Brandy Salas

Admin Specialist  
Gabrieleno Band of Mission Indians - Kizh Nation  
PO Box 393  
Covina, CA 91723  
Office: 844-390-0787  
website: [www.gabrielenoindians.org](http://www.gabrielenoindians.org)



*The region where Gabrieleno culture thrived for more than eight centuries encompassed most of Los Angeles County, more than half of Orange County and portions of Riverside and San Bernardino counties. It was the labor of the Gabrieleno who built the missions, ranchos and the pueblos of Los Angeles. They were trained in the trades, and they did the construction and maintenance, as well as the farming and managing of herds of livestock. "The Gabrieleno are the ones who did all this work, and they really are the foundation of the early economy of the Los Angeles area ". "That's a contribution that Los Angeles has not recognized--the fact that in its early decades, without the Gabrieleno, the community simply would not have survived."*



## **RESPONSE TO COMMENT LETTER T1**

Brandy Salas, Admin Specialist

Gabrieleno Band of Mission Indians – Kizh Nation

August 25, 2020

T1-1 The Assembly Bill (AB) 52 consultation period for this project began on April 6, 2020, when the Orange County Sanitation District (OCSD) sent notification of the AB 52 consultation process for the Bay Bridge Pump Station and Force Mains Replacement Project (project). Pursuant to PRC 21080.3.1(d), the 30-day period to respond to the AB 52 request for consultation notification began on April 10, 2020. On April 22, 2020, Governor Newsom issued Executive Order N-54-20. This Executive Order suspended the timeframes within which a California Native American tribe must request consultation, and the lead agency must begin the consultation process, for a period of 60 days, effective April 22, 2020. The AB 52 consultation request period for the project, which was extended an additional 60 days, ended on July 8, 2020. At that time, OCSD did not receive a response from the Gabrieleno Band of Mission Indians – Kizh Nation regarding a request for consultation for the purpose of AB 52.

OCSD sent notification of the availability of the Draft EIR (the Notice of Availability [NOA]) on August 7, 2020. The public review period for the 2020 Recirculated Draft EIR for the project ended on September 21, 2020. As the Gabrieleno Band of Mission Indians – Kizh Nation has no specific comment on the content or findings of the 2020 Recirculated Draft EIR, no further response is required.



**P.O. Box 54132**  
**Irvine, CA 92619-4132**

**California Cultural Resource Preservation Alliance, Inc.**  
An alliance of American Indian and scientific communities working for  
the preservation of archaeological sites and other cultural resources.

September 4, 2020

Kevin Hadden  
OCSD  
Principal Staff Analyst

RE: 2020 Recirculated Draft Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Replacement Project

Dear Mr. Hadden:

Thank you for the opportunity to comment on the above-referenced Project. We appreciate that the City of Newport Beach and Orange County Sanitation District (OCSD) acknowledge the fact that the Newport Beach region has a long cultural history and is culturally sensitive. While we agree that the project has a low potential to impact archaeological resources, we have the following concerns:

(1) The Environmental Issues/Mitigation Summary Page 1.9-11 lists CUL-1 for Historical Resources and states that no mitigation is required. The table lists Cul-2 for archaeological resources and mitigation is required. However, throughout the remainder of the document the reader is referred to CUL-1 for archaeological and tribal cultural resources (see pg. 5.4-15 & 5.4-16 as an example). This inconsistency should be corrected as it leads to the erroneous conclusion that no mitigation is required for archaeological or tribal cultural resources.

O1-1

(2) Pg. 5.4-16 refers to Section 15064.5 of CEQA “guidelines” to justify “salvage” archaeology as a mitigation measure. First, it should be noted that these ‘guidelines’ are codified in California Code of Regulations (CCR) Title 14, Ch. 3 Sections 15000 et seq.

Second, Section 15126.4 (b) (3) states that Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. Avoidance and preservation of significant archaeological resources when feasible is also stated in the City of Newport Beach General plan HR. 2.1, Newport Beach City Council Policy Manual K-5, and CLUP Policies.

O1-2

Finally, since the DEIR cites Section 106 of the National Historic Preservation Act, it should be noted that the implementing regulations (36 CFR 800.5(a)(2) (iii) along with 800.5 (a) (2) (1), as amended May 1999, acknowledge the reality that the destruction of an archaeological site and recovery of its information and artifacts is adverse and data recovery (“salvage”) is no longer considered to be sufficient mitigation to reduce the impacts to a level of insignificance. Given all this, it is unfortunate that nowhere in this document is there any mention that a good faith effort was made to consider the feasibility of avoidance and preservation of significant archaeological resources should they be discovered. Instead, the outdated terminology of “salvage archaeology” is the only mitigation measure considered.





**P.O. Box 54132**  
**Irvine, CA 92619-4132**

**California Cultural Resource Preservation Alliance, Inc.**  
An alliance of American Indian and scientific communities working for  
the preservation of archaeological sites and other cultural resources.

---

(3) Why is the discovery of human remains and Section 7050.5 of the California Health and Safety Code relegated to Section 8.0 Effects Not Found to Be Significant? While we concur with the determination that the potential for impacts to buried archaeological resources and human remains is low, there is just as much potential for the discovery of pre-contact human remains as there is for archaeological resources and Native American descendants consider the remains of their ancestors to be of great significance. In addition, it should be noted that recently human remains were discovered during construction of an existing freeway ramp on the 405 freeway in Orange County, so the potential for the discovery of human remains within this large construction area should not be totally discounted.

O1-3

Please take these comments into consideration in the preparation of the final EIR.

Sincerely,

Patricia Martz, Ph.D.  
President



## RESPONSE TO COMMENT LETTER O1

Patricia Martz, PhD, President  
California Cultural Resource Preservation Alliance, Inc.  
September 4, 2020

O1-1 The commenter acknowledges that the California Cultural Resources Preservation Alliance, Inc. (CCRPA) received and reviewed the 2020 Recirculated Draft EIR. While the commenter/CCRPA generally agrees with the findings related to cultural resources and that the project has a low potential to impact archaeological resources, the commenter states that there is an inconsistency in the impacts for historical resources (where no mitigation is required) and impacts for archaeological/tribal cultural resources (where mitigation is required).

As stated in 2020 Recirculated Draft EIR page 5.4-13, Impact Statement CUL-1, according to the *City of Newport Beach General Plan EIR*, no known historic resources are located within the project area. Further, based on the records search included in the *Revised Cultural/Paleontological Resources Assessment for the Proposed Bay Bridge Pump Station and Force Mains Rehabilitation Project* (Cultural/Paleontological Assessment), prepared by Duke CRM, dated March 20, 2019 (provided in the 2020 Recirculated Draft EIR Appendix 11.4, Cultural/Paleontological Resources Assessment), no historical resources, including those listed by the National Register, California Register, California Historical Landmarks (CHL), and California Points of Historical Interest (CPHI), are present in the project area. Last, the existing structures constructed in 1966 and 1995 do not appear to rise to the threshold of significance for eligibility in either the National Register, California Register, or City of Newport Beach as an exceptional, distinctive, outstanding, or singular example of their type or style either individually or as a contributor to a district. As such, the proposed project is not anticipated to have a significant adverse effect to a historical resource.

Nonetheless, the proposed project could uncover unknown archeological resources during construction, as discussed in 2020 Recirculated Draft EIR Impact Statement CUL-2. Mitigation Measure CUL-1 would reduce impacts by requiring construction awareness training and would also require construction activity to cease work in that area until a qualified archaeologist can assess the significance of a find. If warranted, the archaeologist would be required to collect the resource, and prepare a technical report describing the results of the investigation. The test-level report would evaluate the site including discussion of the significance (depth, nature, condition, and extent of the resource), identify final mitigation recommendations that OCSD or its designee shall incorporate into future construction plans, and provide cost estimates. Last, with compliance with the Coastal Development Permit (CDP), issued by the California Coastal Commission and City of Newport Beach, the project would implement any CDP conditions required by the City of Newport Beach to demonstrate compliance with the *City of Newport Beach Local Coastal Program Coastal Land Use Plan* (CLUP), including CLUP Policies 4.5.1-2 and 4.5.1-3, written as follows:

CLUP Policy 4.5.1-2 (see 2020 Recirculated Draft EIR, page 5.4-11) – Require a qualified paleontologist/archeologist to monitor all grading and/or excavation where there is a potential to affect cultural or paleontological resources. If grading operations or excavations uncover paleontological/archaeological resources, require the paleontologist/archeologist monitor to suspend all development activity to avoid



destruction of resources until a determination can be made as to the significance of the paleontological/ archaeological resources. If resources are determined to be significant, require submittal of a mitigation plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. Mitigation plans shall include a good faith effort to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, in situ preservation/capping, and placing cultural resource areas in open space.

CLUP Policy 4.5.1-3 (see 2020 Recirculated Draft EIR, page 5.4-11) – Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow qualified representatives of such groups to monitor grading and/or excavation of development sites.

Therefore, with implementation of Mitigation Measure CUL-1, which would ensure the project is consistent with the requirements of the CDP and CLUP, construction impacts to archaeological resources (including historical resources if in the unlikely circumstance of being uncovered) would be reduced to less than significant levels.

- O1-2 Refer to Response to Comment O1-1 for a discussion on project’s compliance with Mitigation Measure CUL-1, the CDP, and the CLUP. Further, the commenter states that implementing regulations for Section 106 of the National Historic Preservation Act acknowledges that the destruction of an archaeological site and recovery of its information and artifacts is adverse and data recovery is no longer considered to be sufficient mitigation to reduce the impacts to a level of insignificance. The commenter contends that no good faith effort was made to consider the feasibility of avoidance and preservation of significant archaeological resources should they be discovered and instead, the outdated terminology of “salvage archaeology” is the only mitigation measure considered in the 2020 Recirculated Draft EIR.

It is acknowledged that there are no known tribal cultural resources present on-site and sensitivity of such resources is considered low, as analyzed in Section 5.12, *Tribal Cultural Resources*, of the 2020 Recirculated Draft EIR. Notwithstanding, in the unlikely event that unknown cultural and/or tribal cultural resources are uncovered during site disturbance activities, compliance with Mitigation Measure CUL-1 would ensure that appropriate measures are taken.

As such, the project must comply with the requirements of the CDP and CLUP. A qualified archeologist must monitor all grading and/or excavation where there is a potential to affect cultural or paleontological resources. If grading operations or excavations uncover archaeological resources, the archeologist monitor must suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the archaeological resource. If resource(s) are determined to be significant, OCSDD would be required to submit a mitigation plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. Mitigation plans must also include a good faith effort to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, in situ preservation/capping, and placing cultural resource areas in open space. Thus, in addition to Mitigation Measure CUL-1, compliance with the requirements of



the CDP and CLUP would also ensure preservation is considered should any unknown archeological resources be uncovered during construction.

- O1-3 The commenter contends that as the potential for impacts to human remains should be just as much as the potential for impacts to archaeological resources and tribal cultural resources, and the commenter argues that discussions on the potential for the discovery of human remains shall not be “relegated” to Section 8.0, *Effects Found Not To Be Significant* of the 2020 Recirculated Draft EIR. The commenter adds that the recently discovered human remains on the Interstate 405 (I-405) freeway shall be evidence that the potential for impacts to human remains should not be “totally discounted”.

As discussed in Section 8.0 of the 2020 Recirculated Draft EIR, OCSD conducted an *Initial Study/Notice of Preparation* in November 2016 to determine potentially significant effects of the proposed project; refer to Appendix 11.1, *Initial Study/Notice of Preparation and Comment Letters* of the 2020 Recirculated Draft EIR. Through the course of this evaluation and preparation of the 2020 Recirculated Draft EIR, certain impacts were identified as “less than significant” or “no impact” due to the inability of a project of this scope and nature to yield such impacts or the absence of project characteristics producing effects of this type. Based on existing State regulations, including the State of California Public Resources Health and Safety Code Section 7050.5-7055 and California Public Resources Code Section 5097.98, as well as conditions present at the time the 2020 Recirculated Draft EIR was prepared, the project would result in less than significant impacts to human remains.

As such, the project’s potential impacts to human remains were briefly discussed in Section 8.0 of the 2020 Recirculated Draft EIR in accordance with CEQA Guidelines Section 15128. As discussed on 2020 Recirculated Draft EIR page 8-3, *Cultural Resources*, threshold (c), no conditions exist that suggest human remains are likely to be found on the project site. Due to the level of past disturbance on-site, it is not anticipated that human remains, including those interred outside of dedicated cemeteries, would be encountered during earth removal or disturbance activities.

If human remains are found, those remains would require proper treatment, in accordance with all applicable laws. State of California Health and Safety Code Section 7050.5-7055 describe the general provisions applicable to the discovery of human remains. Specifically, Health and Safety Code Section 7050.5 describes the actions that must be taken if any human remains are accidentally discovered during excavation of a site. As required by State law, the requirements and procedures set forth in Section 5097.98 of the California Public Resources Code would be implemented, including notification of the County Coroner, notification of the Native American Heritage Commission and consultation with the individual identified by the Native American Heritage Commission to be the “most likely descendant (MLD).” The MLD would have 48 hours, from when site access is granted, to make recommendations to landowners for the disposition of any Native American human remains and grave goods found.

If human remains are found during excavation, excavation must stop in the vicinity of the find, as well as any area that is reasonably suspected to overlay adjacent remains, until the County coroner has been notified, the remains have been investigated, and appropriate recommendations have been made for the treatment and disposition of the remains. Following



compliance with existing State regulations, which detail the appropriate actions in the event human remains are encountered, impacts in this regard would be considered less than significant.

As such, implementation of existing laws and regulations governing human remains (i.e., Health and Safety Code Section 7050.5-7055) reduce potential impacts to encountering unknown human remains to less than significant levels and no additional mitigation is necessary. Notwithstanding, implementation of Mitigation Measure CUL-1 and compliance with the requirements of the CDP and CLUP would also minimize potential impacts should unknown human remains be uncovered during construction activities.

**Bogue, Kristen**

---

**From:** CEQA <ceqa@ocsd.com>  
**Sent:** Thursday, September 17, 2020 11:02 AM  
**To:** Ratto, Valerie; Bogue, Kristen; Lam, Tom; Aghanian, Harmik  
**Subject:** FW: EXTERNAL: Bay Bridge Pump Station and Force Mains Replacement Project

See below for received public comment on draft 2020 REIR.

---

**From:** James Jordan <jimcjordan@gmail.com>  
**Sent:** Wednesday, September 16, 2020 4:38 PM  
**To:** CEQA <ceqa@ocsd.com>  
**Cc:** Margo O'Connor <moconn949@gmail.com>  
**Subject:** EXTERNAL: Bay Bridge Pump Station and Force Mains Replacement Project

**Warning:** This email originated from outside OCSD. Do not click links or open attachments unless you recognize the sender and are expecting the message.

September 16, 2020

Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708

Attn.: Mr. Kevin Hadden

Re: 2020 Draft EIR  
“Bay Bridge Pump Station and Force Mains Replacement Project”

Linda Isle is located South of Dover Bridge and includes 107 waterfront homes. The Linda Isle Community Association is concerned that Linda Isle residents will be adversely affected by this project.

O2-1

Areas of Concern:

- Noise and Glare due to the construction of the two Force Mains.
- Silting of Linda Isle Docks and the Linda Isle Lagoon due to soil disturbance, resulting from the harbor dredging and the Force Mains construction.

O2-2

The Linda Isle Community Association Board of Directors feel that the 2020 Draft EIR for this project does not address possible impacts to Linda Isle.

Respectfully,

Jim Jordan, President



Linda Isle Community Association  
85 Linda Isle  
Newport Beach, CA 92660



## RESPONSE TO COMMENT LETTER O2

Jim Jordan, President  
Linda Isle Community Association  
September 16, 2020

- O2-1 The commenter asserts that the Linda Isle residents will be adversely affected by the project and specifically expresses concern regarding construction of the two force mains.

### Noise/Glare

Construction-related noise impacts to the nearest sensitive receptors, including Linda Isle residents (located approximately 380 feet south of the project site), are discussed in 2020 Recirculated Draft EIR Impact Statement N-1. As discussed on page 5.10-16, the force main improvements would require dredging and shoring of the walls, specifically across the Newport Bay Channel, to lay down the dual force mains. Dredging activities would require the use of excavator clamshell dredge/backfill equipment which produce noise levels of approximately 77 dBA at 50 feet. Shoring of the walls could involve sonic pile driving activities which is estimated to be 96 dBA at 50 feet.

However, dredging and sonic pile driving activities would only occur within the City of Newport Beach permitted construction hours (7:00 a.m. to 6:30 p.m. Monday through Friday, and 8:00 a.m. to 6:00 p.m. on Saturdays). These activities will not require 24-hour per day construction. Additionally, as dredging occurs segment by segment across the Newport Bay Channel, noise would atmospherically attenuate by a factor of 6.0 dBA per doubling of distance and thus, gradually reduce noise impacts to sensitive receptors along Bayshore Drive. Further, Mitigation Measure NOI-1 would reduce short-term construction noise impacts by requiring construction equipment to be fitted with properly operating and maintained mufflers. A Noise Disturbance Coordinator would also be provided.

Construction-related glare impacts to the nearest sensitive receptors are discussed under Impact Statement AES-4 of the 2020 Recirculated Draft EIR. As discussed under Impact Statement AES-4 (page 5.1-19) of the 2020 Recirculated Draft EIR, short-term light and glare impacts associated with construction activities would likely be limited to nighttime lighting (for construction and security purposes), as proposed construction of the Newport Channel force main crossing at East Coast Highway would require 24-hour operation for a period of two months, if the force mains are constructed by microtunneling. Further, Mitigation Measure AES-3 would require a construction safety lighting plan, which would require nighttime security lighting, if necessary, to be oriented downward and away from adjacent residential areas. With implementation of Mitigation Measure AES-3 of the 2020 Recirculated Draft EIR, impacts in this regard would be reduced to less than significant levels.

- O2-2 The commenter raises concerns regarding silting of Linda Isle Docks and the Linda Isle Lagoon due to soil disturbance as a result of dredging and force mains construction. Refer to Response to Comment A4-1. Construction-related silting/sedimentation impacts are discussed under Impact Statement HWQ-1 of the 2020 Recirculated Draft EIR. As discussed on page 5.8-17 of the 2020 Recirculated Draft EIR, the project would be required to comply with the existing State and local permitting requirements during construction (including dredging operations), all of which would minimize construction-related impacts to water



quality, such as underwater silting. Specifically, the project would be required to prepare and submit a Notice of Intent (Mitigation Measure HWQ-1), a SWPPP (Mitigation Measure HWQ-2), and a Notice of Termination (Mitigation Measure HWQ-3) to the SWRCB demonstrating compliance with the NPDES General Construction Permit.

The NPDES General Construction Permit requires that non-storm water discharges from construction sites be eliminated or reduced to the maximum extent practicable, that a SWPPP be developed governing construction activities for the proposed project, and that routine inspections be performed of all storm water pollution prevention measures and control practices being used at the site, including inspections before and after storm events. Specifically, the SWPPP would include best management practices to minimize soil erosion and siltation (underwater) on- and off-site. Examples of construction-related BMPs include installing silt fences (which may include underwater silt fencing), sediment traps, straw bale barriers, wind erosion/dust control, and filter berms, among others. In addition, the project would also comply with Municipal Code Chapter 14.36, *Water Quality* (which establishes regulations for the improvement of water quality) and CLUP Policy 2.8.7-2 (which requires new development to provide adequate erosion control).

