

# CHULA VISTA BAYFRONT Master Plan



and PORT MASTER PLAN AMENDMENT

**VOLUME I**

## **FINAL** Environmental Impact Report

April 2010

**FINAL  
ENVIRONMENTAL IMPACT REPORT (EIR)  
for the  
CHULA VISTA BAYFRONT MASTER PLAN  
UPD #83356-EIR-658  
SCH #2005081077**

**VOLUME I  
Public Comments on the Revised Draft EIR and  
Responses to Comments**

*Prepared for:*

**SAN DIEGO UNIFIED PORT DISTRICT**

3165 Pacific Highway  
San Diego, California 92101

*Prepared by:*

**DUDEK**

605 Third Street  
Encinitas, California 92024

**APRIL 2010**



## OVERALL ORGANIZATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT

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This Final Environmental Impact Report (Final EIR) has been prepared to evaluate the potential environmental impacts that may result from implementation of the Chula Vista Bayfront Master Plan (Proposed Project). The Final EIR has been prepared in compliance with the California Environmental Quality Act (CEQA), Public Resources Code section 21000, *et seq.*, and its implementing guidelines (State CEQA Guidelines), California Code of Regulations, Title 14, section 15000, *et seq.*

Pursuant to State CEQA Guidelines section 15132, the Final EIR consists of: the Draft Environmental Impact Report (Draft EIR) and its appendices; the Revised Draft Environmental Impact Report (Revised DEIR) and its appendices, and this Final EIR and its appendices, which are organized as follows:

- *Volume 1* of the Final EIR includes a list of persons, organizations and public agencies that commented on the Revised DEIR, copies of the written comment letters received by the San Diego Unified Port District (Port) concerning the Revised DEIR, and the Port's responses as the Lead Agency to significant environmental points raised in the public and agency comment, review and consultation process;
- *Volume 2* and *Volume 3* of the Final EIR include a revised version of the Revised DEIR, identifying changes in the text of the Revised DEIR and other information added by the Port in response to public comments received on the Revised DEIR; and
- Appendices to the Final EIR, which comprised five volumes in the Revised DEIR, are included in electronic form on compact disc (CD) and enclosed with the Final EIR. Hard copies are available for public review during normal business hours at Port offices, located at 3165 Pacific Highway, San Diego, California 92101.

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## ACRONYMS AND ABBREVIATIONS

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AB	Assembly Bill
ACOE	U.S. Army Corp of Engineers
ADT	average daily trips
af/yr	acre-feet per year
AQIP	Air Quality Improvement Plan
Bay	San Diego Bay
BMP	best management practice
CAC	Citizens Advisory Committee
Caltrans	California Department of Transportation
Cal-IPC	California Invasive Plant Council
Cal-ISO	California Independent Systems Operator
CAO	Clean-Up and Abatement Order
CAP	Corrective Action Plan
CCC	California Coastal Commission
CDFG	California Department of Fish and Game
CEC	California Energy Commission
CEQA	California Environmental Quality Act
City	City of Chula Vista
CMP	Congestion Management Plan
CNPS	California Native Plant Society
CNDDB	California Natural Diversity Database
Coalition	Bayfront Coalition
CPUC	California Public Utilities Commission
CSLC	California State Lands Commission
CVBMP	Chula Vista Bayfront Master Plan
CVOC	chlorinated volatice organic compound
dB(A)	decibels
DEH	Division of Environmental Health
DEIR	Draft Environmental Impact Report
DTSC	Department of Toxic Substances Control
EFH	Essential Fish Habitat
EES	energy-efficiency standards
EPA	U.S. Environmental Protection Agency
HAP	hazardous air pollutants
Harbor Police	Port of San Diego Harbor Police
HHRA	Human Health Risk Assessments
HSP	Health Safety Plan
I-5	Interstate 5

JPA	Joint Powers Authority
kV	kilovolt
LCP	Local Coastal Plan
LEED	Leadership in Energy and Environmental Design
Leq	equivalent continuous noise level
LID	low impact development
LNG	Liquefied Natural Gas
LOS	level of service
low-e	low-emittance
MLLW	mean lower low water
MMRP	Mitigation Monitoring and Report Plan
MSCP	Multiple Species Conservation Plan
MTS	Metropolitan Transit System
MWD	Metropolitan Water District of California
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NCCP	Natural Community Conservation Plan
NMFS	National Marine Fisheries Service
NPDES	National Pollutant Discharge Elimination System
NRMP	Natural Resources Management Plan
OEHHA	Office of Environmental Health Hazard Assessment
PDF	Project Design Feature
PMP	Port Master Plan
Port	Port District
PWC	personal watercraft
RAP	Remedial Action Plan
RAW	Removal Action Workplan
RCC	Resort Conference Center
RCP	Regional Comprehensive Plan
RMR	Reliability Must-Run
ROG	reactive organic gases
ROW	right-of-way
RTP	Regional Transportation Plan
RV	recreational vehicle
RWQCB	Regional Water Quality Control Board
SANDAG	San Diego Association of Governments
SBPP	South Bay Power Plant
SDAPCD	San Diego Air Pollution Control District
SDBNWR	San Diego Bay National Wildlife Refuge

## Acronyms and Abbreviations

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SDG&E	San Diego Gas and Electric
Settlement Agreement	Chula Vista Bayfront Master Plan Settlement Agreement
SUSMP	Standard Urban Stormwater Mitigation Plan
Sweetwater Marsh NWR	Sweetwater March National Wildlife Refuge
SWMP	Soil and Water Management Plan
TAC	toxic air contaminant
USFWS	U.S. Fish and Wildlife Service
VOC	volatile organic compound
WTDIF	Chula Vista Western Transportation Development Impact Fee

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## COMMENTS ON THE REVISED DRAFT ENVIRONMENTAL IMPACT REPORT AND RESPONSES TO COMMENTS

The persons, organizations, and agencies that provided comments on the Revised DEIR are listed in Table RTC-1, as well as the page number where a copy of the comment letter is located in this *Volume 1* of the Final EIR. The Port's responses to the comment letters received are provided in a side-by-side format with each associated comment letter.

**Table RTC-1**  
**Comment Letters Received on the Revised DEIR**

Comment Letter	Commentor	Page No.
A	National Marine Fisheries Service, July 3, 2008	RTC-3
B	United States Fish and Wildlife Service, Ecological Services, August 7, 2008	RTC-5
C	United States Fish And Wildlife Service San Diego National Wildlife Refuge Complex, August 6, 2008	RTC-49
D	California Department of Fish and Game, July 7, 2008	RTC-67
E	Caltrans, District 11, August 5, 2008	RTC-83
F	Department of Toxic Substances Control, June 23, 2008	RTC-87
G	Native American Heritage Commission, June 9, 2008	RTC-89
H	State Lands Commission, July 7, 2008	RTC-93
I	City of National City, Planning Department, August 7, 2008	RTC-103
J	San Diego County Archaeological Society, Inc., June 16, 2008	RTC-109
K	San Diego Association of Governments, August 7, 2008	RTC-111
L	San Diego Gas and Electric, August 7, 2008	RTC-119
M	Sweetwater Authority, August 4, 2008	RTC-127
N	Alliance for a Cleaner Tomorrow, August 5, 2008	RTC-133
O	Comfort Inn and Suites, August 7, 2008	RTC-145
P	Crossroads 2, August 7, 2008	RTC-147
Q	Environmental Health Coalition, August 7, 2008	RTC-153
R	Goodrich Aerostructures Group, August 6, 2008	RTC-169
S	San Diego AND Midwestern Railway Partners, LLC, June 5, 2008	RTC-221
T	South Bay Forum, August 7, 2008	RTC-223
U	South County Economic Development Council, July 7, 2008	RTC-227
V	Southwest Chula Vista Civic Association, August 4, 2008	RTC-229
W	Traffic Relief Is Possible, July 30, 2008	RTC-423
X	Chula Vista Marina, June 18, 2008	RTC-425
Y	The Marine Group, LLC, July 7, 2008	RTC-427
Z	Ned Ardagna, August 6, 2008	RTC-431
AA	Jovita Ayala Aleman, August 7, 2008	RTC-443
AB	Alan Brill, August 7, 2008	RTC-445
AC	Robert S. Carter, August 1, 2008	RTC-447
AD	KB Colclasure, June 24, 2008	RTC-449
AE	Kenn Colclasure, August 4, 2008	RTC-451
AF	Lilyane M. Cowherd, August 4, 2008	RTC-455

## Comments on the Revised DEIR and Responses to Comments

**Table RTC-1 (Continued)**

<b>Comment Letter</b>	<b>Commentor</b>	<b>Page No.</b>
AG	Melvin Cowherd, July 29, 2008	RTC-457
AH	David Danciu, July 6, 2008	RTC-459
AI	David Danciu, August 7, 2008	RTC-461
AJ	Sharon Floyd, June 24, 2008	RTC-463
AK	Sharon Floyd, June 24, 2008	RTC-465
AL	Sharon Floyd, August 7, 2008	RTC-467
AM	Lynda Gilgun, August 7, 2008	RTC-471
AN	James N. Headland, August 4, 2008	RTC-473
AO	Eduardo "Ed" Herrera, July 29, 2008	RTC-475
AP	Jasso, May 30, 2008	RTC-477
AQ	David W. Krogh, August 7, 2008	RTC-479
AR	Bettie Lupi, August 7, 2008	RTC-483
AS	Bettie Lupi, June 24, 2008	RTC-485
AT	Antonio Macias July 29, 2008	RTC-487
AU	M. Dan McKirnan, PhD, August 7, 2008	RTC-489
AV	Marcia Morris, June 24, 2008	RTC-491
AW	Georgina Moya, August 7, 2008	RTC-493
AX	Manuel Moya, August 7, 2008	RTC-495
AY	Steven C. Pavka, July 29, 2008	RTC-497
AZ	Isabel Tutiven-Shogren, August 7, 2008	RTC-499
BA	Peter Watry, July 28, 2008	RTC-503

## Comment Letter A



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

F/SWR4:RSH

JUL -3 2008

Mr. John W. Helmer  
Acting Director, Land Use Planning  
Port of San Diego  
3165 Pacific Highway  
San Diego, California 92112-0488



Dear Mr. Helmer:

Thank you for providing NOAA's National Marine Fisheries Service (NMFS) the opportunity to review the Revised Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan. The San Diego Unified Port District and the City of Chula Vista have together proposed a master plan for the 562-acre Bayfront which includes reconfiguring associated land and water uses.