As such, with implementation of Mitigation Measures HWQ-1 through HWQ-3 and applicable Municipal Code and CLUP standards would ensure potential erosion and siltation impacts associated with construction activities (including dredging) are reduced to less than significant levels.



**BAYSHORES COMMUNITY ASSOCIATION**  
A California nonprofit mutual benefit corporation

September 21, 2020

Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708  
Attn: Mr. Kevin Hadden  
[CEQA@ocsd.com](mailto:CEQA@ocsd.com)

Sent via Electronic and US Mail

**Subject: Bay Bridge Pump Station and Force Mains Replacement Project, 2020 Draft EIR**

Bayshores Community Association is located North of the Dover Bridge and includes 31 waterfront homes, as well as 218 additional homes whose primary amenity and objective of home ownership in said community is the enjoyment of the primary Association waterfront beaches and parks.

The Bayshores Community Association is concerned that Bayshores residents will be adversely affected by this project.

Areas of Concern:

- Noise and Glare due to the construction of the two Force Mains.
- Silting of Bayshores Docks and the Bayshores bayfront areas due to soil disturbance, resulting from the harbor dredging and the Force Mains construction.

The Bayshores Community Association Board of Directors feel that the 2020 Draft EIR for this project does not address possible impacts to Bayshores.

Respectfully,

Jack Teal, President  
Bayshores Community Association

03-1



### **RESPONSE TO COMMENT LETTER O3**

Jack Teal, President  
Bayshores Community Association  
September 21, 2020

- O3-1 The commenter is concerned that the Bayshore community residents will be adversely affected by the project and specifically expresses concern regarding noise, glare, and silting of the Bayshore docks and bayfront areas as a result of the construction of the two force mains (which includes dredging operations). Please refer to Response to Comments O2-1 and O2-2 where similar concerns are addressed.





**COMMENT LETTER O4**

**ATTORNEYS AT LAW**

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Refer To File # 400244-0001

**VIA E-MAIL AND U.S. MAIL**

*khadden@ocsd.com*

September 21, 2020

Kevin Hadden  
Principal Staff Analyst  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 97208

**Re: 2020 Recirculated Draft Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Replacement Project**

Dear Mr. Hadden:

Our firm represents Bayside Village Marina LLC (“BVM”) and provides the following comments with regard to the 2020 Recirculated Draft Environmental Impact Report (“REIR”) for the Bay Bridge Pump Station and Force Mains Replacement Project (“BBPS”) (“Project”) prepared by Lead Agency Orange County Sanitation District (“OCSD”)

O4-1

We also incorporate, by reference, our prior September 3, 2019 (“2019 REIR”) comments as well as the technical comments provided by BVM’s engineering consultants, Fuscoe Engineering, in their letter of September 5, 2019, as additional background and support for our comments on this 2020 Draft REIR.

Our detailed comments are as follows:

**1. Project Description Issues**

**1.1 “Adjacent Pump Station” Project Description Omits Critical Information**

We appreciate that the Draft REIR improves on the prior 2019 REIR in that the Project Description can now clearly be ascertained from among the identified alternatives. However, the Project Description, contrary to the requirements of CEQA (see prior comment letter), remains somewhat imprecise and, particularly with respect to 3.1.2 Project Setting (Existing Conditions), fails to accurately describe the existing fully developed Bayside Village Marina site, throughout the various sections of the REIR. Moreover, the descriptions/exhibits that should set forth precise modes of access, maintenance, force main alignments, construction staging areas, etc., fail to do so.

O4-2

Throughout the 2020 Draft REIR the “project setting/existing conditions” are described simply in terms of development of the expanded BBPS within, or impacts to, recreational vehicle (“RV”) storage area (see Section 3.1.1, 3.1.2, Table 3-1, Section 5.9.1, 5.9.4 and particularly

Tables 5.9-1, 5.9-2, 5.9-3 Land Use Consistency Analyses). This grossly understates the construction period and long-term impacts on the coastal dependent uses both existing on, and planned for the BVM site.

O4-2  
cont'd

Because the Project Site boundaries and work areas (also known as Temporary Construction Easement areas, or "TCE's") (see Exhibit 3-2 on page 3-3 Site Vicinity, and Exhibit 3-6 on page 3-14 Adjacent Pump Station Work Areas) include or are immediately contiguous to existing coastal recreational marine commercial uses, including the existing 220-slip Bayside Village Marina and adjacent marina parking, Gondola Adventures, Southwind Kayaks and SUP rentals and the single access to these recreational and marine commercial uses, these existing uses should be identified and throughout the REIR described and impacts to and consistency with these uses need to be evaluated.

O4-3

It is important to note that the City of Newport Beach ("City") and California Coastal Commission ("CCC"), in approving the Back Bay Landing Projects ("BBLP") currently under development on the Site, and the BBL Environmental Impact Report and 2016 Back Bay Landing Planned Community Development Plan (now adopted as part of the 2017 CCC Certified City Local Coastal Program ("LCP")), did not account for the Adjacent Pump Station/Expand-in-Place Option as OCSD did not identify the need to expand the BBPS until after the BBL project was approved and the PCDP incorporated into the Certified City LCP.

O4-4

## **1.2 Key 2020 REIR Exhibits Need Revision to Reflect Omitted Project Description Details**

Exhibit 3-5 (page 3-10) should be revised to show how OCSD will access the pump station via N. Bayside Drive (both ingress and egress) through the existing Bayside property and planned BBLP site. The current Exhibit 3-5 is incomplete, omits critical information/graphics, and should be labeled "Shared Access."

O4-5

Alternatively, a new exhibit should be created showing how the estimated 15 maintenance and service trucks per week will access the adjacent/expanded BBPS. This is an important component of the BBPS Project, and without access from N. Bayside Drive via the BBL site, OCSD will be required to utilize the existing and substantially less safe access off of East Coast Highway.

The Project Description notes several times throughout the REIR that access off N. Bayside Drive through a future shared driveway with the BBLP will be the primary access to the Adjacent Pump Station Project.

Exhibit 3-6 (page 3-14), "Adjacent Pump Station Work Areas," identifies construction staging areas required to be located on BVM's property during the implementation of the BBPS Project which, based on the discussion in Section 3.4 Construction, would occur over a 36-month period.

O4-6

Exhibit 3-6 identifies both a significant portion of the BVM property, as well as the Castaways City property to the west of the Newport Harbor channel. Since it is not clear that the City has agreed or is willing to provide the Castaways site for construction staging, the REIR should identify alternative staging areas, either on or off the BVM property, for the three years of

planned construction. Moreover, the utilization of the existing narrow and long driveway lane into the fully developed BVM site will have foreseeable impacts on the existing BVM marina, marina parking, and, as discussed above, recreational and marine commercial uses on the BVM site. Construction period impacts will be even more significant if they occur during construction of the BBL project. The REIR should identify estimated dates for start and completion of all phases of construction, including demolition and removal of the existing BBPS. The square footage of the TCE areas needs to be specifically identified, including access areas, timing and duration of occupation of the TCE's, and the direct and indirect impacts of construction on adjoining recreational and marine commercial uses.

O4-6  
cont'd

*Footage is considered conceptual and may be subject to downward refinement during final design.*

BVM requests that OCSD design the pump station (using the most current technology and efficient design to minimize the required expansion of the BBPS and therefore acquisition of the City and CCC-approved BBL mixed-use project site and replacement of coastal dependent/coastal related uses with industrial use expansion.

O4-7

Such an otherwise unnecessary expansion will exacerbate the conflicts with and impacts to the baseline of existing recreational and marine commercial uses and the approved BBL Project as set forth in the approved BBL PCDP and the City's 2017 certified LCP. By characterizing the BBL site as nothing more than an RV storage facility, the Section 5.9 land use and Coastal Act consistency analysis underestimates the impacts on both the existing developed BVM site and the approved BBL land uses, and remains woefully inadequate (see also Comments 2 and 3, September 3, 2019 BVM REIR Comment Letter).

## **2. Force Mains Location Renders BBL South of East Coast Highway Site Unusable**

Exhibit 3-7 (page 3-15) depicts the OCSD dual 24' force mains alignment bisecting the BBL property south of the E. Coast Highway bridge essentially in half. This approximate .60 acre property is within BBL PCDP Planning Area 2 and allows 8,390 square feet of CM (recreational and marine commercial) uses. Due to indicated restrictions on permanent structures above the force mains and required setbacks, such an alignment would severely impact BVM's ability to develop anything on the site, consistent with its CM land use designation.

O4-8

As previously discussed with OCSD staff, OCSD should identify an alternative alignment closer to the south edge of the BBL property, adjacent to the Irvine Co. parking lot, which will reduce impacts to this important CM-designated property.

## **3. OCSD Must Provide Greater Specificity Regarding Site Operations and Utilization of Shared Access**

Section 5.7.4 (page 5.7-20) briefly identifies "Operations" and notes a maximum of 15 trips for chemical deliveries, periodic maintenance and inspections per week (or 60 per month). BVM recognizes the size and type of truck differs for various maintenance requirements. OCSD must provide a more detailed breakdown of the anticipated maintenance frequency based on the size and type of truck and projected hours/time of access through the BBL site. OCSD must not

O4-9

only acquire a permanent easement for this access, but must fund short- and long-term maintenance of the amenitized BBL project access.

O4-9  
cont'd

#### 4. Consistency With Back Bay Landing Planned Community Development Plan

As set forth in our September 3, 2019 Comment Letter (page 7), Planning Area 1 of the BBL PCDP permits the BBPS with its current size and location (see the PCDP Table 2, Exhs. 3, 5, 9, 12). The PCDP does not contemplate any expansion or relocation of the BBPS (ibid).

O4-10

Moreover, the LU-5 (2020 REIR, page 5.9-24) discussion in the REIR incorrectly infers that any pump station in any location within PA-1 is a permitted use as a matter of right, in stating, "Accordingly, the pump station is a permitted use as a matter of right." The BBPS Adjacent Pump Station expansion project is subject to all of the discretionary permits and regulatory approvals outlined in Section 3.6 Permits and Approvals (page 3-16 and 3-17 of the REIR), and during Site Development Review, this Adjacent Expand-in-Place must be shown to be consistent with all of the requirements of the BBL PCDP. Only the original Rehab-in-Place alternative is identified in the BBL PCDP.

O4-11

In regards to the Site Development Review process, and consistency with the PCDP, Mitigation Measure AES-1 requiring engineering drawings and specifications prepared by the Project Engineer or their designee to be "submitted for review and approval by the OCSD Director of Engineering," and AES 2-4 requiring only a similar internal review process for assessment of visual and aesthetic impacts, are inadequate. These, and any other BBPS project drawings, plans, operational programs and improvement documents must be submitted to BVM at the earliest possible date, prior to any OCSD approval, and all mitigation measures must be revised to assure their occurs.

O4-12

We look forward to working with OCSD to address these and other BBPS Adjacent Pump Station REIR and Project issues, and look forward to your agency's response to these and other comments.

Sincerely,



John P. Erskine  
Nossaman LLP

JPE:dlf

cc: Valerie Ratto, P.E., OCSD ([vratto@ocsd.com](mailto:vratto@ocsd.com))



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Refer To File #: 400244-0001

VIA EMAIL AND U.S. MAIL

September 3, 2019

Kevin Hadden  
Principal Staff Analyst  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 97208

**CONFIDENTIAL; PRIVILEGED**

**Re: Recirculated Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Replacement Project (Project No. 5-67)**

Dear Mr. Hadden:

Our firm represents Bayside Village Marina LLC ("BVM") and provides the following comments with regard to the Draft Recirculated Environmental Impact Report ("REIR") for the Orange County Sanitation District ("OCSD") Bay Bridge Pump Station ("BBPS") and Force Mains Replacement Project ("Project"). BVM owns the Back Bay Landing development site ("BBL" or "Development Site") and existing marina/dry storage facility at 300 East Coast Highway, Newport Beach, California. As you are aware, up until mid-2018 BVM had engaged in several years of discussions with the OCSD regarding the Project and its significant impacts on BVM's property, and upon coastal resources at the entrance to Upper Newport Bay. Over the course of several years, OCSD has gone from stating publicly that it had no need to modernize or expand the BBPS in any manner, to the current unstable, and ever evolving project description. The Planned Community Development Plan ("PCDP") for Back Bay Landing approved by the California Coastal Commission in 2016 shows the BBPS in its current location, without expansion. BVM's site planning and project design efforts have been significantly disrupted by OCSD's inconsistent and non-transparent project design process.

**O4-13**

**Summary.**

The REIR does not comply with the requirements of the California Environmental Quality Act ("CEQA"). The deficiencies in the REIR are so severe that they cannot be addressed without redrafting and recirculating the EIR. CEQA requires the Orange County Sanitation District ("OCSD") to prepare a new draft EIR for public review and comment. BVM has engaged in several years of discussions with the Orange County Sanitation District ("OCSD") regarding the Project and its significant impacts on the Back Bay Landing property, the project, the existing marina, and the coastal dependent recreational and marine commercial uses long-existing on the site. The Project also conflicts with the City of Newport Beach ("City") LCP, the BBL PCDP, and the Coastal Act and may adversely affect various coastal resources. The REIR fails to adequately analyze any of the above land use impacts of the Project. The REIR also



does not accurately or completely describe the information provided to OCSD by BVM regarding the impacts of the Project on the Back Bay Landing project.

Among other deficiencies in the DRAFT REIR, the circulated document fails to comply with CEQA for the following reasons:

1. The Project Description is not stable, finite, or accurate. It fails to identify which of several alternatives is the proposed project as required by CEQA. Moreover, within the last week, OCSD staff has shared with BVM representatives that none of the alternatives that could serve as the proposed project accurately describe OCSD's latest Project plans.

2. The baseline for the impact analysis violates CEQA. The REIR is required to evaluate the impacts of the Project against a baseline of existing conditions and also against a baseline of the current land use plans and zoning (e.g., the BBL PCDP) approved by the City of Newport Beach and the California Coastal Commission.

3. The REIR fails to accurately evaluate the significant inconsistencies with the General Plan, Local Coastal Program or Planned Community Development Plan for the development site.

4. The evaluation of alternatives is inadequate. The DRAFT REIR fails to analyze adequately an expand-in-place alternative or a relocation alternative that is feasible and that would reduce the significant land use and coastal resource impacts of the Project.

#### **Detailed Comments.**

#### **1. Project Description Issues.**

##### **1.1 The REIR Does Not Contain An Accurate or Stable Project Description.**

The Project Description violates CEQA because the REIR does not contain an accurate, stable or finite Project Description. The REIR fails to identify a preferred alternative, instead describing three different "conceptual site plans." (REIR at p. 3-6.)

An EIR must contain an accurate, stable and finite project description. (CEQA Guidelines, § 15124; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) CEQA requires an EIR to identify the project alternative proposed by the lead agency. (*Washoe Meadows Community v. Department of Parks & Recreation* ("Washoe Meadows"), 17 Cal.App.5th 277, 284.) In *Washoe Meadows*, the Court invalidated the approval of a river restoration project because the Draft EIR did not identify which of several alternatives evaluated in the EIR was the preferred project alternative. The Draft EIR analyzed five alternatives at an equal level of detail (including no project), without selecting a preferred alternative, and provided that the preferred alternative would be identified in the Final EIR based on public comments received on the Draft EIR. (*Id.* at p. 283.) The Court of Appeal found that EIR was inadequate because it did not contain an "accurate, stable, and finite" project description. (*Id.* at p. 285.) "The failure to identify or select any project at all impairs the public's right and ability to participate in the environmental review process. A description of a broad range of possible projects, rather than a preferred or actual project, presents the public with a moving target and

O4-13  
cont'd

requires a commenter to offer input on a wide range of alternatives that may not be in any way germane to the project ultimately approved.” (*Id.* at p. 288.)

The Project Description provides:

OCSD has been in negotiations with Bayside Village Marina, LLC, to identify potential site plan alternatives to the Original Northeast Pump Station. As such, the project is proposing three conceptual site plans, one of which was previously analyzed in the 2017 Bay Bridge EIR. **Depending on negotiation outcomes with Bayside Village Marina, LLC, OCSD would identify one of the three conceptual site plans described below in Section 3.3, Project Characteristics.**

(REIR at p. 3-6).

The Project Description therefore is clearly inadequate under the *Washoe Meadows* holding that a project description must identify a preferred alternative, and that it is improper to defer identification of a preferred alternative to the Final EIR based on future contingencies — in this case, favorable negotiations with Bayside Village Marina. Like the Draft EIR in *Washoe Meadows*, the REIR fails to provide an accurate, stable and finite project description. The REIR’s description of three different “conceptual site plans” — essentially, three alternatives — without identifying a preferred alternative presents an obstacle to informed public participation, given that each option will create different impacts and require different mitigation measures.

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For example, the mitigation measures proposed to reduce potentially significant impacts to Biological Resources, Hydrology and Water Quality, and for Vibration differ for each of the three conceptual site plans. (See REIR at pp. 1-9-1-11, 1-19, 1-21.). The REIR should be revised to identify a preferred alternative, and recirculated with the required detailed impact analysis for that preferred alternative. The failure to identify a preferred project alternative violates CEQA. (See CEQA Guidelines, § 15088.5 [recirculation is required when the Draft EIR is fundamentally inadequate such that meaningful public review and comment are precluded].)

## 1.2. The Project Description is Confusing and Omits Critical Information.

The Project Description is also deficient because the discussion of “Project Characteristics” is confusing, extremely difficult to follow, and lacks critical information necessary to allow the public and reviewing agencies to evaluate and review its environmental impacts. (*Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 26; see *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1045.) The Draft REIR is required to include sufficient information to allow the public to understand the environmental impacts of the proposed project. (CEQA Guidelines, § 15146, discussion). It does not.

The Project Description is unclear with regard to the actual size (square footage) of the various alternatives’ project area and the dimensions and location of the anticipated permanent driveway access easement that OCSD purportedly intends to obtain on the Back Bay Landing property. For example, the REIR states only that the Original Northeast Pump Station alternative would be approximately 10,000 square feet in area, would include a 620 square foot

odor control facility, a backup generator, and would require a 4,100 permanent driveway access easement from BBL. (REIR at pp. 3-7, 3-10.) No building footprint for the pump station itself is provided for any of the three alternatives' conceptual site plans. (REIR at p. 3-11 [the pump station improvements for the "Modified Northeast Pump Station" alternative "would be the same" as those proposed for the Original Northeast Pump Station, alternative, "with some changes to the layout."] Of even greater concern, the description of the South Pump Station alternative fails entirely to provide the square footage of the site, again indicating only that the pump station improvements would be the same as those proposed under the Original Northeast Pump Station and Modified Northeast Pump Station, including a permanent driveway access easement of unspecified size. (REIR at p. 3-14.) The 10,000 square foot dimensions indicated for the Original Northeast Pump Station is inconsistent with the 9,500 square foot figure provided in the Notice of Preparation for the REIR, and for the preferred alternative in the 2017 EIR (which the REIR describes as identical to the proposed Original Northeast Pump Station).

CEQA requires OCSD to revise and recirculate the Draft REIR to state explicitly for each alternative the total project footprint by acreage, the area of the buildings, the location and dimensions of the driveway access easement, the location and dimensions of the vaguely described other "areas of disturbance," and the location as well as the use and ingress and egress points for the temporary construction easements. This information is necessary to allow the public and OCSD to evaluate the environmental impacts of the Project and the availability of potentially feasible alternatives and mitigation measures, as illustrated below, in the comment on the Project's inconsistency with the Coastal Act and the City of Newport Beach's Local Coastal Program Land Use Plan ("LUP").

### **1.3. The Description of Project Construction Is Inadequate.**

The REIR's description of construction timelines and the periods of use of the temporary construction easements on the BBL property are also unclear and inconsistent. While the total time for construction of the Original Northeast Pump Station and force main improvements is indicated to be 44 months, the REIR fails to disclose the anticipated duration of construction for the Pump Station improvements for the Original Northeast Pump Station plan. If the Original and Modified Northeast Pump Station improvements will take 24 months to complete (REIR at p. 3-22), how can the fairly massive 80,000 square foot temporary construction easement on the BBL property (the "East Work Area") only be needed for 9-12 months (REIR at pp. 3-16, 3-21, Figure 3-8)?

How large are the temporary construction easements required by the Modified Northeast Pump Station and the South Pump Station alternatives, which would apparently differ from the Work Area for the Original Northeast Pump Station (compare Figure 3-8 to Exhibits 3-11, 3-14). This difference belies the REIR's statement that "Pump station construction activities for the South Pump Station would be similar to that of the Original Northeast Pump Station and Modified Northeast Pump Station"? (REIR at p. 3-26.) CEQA requires OCSD to clarify these critical construction timelines and the gross square footage of any temporary construction easements, to enable the public and decision-makers to evaluate resulting environmental impacts and the feasibility of mitigation and alternatives. The size and configuration of the staging areas and the timeline for construction will directly affect the Project's environmental impacts, particularly with regard to noise and vibration impacts on adjacent uses, and the

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significant land use conflicts with the coastal-dependent and recreational / marine commercial land uses on the BBL property.

#### 1.4. The REIR is Inconsistent with Regard to Whether the Project will Increase Capacity.

The Project Description states that “The proposed project is not designed to increase capacity of the facility and is not expected to result in increases in peak flows.” (REIR at p. 3-10.) Elsewhere, the REIR states that the Project is “needed for future demand peak wet weather flows.” (REIR at p. 7-4.)

These statements contradict each other. Representatives of BVM also learned at the July 29 public review meeting that during the Dover-to-Newport Boulevard force main extension project, the BBPS capacity was upgraded from 16 to 18.5 MGD; the environmental documentation for that upgraded capacity (previously identified in the 2017 BBPS EIR as a reason for the BBPS expansion project) should be set forth in the new REIR. The REIR should also be revised to eliminate inconsistencies and explain whether the Project will further increase the sewage-carrying capacity of the BBPS, and, if so, whether significant growth-inducing impacts, requiring revision to the REIR’s conclusion that the Project “would not increase the capacity of the facility,” are present. Thus, the Project would not induce growth either directly or indirectly. The Project would not result in the removal of an impediment to growth.” (REIR at p. 6-3.)

#### 2. The REIR Baseline for Evaluating the Significance of Project Impacts Violates CEQA.

The baseline for analyzing environmental impacts is normally existing conditions at the time the Notice of Preparation is published. (. (CEQA Guidelines, § 15125, subd. (a); *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (“*Smart Rail*”) (2013) 57 Cal.4<sup>th</sup> 439.) Where, as here, existing land use conditions are anticipated to change as a result of approved land use plans, the EIR is also required to measure the significance of impacts against a baseline of conditions under the approved land use plans. (CEQA Guidelines, § 15125, subd. (e); *Smart Rail, supra*.) EIR The REIR fails to clearly identify the baseline, uses inconsistent baselines, and appears to use improperly an alternative as the baseline for measuring impacts.

For example, the REIR appears to use the Original Northeast Pump Station alternative as the baseline for measuring land use impacts of the Modified Northeast Pump Station and South Pump Station alternatives. (See, e.g., 5.9-15.) The use of hypothetical conditions (in this case, the Original Northeast Pump Station) is not appropriate and masks the Project’s true impacts. (See *Communities for a Better Environment, supra*, 48 Cal.4<sup>th</sup> at p. 322.) The issue is not whether significant impacts will result from changing the Project from the Original Northeast Pump Station to the Modified Northeast or South Pump Station, but whether the relocation **and expansion** of the existing pump station site on the BBL property would have a significant impact on existing conditions, on approved land uses in the City’s LUP, and compliance with the visitor-serving policies of the Coastal Act as implemented by the City’s LUP. The significance of environmental impacts of the project should be measured against two baselines: (1) existing conditions, and (2) future site conditions under LUP including Back Bay Landing development

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project, with the BBPS in its current location, as anticipated under the PCDP. The future site conditions baseline will allow the public and decision-makers to understand the incremental effects of expanding and relocating the BBPS. The REIR should clearly identify the baseline for each category of environmental impacts and explain why it is using that baseline.

### **3. The REIR Fails to Evaluate Adequately The Land Use and Coastal Resources Impacts of the Project.**

An EIR is required to discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans (CEQA Guidelines, § 15126, subd. (d)), or, as in this case, Local Coastal Programs and the California Coastal Act. Such plans include, but are not limited to, regional land use plans for the protection of the coastal zone. (*Ibid.*) The purpose of the required analysis is to identify inconsistencies that the lead agency should address, and modify a project to avoid any inconsistencies. (Kostka & Zischke, Practice under the Environmental Quality Act (Cont. Ed. Bar. 2019) § 12.28.) Inconsistency with land use regulations is a factor to consider when determining whether a project may cause a significant effect. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170.)

When a project site is within the coastal zone and governed by the Coastal Act, the EIR is required to discuss any inconsistencies with the Coastal Act. (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1233.) In *Banning Ranch Conservancy*, the court of appeal upheld an EIR that “adequately flagged potential inconsistencies [with the Coastal Act] and addressed them in advance through proposed mitigation.” (*Ibid.*) The California Supreme Court has specifically held that an EIR on a proposed project in the coastal zone was required to identify areas that might be designated as ESHA under the Coastal Act. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918.) The Coastal Act provides for the approval of Local Coastal Programs adopted pursuant to section 30500 of the Public Resources Code. Local Coastal Programs apply and implement the policies of the Coastal Act, and establish enforceable regulations governing development within the area of the approved LCP.

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As acknowledged in the REIR, the project is within the coastal zone and governed by the Coastal Act. The REIR must therefore address any inconsistencies with the Coastal Act’s recreation and visitor serving policies and the access and resource protection policies of the Newport Beach LUP. The REIR fails to discuss the inconsistencies between the proposed location of the BBPS and the policies in the Coastal Act and the City’s LUP, to maximize visitor-serving and coastal dependent and related uses at the proposed Project site, including:

#### **Coastal Act (Public Resources Code)**

##### Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.



Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30224

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

**Newport Beach Land Use Plan**

Policy 3.2.1-1

Protect, and where feasible, expand and enhance recreational opportunities in the coastal zone.

**Back Bay Landing Planned Community Development Plan**

The REIR Project Description would site the BBPS in Planning Area 1 of the PCDP. Planning Area 1 allows “commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related land uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor . . . Priority uses include retail, restaurants, boat storage, marine and boat sales, boat rentals, boat service/repair, and recreational commercial uses such as kayak and paddle board rentals.” (PCDP, at p. 4.) Planning Area 1 permits the BBPS with its current size and location. (See PCDP, Table 2, Exhs. 3, 5, 9, 12.) The PCDP does not contemplate any expansion or relocation of the BBPS. (*Ibid.*)

As the Project is inconsistent with the foregoing coastal land use policies and regulations, CEQA requires the REIR to evaluate and address those inconsistencies, including the evaluation of alternatives and mitigation measures that may reduce the significance of the Project on coastal land use policies and regulations.

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The REIR also fails to discuss the Project's inconsistency with Coastal Act section 30253, subdivision (e) of the Coastal Act, which provides that new development shall, where appropriate, "protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses" (REIR at p. 5.9-10.) Given that Newport Beach is a major recreational center and tourist destination, and the project vicinity provides a multitude of coastal recreational activities, including beach going, sport fishing, kayaking, diving, wind surfing, sailboat racing, excursion, and entertainment boat activities, as well as visitor-serving commercial and recreational uses and waterfront residences (See REIR at p. 3-1), the REIR must discuss the inconsistency of the proposed BBPS locations, and potential expansion (including proposed permanent easements) with these unique characteristics of the Upper Newport Bay area.

The REIR's sole, cursory discussion of the Project's conflicts with these visitor-serving land use policies provide:

The proposed pump station site is designated "Mixed-Use Water Related" (MU-W2) [by the City's Land Use Plan]. The MU-W2 category is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. The REIR states that "the proposed project would either relocate the pump station approximately 200 feet to the northeast or approximately 200 feet to the west within the existing RV storage facility." This relocation would not create an inconsistency with the MU-W designation for the site.

(REIR, p. 5.9-11.)

To the contrary, the relocation *and/or expansion* of the BBPS, a non-visitor-serving use, would be entirely inconsistent with the MU-W2 category. In addition to the limited residential component, the Back Bay Landing site, as approved by the City and Coastal Commission, is intended to provide for expansion of recreational and marine commercial (CM) uses. As the foregoing visitor-serving policies of the Coastal Act and the City's LUP were adopted to preserve and expand coastal-dependent and coastal-related uses, this inconsistency indicates a significant impact that should be mitigated. (See REIR, section 6.9). CEQA requires an EIR to discuss feasible mitigation measures or alternatives to mitigate significant impacts. (CEQA Guidelines, §§ 15126.4, subd. (a)(1), 15126.6, subd. (a).) The REIR should be revised to discuss feasible alternatives to mitigate this impact, including 1) the possibility of relocating the BBPS to a site that is *not* reserved for visitor serving uses, and 2) siting the BBPS on a smaller footprint that will be less disruptive to visitor-serving uses, to minimize the inconsistency. (*Banning Ranch Conservancy, supra*, 211 Cal.App.4th at p. 1233.)

Therefore, the EIR must discuss the inconsistency and the feasibility of avoiding or minimizing the inconsistency through mitigation measures and/or alternatives. CEQA requires OCSD to analyze those alternatives and alternative locations that will minimize the significant coastal land use impacts of the Project in the REIR and recirculate the REIR for public review and comments. (See CEQA Guidelines, § 15088.5, subd. (a)(3) [recirculation is required when a feasible project alternative or mitigation measure considerably different from others previously

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analyzed would clearly lessen the environmental impacts of the Project, but the Project's proponents decline to adopt it].)

### **The Evaluation of Alternatives is Inadequate.**

CEQA requires an EIR to evaluate alternatives that may reduce the significant impacts of the proposed project. (Pub. Resources Code, §§ 21002 [public agencies should not approve projects as proposed if there are feasible alternatives that would substantially lessen the significant environmental effects of such projects] 21002.1, subd. (a) [the purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided], 21100, subd. (b)(4) [EIR must include detailed statement of alternatives to the proposed project].) The CEQA Guidelines require an EIR to describe a reasonable range of alternatives to the proposed project, or to its location, that would feasibly attain most of the project's basic objectives while reducing or avoiding any of its significant effects. (CEQA Guidelines, § 15126.6, subd. (a).) The discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly. (*Id.* at § 15126.6, subd. (b).) An alternative that would substantially reduce significant environmental impacts should not be discarded simply because it does not fully achieve the project objectives. (*Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1059, 1087.) An EIR that omits analysis of a feasible alternative that would achieve most project objectives without a reasonable explanation of the decision to exclude it will not withstand judicial scrutiny. (See, e.g., *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts* (2017) 17 Cal.App.5th 412, 426.)

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#### **3.1 The REIR Must Analyze an Expand In Place Alternative.**

The REIR does not evaluate a reasonable range of alternatives because it improperly omits, with no explanation, an analysis of rehabilitation and limited expansion of the existing pump station to 9,500 square feet ("Expand in Place") or less, which would achieve most or all Project objectives. (See 2017 Draft EIR at pp. 7-11-7-18 [concluding that an Expand in Place alternative, labeled the "Existing Pump Station Site Rehabilitation Alternative," would attain the Project objectives].) The 2017 Existing Pump Station Site Rehabilitation Alternative would involve a limited expansion of the existing site to 9,500 square feet, which would contain a new pump station building and electrical building to the west of the existing structures and a new generator building and odor control facility. (*Id.* at p. 7-11.) The Pump Station would be accessed via a driveway on the west side of Bayside Drive. (*Ibid.*) The 2017 Draft EIR concluded that the Existing Pump Station Site Rehabilitation Alternative would achieve the Project objectives because "the pump station and force mains would be replaced to meet current structural and maintenance standards and would increase conveyance capacity to accommodate anticipated growth and wet weather flows. Access to the pump station site would be provided via Bayside Drive under this Alternative, resulting in safety improvements for OCSO Operations & Maintenance personnel." (*Id.* at p. 7-18.) The Existing Pump Station Site Rehabilitation Alternative would reduce environmental impacts by minimizing conflict with the land use regulations described above. Because the Existing Pump Station Site Rehabilitation Alternative would apparently be feasible (as indicated by its inclusion in the 2017 Draft EIR



alternatives analysis), achieve the Project objectives, and reduce environmental impacts, the REIR violates CEQA by failing to analyze this or a similar Expand in Place alternative. CEQA requires OCSD to recirculate the EIR with an analysis of Expand in Place, or a reasonable explanation of why an Expand in Place alternative is excluded from the alternatives analysis.

### **3.2 An Alternative South of East Coast Highway Location Must Be Analyzed**

The REIR has, inexplicably, identified only those alternative locations that are within the BBL development site and acreage holdings, including the Pump Station South Relocation Alternative.

Not only is this alternative identified as the “Environmentally Superior” Alternative, but it would “attain all of the Project’s objectives, including the ability to meet current structural and maintenance standards, increase safety with regard to project access, and construct new on-site odor control infrastructure.” (REIR, Section 7.2.)

However, the site plan and design of this alternative, problematically, purportedly requires retention of the existing BBPS site north of East Coast Highway for a back-up generator and odor control facility due to “space constraints” at the new pump station site south of East Coast Highway. Adding to this unnecessary “split” project design is a further problematic retaining wall that would ostensibly be needed along the Newport Bay Channel.

Yet, even a cursory glance at REIR Exhibit 7-1 (South Relocation Alternative – Conceptual Site Plan), reveals extensive additional space within an empty parking lot located south and east of BVM’s property south of the East Coast Highway bridge. This area is proposed for a City-approved, but as yet unconstructed, restaurant parking lot, and would potentially avoid some of the force main extensions under Coast Highway.

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### **3.3 The REIR Should Analyze Alternatives With a 20-Year Life.**

As explained above, CEQA requires an EIR to evaluate alternatives that may reduce the significant impacts of the proposed Project – even where the alternative will not achieve all of the project objectives. The REIR improperly dismisses “PASR Alternative 1B” (Rehabilitation) for the reason that it would only provide for a 20- to 30-year design service life:

*PASR Alternative 1B.* PASR Alternative 1B was rejected from further consideration. Rehabilitation of the existing pump station within its current boundaries would only provide for a 20- to 30-year design service life, and expansion of this facility would most likely be needed for future demand peak wet weather flows (which is represented by Alternative 1A discussed above and considered as part of this alternatives analysis). Since this Alternative would not meet a critical objective of the project, it has been rejected from further consideration by OCSD.

(REIR at p. 7-4.)

The REIR is required to evaluate an alternative with an estimated life of 20 years that may minimize the Project’s significant land use impacts. Although the REIR indicates that one of

the Project objectives is to achieve a service life of 50 years, 20-30 years is a very typical and normal design life for an infrastructure project. Indeed, the REIR itself assumes the standard design life of 30 years for its analysis of the environmental impacts of the Project with respect to greenhouse gas emissions. (REIR at p. 5.6-13.) While the REIR need not consider alternatives that do not implement basic Project Objectives, the 50-year design life objective is abnormal and appears to serve as a pretext for the improper rejection of the Rehabilitation alternative, which is both feasible and will avoid or substantially lessen environmental impacts by minimizing inconsistencies with the Coastal recreation and marine commercial visitor-serving land use policies discussed above. (See CEQA Guidelines, § 15126.6, subd. (a).) This violates the CEQA requirement that Project Objectives must be reasonable, and should not be so narrowly defined that they preclude consideration of reasonable alternatives for achieving the Project's underlying purpose. (*North Coast Rivers Alliance v. Kawamura* (2015O 243 Cal.App.4th, 647, 688.)) Therefore, CEQA does not permit the REIR to reject alternatives on the basis that they would not provide a 50-year design life.

For clarity, the REIR should also use consistent terminology to refer to the alternatives considered in the 2017 EIR and the REIR.

#### **Conclusion.**

CEQA requires an EIR to be recirculated for public review and comment when "significant new information" is added. (CEQA Guidelines, § 15088.5.) Significant new information includes the disclosure of a new significant environmental impact, substantial increases in the severity of an environmental impact; and feasible alternatives or mitigation measures that are considerably different from others previously analyzed that would clearly lessen the significant environmental impact where the project's proponents decline to adopt them. (*Ibid.*) Recirculation is also required in cases where the draft EIR "was so fundamentally and basically inadequate that meaningful public review and comment were precluded." (*Ibid.*)

As set forth in this comment letter, the REIR is fatally flawed. To restate, CEQA requires revisions to the Draft REIR including a stable, accurate and finite Project Description; the disclosure of new and more severe significant environmental impacts (particularly land use impacts); a full evaluation of the Expand In Place alternative, and South Relocation alternative not confined only to BVM property, that would reduce the significant coastal and land use impacts of the Project. Therefore, recirculation of the Draft REIR will be required prior to certification. BVM therefore objects to OCSD's approval of the Project as described in the Draft REIR.

We would also ask that the revised REIR include all prior environmental documents prepared in advance of the 2017 BBPS EIR (PASR, etc.), and, the 2017 BBPS EIR. Technical comments in support of this comment letter from BVM's civil engineers, Fuscoe Engineering, will be provided under separate cover.

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Thank you for your review and response on these comments.

Sincerely,



John P. Erskine  
Nossaman LLP

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cont'd**

JPE:cc4

cc: Valeria Ratto, OCSD  
Vicky Francis, OCSD  
Harmik Aghanian, Arcadis

## References

The following documents are incorporated by reference.

### Back Bay Landing Project CEQA Documents

City of Newport Beach, Final Environmental Impact Report for the Back Bay Landing Project (Feb. 2014)  
<[https://www.newportbeachca.gov/pln/CEQA\\_REVIEW/Back%20Bay%20Landing/Final%20EIR\\_Complete\\_February%202014.pdf](https://www.newportbeachca.gov/pln/CEQA_REVIEW/Back%20Bay%20Landing/Final%20EIR_Complete_February%202014.pdf)> (as of Sept. 3, 2019).