The proposed activities of primary concern to NMFS are all slated to be Phase II or later projects. These projects include the construction of the H Street Pier, Marina Access Channel Realignment, South Bay Boatyard Reconfiguration, and Harbor Reconfiguration. It is our understanding that each of these projects will undergo more extensive analysis during subsequent environmental reviews.

Of particular concern to NMFS, are the likely impacts these subsequent projects will have on areas identified as Essential Fish Habitat (EFH) for fish species federally managed under the Pacific Groundfish Fishery Management Plan and Coastal Pelagic Fishery Management Plan. For any project that is proposed to impact EFH, either directly or indirectly, the specific measures that have been incorporated to minimize impacts should be discussed. For example, information should be provided in subsequent environmental documents on the proposed new H Street Pier regarding justification for the need, size and location of the structure. Similarly, information should be included on whether alternative designs were considered that might reduce expected environmental impacts.

Similarly, these same projects could impact existing green turtles that are listed under the Endangered Species Act. Any subsequent environmental documents related to these projects should include relevant information in order to assess impacts to green turtles. Such information should include, but not be limited to: (1) a review of available literature and reports on green turtles in San Diego Bay; and (2) a review of potential impacts of eelgrass removal, increased boat traffic, pile driving, and dredging on green turtles.



## Response to Comment Letter A

### National Marine Fisheries Service

July 3, 2008

- A-1** This comment states that the proposed activities of primary concern to the National Marine Fisheries Service (NMFS) are slated to be Phase II or later projects. These projects will undergo subsequent environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168 (14 CCR 15000 et seq.) before the San Diego Unified Port District (Port) proposes to carry out or approve them.
- A-2** This comment expresses concern that subsequent projects will have impacts on Essential Fish Habitat (EFH) for federally managed fish species and more detailed information on specific impacts and mitigation should be included. All project components that involve water work would occur in Phase II or later. In addition, the technical report prepared by MBC (Appendix 4.9-1 of the Revised Draft Environmental Impact Report (DEIR)) defined EFH as the waters and substrate necessary for fish spawning, breeding, feeding, or growth to maturity. Both the technical report and *Section 4.9, Marine Biological Resources*, of the Revised DEIR show that the project area is designated as EFH for both the Coastal Pelagics and the Pacific Groundfish Management Plans. Mitigation measures were proposed for program elements that resulted in loss of habitat. For example, the loss of eelgrass was considered a significant impact and **Mitigation Measure 4.9-1** is designed to fully offset that impact. Additional environmental review will be conducted at the time detailed project-level plans are proposed to verify that impacts are consistent with the Revised DEIR, pursuant to CEQA Guidelines Section 15168.

Comment Letter A

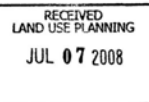


UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802- 4213

F/SWR4:RSH

JUL -3 2008

Mr. John W. Helmer  
Acting Director, Land Use Planning  
Port of San Diego  
3165 Pacific Highway  
San Diego, California 92112-0488



Dear Mr. Helmer:

Thank you for providing NOAA's National Marine Fisheries Service (NMFS) the opportunity to review the Revised Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan. The San Diego Unified Port District and the City of Chula Vista have together proposed a master plan for the 562-acre Bayfront which includes reconfiguring associated land and water uses.

A-1

The proposed activities of primary concern to NMFS are all slated to be Phase II or later projects. These projects include the construction of the H Street Pier, Marina Access Channel Realignment, South Bay Boatyard Reconfiguration, and Harbor Reconfiguration. It is our understanding that each of these projects will undergo more extensive analysis during subsequent environmental reviews.

Of particular concern to NMFS, are the likely impacts these subsequent projects will have on areas identified as Essential Fish Habitat (EFH) for fish species federally managed under the Pacific Groundfish Fishery Management Plan and Coastal Pelagic Fishery Management Plan. For any project that is proposed to impact EFH, either directly or indirectly, the specific measures that have been incorporated to minimize impacts should be discussed. For example, information should be provided in subsequent environmental documents on the proposed new H Street Pier regarding justification for the need, size and location of the structure. Similarly, information should be included on whether alternative designs were considered that might reduce expected environmental impacts.

A-2

Similarly, these same projects could impact existing green turtles that are listed under the Endangered Species Act. Any subsequent environmental documents related to these projects should include relevant information in order to assess impacts to green turtles. Such information should include, but not be limited to: (1) a review of available literature and reports on green turtles in San Diego Bay; and (2) a review of potential impacts of eelgrass removal, increased boat traffic, pile driving, and dredging on green turtles.

A-3



A-3 This comment recommends that subsequent environmental review look at relevant information regarding potential impacts to green turtles. As described in *Chapter 2.0, Introduction*, and *Chapter 3.0, Project Description*, of the Revised DEIR, once detailed project-level plans are proposed for later project activities, subsequent environmental review will be performed pursuant to CEQA Guidelines Section 15168.

## Comment Letter B



### United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ecological Services  
Carlsbad Fish and Wildlife Office  
6010 Hidden Valley Road, Suite 101  
Carlsbad, California 92011



AUG 07 2008

In Reply Refer To:  
FWS-SDG-02B0001-08TA0702

Mr. John W. Helmer  
Acting Director, Land Use Planning  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, California 92112-0488

Subject: Comments on the Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment, City of Chula Vista, California (SCH #2005081077)

Dear Mr. Helmer:

The U.S. Fish and Wildlife Service (Service) has reviewed the above-referenced draft Environmental Impact Report (DEIR) and supporting documentation for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment (Proposed Project), dated May 22, 2008. The public review period for the DEIR has been extended to August 7, 2008. The comments provided in this letter represent our concerns about the Proposed Project's potential impacts on sensitive biological resources.

The Service and the California Department of Fish and Game (Department) previously commented on the Notice of Preparation (NOP, SCH# 2002081116) for the Bayfront Village Project, which was restricted to the 128-acre area currently included in the Sweetwater District, in a comment letter dated September 19, 2002. Subsequently, the Service provided a letter (dated April 22, 2004) to the San Diego Unified Port District (Port) and City of Chula Vista (City) that emphasized the importance of the habitats in the south end of San Diego Bay (South Bay) and the need for the Proposed Project to adequately protect the South Bay's important natural resources. In 2005, we commented on the NOP for the Proposed Project (in a letter dated September 12, 2005). In addition, the Service and the Department provided joint letters, dated September 29, 2006, and January 11, 2007, commenting on the previous DEIRs for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment.

The Service appreciates the efforts of the Port to reduce adverse biological impacts within the Sweetwater District. However, considering the overall scope of the current project, we retain



## Response to Comment Letter B

### United States Fish and Wildlife Service, Ecological Services

August 7, 2008

**B-1** This comment provides a list of previously submitted comment letters related to the Notice of Preparation and previously circulated Draft EIR and requests a meeting to address the U.S. Fish and Wildlife Service's (USFWS') concerns. This comment does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

B-1

Comment Letter B (Page 2)

Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

2

many of the concerns that we raised in our previous letters. A summary of our primary comments and concerns with the DEIR follow. Specifically, the DEIR remains inadequate in the analysis of, and mitigation for, many of the biological impacts. We request a meeting with the Port, the City, and stakeholders to further discuss the Proposed Project and our concerns, after we have had an opportunity to review the responses to our comments, and well in advance of the Board of Port Commissioners' consideration of the DEIR for certification.

1. The DEIR does not adequately evaluate all project impacts (direct, indirect, and cumulative) to biological resources, even at a programmatic level, or provide appropriate mitigation for impacts. We recommend the final EIR be revised to adequately identify and analyze the Proposed Project's biological impacts addressed in this comment letter and to provide appropriate mitigation for these impacts.
2. The Service recognizes the efforts made to reduce the scope of development proposed adjacent to the Sweetwater Marsh. However, the overall intensity of development within the Proposed Project area could still result in direct and indirect impacts to sensitive habitats and the species they support. The wildlife habitats that occur within or in proximity to the Proposed Project area (e.g., Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Refuge [SDBNWR], the F&G Street Marsh, the J Street Marsh, the shoreline and mudflats of San Diego Bay, and the Chula Vista Nature Reserve) are important to the survival of numerous resident and migratory species. The final EIR should reflect project modifications and require habitat restoration and management elements that would mitigate for the direct, indirect, and cumulative impacts from the project such that the biological functions and values of the adjacent sensitive habitats are retained. We provide below a more detailed discussion of specific indirect impacts and possible mitigation measures to reduce impacts that should be identified and addressed in the final EIR.
3. We are concerned about the Proposed Project's potential direct and indirect impacts to: (a) intertidal wetlands (e.g., Sweetwater Marsh, F&G Street Marsh, J Street Marsh, and the mudflats located north of the Harbor District) and their associated federally listed species, including the light-footed clapper rail (*Rallus longirostris levipes*); (b) subtidal bay habitats and their associated fisheries resources, eelgrass beds, and migratory bird foraging and rafting areas; (c) migratory birds, including those birds identified by the Service as Birds of Conservation Concern, that rely on the south San Diego Bay for foraging and resting areas during migration along the Pacific Flyway; (d) colonial nesting seabirds, such as the federally listed California least tern (*Sterna antillarum browni*) and western snowy plover (*Charadrius alexandrinus nivosus*), shorebirds, and waterfowl that nest in proximity to the project site; and (e) species covered by the City's Multiple Species Conservation Program (MSCP) Subarea Plan.
4. The DEIR does not adequately identify the Proposed Project's indirect impacts to adjacent sensitive habitats and sensitive species, nor does it propose adequate measures to mitigate such impacts. Such indirect impacts, otherwise known as "edge effects," include increased predation, increased disturbances to wildlife, bird strikes and disorientation, shading of adjacent habitat, human encroachment, increased noise, increased

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**B-2** This comment makes the general assertion that the Revised DEIR does not adequately evaluate all project impacts to biological resources and states that specific concerns will be identified later in the comment letter. The Port has responded to specific concerns in the responses that follow.