City of Newport Beach, Draft Environmental Impact Report for the Back Bay Landing Project (Oct. 2013)  
<[https://www.newportbeachca.gov/pln/CEQA\\_DOCS.asp?path=/Back%20Bay%20Landing/DEIR-Newport%20Back%20Bay-October%202013](https://www.newportbeachca.gov/pln/CEQA_DOCS.asp?path=/Back%20Bay%20Landing/DEIR-Newport%20Back%20Bay-October%202013)> (as of Sept. 3, 2019).

City of Newport Beach, Addendum to Final Environmental Impact Report for the Back Bay Landing Project (Mar. 2016)  
<[https://www.newportbeachca.gov/pln/CEQA\\_REVIEW/Back%20Bay%20Landing/BBL%20Addendum%20-%20Final%203-16-16%20complete.pdf](https://www.newportbeachca.gov/pln/CEQA_REVIEW/Back%20Bay%20Landing/BBL%20Addendum%20-%20Final%203-16-16%20complete.pdf)> (as of Sept. 3, 2019).

### Newport Beach Local Coastal Program

City of Newport Beach, Coastal Land Use Plan (as amended July 26, 2016)  
<<https://www.newportbeachca.gov/government/departments/community-development/planning-division/general-plan-codes-and-regulations/local-coastal-program/coastal-land-use-plan>> (as of Sept. 3, 2019)

Newport Beach Municipal Code, tit. 21, Local Coastal Implementation Plan  
<<https://www.codepublishing.com/CA/NewportBeach/html/NewportBeach21/NewportBeach21.html>> (as of Sept. 3, 2019).

City of Newport Beach, Back Bay Landing Planned Community Development Plan (PC-9) (as amended Apr. 26, 2016)  
<[https://www.newportbeachca.gov/PLN/MAP\\_DOCUMENTS/PC\\_TEXT/PC\\_09\\_Back\\_Bay\\_Landing.pdf](https://www.newportbeachca.gov/PLN/MAP_DOCUMENTS/PC_TEXT/PC_09_Back_Bay_Landing.pdf)> (as of Sept. 3, 2019).

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## RESPONSE TO COMMENT LETTER O4

John P. Erskine  
Nossaman LLP  
September 21, 2020

O4-1 The commenter has attached a previous comment letter and technical comments (prepared by Fuscoe Engineering, dated September 5, 2019) submitted as part of the 2019 Recirculated Draft EIR (both enclosed herein as Comment O4-13), as additional background and support for the comments provided in Letter O4, which are responded to herein. It should be noted that OCS D recirculated the entire Draft EIR and required reviewers to submit new comments on the 2020 Recirculated Draft EIR (2020 Recirculated Draft EIR page 2-4, first paragraph), pursuant to CEQA Guidelines Section 15088.5(f)(1). OCS D is not required to respond to those comments received during the earlier circulation period for the *Bay Bridge Pump Station and Force Mains Replacement Project Draft Environmental Impact Report* (2017 Bay Bridge EIR) or *Bay Bridge Pump Station and Force Mains Replacement Project Draft Recirculated Environmental Impact Report* (2019 Recirculated EIR). Although the prior comments are part of the administrative record, the previous comments do not require a written response in this Final EIR, unless otherwise specified in the Response to Comments O4-2 through O4-13.

O4-2 The commenter asserts that the “Adjacent Pump Station” Project Description (the entirety of Section 3.0, *Project Description*, of the 2020 Recirculated Draft EIR) omits critical information. The commenter alleges that, as stated in the 2019 comment letter (refer to Comment O4-13), the Project Description “remains somewhat imprecise” because the 2020 Recirculated Draft EIR in general, and 2020 Recirculated Draft EIR Section 3.1.2, *Project Setting (Existing Conditions)* in particular, fail to “accurately describe the existing fully developed Bayside Village Marina site.”

The comment does not specify which aspect of Section 3.1.2, *Project Setting*, is allegedly inaccurate, or provide any specific references to those components of the “fully developed Bayside Village Marina site” that it asserts have not been described accurately. To the extent this comment refers to the existing recreational marine commercial uses, see Response to Comment O4-3.

Nonetheless, at its most basic level, CEQA requires an analysis of how a proposed project will change the existing environmental conditions, also known as the environmental baseline. (*CEQA Guidelines Section 15125(a)*; *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447.) For these purposes, “the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published.” (*CEQA Guidelines Section 15125(a)(1)*.) Here, at the time of the Notice of Preparation (NOP) was published (November 2016), the project site consisted of an existing pump station facility and a recreational vehicle (“RV”) storage area. As required by CEQA, these existing conditions are documented in the 2020 Recirculated Draft EIR Section 3.1, *Project Location and Setting*, and were utilized as the environmental baseline for analysis.

Though unclear, the commenter is potentially suggesting that the environmental baseline in the 2020 Recirculated Draft EIR should be comprised by something other than the existing environmental conditions at the time the NOP was published. For example, the commenter is suggesting that the approved, but not yet constructed, Back Bay Landing Project plan should



have been utilized as the existing condition. The commenter provides no authority for this proposition. To the contrary, CEQA Guidelines Section 15125(A)(3) states that, “*An existing conditions baseline shall not include hypothetical conditions, such as those that might be allowed, but have never actually occurred.*”].) As a practical matter, the Back Bay Landing Project has been a publicly known development since 2012. It is unclear when, if ever, the Back Bay Landing Project will come to fruition despite OCSD’s repeated attempts to obtain this information from the applicant team for the Back Bay Landing Project. For all of these reasons, OCSD was not required to use the Back Bay Landing Project plan as the existing conditions environmental baseline for this project as potentially implied by the comment.

On the other hand, CEQA requires an analysis of a project’s cumulative impacts when “viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (Public Resources Code Section 21083). For this reason, the approved Back Bay Landing Project was included in the 2020 Recirculated Draft EIR *Cumulative Projects List*, Project No. 5, as a “probable future project” (see 2020 Recirculated Draft EIR page 4-2, Table 4-1). Pursuant to CEQA Guidelines Section 15130(a), Section 5.0, *Environmental Analysis*, of the 2020 Recirculated Draft EIR assesses the potential cumulative impacts for each applicable environmental issue, including each impact’s severity and likelihood of occurrence.

Further, the 2020 Recirculated Draft EIR analyzes the project’s consistency with the approved Back Bay Landing PCDP. As explained in great detail in the 2020 Recirculated Draft EIR Section 5.9, the project would be consistent with the Coastal Act, LCP/CLUP, SCAG regional plans, and the Back Bay Landing PCDP.

The commenter also states that the 2020 Recirculated Draft EIR descriptions/exhibits should set forth precise modes of access, maintenance, force main alignments, construction staging areas, etc., but fail to do so. The requested information, however, was provided in the 2020 Recirculated Draft EIR Section 3.3, *Project Characteristics*.

Specifically, page 3-8 of the 2020 Recirculated Draft states that the primary access to the proposed pump station would be provided via a shared driveway from Bayside Drive through Bayside Village Marina, LLC property with secondary access via the existing driveway from East Coast Highway, as detailed on Exhibit 3-5, *Adjacent Pump Station Layout*. These access points would be used by maintenance vehicles. As the pump station is an existing operating facility, proposed maintenance activities would be similar to the existing condition. Force main improvements are detailed on page 3-12, *Force Main Improvements*, and the proposed alignment is shown on Exhibit 3-4, *Proposed Conceptual Site Plan*. Construction activities for the force mains are also detailed on page 3-13, *Force Main Improvements*, and shown on Exhibit 3-7, *Adjacent Pump Station Construction*. Last, construction staging is described on page 3-12 and depicted on Exhibit 3-6, *Adjacent Pump Station Work Areas*. Although specific staging areas are not known at this time, existing surrounding properties that could possibly accommodate staging were considered for the purposes of analyzing potential environmental impacts. These areas include portions of the Back Bay Landing property (currently a RV storage area) and Lower Castaways Park, should these areas be available during construction of the proposed project.



- O4-3 The commenter alleges that the Project Description “remains somewhat imprecise” because the 2020 Recirculated Draft EIR in general, and 2020 Recirculated Draft EIR Section 3.1.2, *Project Setting (Existing Conditions)* in particular, fail to accurately describe the existing recreational and marine commercial uses at the site. However, the 2020 Recirculated Draft EIR Table 3-1, *Surrounding Land Uses*, on page 4-2, describes the surrounding land uses and associated land use and zoning designations, including the surrounding recreational marine uses. These existing uses are discussed, and impacts are analyzed, where relevant, throughout Section 5.0, *Environmental Analysis*, of the 2020 Recirculated Draft EIR.

Further, the commenter suggests that existing coastal recreational marine commercial uses (situated at the western terminus of the existing access road north of the project site) would be impacted by project construction. As shown on Draft EIR Exhibit 3-6, *Adjacent Pump Station Work Areas*, access to these off-site uses would be maintained during construction of the proposed project, and as discussed above, impacts to these existing surrounding uses are analyzed, where relevant, throughout Section 5.0 of the 2020 Recirculated Draft EIR. Further, it is acknowledged that, although these uses are recreation in nature, these uses are marine commercial uses and recreators would be using the Newport Bay Channel for recreating purposes. Per the 2020 Recirculated Draft EIR, no significant impacts to these off-site uses would result with implementation of recommended mitigation measures.

- O4-4 The commenter states that the City of Newport Beach (City) and California Coastal Commission (CCC), in approving the Back Bay Landing Project, the Back Bay Landing Environmental Impact Report, and 2016 Back Bay Landing Planned Community Development Plan (now adopted as part of the 2017 CCC Certified City Local Coastal Program (“LCP”), did not account for the Adjacent Pump Station/Expand-in-Place Option as OCSD did not identify the need to expand the existing pump station until after the Back Bay Landing project was approved and the Planned Community Development Plan incorporated into the Certified City LCP. The comment is noted. This comment does not identify a significant environmental issue. No further response is required.
- O4-5 OCSD currently utilizes the existing access to the pump station from East Coast Highway. As discussed throughout the 2020 Recirculated Draft EIR, similar to existing conditions, the project would require up to 15 maintenance vehicle trips per week for periodic maintenance and inspections by OCSD staff, and no new vehicle maintenance trips would be required as a result of the proposed project. No new employees would need to be hired as part of the project.

The commenter is correct in that the proposed shared access from N. Bayside Drive (a future shared driveway with the Back Bay Landing Project), depicted on Exhibit 3-5, *Adjacent Pump Station Layout*, would be the primary access to the proposed pump station (although secondary access from East Coast Highway would also be available). The proposed shared access would increase safety for OCSD Operations and Maintenance personnel, compared to the existing condition.

The allegedly omitted information is already provided in the environmental document. 2020 Recirculated Draft EIR page 5.11-9, *Operations*, states that, “Currently, primary site ingress and egress for OCSD maintenance vehicles is provided via a right turn only driveway from East Coast Highway. Maintenance trucks must currently back into oncoming traffic on East Coast





Highway to exit the site. As shown on 2020 Recirculated Draft EIR Exhibit 3-5, *Adjacent Pump Station Layout*, the project would increase transportation safety by redirecting OCSD vehicles through the Bayside Village Marina, LLC property via Bayside Drive for primary site access, both ingress and egress, with secondary site access provided via the existing driveway along East Coast Highway. As such, impacts in this regard would be less than significant.”

Further, one of the project’s goals/objectives is to increase the safety for OCSD Operations & Maintenance personnel by selecting an entry to and exit from the site that can be accessed more easily and safely by maintenance crews and drivers. As such, these considerations are also analyzed in the 2020 Recirculated Draft EIR Section 7.0, *Alternatives*, which concludes that although the “Rehabilitate in Place with Microtunneling” Alternative is environmentally superior to the proposed project, this alternative would not increase safety for OCSD Operations & Maintenance personnel by providing safer access (a goal/objective of the proposed project).

- O4-6 Refer to Response to Comments O4-2 and O4-3. Existing surrounding properties that could possibly accommodate staging, including portions of the Back Bay Landing property and Lower Castaways Park, were analyzed for the purposes of potential environmental impacts. If these areas are not available during construction of the proposed project, construction staging would instead occur within proposed areas of disturbance (as identified by the project boundary shown on 2020 Recirculated Draft EIR Exhibit 3-4, *Proposed Conceptual Site Plan*). The 2020 Recirculated Draft EIR acknowledges that nearest cumulative projects to the project site include the Back Bay Landing project, Balboa Marina West Expansion project, Bay Crossing Water Main Replacement project, and Newport Dunes Hotel project. It is unknown at this time when these projects would be constructed. Specifically, as discussed above under Response to Comment O4-2, it is unclear when, if ever, the Back Bay Landing Project will come to fruition despite OCSD’s repeated attempts to obtain this information from the applicant team for the Back Bay Landing Project. As such, it would be speculative to identify the estimated start and stop dates for construction of the Back Bay Landing Project. Nevertheless, the 2020 Recirculated Draft EIR assumes that the project’s construction activities could overlap with any or all of these projects, which is a conservative assumption for construction activities. Section 5.0, *Environmental Analysis*, of the 2020 Recirculated Draft EIR assesses the cumulative impacts for each applicable environmental issue, including each impact’s severity and likelihood of occurrence. More specifically, the cumulative air quality, noise, and transportation impacts from the proposed construction activities of project have been addressed in Sections 5.2.5, *Cumulative Impacts* (pages 5.2-26 and 5.2-27), 5.10.5, *Cumulative Impacts* (pages 5.10-21 through 5.10-23), and 5.11.5, *Cumulative Impacts* (pages 5.11-12 through 5.11-14), of the 2020 Recirculated Draft EIR, respectively. For the cumulative air quality, noise, and transportation construction-related impacts from the Back Bay Landing Project, refer to Section 4.B.4, *Cumulative Impacts* (pages 4.B-39 and 4.B-40), 4.J.3, *Cumulative Impacts* (pages 4.J-34 and 4.J-35), and 4.M.4, *Cumulative Impacts* (pages 4.M-42 and 4.M-43) of the Back Bay Landing EIR, respectively.

Further, the exact size and location of temporary construction easements may change as the project design progresses. As such, the 2020 Recirculated Draft EIR intentionally identifies a large work area as shown on 2020 Recirculated Draft EIR Exhibit 3-6, *Adjacent Pump Station Work Areas*, to conservatively analyze the project’s potential temporary construction impacts.



- O4-7 The 2020 Recirculated Draft EIR analyzed the proposed pump station improvements currently being considered by OCSD. The 2020 Recirculated Draft EIR also acknowledged that the pump station's square footage may be refined during the project design phase as part of the final design process. The commenter requests that OCSD minimize the expansion of the pump station. This comment is acknowledged and will be considered by OCSD during the final design process.

Regarding the project's consistency with the City and California Coastal Commission plans, refer to Section 5.9, *Land Use and Relevant Planning*, Impact Statement LU-1 (California Coastal Act, page 5.9-7), Impact Statement LU-2 (Local Coastal Program and Coastal Land Use Plan, page 5.9-13), Impact Statement LU-4 (City of Newport Beach General Plan, page 5.9-21), and Impact Statement LU-5 (Back Bay Landing PCDP, page 5.9-23). As demonstrated by the 2020 Recirculated Draft EIR, the proposed project would be consistent with the relevant California Coastal Act policies, the *City of Newport Beach Local Coastal Program* and associated *City of Newport Beach Coastal Land Use Plan* (CLUP), *City of Newport Beach General Plan* goals and policies related to land use and planning, and the applicable provisions of the Back Bay Landing PCDP Planned Community 9 (PC-9). A Site Development Review Permit, among other discretionary approvals, would be required from the City to ensure consistency with the site's Back Bay Landing PCDP zoning, as stated on 2020 Recirculated Draft EIR page 3-16, Section 3.6, *Permits and Approvals*. Impacts pertaining to land use consistency with applicable plans were determined to be less than significant.

The 2020 Recirculated Draft EIR Table 5.9-2, *Local Coastal Program/Coastal Land Use Plan Consistency Analysis*, provides an analysis of the proposed project's consistency with the relevant CLUP policies, and Impact Statement LU-5 provides an analysis of the proposed project's consistency with the relevant Back Bay Landing PCDP development standards and design guidelines. Per the consistency analysis presented on pages 5.9-14 and 5.9-25 of the 2020 Recirculated Draft EIR, the operations of the pump station facility are not anticipated to result in significant impacts to existing recreational and marine commercial uses. Further, as stated on page 5.9-25 of the 2020 Recirculated Draft EIR, a Site Development Review Permit, among other discretionary approvals, would be required from the City to ensure consistency with the site's Back Bay Landing PCDP zoning. Refer to Response to Comments O4-2 and O4-3 regarding consideration of the existing condition and recreational and marine commercial uses.

In the 2019 Comment Letter No. 2 (Comment O4-13, pages 5 and 6), the commenter suggests that the 2019 Recirculated Draft EIR fails to identify the baseline, uses inconsistent baselines, and appears to improperly use an alternative as the baseline for measuring impacts. Refer to Response to Comment O4-2 pertaining to the existing conditions baseline and cumulative conditions analyzed in the 2020 Recirculated Draft EIR. The commenter also states that the significance of environmental impacts of the project should be measured against existing conditions and future site conditions under the City's land use plan, including the Back Bay Landing development project, with the pump station in its current location, as anticipated in the Back Bay Landing PCDP. Please refer to Response to Comment O4-10 pertaining to permitted uses for the project site.

Regarding the 2019 Comment Letter No. 3 (Comment O4-13, pages 6 through 11), the commenter suggests that the 2019 Recirculated Draft EIR fails to adequately evaluate the land use and coastal resources impacts of the project. Specifically, the commenter states that the



2019 Recirculated Draft EIR fails to discuss the inconsistencies between the proposed pump station location and the policies in the Coastal Act and the City's Coastal Land Use Plan (CLUP) related to maximizing visitor-serving and coastal-dependent uses at the project site.

Section 5.9, *Land Use and Relevant Planning*, of the 2020 Recirculated Draft EIR, includes a robust analysis of the project's consistency with the Coastal Act and City's Local Coastal Program (LCP) and CLUP. 2020 Recirculated Draft EIR Table 5.9-2, *Local Coastal Program/Coastal Land Use Plan Consistency Analysis*, shows the proposed pump station site is designated "Mixed-Use Water Related" (MU-W2). The MU-W2 category is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor.

As discussed on 2020 Recirculated Draft EIR page 5.9-14, the Municipal Code authorizes Planned Community Development Plans (PCDPs) to address land use designations and regulations in the City's Planned Communities such as the Back Bay Landing Planned Community (PC-9); refer to Municipal Code Section 20.56.010, et seq. The Back Bay Landing PCDP serves as the controlling zoning for the Back Bay Landing Planned Community and is authorized and intended to implement the provisions of the General Plan and Coastal Land Use Plan (Back Bay Landing PCDP, page 1, section I[A]).

The Back Bay Landing Planned Community is comprised of five planning areas, including a Mixed-Use Area (PA 1). The pump station is located within PA 1. As stated in the Back Bay Landing PCDP, Table 2, *Permitted Uses*, a wastewater pump station is a permitted use within PA 1. Accordingly, the proposed pump station facility is a permitted use as a matter of right, and the project would be consistent with this policy. It should also be noted that the proposed project would replace an existing pump station facility in the same general area to continue operating like existing conditions. No new uses are proposed that would conflict with existing and planned uses for the project area under the CLUP/LCP.

- O4-8 Although the proposed project would require a permanent easement from Bayside Village Marina, LLC (2020 Recirculated Draft EIR page 3-16, Section 3.6, *Permits and Approvals*), OCSD maintains an existing permanent easement at the approximate 0.60-acre southern portion of the Back Bay Landing property; refer to 2020 Recirculated Draft EIR Exhibit 3-6, *Adjacent Pump Station Work Areas*. This easement has been in-place since March 8, 1971, prior to approval of the Back Bay Landing PCDP. This easement was established in order for OCSD to maintain access to the site and includes the terms, "... any structures... placed upon, over, across, or along, ... said easement by Grantor which injures the sewer or interferes with the use thereof, shall be removed by the Grantor at its expense..." These are existing conditions imposed at the project site.

The commenter's concerns regarding specific siting of the proposed permanent easement through the Back Bay Landing Property is acknowledged and will be considered by the OCSD as part of the project's final design phase. This comment does not involve a significant environmental issue. No further response is required by CEQA.



O4-9 Refer to Response to Comment O4-5 pertaining to proposed maintenance vehicles. The proposed project would require permanent easement from Bayside Village Marina, LLC (2020 Recirculated Draft EIR page 3-16, Section 3.6, *Permits and Approvals*). As in the existing condition, up to 15 maintenance vehicle trips per week may occur for periodic maintenance and inspections by OCSD staff during OCSD's current operational hours. It is acknowledged that any permanent easement rights would be negotiated with Bayside Village Marina, LLC as part of the permitting/design phase of the project. This comment does not raise an issue or comment specifically related to the 2020 Recirculated Draft EIR's environmental analysis. Therefore, no further response is required by CEQA.

O4-10 The commenter states that Planning Area 1 (PA 1) of the Back Bay Landing PCDP "permits the Back Bay Pump Station with its current size and location" and that the Back Bay Landing PCDP "does not contemplate any expansion of [sic] relocation of the Back Bay Landing Pump Station," citing to the Back Bay Landing PCDP Table 2 and Exhibits 3, 5, 9, and 12 as support. However, Table 2 of the Back Bay Landing PCDP simply notes that a Wastewater Pump Station is a permitted use in Planning Areas 1 and 2, and makes no statement as to whether that use is restricted to the existing location of the Back Bay Landing Pump Station. *See* Back Bay Landing PCDP page 7. Thus, Table 2 of the Back Bay Landing PCDP by its plain terms does not provide any restriction on the expansion or relocation of the Back Bay Landing Pump Station.

Exhibits 3, 5, 9, and 12 of the Back Bay Landing PCDP also do not reflect any restriction. The language of the Back Bay Landing PCDP makes clear that each exhibit is an illustration and included as a visual aid, not a reflection of mandatory restrictions on further development. *See* Back Bay Landing PCDP page 3 ("As illustrated on Exhibit 3"); page 16 ("as illustrated in Exhibit 5"); page 19 ("as shown on Exhibit 9"); page 22 ("As illustrated in Exhibit 12"). As such, each exhibit's display of the "Existing [Sewer] Pump Station" (emphasis added) simply illustrates the present location of the Back Bay Landing Pump Station, and does not reflect a restriction on future movement of that facility.

Please also refer to Response to Comment O4-7 pertaining to consistency with the PCDP.

O4-11 The commenter states that the Impact Statement LU-5 discussion in the 2020 Recirculated Draft EIR "incorrectly infers that any pump station in any location within PA-1 is a permitted use as a matter of right." The Impact Statement LU-5 discussion based this inference on Back Bay Landing PCDP Table 2. As noted in Response O4-10 above, the plain terms of Back Bay Landing PCDP Table 2 do not state any restriction on the expansion or relocation of the Back Bay Landing Pump Station. Instead, it states that a Wastewater Pump Station is a permitted use within Planning Areas 1 and 2 (*See* Back Bay Landing PCDP page 7).

The commenter states "[o]nly the original Rehab-in-Place alternative is identified in the BBL PCDP." However, the Back Bay Landing PCDP already contemplates a situation in which the Back Bay Landing Pump Station is relocated. Back Bay Landing PCDP Section V, "Design Guidelines," specifically mentions that the Back Bay Landing Pump Station could be relocated within the development: "Should the OCSD facility be relocated and/or reconstructed, the architectural design of the structure shall be compatible with the architectural design of the Back Bay Landing development..." (*See* Back Bay Landing PCDP, at page 24.) Thus, a potential relocation of the Back Bay Landing Pump Station—not just a rehabilitation of the



existing facility—was clearly contemplated. The only restriction on a relocated Back Bay Landing Pump Station is a requirement that its design reflect the architectural design standards outlined in the Back Bay Landing PCDP.

Please also refer to the 2020 Recirculated Draft EIR Section 3.6, *Permits and Approvals* (page 3-16) and Responses to Comments A6-10, A6-11, and O4-7 through O4-9 regarding required permits for the project.

O4-12 As discussed in the 2020 Recirculated Draft EIR page 3-16, Section 3.6, *Permits and Approvals*, in addition to OCSD approvals, the proposed project would be subject to approval of a Site Development Review Permit and Coastal Development Permit by the City of Newport Beach (Refer to Responses to Comment O4-7 through O4-9). Compliance with City requirements would ensure consistency with the site's Back Bay Landing PCDP zoning, and design requirements for the site (including the architectural theme).

O4-13 Refer to Response to Comment O4-1.





September 21, 2020

Mr. Kevin Hadden  
Principal Staff Analyst  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708

Subject: 2020 Recirculated Environmental Impact Report for the Bay Bridge Pump Station and Force Mains Replacement Project

Dear Mr. Hadden:

Irvine Company appreciates the opportunity to provide comments on the 2020 Recirculated Environmental Impact Report (REIR) for the Bay Bridge Pump Station and Force Mains Replacement Project. The REIR was recirculated for public review and comment on August 7, 2020 for 45 days pursuant to California Code of Regulations, Title 14, §15087. As such, our comments have been submitted timely consistent with the September 21, 2020 deadline.

Irvine Company would like to express its general support of the proposed project analyzed by the REIR, however, and within the parameters analyzed in the REIR, it is respectfully requested that minor adjustments to the alignment of the force mains be considered that would further reduce both temporary and permanent impacts and encroachments on Irvine Company property. The refinements requested are all located within the project footprint identified for the proposed project and analyzed in the REIR and proposed refinements are wholly consistent with the overall limits of work established for the proposed project as detailed within the REIR. The reasons for and benefits of requested refinements are described below.

The project proposes a 90-degree crossing from the pump station to Irvine Company's Balboa Marina property. Concern with the precise alignment depicted on REIR Exhibit 3-4 is that the force mains would cross East Coast Highway to the south and would enter the Balboa Marina site in a location constrained by an existing wall located south of the pedestrian sidewalk. This wall extends from the entry drive along East Coast Highway for approximately 130 feet to the west and is supported by footings. There is an OCSD sewer line located in this general vicinity, which conveys sewage from the Balboa Marina site to the existing OCSD facilities.

If as a design refinement the new force mains were to cross East Coast Highway in a more westerly location, the existing wall and associated footings could be avoided. This minor adjustment to the alignment would provide a less impactful solution where the existing wall and footing would not be disturbed, and the force mains would land in a location generally unencumbered by hardscape improvements and currently planted with ground cover and

bougainvillea. Street View and Aerial photographs are attached hereto, depicting the existing wall location and the landscape areas via street views and aerial views. Such an alignment may require an angle slightly larger than the proposed 90 degrees. However, sufficient distance is still maintained between the force main roadway crossing and the East Coast Highway Bridge.

With respect to implications of the proposed project and its impacts to private property, Irvine Company further requests that OCSD consider additional minor adjustments for the force mains as they cross the Balboa Marina property as follows:

1. Utilizing the existing force mains only for the extent of the lines that are located on the Balboa Marina property. The new force mains could cross East Coast Highway in the area close to the existing force mains, connect briefly to the existing force mains, and then continue with new force mains after exiting the Balboa Marina property to the northwest.
2. Locating the new force mains to the north of the existing force mains, south of East Coast Highway.
3. Locating the new force mains immediately south of the existing force mains to minimize the area of the Balboa Marina property that will be constrained by the force mains.

Finally, in addition to the force mains, and as a way to minimize impacts caused by the project, Irvine Company requests that a new sewer line connection be constructed to City of Newport Beach standards within the slope and onto East Coast Highway as a replacement to the existing sewer line. A new sewer line connection could utilize the existing manhole connection near the entry drive to the Balboa Marina site within East Coast Highway, and should extend through the driveway and into the existing southerly drive aisle. This will allow for the sewer to accommodate connections for the existing marina support facilities and for future development that is anticipated for the Balboa Marina site.

We look forward to continued communication with OCSD and the ultimate approval of the Bay Bridge Pump Station and Force Mains Replacement Project.

Sincerely,

*Jeffrey S. Davis*

Jeffery S. Davis  
Vice President  
Entitlement

Attachments: Street View and Aerial Photographs

c: Mike Sinacori, City of Newport Beach  
Shawna Schaffner, CAA Planning, Inc.

O5-1  
cont'd

O5-2



Google Maps Coast Hwy

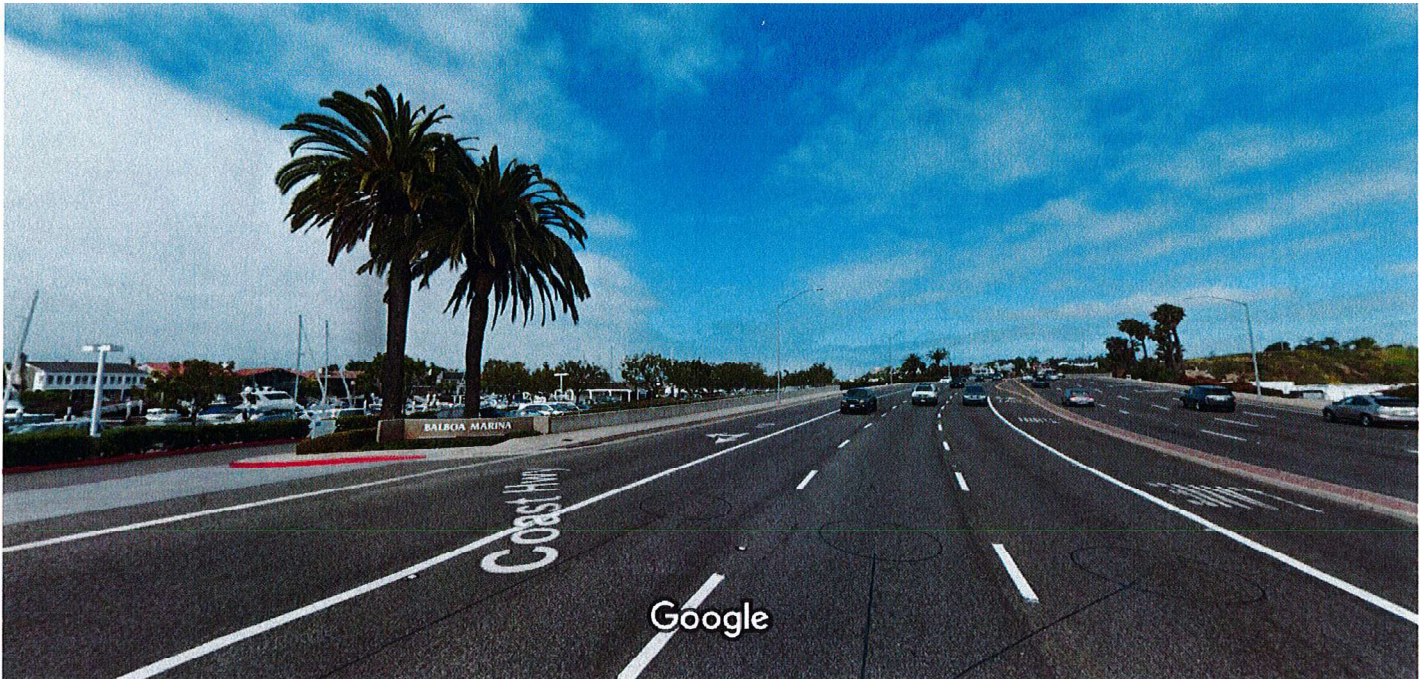


Image capture: Apr 2019 © 2020 Google

Newport Beach, California



Street View



Google Maps Coast Hwy

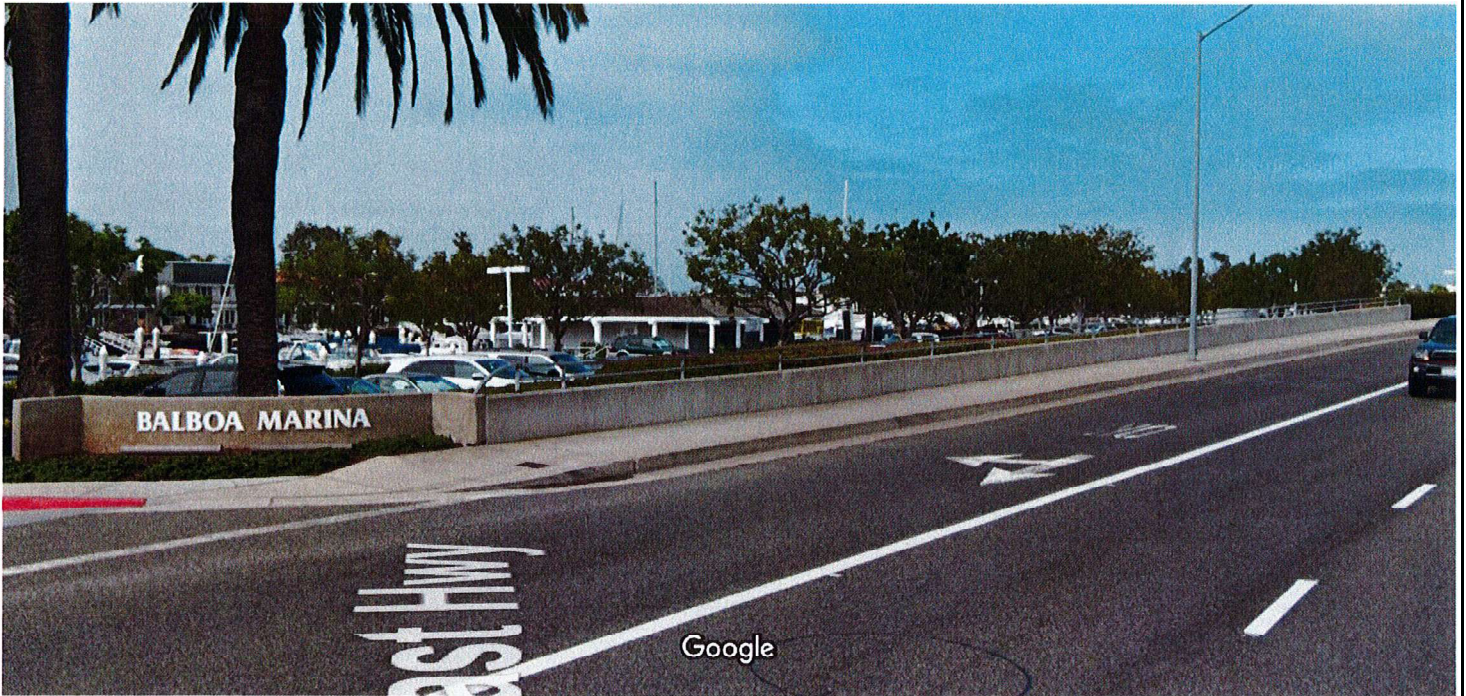


Image capture: Apr 2019 © 2020 Google

Newport Beach, California



Street View



Google Maps Coast Hwy

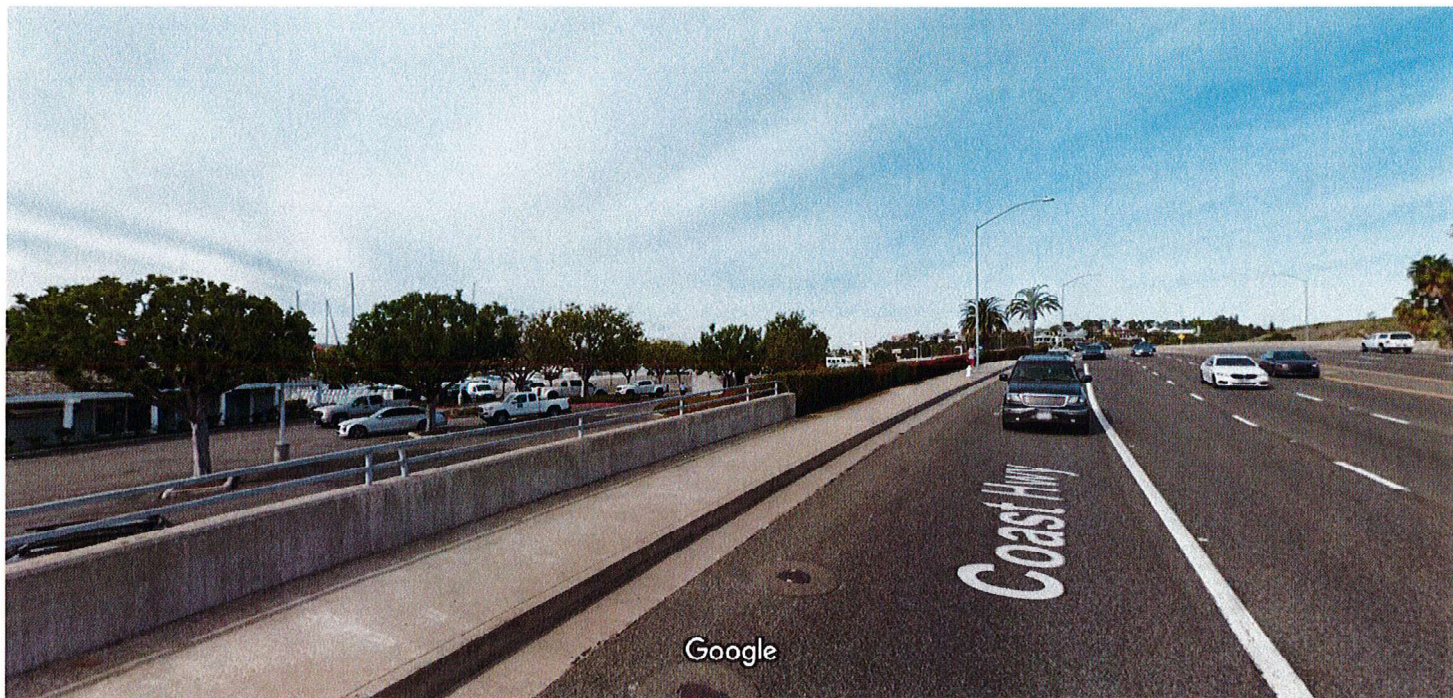


Image capture: Feb 2020 © 2020 Google

Newport Beach, California



Street View



Google Maps Balboa Marina







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## RESPONSE TO COMMENT LETTER O5

Jeffrey S. Davis, Vice President  
Irvine Company  
September 21, 2020

- O5-1 The comment expresses support for the proposed project and requests minor adjustments to the proposed force mains alignment, particularly at the Irvine Company property boundaries, to the south of the new pump station. Suggested refinement of the alignment is intended to reduce encroachment on Irvine Company's property. Last, the commenter requests a new sewer line connection to be constructed within the slope and onto East Coast Highway as a replacement to the existing sewer line. The commenter contends that a new sewer connection would accommodate the existing marina support facilities and future development anticipated for the Balboa Marina site.