**B-3** This comment makes the general assertion that the overall intensity of development could result in direct and indirect impacts to sensitive habitats and the species they support, and states that specific concerns will be identified later in the comment letter. The Port has responded to specific concerns in the responses that follow.

**B-4** This comment makes the general assertion that the project modifications and additional mitigation measures are needed, and states that specific concerns will be identified later in the comment letter. The Port has responded to specific concerns in the responses that follow.

**B-5** This comment expresses concern regarding potential impacts to certain habitats and species. The Revised DEIR addresses this concern as follows: (a) potential impacts to intertidal wetlands and their associated federally listed species are addressed in *Section 4.8, Terrestrial Biological Resources* (page 4.8-110); (b) potential impacts to subtidal bay habitats and associated resources are addressed in *Section 4.9, Marine Biological Resources* (pages 4.6-22 through 4.9-26 and 4.9-31); (c) potential impacts to migratory birds are addressed in *Section 4.8, Terrestrial Biological Resources* (pages 4.8-101 through 4.8-109), and in *Section 4.9, Marine Biological Resources* (pages 4.9-26 through 4.9-31); (d) potential impacts to colonial nesting seabirds and water fowl that nest in proximity to the project site are addressed in *Section 4.8, Terrestrial Biological Resources* (pages 4.8-101 through 4.8-109), and in *Section 4.9, Marine*



Comment Letter B (Page 2)

Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

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*Biological Resources* (pages 4.9-26 through 4.9-31); and (e) potential impacts to species covered by the City's Multiple Species Conservation Plan (MSCP) Subarea Plan are addressed in *Section 4.8, Terrestrial Biological Resources* (pages 4.8-136 through 4.8-139), and in *Section 4.9, Marine Biological Resources* (page 4.9-32).

The comment asserts that the Revised DEIR does not adequately address indirect impacts and mitigation measures related to adjacent sensitive habitats and special-status species. Indirect impacts are addressed in *Section 4.8.5, Project Impacts*, of the Revised DEIR, and specifically in **Significant Impact 4.8-7** and **Mitigation Measure 4.8-6**. The evaluation considered edge effects per the requirements of the City's MSCP, which was approved by the wildlife agencies. The project has been designed with a 400-foot buffer adjacent to the majority of the sensitive habitats, both on and off site. As requested, the Port will maintain the first 200 feet, or full width in the case of reduced buffer areas, as a "no-touch" buffer, and will not contain any trails or overlooks. The remaining area of buffer will include some passive recreation features, such as trails and overlooks.

The Final EIR has been revised to clarify that buffers in Parcel SP-1 between the proposed park and the existing San Diego Bay National Wildlife Refuge (SDBNWR) to protect the wetlands and resources within the refuge would be established in Phase I. In addition, The Final EIR has also been revised in *Chapter 1.0, Executive Summary*, and *Chapter 3.0, Project Description*, to include a permanent 100-foot-wide buffer from proposed development within Parcel SP-2 for the seasonal wetland proposed on this parcel. The Port Master Plan (PMP) Amendment will also be revised to reflect the permanent buffer width within Parcel SP-2. The establishment of this buffer will occur upon the adoption of the PMP and its assignment with the Open Space land use designations.

Comment Letter B (Page 2)

Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

2

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Predator management measures are included in the Revised DEIR in **Mitigation Measure 4.8-6** and include building design criteria to avoid raptor perching opportunities, raptor management and monitoring, trash management measures to avoid attracting non-native predators, fencing, and control of domestic animals. **Mitigation Measure 4.9-6** also addresses measures to control adverse indirect impacts associated with lighting and noise. Shading impacts are addressed on page 4.8-110 of the Revised DEIR (buildings) and in **Significant Impacts 4.8-22, 4.8-23, 4.8-32, and 4.8-33**. Mitigation is described in **Mitigation Measure 4.8-13**. The buffer areas will include restoration of native habitats and will provide a significant increase in habitat value compared to what currently exists. In addition, the project will be implementing best management practices (BMPs) and low-impact development (LID) features to address water quality, as identified in *Section 4.5.3* of the Revised DEIR.

The Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the South San Diego Bay Unit of the SDBNWR and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). The fencing will be designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums, and other small terrestrial animals [collectively, "predators"]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be a minimum 6-foot-high, vinyl-coated chain-link fence or other suitable barrier as described in the Final EIR. The fence design may include appropriate locked access points for maintenance and other necessary functions. Installation of the fence will include land contouring to minimize visual impacts of the fence. The installation of the fencing will be completed prior to the issuance of Certificates of Occupancy

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Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

2

many of the concerns that we raised in our previous letters. A summary of our primary comments and concerns with the DEIR follow. Specifically, the DEIR remains inadequate in the analysis of, and mitigation for, many of the biological impacts. We request a meeting with the Port, the City, and stakeholders to further discuss the Proposed Project and our concerns, after we have had an opportunity to review the responses to our comments, and well in advance of the Board of Port Commissioners' consideration of the DEIR for certification.

1. The DEIR does not adequately evaluate all project impacts (direct, indirect, and cumulative) to biological resources, even at a programmatic level, or provide appropriate mitigation for impacts. We recommend the final EIR be revised to adequately identify and analyze the Proposed Project's biological impacts addressed in this comment letter and to provide appropriate mitigation for these impacts.
2. The Service recognizes the efforts made to reduce the scope of development proposed adjacent to the Sweetwater Marsh. However, the overall intensity of development within the Proposed Project area could still result in direct and indirect impacts to sensitive habitats and the species they support. The wildlife habitats that occur within or in proximity to the Proposed Project area (e.g., Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Refuge [SDBNWR], the F&G Street Marsh, the J Street Marsh, the shoreline and mudflats of San Diego Bay, and the Chula Vista Nature Reserve) are important to the survival of numerous resident and migratory species. The final EIR should reflect project modifications and require habitat restoration and management elements that would mitigate for the direct, indirect, and cumulative impacts from the project such that the biological functions and values of the adjacent sensitive habitats are retained. We provide below a more detailed discussion of specific indirect impacts and possible mitigation measures to reduce impacts that should be identified and addressed in the final EIR.
3. We are concerned about the Proposed Project's potential direct and indirect impacts to: (a) intertidal wetlands (e.g., Sweetwater Marsh, F&G Street Marsh, J Street Marsh, and the mudflats located north of the Harbor District) and their associated federally listed species, including the light-footed clapper rail (*Rallus longirostris levipes*); (b) subtidal bay habitats and their associated fisheries resources, eelgrass beds, and migratory bird foraging and rafting areas; (c) migratory birds, including those birds identified by the Service as Birds of Conservation Concern, that rely on the south San Diego Bay for foraging and resting areas during migration along the Pacific Flyway; (d) colonial nesting seabirds, such as the federally listed California least tern (*Sterna antillarum browni*) and western snowy plover (*Charadrius alexandrinus nivosus*), shorebirds, and waterfowl that nest in proximity to the project site; and (e) species covered by the City's Multiple Species Conservation Program (MSCP) Subarea Plan.
4. The DEIR does not adequately identify the Proposed Project's indirect impacts to adjacent sensitive habitats and sensitive species, nor does it propose adequate measures to mitigate such impacts. Such indirect impacts, otherwise known as "edge effects," include increased predation, increased disturbances to wildlife, bird strikes and disorientation, shading of adjacent habitat, human encroachment, increased noise, increased

B-1  
(Cont.)

B-2

B-3

B-4

B-5

B-6

for development projects on either Parcel H-3 or Parcel H-23 and in conjunction with development or road improvements in the Sweetwater District.

In addition, in response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive habitats, the Final EIR has been revised to include a 6-foot-high vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. This fencing will be incorporated into the design features of the project to protect the SDBNWR Preserve areas from trespassing and other intrusions and will be installed prior to occupancy of the first buildings constructed during Phase I. **Mitigation Measure 4.8-6H** in the Final EIR has been revised to reflect this requirement.

Comment Letter B (Page 3)

Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

3

illumination, and detrimental changes to hydrology and water quality. The proposed 200-foot wide "no-touch" habitat buffer would help minimize some indirect impacts and could be considered mitigation for some of the Proposed Project's indirect effects, provided it is free of any infrastructure (e.g., trails, viewing platforms) and fully fenced to prevent intrusion. However, the 200-foot "no touch" buffer should not be considered mitigation to offset direct habitat impacts.


B-7

5. Portions of the Proposed Project and adjacent lands are subject to the standards laid out in the City's MSCP Subarea Plan (Plan). Since the Port does not have a habitat conservation plan to guide its development projects, the entire project should meet or exceed the mitigation ratios, guidelines, and standards required by the City's MSCP Subarea Plan to maintain consistency with its application to onsite and adjacent areas within the Plan.