This comment is noted; the Final EIR will be presented to the OCSD decision-making body, and the decision-making body will review and consider the information in the Final EIR prior to approving the project. Further, as noted on 2020 Recirculated Draft EIR page 3-12, the project would require temporary and permanent easements for construction and operation of the project with the Irvine Company, as well as the California Department of Transportation (Caltrans). As such, negotiations regarding refinement of construction and design of the project, particularly at the Irvine Company property and within Caltrans right-of-way, will be made during the final design phase of the project. Consideration of avoidance of existing wall features and existing laterals will be made at that time. It should be noted that in the event that these suggested alternative force main alignment adjustments are made during project design by OCSD, such alignment is similar to the force main alignment currently proposed (refer to Exhibit 3-4, *Proposed Conceptual Site Plan* of the 2020 Recirculated Draft EIR) and these changes would be a minor update, correction, or clarification and they would not represent "significant new information" as defined in CEQA Guidelines Section 15088.5.

Further, it is acknowledged that the entire length of the existing force mains needs to be replaced as part of the proposed project and, during construction, the existing force mains must remain operational until the new force mains installation is complete. As such, connecting to the existing force mains is not feasible. This comment does not specifically address the adequacy of the 2020 Recirculated Draft EIR nor involve an environmental issue. As such, no further response is necessary.

- O5-2 The commenter attached several exhibits of street view and aerial photographs depicting the existing wall location and the landscape areas. This comment does not specifically address the adequacy of the 2020 Recirculated Draft EIR nor involve an environmental issue. As such, no further response is necessary.

September 8, 2020

To: The Orange County Sanitation District  
Kevin Hadden, Principal Staff Analyst  
10844 Ellis Avenue  
Fountain Valley, CA 92708  
E-mail: CEQA@ocsd.com

Re: 2020 Draft EIR  
Bay Bridge Pump Station and Force Mains Project

Dear Mr. Hadden:

I am Margo O'Connor and my husband Bill and I live at 90 Linda Isle, directly across from one of the areas for this project. I am concerned that the Force Mains portion, (which is SOUTH of Dover Bridge), has Linda Isle as its closest community and yet there is nothing in the EIR that addresses the potential impacts to Linda Isle. In fact, the EIR concludes that there is little/no impact from the proposed Twenty-Four Hour construction, as regards noise, glare, soil erosion, seismic activity, etc... The EIR supports those conclusions by using an EIR for the Back Bay Landing Project, which is located in a different area, NORTHEAST of Dover Bridge. That EIR may have relevance for the Pump Station but it is not relevant for the construction of the Two Force Mains. There are no sound studies nor soil studies to support that there would not be significant noise or soil impact for Linda Isle residents from the Mains construction.

I1-1

Actually, other EIR's do exist for the same/overlapping/nearby areas. One of these is the more current EIR for the planned Balboa Marina West Expansion project. That EIR refers to probable, unacceptable noise and glare issues for Linda Isle residents, due to construction in an area overlapping part of the Force Mains construction. And, neither the dock nor the restaurant construction would be taking place Twenty-Four hours a day.

I1-2



Another EIR for a project near the Water portion of the BBPS project was for the previous Balboa Marina Expansion, which reconfigured the Marina. That EIR stated possible impact due to noise, seismic activity and soil disturbance from dredging and construction. Those issues were addressed by monitoring seismic levels and noise levels at nearby homes during the construction period and by using special nets to keep the disturbed soil within the construction area, thus minimizing the silting of nearby docks.

I1-3

In summary, I feel that the Noise and Glare from the Force Main construction will likely impact Linda Isle residents, (whose bedrooms face the water!). Also, I feel that the Soil Disturbance from the required dredging and from the construction of the Force Mains could result in the Silting of Linda Isle Docks and the Linda Isle Lagoon. We do not know because the EIR does not address those possibilities and instead ignores nearby homes, while making impact conclusions by referring to an EIR that covers a different area.

I1-4

I believe that this EIR has significant omissions and does not meet its CEQA responsibility in that it does not seek to protect the nearest community to the Force Mains portion of the project.

I1-5

Thank you in advance for considering my concerns,

Margo O'Connor  
90 Linda Isle  
moconn949@gmail.com

September 9, 2020

Orange County Sanitation District  
Kevin Hadden, Principal Staff Analyst

Re: Bay Bridge Pump Station and Force Mains Project

Dear Mr. Hadden:

On Thursday, September 3, I listened to the presentation regarding the Draft EIR for the Bay Bridge Pump Station and Force Mains Project. I had some concerns about this project but, despite many efforts, I was unable to sign in to ask my questions or make comments. Considering that there were NO comments and NO questions about this significant 3 year construction project, I suspect that others had the same difficulty in trying to connect as I did.

I plan to submit my concerns via mail but I wanted to make you aware of my inability (and probably of that of the other viewers) to participate in the Virtual Meeting.

Thank you,

Margo O'Connor  
90 Linda Isle  
moconn949@gmail.com



## RESPONSE TO COMMENT LETTER I1

Margo O'Connor

Resident

September 8, 2020

I1-1 The commenter asserts that the 2020 Recirculated Draft EIR does not specifically address the potential impacts to the Linda Isle community. Further, the commenter disagrees with the conclusions regarding noise, glare, soil erosion, and seismic activity as discussed in the 2020 Recirculated Draft EIR. The commenter contends that the 2020 Recirculated Draft EIR relies on analysis from the Back Bay Landing EIR, which is irrelevant to the construction of the proposed force mains. Further, the commenter states that there are no sound studies nor soil studies to support that there would not be significant noise or soil impacts for Linda Isle residents as a result of the force mains construction.

The commenter claims that the Back Bay Landing EIR is irrelevant to the construction of the proposed force mains project. Nonetheless, the Back Bay Landing Project, as analyzed under the Back Bay Landing EIR, considers the environmental effects of the Back Bay Landing Project, which includes the existing pump station facility as well as regulations imposed by the City of Newport Beach at the Back Bay Landing site, which includes the project site (as part of the adopted Back Bay Landing Planned Community Development Plan [PCDP]); refer to Back Bay Landing EIR Figure 2-2, *Existing Conditions and Project Boundary Map*, and 2020 Recirculated Draft EIR Exhibit 3-2, *Site Vicinity*. Thus, the Back Bay Landing EIR is incorporated by reference in accordance with CEQA Guidelines Section 15150 (2020 Recirculated Draft EIR page 2-10).

### Noise

Microtunneling may be used as a construction method to install the force mains across East Coast Highway. Should microtunneling be used, instead of trenching, these activities would require a 24 hour per day construction hours of operation for two months, which would require drilling outside of the City of Newport Beach hour limitations for construction. As noise levels generated by microtunneling activity are estimated to be 82 dBA at 50 feet, microtunneling activity would expose sensitive receptors to temporary elevated noise levels (64 to 71 dBA).

Adherence to the Municipal Code Chapter 10.26 and 10.28 requirements (residential exterior and interior noise levels should not exceed 50 dBA and 40 dBA, respectively, during nighttime hours), and compliance with Mitigation Measures NOI-1 and NOI-2 of the 2020 Recirculated Draft EIR would reduce short-term construction noise impacts by requiring mobile equipment to be muffled and requiring a Construction Noise Control Plan to minimize construction noise levels at off-site sensitive receptors. In addition, Mitigation Measure NOI-1 of the 2020 Recirculated Draft EIR would also require a disturbance coordinator to respond to construction noise complaints and direct equipment away from sensitive receptors to further reduce construction-related noise.

Further, construction of the proposed project is anticipated to occur over a 36-month period and would begin in one improvement area and subsequently move to the other improvement areas as the construction process progresses. Therefore, sensitive receptors in a particular area



would not be exposed to significant construction noise levels over an extended period of time. As construction would be limited to daytime hours, with the exception of microtunneling (across the East Coast Highway if used instead of trenching), per Municipal Code Section 10.28.040 and due to the specific nature of construction activities, construction-related noise would be less than significant with mitigation.

## Glare

Construction-related glare impacts to the nearest sensitive receptors are discussed under Impact Statement AES-4 of the 2020 Recirculated Draft EIR. As discussed under Impact Statement AES-4 of the 2020 Recirculated Draft EIR, short-term light and glare impacts associated with construction activities would likely be limited to nighttime lighting (for construction and security purposes), as proposed construction of the Newport Channel force main crossing at East Coast Highway would require 24-hour operation for a period of two months, should the force mains be microtunneled. Further, Mitigation Measure AES-3 would require a construction safety lighting plan, which would require nighttime security lighting, if necessary, to be oriented downward and away from adjacent residential areas. With implementation of Mitigation Measure AES-3 of the 2020 Recirculated Draft EIR, impacts in this regard would be reduced to less than significant levels.

## Soil Erosion

Refer to Responses to Comments A4-1 and O2-2 pertaining to potential construction-related soil erosion and silting impacts. Furthermore, an in-depth study was conducted specifically for the project, which included on-site soils, which was provided in the 2020 Recirculated Draft EIR Appendix 11.5, *Geology Report*, prepared by Hushmand Associates, Inc., dated April 17, 2015.

## Seismic Activity

The 2020 Recirculated Draft EIR Impact Statements GEO-1 (page 5.5-11), GEO-2 (page 5.5-12), and Section 8.0, *Effects Found Not To Be Significant* (page 8-3), considered the project's impacts related to seismic ground shaking, seismic-related ground failure, and fault rupture, respectively. The project site is not within an identified Alquist-Priolo Earthquake Fault Zone. Therefore, potential substantial adverse effects involving rupture of a known earthquake fault is not anticipated. The project would involve demolishing the existing pump station building and constructing a new pump station and associated force mains. A moderate to large magnitude earthquake on a regional fault could cause moderate to severe seismic shaking in the City, thus exposing the proposed pump station and associated force mains to potential substantial adverse effects during project construction and operations, including the risk of loss. The project area is also susceptible to liquefaction and seismic settlement (although to a lesser degree than liquefaction). However, since the proposed pump station would not include any habitable structures, potential adverse effects to people and new structures from strong, seismically-induced, vibratory ground motion would be sufficiently mitigated through proper seismic design, including those recommended in the Geology Report, and conformance with the CBSC and OCSD sewer pipeline design standards. Overall, less than significant impacts would occur for these topical areas and no mitigation measures would be required.





Additionally, about it is acknowledged that construction-related vibration impacts could result from construction of the proposed project. Potential groundborne vibration impacts are discussed in 2020 Recirculated Draft EIR Section 5.10, *Noise*, and particularly, under Impact Statement N-2 (starting on page 4.10-18). As demonstrated in the 2020 Recirculated Draft EIR Table 5.10-8, *Typical Vibration Levels for Construction Equipment*, the anticipated vibration levels at 25 feet or more would not exceed the 0.2 inch-per-second peak particle velocity (PPV; defined as the maximum instantaneous peak or vibration signal usually used to describe vibration amplitudes) significance threshold during construction established by the Federal Transit Administration (FTA). It should be noted that 0.2 inch-per-second PPV is a conservative threshold, as that is the construction vibration damage criteria for non-engineered timber and masonry buildings. Further, construction vibration would not cause excessive human annoyance as the highest groundborne vibration at the nearest sensitive receptors (i.e. 0.170 inch-per-second PPV) would not exceed the 0.4 inch-per-second PPV human annoyance criteria. Therefore, proposed construction activities associated with the project would not expose sensitive receptors to excessive groundborne vibration levels. Vibration impacts associated with construction would be less than significant.

- I1-2 The commenter states that other EIRs exist and that the EIR prepared for the Balboa Marina West Expansion Project found probably unacceptable noise and glare issues for Linda Isle residents as a result of construction activities in an area overlapping part of the construction area for the proposed force mains. However, according to the findings made by the *Initial Study/Mitigation Negative Declaration – Balboa Marina West* (Balboa Marina West IS/MND), prepared by T&B Planning, Inc., approved on October 2, 2014 (State Clearinghouse Number 2014081044) and the *Back Bay Landing Final Environmental Impact Report* (Back Bay Landing EIR), prepared by PCR Services Corporation, certified February 2014 (State Clearinghouse Number 2012101003), no significant and unavoidable impacts would result from either project.

As detailed on 2020 Recirculated Draft EIR, Table 4-1, *Cumulative Project List* (page 4-2), the Balboa Marina West Project was determined as having the potential to interact with the proposed project such that the proposed project's incremental effect may be cumulatively considerable. As such, this cumulative project, and the proposed project, were considered, along with other cumulative projects throughout the 2020 Recirculated Draft EIR Section 5.0, *Environmental Analysis*.

As discussed in Section 5.10.5, *Cumulative Impacts*, of the 2020 Recirculated Draft EIR (page 5.10-21), construction activities associated with the proposed project and cumulative projects may overlap, resulting in construction noise in the area. However, similar to the proposed project, construction-related noise and vibration levels from the related projects would be intermittent, temporary, and would comply with the City's Municipal Code limitations on allowable hours for construction, and noise limits outside of exempted construction hours. Cumulative projects would also be required to mitigate potential noise exceedances to the extent feasible. The proposed project would also implement Mitigation Measures NOI-1 and NOI-2 to reduce construction noise impacts to less than significant levels. Therefore, the project's incremental contribution to cumulative noise impacts would not be cumulatively considerable.



As discussed in Section 5.1.5, *Cumulative Impacts* (page 5.1-21) of the 2020 Recirculated Draft EIR, the nearest cumulative projects to the project site are the Back Bay Landing project (which is within and surrounding the project site), Balboa Marina West Expansion project (which adjoins the project site to the south), Bay Crossing Water Main Replacement project (south of the East Coast Highway/Newport Bay Bridge), and Newport Dunes Hotel (located approximately 0.15 mile east of the project site). The potential impacts of the Back Bay Landing project, Balboa Marina West Expansion project, Bay Crossing Water Main Replacement project, and Newport Dunes Hotel, and other projects related to light and glare would be evaluated by the City on a project-by-project basis.

Potential lighting impacts would be minimized through compliance with Municipal Code Section 20.30.060, Back Bay Landing PCDP, and General Plan Policy LU 5.6.2 on a project-by-project basis, which would ensure proper lighting fixtures, placement, and minimal spillover. As discussed in Impact Statement AES-4 of the 2020 Recirculated Draft EIR, the project's short-term construction lighting impacts would be less than significant with implementation of the recommended Mitigation Measure AES-3, ensuring construction-related lighting remains on-site. Further, operational lighting would be reduced to less than significant levels following compliance with Mitigation Measure AES-4. Thus, with compliance with required mitigation measures, the project's incremental effect on light or glare would not be cumulatively considerable.

It is also acknowledged that the *Draft Initial Study/Mitigation Negative Declaration – Balboa Marina West*, (Balboa Marina West IS/MND) prepared by T&B Planning, Inc., dated August 18, 2014, indicates that noise (page 5-96) and glare (page 5-34) impacts were determined to be less than significant with incorporation of recommended mitigation measures, including potential noise impacts to the Linda Isle residents.

Refer to Response to Comment I1-1 above for a discussion on project's potential impacts to noise and glare.

- I1-3 Refer to Responses to Comments O2-2 and I1-1 regarding potential impacts to soil erosion/siltation, noise, and glare.
- I1-4 Refer to Responses to Comments O2-2 and I1-1 regarding potential impacts to soil erosion/siltation, noise, and glare.
- I1-5 The 2020 Recirculated Draft EIR considered the project's potential impacts regarding noise, glare, silting, among other topical areas, to the Linda Isle community, as discussed in Response to Comments I1-1 through I1-4. As shown on Table 5.10-2, *Sensitive Receptors* (page 5.10-6) of the 2020 Recirculated Draft EIR, the closest existing sensitive receptors to the construction areas are residential uses located approximately 25 feet to the south of the project site. Given that the potential impacts regarding noise, glare, silting, among other topical areas, were determined to be less than significant with incorporated mitigation measures to the closest existing sensitive receptors (as discussed in Response to Comments I1-1 through I1-4), impacts to other residents located further away from the project site (i.e., the Linda Isle residents located at least 300 feet away) would be similar or less than the impacts to those residents approximately 25 feet away.



- I1-6 The commenter participated in the virtual public information meeting held via videoconference by OCSD on Thursday, September 3, 2020. The commenter identified technical difficulty experienced during public meeting. Due to the current COVID-19 pandemic and the closure of OCSD offices and public libraries/civic centers to the public, the public information meeting had to be accommodated virtually. OCSD apologizes for any technical difficulties the commenter encountered. OCSD appreciates the commenter's consideration of the project and acknowledged receipt of this written comment; refer to Responses to Comments I1-1 through I1-5 for a response to the commenter's comments related to the environmental impacts of the proposed project.

**From:** Leann Benvenuti <[leann.benvenuti@gmail.com](mailto:leann.benvenuti@gmail.com)>  
**Sent:** Monday, September 21, 2020 12:14 PM  
**To:** CEQA <[ceqa@ocsd.com](mailto:ceqa@ocsd.com)>  
**Subject:** EXTERNAL: Sanitation Station

**Warning:** This email originated from outside OCSD. Do not click links or open attachments unless you recognize the sender and are expecting the message.

Mr. Kevin Haddan,

My name is Leann Benvenuti and my husband David and I reside at 106 Linda Isle. First and foremost, let me say that we understand the need to replace the 50 year old pump station and the need to install two new force mains . Hopefully these improvements will eliminate the foul odors that often permeate certain areas along PCH, Bayside Drive , and Jamboree Road. We are, however, concerned about the implementation. Our concerns are:

I2-1

1. The existing station is 4500+ sq ft. Why is the new facility quadruple in size? Similar to when an entire room was needed to house 1 computer system, which now fits into a microchip, why hasn't the equipment become more compact, smaller, and efficient? Such a large building will look out of place at that site..

2. The 3 years needed to complete the project with 24/7 of noise, dirt, soil shifting, and seismic activity will be detrimental to the surrounding residential areas. Nothing in the report mentions the potential damage and disturbance to Bayshore and Linda Isle residents and their property.

I2-2

3. Silt. Many Linda Isle residents just paid a lot of money to dredge their docks within the past 3 years. Drilling and digging the soil to lay pipe will cause redistribution of the silt and shifting of the bay floor, resulting in financial repercussions for residents. How are these damages going to be mitigated?

I2-3

4. The report cites studies for the Back Bay Landing Project. This report is a flawed comparison because the Back Bay area with the Marina and De Anza mobile home park is a completely different site situation than the custom homes of Bayshores and Linda Isle, even though it is about only 1/4 of a mile away.

I2-4

So in closing, how does the OCSD plan on protecting the property of the residents of Bayshores and Linda Isle, and limiting their daily disruption and nightly trauma from this project?

I2-5

We respectfully await your response.

Sincerely,  
Leann and David Benvenuti  
106 Linda Isle  
949-233-7753





## RESPONSE TO COMMENT LETTER I2

Leann and David Benvenuti  
Resident  
September 21, 2020

I2-1 The project proposes a 14,500 square foot pump station facility. The additional square footage (an increase of approximately 9,700 square feet compared to the existing pump station) would accommodate a new below-grade dry pit mechanical room, an above-grade electrical room, a 760-square foot backup generator facility, and a new 1,300-square foot odor control facility. The additional square footage will accommodate the necessary space for the proposed odor control facility, as well as the increased space needed to accommodate maintenance personnel to safely access the project site and equipment (2020 Recirculated Draft EIR page 1-1).

2020 Recirculated Draft EIR Impact Statement AES-3 (page 5.1-18) considers whether or not the project would conflict with a policy governing scenic quality (such as building heights, setbacks, etc.). As discussed, the project would be consistent with the Back Bay Landing Planned Community Development Plan (PCDP) design guidelines, particularly those involving architectural theme, façade treatments, and public view considerations. All proposed pump station infrastructure and mechanical equipment would be screened from public right-of-way views, and the new pump station building would not obstruct existing coastal views and would be consistent with the Back Bay Landing Height Limitation Zone requirements and PCDP design guidelines.

The project would be required to obtain a Site Development Review Permit from the City of Newport Beach. As such, specific design requirements may be imposed by the City of Newport Beach to ensure consistency with the applicable design guidelines. As such, with compliance with existing regulations, impacts in this regard would be less than significant.

I2-2 Refer to Responses to Comments O2-1, O2-2, and I1-1 for a discussion on impacts related to noise, glare, soil erosion/siltation, and seismic-related impacts.

I2-3 Refer to Response to Comment O2-2.

I2-4 Refer to Response to Comment I1-2 for a discussion on incorporation of other EIRs by reference for the 2020 Recirculated Draft EIR, and Response to Comment I1-5 for a discussion on project's distance from sensitive receptors, including the Linda Isle community. As the Back Bay Landing EIR was prepared at the same property as the proposed pump station, this document is incorporated by reference into the 2020 Recirculated Draft EIR as relevant. Notwithstanding, the 2020 Recirculated Draft EIR specifically analyzes the proposed project's potential impacts to the environment. It does not simply rely on the BBL EIR's analysis.

I2-5 The comment concludes with concerns regarding construction impacts to residents. Please refer to Responses to Comments O2-1, O2-2, and I1-1.



## **3.0 ERRATA**

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### 3.0 ERRATA

Changes to the *Bay Bridge Pump Station and Force Mains Replacement Project 2020 Recirculated Draft Environmental Impact Report* (2020 Recirculated Draft EIR) are noted below. A double-underline indicates additions to the text; ~~strikeout~~ indicates deletions to the text. These changes are considered minor and editorial in nature, and do not affect the conclusions of the environmental document or require recirculation of the 2020 Recirculated Draft EIR.

#### SECTION 1.0, EXECUTIVE SUMMARY

Page 1-8, Last Row

BIO-3	<b>Wetlands</b> <i>Project implementation could have an adverse effect on State or Federally protected wetlands.</i>	<del>No mitigation measures are required.</del> <u>Refer to Mitigation Measures HWQ-4 and BIO-1 through BIO-3.</u>	Less Than Significant Impact.
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#### SECTION 2.0, INTRODUCTION AND PURPOSE

Section 2.5, Page 2-6, Last Paragraph

Responsible and Trustee Agencies and other entities that may use this 2020 Recirculated Draft EIR in their decision-making process or for informational purposes include, but may not be limited to, the following:

- City of Newport Beach;
- California Department of Transportation;
- Santa Ana Regional Water Quality Control Board;
- State Water Resources Control Board;
- California Department of Fish and Wildlife;
- California Coastal Commission;
- California State Lands Commission/County of Orange;
- South Coast Air Quality Management District;
- U.S. Army Corps of Engineers; and
- National Marine Fisheries Service.





## SECTION 3.0, PROJECT DESCRIPTION

### Section 3.6, Page 3-16, Last Paragraph

The applicable agency approvals and related environmental review/consultation requirements associated with the proposed project may include the following, among others. It is not anticipated that any other agencies would require use of the EIR in their decision making process.

- CEQA Clearance – OCSD;
- Site Development Review Permit – City of Newport Beach;
- Limited Term Permit – City of Newport Beach;
- Encroachment Permits – City of Newport Beach and Caltrans;
- Permanent/Temporary Easements – City of Newport Beach, Bayside Village Marina, LLC, The Irvine Company, and Bay Shores Community Association;
- Traffic Control Plan Approval – City of Newport Beach and Caltrans;
- Coastal Development Permit – California Coastal Commission and City of Newport Beach (as required under the California Coastal Act, Public Resources Code Division 20);
- California State Lands Commission – Consultation with the County of Orange regarding implementation of Newport Bay Channel force main crossing through tidelands and submerged lands;
- California Department of Fish and Wildlife – Consultation regarding implementation of Newport Bay Channel force main crossing;
- National Marine Fisheries Service – Dry dredging/shoring construction activities;
- Section 404 Permit – Army Corps of Engineers (required for dry dredging/shoring construction activities);
- Section 401 Permit – Santa Ana Regional Water Quality Control Board (required for dry dredging/shoring construction activities);
- Permit R8-2015-0004 – Santa Ana Regional Water Quality Control Board;~~and~~
- General Construction Permit – Santa Ana Regional Water Quality Control Board (as required under National Pollutant Discharge Elimination System [NPDES] General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ [as amended by 2010-0014-DWQ and 2012-006-DWQ], NPDES Number CAS000002)- ; and
- Permit to Construct (P/C) and Permit to Operate (P/O) – South Coast Air Quality Management District.



## SECTION 5.3, BIOLOGICAL RESOURCES

Section 5.3, Page 5.3-20, First Sentence

Level of Significance: Less Than Significant Impact With Mitigation Incorporated.

### MIGRATORY WILDLIFE SPECIES

#### BIO-4 PROJECT IMPLEMENTATION COULD INTERFERE WITH THE MOVEMENT OF A NATIVE RESIDENT OR MIGRATORY WILDLIFE SPECIES.

##### Impact Analysis:

The project proposes the construction of a new pump station and force mains, as well as replacement of portions of the existing gravity sewer located within East Coast Highway. All proposed land areas of site disturbance are located within developed or highly disturbed areas and are not associated with the movement of native resident or migratory wildlife species.

##### Construction

While dredging activities associated with the force main improvements across Newport Bay Channel would result in disturbances that could interfere with marine wildlife movement, dredging activities would be temporary (approximately four months) and only impede the Newport Bay Channel within the immediate vicinity of active dredging operations. Dredging activities would require trenching the length of the channel (approximately 700 feet) by 15 feet wide by 18 feet deep. Trenching would occur in two segments across the channel, a 400-foot segment and a 300-foot segment. Each segment would be drained then trenched. This segmented approach to dredging across the Newport Bay Channel would not entirely block off or impede wildlife movement to and from the Back Bay. Similarly, construction impacts associated with noise and lighting would be temporary and occur segment-by-segment across the Newport Bay Channel during dredging activities. The project would also be required to implement Mitigation Measure HWQ-4 regarding Corps permitting requirements for dredging activities, BIO-1 pertaining to the protection of marine mammals, and BIO-3 related to the protection of eelgrass and kelp species. Upon implementation of the applicable mitigation measures related to marine biological resources, impacts to the movement of native resident or migratory marine wildlife would be less than significant.

Additionally, as discussed in Impact Statement BIO-1, implementation of Mitigation Measure BIO-2 would ensure construction activities do not adversely impact nesting birds protected by the MBTA. Mitigation Measure BIO-2 requires pre-construction nesting bird clearance surveys be conducted if construction activities are anticipated during the nesting season. Should surveys determine that an active avian nest is present adjacent to the construction area, construction activities would be required to stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer is expanded to 500 feet. A biological monitor would be required to be present to delineate the boundaries of the buffer area and to monitor the active nest in order to ensure that nesting behavior is not adversely affected by construction activities. Once the young have fledged, normal construction activities would be allowed to continue. These requirements would reduce impacts to nesting birds to a less than significant level. As such, with implementation of Mitigation Measure BIO-2, potential impacts to migratory wildlife species would be reduced to a less than significant level.



## Operations

Upon completion of construction activities, the new pump station facility and associated force mains would operate the same as under existing conditions. Thus, no operational impacts to migratory wildlife species would occur in this regard.

Mitigation Measures: Refer to Mitigation Measures HWQ-4 and BIO-1 through BIO-3.

Level of Significance: Less Than Significant Impact With Mitigation Incorporated.

## **SECTION 5.1, AESTHETICS/LIGHT AND GLARE**

### **Section 5.1.4, Page 5.1-18, Last Paragraph**

As discussed in Section 5.9, *Land Use and Relevant Planning*, project development would be consistent with the zoning and regulations governing scenic quality. The new facility would be similar in character to the existing pump station facility. The new pump station structure (up to 31 feet high from finished grade) would have nighttime security lighting, consistent with the Back Bay Landing PCDP Height Limitation Zone requirements and lighting standards (e.g., design parameters for shielding, light spill, and fixtures). The project would also be consistent with the Back Bay Landing PCDP design guidelines, particularly those involving architectural theme, façade treatments, and public view considerations. The new pump station would include aspects of the future Back Bay Landing development's ~~coastal Mediterranean architectural theme (e.g., textured walls and terracotta colors)~~ Coastal architectural theme (i.e., varied historical vernacular and casually elegant palette) to be consistent with its coastal urban village character. All proposed pump station infrastructure and mechanical equipment would be screened from public right-of-way views, and the new pump station building would not obstruct existing coastal views and would be consistent with the Back Bay Landing Height Limitation Zone requirements and PCDP design guidelines. Therefore, the proposed project would not conflict with any applicable zoning or regulations governing scenic quality within an urbanized area. Less than significant impacts would occur in this regard.

## **SECTION 5.9, LAND USE AND RELEVANT PLANNING**

### **Section 5.9.4, Page 5.9-24, Last Paragraph**

- *Design Guidelines:* The Back Bay Landing PCDP includes design guidelines covering a range of design features, including architecture, site planning, building massing, façade treatments, landscaping, and hardscaping. The new pump station would include aspects of the future Back Bay Landing development's ~~coastal Mediterranean architectural theme (e.g., textured walls and terracotta colors)~~ Coastal architectural theme (i.e., varied historical vernacular and casually elegant palette) to be consistent with its coastal urban village character. All proposed pump station infrastructure and mechanical equipment would be screened from public right-of-way views, and the new pump station building would not obstruct existing coastal views and would be consistent with the Back Bay Landing Height Limitation Zone requirements and PCDP design guidelines.



## **4.0 MITIGATION MONITORING AND REPORTING PROGRAM**



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## 4.0 MITIGATION MONITORING AND REPORTING PROGRAM

CEQA requires that when a public agency completes an environmental document which includes measures to mitigate or avoid significant environmental effects, the public agency must adopt a reporting or monitoring plan. This requirement ensures that environmental impacts found to be significant will be mitigated. The reporting or monitoring plan must be designed to ensure compliance during project implementation (Public Resources Code Section 21081.6).

In compliance with Public Resources Code Section 21081.6, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the proposed Bay Bridge Pump Station and Force Mains Replacement Project. This MMRP is intended to provide verification that all mitigation measures identified in the 2020 Recirculated Draft EIR are monitored and reported. Monitoring will include 1) verification that each mitigation measure has been implemented; 2) recordation of the actions taken to implement each mitigation; and 3) retention of records in the project file.

This MMRP delineates responsibilities for monitoring the project. Pursuant to CEQA Guidelines Section 15097(a), however, OCSD ultimately remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the mitigation program. Monitoring procedures will vary according to the type of mitigation measure. Adequate monitoring consists of demonstrating that monitoring procedures took place and that mitigation measures were implemented.

Reporting consists of establishing a record that a mitigation measure is being implemented, and generally involves the following steps:

- OCSD distributes reporting forms to the appropriate entities for verification of compliance.
- Departments/agencies with reporting responsibilities will review the 2020 Recirculated Draft EIR, which provides general background information on the reasons for including specified mitigation measures.
- Issues related to compliance will be submitted to and reviewed by OCSD in accordance with CEQA.
- Periodic meetings may be held during project implementation to report on compliance with mitigation measures.
- Responsible parties provide OCSD with verification that monitoring has been conducted and ensure, as applicable, that mitigation measures have been implemented. Monitoring compliance may be documented through existing review and approval programs such as field inspection reports and plan review.
- OCSD prepares a reporting form periodically during the construction phase and an annual report summarizing all project mitigation monitoring efforts.



- Appropriate mitigation measures will be included in construction documents and/or conditions of permits/approvals.

Minor changes to the MMRP, if required, would be made in accordance with CEQA and would be permitted after further review and approval by OCSD. Such changes could include reassignment of monitoring and reporting responsibilities, plan redesign to make any appropriate improvements, and/or modification, substitution or deletion of mitigation measures subject to conditions described in CEQA Guidelines Section 15162.



## MITIGATION MONITORING AND REPORTING CHECKLIST

Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
<b>5.1 Aesthetics/Light and Glare</b>							
AES-1	Prior to issuance of any grading and/or demolition permits, whichever occurs first, engineering drawings and specifications shall be prepared by the Project Engineer, or their designee, and submitted for review and approval by the Orange County Sanitation District Director of Engineering. These documents shall, at a minimum, indicate the equipment and vehicle staging areas, stockpiling of materials, screening/fencing (i.e., temporary fencing with opaque material), and haul route(s). Staging areas shall be sited away from public views, to the extent feasible and reasonable, and/or screened utilizing temporary fencing with opaque materials. Construction haul routes shall minimize impacts to sensitive uses in the project area by avoiding local residential streets.	Review and Approval of Engineering Drawings and Specifications	Prior to Issuance of Grading/ Demolition Permits	Orange County Sanitation District			
AES-2	Prior to construction of the new pump station facility, Orange County Sanitation District (OCSD) shall comply with the applicable requirements of the City of Newport Beach to ensure consistency with the surrounding development and Back Bay Landing PCDP design guidelines.	Engineering Draftings and Specifications; Final Review and Approval of Design Plans	Prior to Construction of Pump Station Facility	Orange County Sanitation District; City of Newport Beach			
AES-3	Prior to any nighttime construction activities, a construction safety lighting plan shall be prepared by the Project Engineer, or their designee, and submitted to the Orange County Sanitation District Director of Engineering for review and approval. The plan shall include, but not be limited to, the following: <ul style="list-style-type: none"> <li>• Identify all required construction lighting fixtures, anticipated locations and heights, and maximum wattage required;</li> </ul>	Review and Approval of Construction Safety Lighting Plan	Prior to Nighttime Construction Activities	Orange County Sanitation District; City of Newport Beach			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	<ul style="list-style-type: none"> <li>Ensure all construction-related lighting fixtures (including portable fixtures) are shielded and oriented downward and away from adjacent sensitive areas (including residential and biologically sensitive areas);</li> <li>Provide the minimal wattage necessary to provide adequate nighttime visibility and safety at the construction site; and</li> <li>Demonstrate that nighttime construction lighting does not spillover onto adjacent residential properties.</li> </ul>						
AES-4	<p>Prior to construction of the proposed pump station, an operational lighting plan shall be prepared by the Project Engineer, or their designee, and provided to the Orange County Sanitation District (OCSD) Director of Engineering for review and approval. OCSD shall provide the lighting plan to the City of Newport Beach for review and comment, pertaining to the general consistency with the Back Bay Landing Planned Community Development Plan regulations for lighting. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to minimize impacts to adjacent sites and to not produce glare onto adjacent sites or roadways. Final approval of the lighting plan shall be made by OCSD prior to start of project construction. OCSD, or designee, shall verify that the approved plans incorporate the reasonably suggested revisions and comments received from the City of Newport Beach.</p>	Review and Approval of Outdoor Lighting Plan	Prior to Construction of the Pump Station	Orange County Sanitation District; City of Newport Beach			
<b>5.3 Biological Resources</b>							
BIO-1	<p>Prior to dredging operations, if conducted, Orange County Sanitation District, or designee, shall retain a qualified marine mammal biologist, defined as an</p>	Completion of Contractor	Prior to Dredging Operations	Orange County Sanitation District;			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	<p>individual with a bachelor's degree or above in marine biology, zoology, animal behavior, or a closely related area and demonstrated field experience, to conduct contractor awareness training for all personnel working in the marine environment. The purpose of the training is to educate contractor personnel on the identification of marine wildlife in the project area and to provide an overview of the wildlife mitigation that will be implemented during the project. Specifically, the training seminar shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>• Identification of most common types of marine wildlife likely to be encountered in the project area;</li> <li>• Activities that have the most potential for affecting the animals;</li> <li>• Overview of the Marine Mammal Protection Act (MMPA), the designated Environmental Study Area (ESA), agencies responsible for enforcement of the MMPA and ESA, and penalties associated with violations of the acts;</li> <li>• Procedures to be followed during mobilization/demobilization, and transiting of project vessels, anchoring and throughout waterside construction activities (e.g., decreasing vessel speeds/engine power when at a determined distance from the shoreline, limiting vessel engine idling to five minutes or less, and utilizing minimum required engine power); and</li> </ul>	Awareness Training		Qualified Marine Mammal Biologist			





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	<ul style="list-style-type: none"> <li>Reporting requirements in the event of an inadvertent collision and/or injury to marine wildlife.</li> </ul>						
BIO-2	<p>Should construction activities occur within the nesting season, all suitable habitat surrounding the project site shall be thoroughly surveyed for the presence of nesting birds by a qualified biologist, defined as an individual with a bachelor's degree or above in a biological science field and demonstrated field experience, within three days prior to commencement of site disturbance activities.</p> <p>If an active avian nest is discovered in proximity to the project site during the nesting bird survey, construction activities (those activities that could result in direct or indirect impacts to active nests either through noise, light, or physical contact) shall stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer shall be expanded to 500 feet. The qualified biologist shall be present to delineate the boundaries of the buffer area and to monitor the active nest in order to ensure that nesting behavior is not adversely affected by construction activities. If the qualified biologist determines that nesting behavior is adversely affected by construction activities, the qualified biologist shall halt construction activities that result in the adverse effect and file a written report to OCSD and the construction contractor stating the recommended course of action. The buffer area and limitations on construction may be reduced upon approval by the California Department of Fish and Wildlife, and only if the nesting behaviors are not disrupted by construction activities, as determined by the qualified biologist.</p>	Completion of Pre-Construction Clearance Survey for Nesting Birds	Prior to Initiation of Ground Disturbing Activities	Orange County Sanitation District; Qualified Biologist; California Department of Fish and Wildlife			