B-8

We appreciate the opportunity to comment on the DEIR. To further assist the Port and project applicant(s) with ensuring that the Proposed Project's biological impacts are avoided and/or minimized, we will provide our specific recommendations and comments on the adequacy of DEIR to you by August 11, 2008. For questions regarding this letter, please contact Cara McGary at (760) 431-9440.

Sincerely,

  
For Karen Goebel  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

Enclosure

cc: Marisa Lundstedt, City of Chula Vista  
Robert Smith, U.S. Army Corps of Engineers  
Chris Means, California Regional Water Quality Control Board  
Deborah Lee, California Coastal Commission  
Robert Hoffman, National Marine Fisheries Service  
Joanna Grebel, California Energy Commission  
Andy Yuen, Project Leader, San Diego NWR Complex

B-7

The comment expresses concern regarding the 200-foot buffer and its use as mitigation for direct impacts. The 200-foot "no-touch" buffer area will not contain use areas, such as trails or viewing platforms. However, certain necessary infrastructure must be provided within the buffer. Most notably, a Nature Center access road and potential utility infrastructure within the access road will need to traverse the buffer in order to provide continued access to the Nature Center. The buffer area will be restored in order to mitigate for direct impacts, and the buffer area itself will minimize indirect impacts between developed areas and open space areas. Please also see the response to comment B-6.

B-8

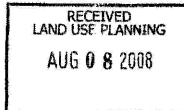
As described in *Section 4.8, Terrestrial Biological Resources*, and summarized in *Table 4.8-3* of the Revised DEIR, the project would impact sensitive biological resources. Mitigation measures for direct and indirect impacts on special-status species and vegetation communities have been developed in accordance with the City of Chula Vista MSCP Subarea Plan. Specifically, mitigation ratios for direct impacts on sensitive habitats are consistent with the guidance provided in *Table 5-3, HLIT Upland Habitat Mitigation Ratios*, and *Table 5-6, Wetlands Mitigation Ratios*, of the Subarea Plan. As described in *Section 4.8.4* in the Revised DEIR, under impact criterion 6, the Proposed Project would require an amendment to the City of Chula Vista's (City's) Subarea Plan to adjust the boundaries of the Plan Area to accommodate the proposed changes in jurisdiction between the City and Port. In addition, an amendment to the Subarea Plan would be needed to modify the boundaries of the Subarea Plan to conform to the new jurisdictional boundaries. However, the amendment would not change the designation of areas proposed to be developed or conserved. The Revised DEIR evaluates potential impacts assuming an amendment to the City's Subarea Plan, as described previously. The Proposed Project will be consistent with the City's MSCP Subarea Plan as the amendment will specifically apply to the Proposed Project.

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United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ecological Services  
Carlsbad Fish and Wildlife Office  
6010 Hidden Valley Road, Suite 101  
Carlsbad, California 92011



In Reply Refer To:  
FWS-SDG-02B0001-08TA0832

Mr. John W. Helmer  
Acting Director, Land Use Planning  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, California 92112-0488

AUG 08 2008

Subject: Specific Comments on the Draft Environmental Impact Report for the Chula Vista Bayfront  
Master Plan and Port Master Plan Amendment, City of Chula Vista, California

Dear Mr. Helmer:

Enclosed are the U.S. Fish and Wildlife Service's (Service) specific comments on the above-referenced draft Environmental Impact Report (DEIR), dated May 22, 2008. Our general comments on the DEIR were provided to you in a letter dated August 7, 2008. In addition, our Refuges Division has provided specific comments related to the San Diego Bay National Wildlife Refuge, which is adjacent to the proposed project, in a separate letter, dated August 6, 2008. The enclosed comments describe our specific concerns about the proposed project's potential impacts on federally listed and other sensitive species.

We appreciate the opportunity to comment on the DEIR. For questions regarding this letter, please contact Cara McGary at (760) 431-9440.

Sincerely,

  
for Karen Goebel  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

Enclosure

cc: Marisa Lundstedt, City of Chula Vista  
Robert Smith, U.S. Army Corps of Engineers  
Chris Means, California Regional Water Quality Control Board  
Deborah Lee, California Coastal Commission  
Robert Hoffman, National Marine Fisheries Service  
Joanna Grebel, California Energy Commission  
Andy Yuen, Project Leader, San Diego NWR Complex



## Comment Letter B (Page 5)

### COMMENTS ON THE DRAFT EIR FOR THE CHULA VISTA BAYFRONT MASTER PLAN AND PORT MASTER PLAN AMENDMENT

The Service offers the following recommendations and comments on the adequacy of the draft Environmental Impact Report (DEIR) to assist the San Diego Unified Port District (Port) and project applicant(s) in ensuring project impacts to biological resources are avoided and/or minimized. Our specific comments are based on the preferred alternative. If the alternative approved for implementation deviates from the preferred alternative presented in the DEIR, we may have additional comments.

#### The Proposed Land Exchange

1. We recommend considering an alternative design proposal that is environmentally superior and clearly demonstrates avoidance and minimization of impacts to native vegetation communities and associated species. We support a land exchange that eliminates or minimizes the possibility of residential development and its associated direct and indirect impacts to onsite and adjacent sensitive biological habitat (*i.e.*, intertidal wetlands and subtidal bay habitats). The Reduced Overall Density Alternative design proposal meets some of those objectives. Also, we recommend that consideration be given to a Reduced Overall Density Alternative that includes a design modification that relocates the Resort Conference Center from Parcel H-3 to H-23, while the Resort Hotel and Cultural/Retail is shifted to Parcel H-3, in an effort to further minimize impact concerns to sensitive biological resources associated with F&G Street Marsh and the San Diego Bay. We do not support the inclusion of a 2,000 to 5,000 seat amphitheater on parcel HP-1, which is proposed as part of the Harbor Park alternative, because it would increase disturbance to wildlife that roost and nest within and/or in the vicinity of the project site.

B-9

#### Indirect Effects and Mitigation

##### *Buffers to Sensitive Habitat and Wildlife*

2. As stated in our September 12, 2005, letter, adequate habitat buffers (*e.g.*, no touch buffers) should be placed around all sensitive biological areas to minimize indirect impacts from adjacent development. These buffers should prohibit human and domestic animal access, consist of only appropriate locally native species, and be free of all project infrastructure (*e.g.*, erosion control devices, fences, brush management, trails, and picnic tables). To prevent human and mammalian access into buffer areas, fencing or other suitable barrier systems should be installed at the outside edge of the habitat buffer prior to the initiation of project construction. Additionally, screening or berms should be incorporated around or within the habitat buffers to protect wetland birds from lighting and noise related-disturbances. In concert with the habitat buffer, land uses adjacent to, but not within the ecological buffer could include low intensity public use (*e.g.*, walking,

B-10

**B-9** This comment recommends the Reduced Density Alternative, as well as suggests some modifications to that alternative. The comment also states that lack of support of an amphitheater as part of the proposed Harbor Park Alternative. During project planning and EIR preparation, the Port and City analyzed a series of alternatives, including a No Project Alternative, Harbor Park Alternative (which includes relocation of the Resort Conference Center (RCC) to Parcel H-23), and the Reduced Density Alternative to minimize impacts while preserving project objectives. The Proposed Project, as described in the Revised DEIR, has taken many of the wildlife agencies' recommendations, including removing residential uses from the Otay District and intensive uses from the Sweetwater and Otay Districts. Decision makers will be made aware of USFWS' recommendation prior to making a final decision on the project. In addition, the Harbor Park Alternative (as stated in the Revised DEIR), does not include an amphitheater. The Final EIR has been revised to remove the two footnote references to the amphitheater.

**B-10** Buffers for preserve areas have been incorporated into the project design, as fully described in *Chapter 3.0, Project Description*, of the Revised DEIR. As described and analyzed in *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR, the buffers include features such as fencing and berms to limit public use, and avoid adverse effects associated with lighting and noise. In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, the Final EIR has been revised to include a 6-foot-high vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement. In addition, the Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the South San



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Mr. John W. Helmer (FWS-SDG-02B0001-08TA0702)

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biking, and passive recreation) to minimize indirect impacts (e.g., lighting, shading, and noise) associated with high intensity development. We recommend that landscaping adjacent to buffers utilize only native species to conserve water and avoid or minimize pollutant (e.g., fertilizers, pesticides) discharge into wetlands.

3. Based on the description of the uses to be permitted within the eastern 200 feet of the proposed 400-foot wide "ecological buffer," the nomenclature used for the buffer should be changed to clarify the purpose and intent of the buffer. As described in the DEIR, the entire 400-foot-wide area does not meet the intent of an "ecological buffer," because the human activities to be allowed within the eastern 200 feet are not compatible with the purposes of an ecological buffer. A true ecological buffer is an area where no human activity is allowed, except for conservation and restoration purposes. In the case of the Proposed Project, the only true ecological buffer is within the 200-foot no touch/mitigation area, except where that buffer contains proposed trail outlooks.

The 100-foot limited use buffer and 100-foot transitional use zone should not be considered part of the ecological buffer because the allowed uses in these areas are not compatible with conservation. Therefore, the final EIR should rename this 200-foot area to more accurately describe the types of low intensity park uses that are proposed within it. Note that we are not requesting a wider ecological buffer; however, we are requesting a clarification of the intent and uses that would occur within this 400-foot-wide area. To prevent human and mammalian access into the ecological buffer, the area should be free of any infrastructure (e.g. trails, viewing platforms, erosion control devices, brush management, trails, and picnic tables) and fully fenced to prevent intrusion.