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	Once the young have fledged, normal construction activities shall be allowed to occur.						
BIO-3	The Orange County Sanitation District (OCSD), or designee, shall retain a qualified marine biologist, defined as an individual with a bachelor's degree or above in marine biology, zoology, or a closely related area and demonstrated field experience, to conduct a comprehensive pre-construction survey for the presence of eelgrass and kelp species within the project survey area, as delineated by the qualified marine biologist, prior to the commencement of in-water construction operations. The pre-construction eelgrass and kelp surveys shall be consistent with current National Marine Fisheries Service (NMFS) California Eelgrass Mitigation Policy (CEMP) survey guidelines. If pre-construction survey results indicate eelgrass or kelp presence within the project survey area, the qualified marine biologist shall recommend, and OCSD, or designee, shall incorporate, appropriate avoidance measures, protection measures, and/or replacement mitigation (e.g., shifting dredging areas, relocating eelgrass, releasing buoy-deployed seed bags, and reseeded for no net loss) to be implemented during construction activities to avoid or reduce impacts to eelgrass or kelp species to the maximum extent practicable. The qualified marine biologist shall coordinate with the appropriate regulatory agencies including the NMFS, U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Service (USFWS), California Coastal Commission (CCC), the California Department of Fish and Wildlife (CDFW), and other resource and regulatory agencies, as necessary, and OCSD, or designee, shall implement compensatory mitigation, as required by the appropriate regulatory	Completion of Pre-Construction Survey for Eelgrass and Kelp Species	Prior to In-Water Construction	Orange County Sanitation District; Qualified Marine Biologist			



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	agencies, should the project result in the loss of eelgrass and kelp habitat.						
<b>5.4 Cultural Resources</b>							
CUL-1	<p>Prior to ground-disturbing activities, Orange County Sanitation District (OCSD), or its designee, shall retain a qualified archaeologist who meets the requirements of the Secretary of the Interior's Standards to prepare an Archaeological Monitoring Protocol Plan for the project that is consistent with all applicable requirements of the City of Newport Beach Local Coastal Program (CLUP) and Coastal Development Permit (CDP) as determined by the City of Newport Beach. The Archaeological Monitoring Protocol Plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Identification of the project's area of potential effect;</li> <li>• Training procedures regarding the Archaeological Monitoring Protocol Plan and the identification of potential archaeological resources. The training shall be open to Native American tribal representative(s), to assist the contractor's representative in identifying potential tribal cultural resources.</li> <li>• Procedures to follow in the event that potential archaeological resources are discovered during construction activities, including, without limitation, halting work in the area of the find and contacting the qualified archaeologist to evaluate the find.</li> <li>• Procedures for proceeding with construction work after a significant find is inventoried, documented, and/or recovered.</li> </ul>	Review of and Training Regarding Archaeological Monitoring Protocol Plan; Construction Inspections	Prior to Initiation of Ground Disturbing Activities; During Construction	Orange County Sanitation District; Qualified Archaeologist; Construction Contractor; City of Newport Beach; Affiliated Native American Groups (as applicable)			



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	<p>OCSD, or designee, shall implement all recommended and required measures identified in the Archaeological Monitoring Protocol Plan approved by the City of Newport Beach.</p> <p>If evidence of potential subsurface archaeological resources is found during ground disturbance/excavation activities, these activities shall cease within 50 feet of that area and the construction contractor shall contact OCSD. Construction activities shall be allowed to continue in other areas of the site. OCSD, or designee, shall then retain a qualified archaeologist to evaluate the discovery prior to resuming grading/construction activities in the immediate vicinity of the find. If warranted based on the archaeologist's evaluation of the find, the archaeologist shall collect the resource, and prepare a test-level report describing the results of the investigation. The test-level report shall evaluate the site including discussion of the significance (depth, nature, condition, and extent of the resource), identify final mitigation measures that OCSD or its designee shall incorporate into future construction plans, and provide cost estimates.</p> <p>If the qualified archaeologist determines that the find is prehistoric or includes Native American materials, affiliated Native American groups shall be invited to contribute to the assessment and recovery of the resource, as applicable. The qualified archaeologist and any applicable Native American contacts shall collect the resource and prepare a test-level report describing the results of the investigation. The test-level report shall evaluate the site including discussion of significance (depth, nature, condition, and extent of the resources), final mitigation recommendations, and cost estimates.</p>						



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	Salvage operation requirements pursuant to Section 15064.5 of the CEQA Guidelines shall be followed. Work within the area of discovery shall resume only after the resource has been appropriately inventoried, documented, and/or recovered, as detailed in the test-level report(s).						
<b>5.5 Geology and Soils</b>							
GEO-1	<p>Prior to ground-disturbing activities, a qualified paleontologist shall provide a Monitoring Protocol Plan for the project. The plan shall identify procedures to be used in the event that potential recoverable fossils are discovered by the construction contractor. The qualified paleontologist shall have a B.S. or B.A. in geology and/or paleontology with demonstrated competence in research, fieldwork, reporting, and curation. The qualified paleontologist shall provide training to the contractor's representative regarding the Monitoring Protocol Plan and the identification of paleontological resources. The Monitoring Protocol Plan shall state that in the event a fossil or suspected fossil is encountered during ground disturbing activities, the following steps shall be taken to ensure paleontological resource(s), if present, are properly preserved or salvaged in accordance with the recommendation of the qualified paleontologist and existing Federal, State, and local laws and regulations:</p> <ul style="list-style-type: none"> <li>• The fossil site shall not be touched, moved, or disturbed in any way.</li> <li>• Work shall stop in the immediate area, and a minimum 50-foot buffer shall be marked with brightly colored flagging. No further disturbance in the flagged area shall occur until the contractor has cleared the area.</li> </ul>	Review of and Training Regarding Monitoring Protocol Plan; Inspections	Prior to Initiation of Ground Disturbing Activities; During Construction	Orange County Sanitation District; Qualified Paleontologist; Construction Contractor			





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	<ul style="list-style-type: none"> <li>The contractor's representative, construction foreman or supervisor, and a qualified paleontologist shall be immediately notified.</li> <li>The qualified paleontologist shall quickly examine the find and make a determination of significance. If the find is not significant, the foreman shall be informed when it is acceptable to resume work in the area.</li> <li>Should the qualified paleontologist determine the find is significant, the qualified paleontologist shall develop a plan of mitigation which would likely include salvage excavation and removal of the find, removal of sediment from around the specimen, research to identify and categorize the find, curation of the find in a local qualified repository, and preparation of a report summarizing the find.</li> </ul>						
<b>5.7 Hazards and Hazardous Materials</b>							
HAZ-1	<p>Prior to demolition activities, an asbestos survey shall be conducted by an Asbestos Hazard Emergency Response Act (AHERA) and California Division of Occupational Safety and Health (Cal/OSHA) certified building inspector to determine the presence or absence of asbestos containing-materials (ACMs). If ACMs are determined to be present, abatement of asbestos shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the South Coast Air Quality Management District (SCAQMD) Rule 1403. Asbestos wastes shall be handled and disposed of in accordance with the federal Toxic Substances Control</p>	<p>Completion of Asbestos Survey and Asbestos Abatement (if necessary)</p>	<p>Prior to and During Demolition Activities</p>	<p>Orange County Sanitation District; Certified Building Inspector; Asbestos Containment Contractor (if necessary)</p>			



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	Act (TSCA), 40 Code of Federal Regulations (CFR) 763, the Clean Air Act (NESHAP), and California Code of Regulations, Title 22, Division 4.5. Contractors performing ACM removal shall provide documentation of abatement activities to the Orange County Sanitation District.						
HAZ-2	If paint is separated from building materials (chemically or physically) during demolition of the structures, the paint waste shall be evaluated independently from the building material by an EPA certified Lead Inspector. If lead-based paint is found, abatement shall be completed by an EPA qualified Lead Abatement Specialist prior to any activities that would create lead dust or a fume hazard. Lead-based paint removal and disposal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Contractors performing lead-based paint removal shall provide documentation of abatement activities to the Orange County Sanitation District.	Review and Approval of Paint Waste Evaluation and Lead Abatement (if necessary)	Prior to and During Demolition Activities	Orange County Sanitation District; Qualified Environmental Professional; Qualified Lead Specialist (if necessary)			
HAZ-3	Prior to construction, a Soil Management Plan (SMP) shall be prepared and signed and stamped by a Professional Geologist or Engineer licensed in the State of California. The SMP shall be incorporated into project plans and specifications to be used by the contractor and the Orange County Sanitation District during construction activities. The SMP shall include guidelines for safety measures and soil management in the event that contaminated soils are to be disturbed, and for handling contaminated soil during any planned earthwork activities. Soil management practices could include the use of proper protective gear, waste profiling, landfill selection, and setting designated stockpiling	Completion of a Soil Management Plan; Spoils Sampling During Construction	Prior to and During Construction	Orange County Sanitation District; Phase II/Site Characterization Specialist; Construction Contractor			



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	location, among others. Additionally, the SMP shall include verification sampling for spoils/dredged material, soil import and export, as well as backfill to confirm that no hazardous materials are present. If hazardous materials are detected, the materials shall be properly disposed of in accordance with Federal and State requirements, such as the Resources Conservation and Recovery Act (RCRA) and Hazardous Materials Transportation Act (HMTA), among others. The SMP shall also include a decision framework and specific risk management measures for managing soil in a manner protective of human health and consistent with applicable regulatory requirements.						
HAZ-4	<p>If unknown wastes are discovered during construction that are believed to involve hazardous waste or materials, the contractor shall comply with the following:</p> <ul style="list-style-type: none"> <li>• Immediately cease work in the vicinity of the suspected contaminant, and remove workers and the public from the area;</li> <li>• Notify the Orange County Sanitation District;</li> <li>• Secure the area as directed by the Orange County Sanitation District; and</li> <li>• Notify the Orange County Health Care Agency's Hazardous Materials Division's Hazardous Waste/ Materials Coordinator (or other appropriate agency specified by the Director of Engineering). The Hazardous Waste/Materials Coordinator shall advise the responsible party of further actions that shall be taken, if required. Any and all further actions shall be taken in compliance with the directions of the Hazardous Waste /</li> </ul>	<p>Observation During Construction; Construction Inspections</p>	<p>During Construction</p>	<p>Orange County Sanitation District; Construction Contractor; Orange County Health Care Agency's Hazardous Materials Division's Hazardous Waste/Materials Coordinator (or other appropriate agency specified by the Director of Engineering)</p>			



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	Materials Coordinator and Federal and State law.						
<b>5.8 Hydrology and Water Quality</b>							
HWQ-1	Prior to site disturbance activities and as part of the project's compliance with the National Pollutant Discharge Elimination System requirements, a Notice of Intent shall be prepared by the Orange County Sanitation District, or designee, and submitted to the State Water Resources Control Board and the Santa Ana Regional Water Quality Control Board, providing notification and intent to comply with the State of California Construction General Permit and the General Waste Discharge Requirements For Insignificant Threat Discharges to Surface Waters.	Preparation and submittal of a Notice of Intent (NOI)	Prior to Issuance of Construction General Permit; Prior to Site Disturbance Activities	Orange County Sanitation District; State Water Resources Control Board; Santa Ana Regional Water Quality Control Board			
HWQ-2	The proposed project shall conform to the requirements of an approved Storm Water Pollution Prevention Plan (to be applied for by the Orange County Sanitation District, or designee, prior to site disturbance) and the National Pollutant Discharge Elimination System Permit for General Construction Activities No. CAS000002, Order No. 2009-0009-DWQ (as amended by 2010-014-DWQ and 2012-006-DWQ), including implementation of all recommended best management practices (e.g., straw bale barriers, sediment traps, wind erosion/dust control, silt fences, and filter berms), as approved by the State Water Resources Control Board.	Review of Compliance with Approved SWPPP and NPDES Permit; Construction Inspections	During Construction	Orange County Sanitation District; Construction Contractor			
HWQ-3	Upon completion of project construction, the Orange County Sanitation District, or designee, shall submit a Notice of Termination to the State Water Resources Control Board to indicate that construction is completed.	Preparation and Submittal of a Notice of Termination (NOT)	Following Completion of Construction	Orange County Sanitation District; State Water Resources Control Board			
HWQ-4	In compliance with the Federal Clean Water Act, the proposed project shall conform to the requirements of the Department of the Army permit(s) (to be applied for	Review of Compliance with Department of the	Prior to Site Disturbance;	Orange County Sanitation District; U.S. Army Corps of			



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	by the Orange County Sanitation District, or designee, for prior to site disturbance) from the U.S. Army Corps of Engineers Los Angeles District.	Army Permit; Construction Inspection	During Construction	Engineers Los Angeles District			
<b>5.10 Noise</b>							
NOI-1	<p>Prior to the initiation of construction, the Orange County Sanitation District shall confirm that the Grading Plan, Building Plans, and specifications require that:</p> <ul style="list-style-type: none"> <li>All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and other State required noise attenuation devices.</li> <li>The Orange County Sanitation District shall provide a "Noise Disturbance Coordinator." The Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Disturbance Coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement measures to resolve the complaint and comply with the City Noise Ordinance. The construction hotline telephone number shall be clearly posted on-site.</li> <li>Construction haul routes shall be designed to avoid noise sensitive uses (e.g., residences, schools, hospitals, etc.) to the greatest extent possible.</li> <li>During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers.</li> </ul>	Review and Approval of Grading Plan, Building Plans, and Specifications; Construction Inspections	Prior to and During Construction	Orange County Sanitation District; Noise Disturbance Coordinator; City of Newport Beach			





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	<ul style="list-style-type: none"> <li>Construction activities that produce noise shall not take place outside of the allowable hours specified by the City of Newport Beach Municipal Code, with the exception of the 24 hour per day operation of microtunneling (pursuant to Mitigation Measure NOI-2). Alternative work hours may be designated by the City to reduce other impacts, such as traffic.</li> </ul>						
NOI-2	<p>Prior to issuance of Demolition or Building Permits, the Orange County Sanitation District, or designee, shall retain a qualified Acoustical Engineer, defined as an individual with a bachelor's degree or above in acoustics, physics, or another closely related engineering discipline and demonstrated field experience, to prepare a Construction Noise Control Plan. The Construction Noise Control Plan shall identify the types, location, and duration of equipment to be used during project construction. Construction noise levels shall be quantified and estimated at the nearest sensitive uses (i.e., residences, schools, churches, recreation/park facilities, hospitals, libraries, etc.) within 1,000 feet of the project construction area. Based on proposed construction hours and equipment to be used, the Construction Noise Control Plan shall identify noise reduction measures to minimize construction noise levels at off-site sensitive uses, demonstrating compliance with the Newport Beach Municipal Code Chapter 10.26 and 10.28. Noise reduction measures may include the use of sound blankets, sound walls/barriers, noise shrouds, and/or limiting the use of heavy noise-emitting equipment to non-sensitive hours (during daytime work hours and not after 5:00 p.m., etc.). The noise reduction measures shall be included in the project engineering</p>	<p>Completion of Construction Noise Control Plan; Review and Approval of Engineering Drawings, Specifications, Project Designs, and Construction Plans; Construction Inspection</p>	<p>Prior to Issuance of Demolition or Building Permits; During Construction</p>	<p>Orange County Sanitation District; Acoustical Engineer; City of Newport Beach</p>			



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	drawings and specifications, and/or contractor shop drawings for review by the City of Newport Beach Planning Division. All noise reduction measures identified in the Construction Noise Control Plan approved by the City of Newport Beach shall be included in all project designs and construction plans for the project.						
<b>5.11 Transportation</b>							
TRA-1	<p>Prior to initiation of construction activities, engineering drawings and specifications, and/or contractor shop drawings shall be prepared by the Project Engineer, or designee, and submitted for review and approval by the Orange County Sanitation District, California Department of Transportation (Caltrans), and the City of Newport Beach Public Works Department. These documents shall, at a minimum, address the following:</p> <ul style="list-style-type: none"> <li>Traffic control protocols shall be specified for any lane closure, detour, or other disruption to traffic circulation, including bicycle and pedestrian trails. Disruption to traffic circulation shall be minimized to the greatest extent feasible. Bicycle and pedestrian trails shall remain open, to the greatest extent feasible, during construction or shall be re-routed to ensure continued connectivity.</li> <li>Bus stop access impacts shall be coordinated with, and approved by, the Orange County Transportation Authority.</li> <li>At least one week before any construction activities that would affect travel on nearby roadways, the construction contractor shall notify the City of Newport Beach Public</li> </ul>	Review and Approval of Engineering Drawings, Specifications, and/or Contractor Shop Drawings; Construction Inspection	Prior to and During Construction	Orange County Sanitation District; California Department of Transportation; City of Newport Beach Public Works Department; Orange County transportation Authority (if necessary); Construction Contractor			



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	<p>Works Department and Caltrans, as applicable, of construction activities that could impede movement (such as lane closures) along roadways, to allow for planning temporary detours or identifying alternative emergency access routes where appropriate. Surrounding property owners shall also be notified of project activities through advanced mailings.</p> <ul style="list-style-type: none"> <li>• Identify construction vehicle haul routes for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.) to the site; necessary traffic controls and detours; and a construction phasing plan for the project to reduce impacts to local streets and plan for traffic control signage and detours along identified haul routes to minimize impacts to existing traffic flow.</li> <li>• Identify any and all construction staging or material storage sites located outside of the project site.</li> <li>• Specify the hours during which hauling activities can occur and methods to mitigate construction-related impacts to adjacent streets such as traffic control barricades, cones, flaggers, and warning signs.</li> <li>• Require the contractor to keep all haul routes clean and free of debris, including but not limited, to gravel and dirt resulting from project construction. The Contractor shall clean adjacent streets, as directed by the Orange County Sanitation District, of any project material which may have been</li> </ul>						



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	<p>spilled, tracked, or blown onto adjacent City of Newport Beach and Caltrans streets or areas.</p> <ul style="list-style-type: none"> <li>• Hauling of oversize loads shall be allowed between the hours of 9:00 a.m. and 3:00 p.m. only, Monday through Friday. No hauling or transport shall be allowed during nighttime hours, weekends, or Federal holidays. Any oversized loads utilizing Coast Highway shall obtain a Caltrans permit for such activities.</li> <li>• Use of local streets shall be prohibited, except when required to provide direct access to the project site and in compliance with the approved project haul routes.</li> <li>• Haul trucks entering or exiting public streets shall yield to public traffic at all times.</li> <li>• If hauling operations cause any damage to existing pavement, streets, curbs, and/or gutters along the haul route, the contractor shall be fully responsible for repairs. The repairs shall restore the damaged property to its original condition.</li> <li>• All construction-related staging of vehicles shall be kept out of the adjacent public roadways and shall occur on the project site or within additional off-street staging areas previously identified and arranged. Construction staging areas shall maintain public access to recreational activities.</li> <li>• Construction-related lane closures would only occur between the hours of 8:30 a.m.</li> </ul>						



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	<p>and 3:30 p.m., Monday through Friday. More or less restrictive closure hours may be prescribed by the City.</p> <ul style="list-style-type: none"> <li>Use of a construction flagperson (as deemed appropriate by the Orange County Sanitation District) to assist in maintaining efficient vehicle travel in both directions (particularly during peak travel hours) and use of construction signage and safe detour routes for pedestrians and bicyclists when travel lanes and sidewalks along Coast Highway are affected.</li> <li>The engineering drawings and specifications shall meet standards established in the current California Manual on Uniform Traffic Control Device (MUTCD).</li> </ul>						