4. We consider the proposed 200-foot wide "no-touch" habitat buffer to be mitigation for the Proposed Project's indirect effects. The final EIR should identify locations other than the no-touch buffer zone to create or restore habitat as mitigation for direct habitat losses. We do, however, concur that the habitat restoration within the buffer should be subject to a monitoring and maintenance program.

5. We do not agree that "strategic" fencing would adequately prevent unauthorized access by humans and pets into sensitive coastal habitats. The entire boundary of the Proposed Project should have fencing or other suitable barriers. Use of native cacti, such as coast cholla (*Cylindropuntia prolifera*), could be strategically used in areas in addition to (but not in lieu of) fencing as an additional deterrent to prevent unauthorized access. At a minimum a 6-foot-high, black vinyl chain link fence, or other suitable barrier, should be erected around the entire boundary of the Proposed Project to prevent unauthorized access by humans and pets into sensitive coastal habitats (to address project-level and program-level impacts). Figures 4.8-24 and 4.8-25 should be revised to show the placement of the 6-foot fence outside of the no touch buffer. Mitigation Measure 4.8-6 H should reflect the same requirement.

B-10  
(Cont.)

B-11

B-12

B-13

B-14

Diego Bay Unit of the SDBNWR, and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). Please also see the response to comment B-6.

Measures to avoid and mitigate introduction of pollutants into the preserve have been incorporated into the design of the project, as more fully described and evaluated in *Section 4.5, Hydrology and Water Quality*, and *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR. Please also see the response to comment B-7. In response to earlier public input, the project has been designed to respond to concerns of adjacency to the preserve.

**B-11** The comment suggests changing the name of that portion of the ecological buffer incorporated in the project design that allows limited human activities. The Revised DEIR uses the term "ecological buffer" to identify those areas within the project that limit or prohibit human activity in order to protect sensitive biological resources. Rather than assigning a different name to those areas in which limited human activity may be allowed, the Revised DEIR specifically identifies and distinguishes between the portions of the buffer in which no human activity is allowed (i.e., western 200 feet or No Touch Zone) and the portion of the buffer in which limited human activity may be allowed (i.e., eastern 200 feet).

**B-12** Regarding infrastructure within the buffer, please see the responses to comments B-6, B-7, and B-11.

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Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

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biking, and passive recreation) to minimize indirect impacts (e.g., lighting, shading, and noise) associated with high intensity development. We recommend that landscaping adjacent to buffers utilize only native species to conserve water and avoid or minimize pollutant (e.g., fertilizers, pesticides) discharge into wetlands.

B-10  
(Cont.)

3. Based on the description of the uses to be permitted within the eastern 200 feet of the proposed 400-foot wide "ecological buffer," the nomenclature used for the buffer should be changed to clarify the purpose and intent of the buffer. As described in the DEIR, the entire 400-foot-wide area does not meet the intent of an "ecological buffer," because the human activities to be allowed within the eastern 200 feet are not compatible with the purposes of an ecological buffer. A true ecological buffer is an area where no human activity is allowed, except for conservation and restoration purposes. In the case of the Proposed Project, the only true ecological buffer is within the 200-foot no touch/mitigation area, except where that buffer contains proposed trail outlooks.

B-11

The 100-foot limited use buffer and 100-foot transitional use zone should not be considered part of the ecological buffer because the allowed uses in these areas are not compatible with conservation. Therefore, the final EIR should rename this 200-foot area to more accurately describe the types of low intensity park uses that are proposed within it. Note that we are not requesting a wider ecological buffer; however, we are requesting a clarification of the intent and uses that would occur within this 400-foot-wide area. To prevent human and mammalian access into the ecological buffer, the area should be free of any infrastructure (e.g. trails, viewing platforms, erosion control devices, brush management, trails, and picnic tables) and fully fenced to prevent intrusion.

B-12

4. We consider the proposed 200-foot wide "no-touch" habitat buffer to be mitigation for the Proposed Project's indirect effects. The final EIR should identify locations other than the no-touch buffer zone to create or restore habitat as mitigation for direct habitat losses. We do, however, concur that the habitat restoration within the buffer should be subject to a monitoring and maintenance program.

B-13

5. We do not agree that "strategic" fencing would adequately prevent unauthorized access by humans and pets into sensitive coastal habitats. The entire boundary of the Proposed Project should have fencing or other suitable barriers. Use of native cacti, such as coast cholla (*Cylindropuntia prolifera*), could be strategically used in areas in addition to (but not in lieu of) fencing as an additional deterrent to prevent unauthorized access. At a minimum a 6-foot-high, black vinyl chain link fence, or other suitable barrier, should be erected around the entire boundary of the Proposed Project to prevent unauthorized access by humans and pets into sensitive coastal habitats (to address project-level and program-level impacts). Figures 4.8-24 and 4.8-25 should be revised to show the placement of the 6-foot fence outside of the no touch buffer. Mitigation Measure 4.8-6 H should reflect the same requirement.

B-14

**B-13** The comment suggests that the western 200 feet of the ecological buffer can be used as mitigation for the indirect effects of the Proposed Project, but requests that additional mitigation outside the ecological buffer be provided for the project's direct effects. The Revised DEIR determined that mitigation for direct effects, such as restoration of biological resources, may occur within the ecological buffer. The comment and this response will be included in the Final EIR so that the commenter's request will be considered by the Board of Port Commissioners prior to its decision whether to approve the Proposed Project. Further, subsequent meetings with the wildlife agencies indicated acceptance by the agencies of mitigation for direct impacts within the buffer.

**B-14** In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, the Final EIR has been revised to include a 6-foot-high vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement. In addition, the Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the South San Diego Bay Unit of the SDBNWR, and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). Please also see the response to comment B-6.

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Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

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| 6.  | We recommend that a minimum of a 100-foot buffer be provided for wetland resources associated with the "L" shaped drainage channel (Parcel HP-5) and the surrounding Pacifica development proposal.  | B-15 |
| 7.  | There is no reference within the project design to the proposed habitat buffer that would be provided between J Street Marsh and the HP-3 Shoreline Promenade (page 3-102). As previously suggested in the Service and Department's joint correspondence (January 11, 2007), at a minimum a 100-foot buffer should be established between proposed development (prior recommendations to reduce the width of the Shoreline Promenade) and J Street Marsh.  | B-16 |
| 8.  | The no-touch SP-1 ecological buffer that would extend onto Parcel S-4 to separate the proposed office building from the wetland area to the north should be at least 200 feet in width.  | B-17 |
| 9.  | We recommend that impacts to the wooly sea-blite population located within SP-1, which is considered a buffer, be avoided.   | B-18 |
| 10. | The mudflat shoreline extending north of the Harbor District is used by migratory birds for foraging and resting. Human and animal encroachment into the mudflats would disturb the birds, causing them to move and expend energy otherwise necessary for completion of their migration. The DEIR proposes a buffer and signage along the entire shoreline of the project in the Sweetwater District to help protect the mudflats from human impacts. We recommend that suitable physical barriers (i.e., chain link fence) be provided along the buffer edge farthest from the mudflat shoreline to minimize encroachment from humans and domestic animals into the mudflats. | B-19 |
| 11. | We recommend that the buffer and shoreline north of the J Street Channel (HP-6 and HP-7) be naturalized and at least 100 feet wide. The rip rap could be removed to provide a more natural shoreline, with native upland plants installed between the channel and the proposed promenade. To maximize the width of the habitat buffer, we recommend that the width of the promenade be reduced from 12 to 8 feet in this area.   | B-20 |
| 12. | The Mitigation Plan (Appendix AA) indicates that the Transitional Use Zone in SP-1 may incorporate a more landscaped theme. We recommend that landscaping use only native species to conserve water and avoid and minimize pollutant (e.g., fertilizers, pesticides) discharge into wetlands. Landscaping should not include trees that may provide nesting for pest species (e.g., rats) or predator perches with a line-of-sight into the SDBNWR or adjacent mudflats.   | B-21 |
| 13. | The final EIR should discuss the unavoidable and irreversible effects that implementation of the Proposed Project would have on the sensitive coastal resources that occur within and adjacent to the project boundaries.  | B-22 |

**B-15** The comment requests that a 100-foot buffer be provided for wetlands within Parcel HP-5. Although a larger buffer is requested, the 50-foot buffer proposed in the Revised DEIR is consistent with accepted buffering requirements for coastal wetlands in accordance with standards applied by the California Coastal Commission (CCC), which are applicable in this case. The proposed buffer provides adequate buffering of the resources within the L-Ditch. On March 2, 2010, the Port adopted a Work Plan that provides for clean up of existing contamination and filling the L-Ditch in a manner consistent with the Alternate L-Ditch Remediation Alternative described in Section 5.7 of the Revised DEIR. The Work Plan is subject to review and approval by the Regional Water Quality Control Board (RWQCB), which has jurisdiction over clean up and remediation of the L-Ditch.

**B-16** The comment requests a 100-foot buffer between the HP-3 Shoreline Promenade and the J Street Marsh. As explained on page 3-102 of the Revised DEIR, the Shoreline Promenade ends at Parcel H-14 just north of the J Street Marsh. In addition, the determination of the size of habitat buffers within the project area involves a balancing of concerns regarding habitat protection values with those regarding improving coastal access. The Revised DEIR reflects the Port's good-faith effort to provide adequate protection to biological resources while also providing adequate access to coastal resources.

**B-17** Parcel S-4 includes a buffer of 100 feet, because anything greater than 100 feet would make the parcel undevelopable. For this parcel, a 100-foot buffer is sufficient because it is separated from the SDBNWR by right-of-ways (ROWs) for the railroad and San Diego Gas and Electric (SDG&E) transmission lines. As stated on page 3-116 of the Revised DEIR, the 100-foot-wide habitat buffer will be included on the north end of Parcel S-4 to buffer the sensitive habitat to the north

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Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

Enclosure Page 3

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| 6.  | We recommend that a minimum of a 100-foot buffer be provided for wetland resources associated with the "L" shaped drainage channel (Parcel HP-5) and the surrounding Pacifica development proposal.  | B-15 |
| 7.  | There is no reference within the project design to the proposed habitat buffer that would be provided between J Street Marsh and the HP-3 Shoreline Promenade (page 3-102). As previously suggested in the Service and Department's joint correspondence (January 11, 2007), at a minimum a 100-foot buffer should be established between proposed development (prior recommendations to reduce the width of the Shoreline Promenade) and J Street Marsh.  | B-16 |
| 8.  | The no-touch SP-1 ecological buffer that would extend onto Parcel S-4 to separate the proposed office building from the wetland area to the north should be at least 200 feet in width.  | B-17 |
| 9.  | We recommend that impacts to the wooly sea-blite population located within SP-1, which is considered a buffer, be avoided.   | B-18 |
| 10. | The mudflat shoreline extending north of the Harbor District is used by migratory birds for foraging and resting. Human and animal encroachment into the mudflats would disturb the birds, causing them to move and expend energy otherwise necessary for completion of their migration. The DEIR proposes a buffer and signage along the entire shoreline of the project in the Sweetwater District to help protect the mudflats from human impacts. We recommend that suitable physical barriers (i.e., chain link fence) be provided along the buffer edge farthest from the mudflat shoreline to minimize encroachment from humans and domestic animals into the mudflats. | B-19 |
| 11. | We recommend that the buffer and shoreline north of the J Street Channel (HP-6 and HP-7) be naturalized and at least 100 feet wide. The rip rap could be removed to provide a more natural shoreline, with native upland plants installed between the channel and the proposed promenade. To maximize the width of the habitat buffer, we recommend that the width of the promenade be reduced from 12 to 8 feet in this area.   | B-20 |
| 12. | The Mitigation Plan (Appendix AA) indicates that the Transitional Use Zone in SP-1 may incorporate a more landscaped theme. We recommend that landscaping use only native species to conserve water and avoid and minimize pollutant (e.g., fertilizers, pesticides) discharge into wetlands. Landscaping should not include trees that may provide nesting for pest species (e.g., rats) or predator perches with a line-of-sight into the SDBNWR or adjacent mudflats.   | B-21 |
| 13. | The final EIR should discuss the unavoidable and irreversible effects that implementation of the Proposed Project would have on the sensitive coastal resources that occur within and adjacent to the project boundaries.  | B-22 |

from development. The 100-foot buffer on Parcel S-4 described in *Chapter 3.0, Project Description*, of the Revised DEIR (page 3-116) is consistent with CCC buffer requirements.

As described in *Chapter 2.0, Introduction*, and *Chapter 3.0, Project Description*, of the Revised DEIR, program-level components of the Proposed Project would require subsequent environmental review as "subsequent activities" pursuant to CEQA Guidelines Section 15168. Therefore, once detailed project-level plans are proposed for Parcel S-4, subsequent environmental review will consider potential impacts from the proposed development project pursuant to CEQA Guidelines Section 15168. Nonetheless, in response to this comment and other comments on the Revised DEIR regarding the buffer on Parcel S-4, *Chapter 3.0, Project Description*, of the Final EIR has been revised for Parcel S-4 to clarify that at the time project-specific development is proposed, shading impacts, as well as appropriate setbacks, step backs, and/or height reductions, will be analyzed as part of the necessary subsequent environmental review for this parcel. Please also see the response to comment B-10.

**B-18** As noted in the Revised DEIR, *Section 4.8.1.6, Sensitive Species and Habitats*, species are considered sensitive if they are: (1) listed or proposed for listing by state or federal agencies as threatened or endangered; (2) on List 1B or List 2 of the California Native Plant Society's (CNPS') Inventory of Rare and Endangered Plants of California (CNPS 2001); (3) included on the City's MSCP Subarea Plan list of species evaluated for coverage or list of narrow endemic plant species; or (4) considered rare, endangered, or threatened by the California Natural Diversity Database (CNDDDB; State of California 2006a, 2006b, 2006c). As noted in *Section 4.8.1.6* of the Revised DEIR, woolly seablite (*Suaeda taxifolia*) is a CNPS List 4 species, is not a narrow endemic as listed in the City's MSCP Subarea Plan and is

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| 6.  | We recommend that a minimum of a 100-foot buffer be provided for wetland resources associated with the "L" shaped drainage channel (Parcel HP-5) and the surrounding Pacifica development proposal.  | B-15 |
| 7.  | There is no reference within the project design to the proposed habitat buffer that would be provided between J Street Marsh and the HP-3 Shoreline Promenade (page 3-102). As previously suggested in the Service and Department's joint correspondence (January 11, 2007), at a minimum a 100-foot buffer should be established between proposed development (prior recommendations to reduce the width of the Shoreline Promenade) and J Street Marsh.  | B-16 |
| 8.  | The no-touch SP-1 ecological buffer that would extend onto Parcel S-4 to separate the proposed office building from the wetland area to the north should be at least 200 feet in width.  | B-17 |
| 9.  | We recommend that impacts to the wooly sea-blite population located within SP-1, which is considered a buffer, be avoided.   | B-18 |
| 10. | The mudflat shoreline extending north of the Harbor District is used by migratory birds for foraging and resting. Human and animal encroachment into the mudflats would disturb the birds, causing them to move and expend energy otherwise necessary for completion of their migration. The DEIR proposes a buffer and signage along the entire shoreline of the project in the Sweetwater District to help protect the mudflats from human impacts. We recommend that suitable physical barriers (i.e., chain link fence) be provided along the buffer edge farthest from the mudflat shoreline to minimize encroachment from humans and domestic animals into the mudflats. | B-19 |
| 11. | We recommend that the buffer and shoreline north of the J Street Channel (HP-6 and HP-7) be naturalized and at least 100 feet wide. The rip rap could be removed to provide a more natural shoreline, with native upland plants installed between the channel and the proposed promenade. To maximize the width of the habitat buffer, we recommend that the width of the promenade be reduced from 12 to 8 feet in this area.   | B-20 |
| 12. | The Mitigation Plan (Appendix AA) indicates that the Transitional Use Zone in SP-1 may incorporate a more landscaped theme. We recommend that landscaping use only native species to conserve water and avoid and minimize pollutant (e.g., fertilizers, pesticides) discharge into wetlands. Landscaping should not include trees that may provide nesting for pest species (e.g., rats) or predator perches with a line-of-sight into the SDBNWR or adjacent mudflats.   | B-21 |
| 13. | The final EIR should discuss the unavoidable and irreversible effects that implementation of the Proposed Project would have on the sensitive coastal resources that occur within and adjacent to the project boundaries.  | B-22 |

not state- or federally listed. Therefore, it is not considered special status for purposes of CEQA. Furthermore, the populations that would be impacted within the Sweetwater District are within areas proposed for coastal salt marsh restoration. Therefore, avoidance is not considered necessary because of the limited opportunities available for coastal salt marsh restoration. However, restoration plans will include the species in the planting palette.

**B-19** This comment cites Policy PFS 5.4 of the City of Chula Vista General Plan regarding law enforcement staffing and equipment. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan Policy PFS 5.4 on page 4.1-101. Please also see the response to comment B-14.

**B-20** It is not feasible to remove shoreline protection along the southern boundaries of Parcels HP-6 and HP-7 as such actions would jeopardize existing improvements and infrastructure in these areas. Please also see the response to comment B-16.

**B-21** Detailed landscape plans for these project features have not been fully developed due to the programmatic nature of these components, but the Port will consider the USFWS' recommendations in development and review of those plans. As described in **Mitigation Measure 4.4-1D** of the Revised DEIR, the Port and City will collectively develop a master landscaping plan for the project's public components and improvements prior to final approval of Phase I infrastructure design plans. The master landscape plan will provide sufficient detail to ensure conformance to streetscape design guidelines and that future developers/tenants, as applicable, provide screening of parking areas.

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| 13. | The final EIR should discuss the unavoidable and irreversible effects that implementation of the Proposed Project would have on the sensitive coastal resources that occur within and adjacent to the project boundaries.  | B-22 |

In addition, **Mitigation Measure 4.8-6F** in the Final EIR has been revised to include landscape guidelines that will apply to the Proposed Project area as well as prohibiting non-native plants and invasive species.

The Final EIR has been revised to include additional measures to further reduce the indirect impacts to biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. Amongst other things, the additional mitigation (see **Mitigation Measure 4.8-7** in the Final EIR) provides for the creation, implementation, and enforcement of a Natural Resources Management Plan (NRMP), and efforts to enter into cooperative management agreements with USFWS or other appropriate agencies. Please also see the responses to comments C-11, Q-8, and Q-9, which include additional details regarding the cooperative agreements provided for in **Mitigation Measure 4.8-7** in the Final EIR.

**B-22** The comment requests that the Revised DEIR address the unavoidable and irreversible effects of implementation of the Proposed Project on sensitive coastal resources. *Section 7.2* of the Revised DEIR addresses the potential unavoidable and irreversible effects of the Proposed Project. *Section 4.8, Terrestrial Biological Resources*, and *Section 4.9, Marine Biological Resources*, of the Revised DEIR address the potential effects of the Proposed Project on terrestrial and marine biological resources. Based on the extensive analysis of the project on coastal biological resources, as documented in *Sections 4.8* and *4.9* of the Revised DEIR, and extensive mitigation proposed to reduce project impacts to less-than-significant levels, the Port appropriately concluded that no significant adverse impacts on terrestrial or marine biological resources would result with project implementation.



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*Disturbances to Wildlife*

14. We are concerned about the inclusion of the proposed Signature Park on S-2 because it would likely attract generalist predators to the adjacent SDBNWR and mudflats. The Signature Park includes amenities such as lighting, picnic areas, and vending of food and beverages, which could attract generalist predators due to an increase in trash. Though trash containers would be provided, some windblown trash from park users would end up in the adjacent wildlife habitats (Significant Impact 4.5-1), thus attracting predators that also prey on ground nesting birds. We strongly discourage the placement of food/beverage vending facilities within these parklands. A trash control program should be developed that would require emptying of trash receptacles at least once a day. Trash receptacles should be scavenger resistant (including trash cans and dumpsters), similar to those used to deter bears, with lids/closures that cannot be left open. Dumpsters throughout the development should remain closed. We recommend that interpretive materials be prepared and distributed to businesses and residents. Interpretive signs should be placed prominently in picnic areas.

B-23

15. We recommend that all tall structures and all landscaping within the project site be situated away from sensitive habitats to reduce predator perches with a line-of-sight into adjacent sensitive habitats, as well as to reduce shading effects on sensitive habitats, and bird strikes (i.e., collisions with reflective glass). For example, development on S-1 and S-4 should be re-oriented so that the buildings (e.g., 125-foot tall buildings proposed on Parcel S-4) and any tall landscaping is located at the southern portion of the parcels while the parking is located at the north end of the parcels. This would minimize the introduction of predator perching with a line-of-sight into the adjacent marshes north and west of the parcels.

B-24

Figure 3-9 of the DEIR shows that the buildings are proposed to be located at the northern end of the parcels in close proximity to the adjacent sensitive habitats. Similarly, the tallest buildings associated with the RCC should be located on the southeast portion of Parcel H-3. This would also reduce the RCC's shading impacts to the F&G Street Marsh and minimize the potential for bird strikes. All buildings, signs, lighting fixtures, and tall landscaping with a line-of-site into sensitive habitats should be designed and/or placed in such a manner to avoid the introduction of predator perches and thereby reduce the potential for impacts to sensitive wildlife.

16. Though impacts to wildlife from construction noise are addressed, the DEIR does not adequately address impacts to wildlife from operational noise. The Biology section should include an analysis of operational noise impacts to wildlife. Based on figure 4.7-3, it appears that operational noise levels may affect several sensitive avian species within all habitats on the project site (e.g., L Street Marsh (HP-5), Telegraph Creek (OP-2A), ephemeral wetland (S-2A)) and habitats adjacent to the project site (J Street Channel and Marsh, and F&G Street Marsh and its tidal tributary). However, impacts to other habitats

B-25

**B-23** The concerns expressed by the USFWS regarding placement of the Signature Park in Parcel S-2 are fully addressed in the Revised DEIR (as noted in the commenter's reference to **Significant Impact 4.5-1**). The specific impacts identified in the comments related to trash and trash enclosures are mitigated through provisions in **Mitigation Measure 4.8-6**, which specifically includes requirements for trash enclosures and daily trash removal from the enclosures. Please also see the response to comment B-70 regarding self-closing trash receptacles. In response to this and other comments, **Mitigation Measure 4.8-6H** in the Final EIR has been revised to specify "animal-proof" trash can requirements with self-closing lids.

The suggestions provided regarding public education will be implemented in developing specific signage requirements and public information materials. The Port will work with the wildlife agencies to develop such public educational materials. In response to this and other comments, **Mitigation Measure 4.8-7** has been added to the Final EIR, which provides for creation of an NRMP.

**B-24** As described in *Section 3.4.4.4* of the Revised DEIR, structures within Parcel S-1 (which is part of Phase IV, program-level development) would be designed to a maximum of 40 to 100 feet in height, from two to eight stories, with the taller structures stepped away from the San Diego Bay (Bay). In addition, only one-story structures are permitted within the S-2 Signature Park.

Potential impacts related to raptor perching opportunities adjacent to sensitive habitat areas are addressed in the Revised DEIR (**Significant Impact 4.8-6**). Mitigation is provided in the Revised DEIR (**Mitigation Measure 4.8-6**) to address these impacts, including design measures to reduce or avoid raptor perching opportunities (including buildings, light posts, and other protrusions), in addition to

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*Disturbances to Wildlife*

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B-25

building setbacks and buffers that have been incorporated into the overall project design (see pages 4.8-145 and 4.8-146 of the Revised DEIR). In addition to specific design criteria to reduce or avoid raptor perching opportunities near sensitive habitat areas, **Mitigation Measure 4.8-6** contains raptor management and monitoring measures (**Mitigation Measure 4.8-6C**). Similarly, design criteria for lighting near or adjacent to the SDBNWR are provided to ensure that project lighting is directed away from sensitive habitat areas (page 4.8-146 of the Revised DEIR). Predator-control measures include exclusionary fencing, buffers, trash containment and management, and signage/enforcement of leash laws. These measures, as further detailed in the Revised DEIR, would reduce the referenced indirect effects of the Proposed Project to less-than-significant levels.

Although the mitigation measures to reduce or avoid significant impacts related to increased predation associated with raptor perching (see **Mitigation Measures 4.8-6B** and **4.8-6C**) contained in the Revised DEIR are adequate to reduce the potential impact to less-than-significant levels, **Mitigation Measure 4.8-6B** has been revised in the Final EIR as recommended in this comment to specify that buildings on Parcels S-1 and S-4 will be oriented to the extent feasible to reduce raptor perches with line of sight into adjacent sensitive habitats. **Mitigation Measure 4.6-8B** in the Final EIR has also been revised as described in the response to comment B-68. In addition, the descriptions for Parcels S-4 and S-1 in *Chapter 3.0, Project Description*, of the Final EIR have been revised to clarify that at the time project-specific development is proposed on these parcels, shading impacts, appropriate setbacks, step backs, and/or height reductions will be analyzed as part of the necessary subsequent environmental review for the projects.

The commenter also expresses concern regarding shading impacts

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*Disturbances to Wildlife*

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B-25

from the proposed RCC building on Parcel H-3, as depicted on *Figure 3-9* in the Revised DEIR. As noted in the *Preface* to the Final EIR, development on Parcel H-3 is no longer analyzed at a project level, as there is currently no active developer pursuing development of this parcel. At the time a project-specific development application is submitted for Parcel H-3, a site-specific shading analysis will be conducted to evaluate impacts to sensitive habitats.

**B-25** This comment opines that the Revised DEIR does not adequately address operational noise impacts on wildlife in adjacent areas such as the Sweetwater Marsh and South San Diego Bay Units of the SDBNWR, Chula Vista Nature Reserve. The comment also requests additional study of operational noise, including noise contours that extend 200 feet beyond the project boundary. Operational noise and its affect on sensitive wildlife have been addressed in the Revised DEIR. Specifically, *Section 4.7, Noise*, of the Revised DEIR evaluates potential impacts related to operational noise from Phase I development (consisting primarily of mechanical equipment noise) as well as traffic, on adjacent preserve areas in the J Street Marsh and F&G Street Marsh. The conclusion of the analyses is that operational noise would be below 60 dBA Leq at all sensitive habitat locations, with the possible exception of operational noise from the Pacifica Development on the J Street Marsh (**Significant Impact 4.7-4**). Mitigation for that potential impact is included in the Revised DEIR in the form of a performance standard, which would ensure noise levels at or below 60 dBA Leq at the nearest active nest location. It should be noted that *Figure 4.7-3* of the EIR does not include noise contours, as the comment seems to indicate. In fact, the analysis in *Section 4.7, Noise*, of the EIR is based on specific modeled noise values at specific locations, and does not rely on noise contour mapping whatsoever. As noted in this response, a complete and accurate analysis of potential noise impacts on preserve areas has been provided in the Revised DEIR.

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adjacent to the project site (e.g., Sweetwater Marsh and South San Diego Bay Units of the SDBNWR, Chula Vista Nature Reserve) cannot be evaluated because the noise contours provided in Figure 4.7-3 do not extend sufficiently beyond the project boundary. As such, Figure 4.7-3 should be revised to include noise contours that extend 200 feet beyond the project boundary.

B-25  
(Cont.)

17. Activities such as fireworks, concerts, and other light and noise generating events that could be associated with the resort/conference center, Signature Park, other parkland, harbor, ferry terminal, and various retail/commercial recreation areas, and their impacts to wildlife need to be described, and their impacts need to be analyzed. Fireworks and outdoor concerts that generate noise beyond the development boundary should be restricted to outside the avian breeding season (i.e., January through September, depending on the species) to minimize impacts to nesting and fledging birds.

B-26

18. To partially mitigate the Proposed Project's indirect impacts, the final EIR should: (a) prohibit boating in the open waters east of the proposed realigned navigation channel and north of the South Bay boat yard to avoid or minimize disturbance to migratory birds feeding along the mudflats and resting in San Diego Bay; (b) require the installation of regulatory signage on buoys and boat markers along the boat channel; and, (c) require increased enforcement by the Harbor Patrol to deter watercraft from going ashore onto sensitive habitat areas (e.g., Chula Vista Wildlife Reserve, northern levees of the Salt Ponds, mudflats along Sweetwater Marsh, J Street Marsh) and adversely affecting nesting, foraging, and resting birds and their habitat.

B-27

*Bird Strikes and Disorientation*

19. As has been stated in the previously circulated draft EIR, "both tall building and low buildings can be dangerous to birds". Consequently, the proposed mitigation measures should be applied to all buildings that have an unobstructed line of sight to nearby open water or large areas of open space regardless of height. We have previously raised these concerns and suggested that they could partially be addressed by orienting the tallest buildings as far away as possible from the San Diego Bay and/or reducing building heights (specifically on parcel H-3) to a maximum of 50 feet to minimize the potential for bird strikes.

B-28

20. The discussion pertaining to Bird Air Strike concerns (pages 4.8-133 -135) should include a map showing potential migration corridors through and/or adjacent to the subject property and how the migration corridor would be affected by the project.

B-29

*Shading of Adjacent Habitat*

21. Section 4.8.5 (page 4.8-110) states that an analysis of the effects of shading of habitat by buildings and structures was conducted as part of the revised DEIR; however no reference

B-30

**B-26** Fireworks "within the limits of a Public Park of the District" are prohibited under Section 8.02(b)12 of the San Diego Unified Port District Code. In addition, fireworks are not proposed as a part of the project and would need to be permitted separately, as they would be without the project. Currently, all proposed firework shows in the City of Chula Vista must be permitted by the U.S. Coast Guard.

In response to this and other comments regarding fireworks, the Final EIR has been revised (see **Mitigation Measure 4.8-6E**), requiring that a maximum of three firework events can be held each year. All firework events will be held outside of least tern (*Sterna antillarum*) nesting season, except the Fourth of July, which may be allowed if in full regulatory compliance and if the nesting colonies are monitored during the event and any impacts are reported to the Wildlife Advisory Committee so that they can be addressed. All shows must comply with all applicable water quality and species protection regulations. All shows must be consistent with policies, goals, and objectives in the NRMP.

**B-27** The comment proposes additional mitigation in terms of prohibiting boating in certain open water areas, the installation of signage on buoys and boat markers, and increased enforcement by the Harbor Patrol.

In response, all indirect impacts of the project on biological resources have been fully mitigated, as discussed and analyzed in *Sections 4.8* and *4.9* of the Revised DEIR. Nonetheless, the Final EIR has been revised to include additional measures to further reduce the indirect impacts to sensitive biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. Additional mitigation (see **Mitigation Measure 4.8-6I** in the Final EIR) includes measures to reduce impacts associated with

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adjacent to the project site (e.g., Sweetwater Marsh and South San Diego Bay Units of the SDBNWR, Chula Vista Nature Reserve) cannot be evaluated because the noise contours provided in Figure 4.7-3 do not extend sufficiently beyond the project boundary. As such, Figure 4.7-3 should be revised to include noise contours that extend 200 feet beyond the project boundary.

B-25  
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B-30

boating activities. In response to this and other comments, the Final EIR has also been revised to include the prohibition of jet-ski rentals within the Chula Vista Bayfront Master Plan area. Please also see the responses to comments V-87, V-90, and V-181 regarding jet-skis. Not only will the rental of jet-skis and motorized personal watercrafts (PWCs) be prohibited in the project area, but also the use of jet-skis/PWCs will be prohibited in wildlife habitat areas. Watercraft outside of the navigation channel are restricted to a 5-mile-per-hour speed limit. Furthermore, Port Code Section 4.3 includes regulations related to anchoring, mooring, towing, and docking of vessels for purposes of controlling navigable waters. The Port will continue to cooperate with the wildlife agencies to enforce existing regulations.

Additional measures incorporated into the Final EIR to further reduce the indirect impacts to biological resources includes the creation, implementation, and enforcement of an NRMP, and efforts to enter into cooperative management agreements with USFWS or other appropriate agencies (see **Mitigation Measure 4.8-7** in the Final EIR). Signage on buoys and boat markers may be considered as part of the NRMP. Please also see the responses to comments C-11, Q-8, and Q-9, which include additional details regarding the cooperative agreements provided for in **Mitigation Measure 4.8-7** in the Final EIR.

In addition, **Mitigation Measure 4.8-6H** has been revised in the Final EIR to include signs adjacent to the sensitive areas that provide contact information for the Port of San Diego Harbor Police (Harbor Police) to report trespassing within the sensitive areas.

**B-28 Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered as **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and

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adjacent to the project site (e.g., Sweetwater Marsh and South San Diego Bay Units of the SDBNWR, Chula Vista Nature Reserve) cannot be evaluated because the noise contours provided in Figure 4.7-3 do not extend sufficiently beyond the project boundary. As such, Figure 4.7-3 should be revised to include noise contours that extend 200 feet beyond the project boundary.

B-25  
(Cont.)

17. Activities such as fireworks, concerts, and other light and noise generating events that could be associated with the resort/conference center, Signature Park, other parkland, harbor, ferry terminal, and various retail/commercial recreation areas, and their impacts to wildlife need to be described, and their impacts need to be analyzed. Fireworks and outdoor concerts that generate noise beyond the development boundary should be restricted to outside the avian breeding season (i.e., January through September, depending on the species) to minimize impacts to nesting and fledging birds.

B-26

18. To partially mitigate the Proposed Project's indirect impacts, the final EIR should: (a) prohibit boating in the open waters east of the proposed realigned navigation channel and north of the South Bay boat yard to avoid or minimize disturbance to migratory birds feeding along the mudflats and resting in San Diego Bay; (b) require the installation of regulatory signage on buoys and boat markers along the boat channel; and, (c) require increased enforcement by the Harbor Patrol to deter watercraft from going ashore onto sensitive habitat areas (e.g., Chula Vista Wildlife Reserve, northern levees of the Salt Ponds, mudflats along Sweetwater Marsh, J Street Marsh) and adversely affecting nesting, foraging, and resting birds and their habitat.

B-27

*Bird Strikes and Disorientation*

19. As has been stated in the previously circulated draft EIR, "both tall building and low buildings can be dangerous to birds". Consequently, the proposed mitigation measures should be applied to all buildings that have an unobstructed line of sight to nearby open water or large areas of open space regardless of height. We have previously raised these concerns and suggested that they could partially be addressed by orienting the tallest buildings as far away as possible from the San Diego Bay and/or reducing building heights (specifically on parcel H-3) to a maximum of 50 feet to minimize the potential for bird strikes.

B-28

20. The discussion pertaining to Bird Air Strike concerns (pages 4.8-133 -135) should include a map showing potential migration corridors through and/or adjacent to the subject property and how the migration corridor would be affected by the project.

B-29

*Shading of Adjacent Habitat*

21. Section 4.8.5 (page 4.8-110) states that an analysis of the effects of shading of habitat by buildings and structures was conducted as part of the revised DEIR; however no reference

B-30

siting of buildings and parking to reduce impacts related to bird strikes and disorientation. In addition, this mitigation measure has been revised in the Final EIR so that the measures required to reduce or avoid the Proposed Project's potential significant impacts on bird strikes shall be implemented for any buildings with unobstructed lines of sight to nearby open water or large areas of open space.

**B-29** *Section 4.8-5* of the Revised DEIR contains a discussion of bird migration corridors and indicates that the entire site is within a portion of a regional migration corridor. In the context of this analysis, a map showing migration corridors would not provide useful information to the reader, nor would it provide clarification or illustration of impacts beyond what is described in the text. In addition, *Section 4.8-5* addresses hazards for localized movement.

**B-30** Graphics depicting the shading analysis that was performed to determine project impacts have been included as *Appendix 4.4-4*. The shading analysis was conducted for Phase I project elements (Pacifica development) based on actual building design. Rather than providing a speculative analysis of theoretical development that might occur in future phases of the proposed master plan project, the Revised DEIR provides that shading analysis of future development in Phases I through IV will be conducted pursuant to CEQA Guidelines Section 15168 when specific building designs and subsequent projects are proposed.

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was provided as to the corresponding appendix that discusses those results. As was previously suggested for each development option, the final EIR should provide three-dimensional images of any structure that would cast shadows on adjacent freshwater, intertidal, and tidal wetland areas (including development adjacent to L-Marsh, J Street Marsh, and F&G Marsh). These images should reflect the maximum allowable floor area ratio, the maximum allowable height, and the minimum contemplated setbacks (i.e., buffers). The acreages of the shaded areas should be quantified by habitat type, described, and mitigated.

B-30  
(Cont.)

*Increased Illumination*

22. The final EIR should provide a delineation of areas with sensitive habitats that are expected to be directly or indirectly exposed to light levels of higher intensity (including increased sky glow) than ambient levels. The delineation should be on a large scale aerial image (a scaled figure).

B-31

23. Similar to the mitigation measure outlined in Section 4.8-6 (D), Mitigation Measure 4.4-2 should be revised to identify the specific biological resource areas of concern (e.g., habitat buffers, habitats or open water) for outdoor and parking lot lighting, as opposed to referring to these areas as "adjacent properties". All lights, including street lights, pedestrian and bicycle path lighting, and any recreational lighting should be directed away from and fully shielded so as to not illuminate adjacent biological resource areas of concern. In addition, no external lighting of buildings (e.g., cosmetic lighting) or other structures should be permitted, no lighted building signs should be permitted beyond the first floor, and all commercial signage should be provided on monument signs rather than pole signs or on the sides of buildings.

B-32

All lighting proposed for the Signature Park (Parcel S-2) and the Shoreline Promenade (Parcels HP-3, HP-6, and HP-7) should be placed only where needed for human safety. Lights should be placed on low-standing (e.g., 2-foot tall) bollards, shielded, and flat-bottomed so illumination is directed downward onto the walkway and does not scatter. Low-pressure sodium bulbs that emit only a narrow range of yellow light should be utilized because monochromatic yellow light, which is not perceived as "natural" light by wildlife, minimizes ecological disruptions.

*Increased Freshwater Input, Degraded Water Quality, and/or Erosional Surface Flows*

24. The site design for the Proposed Project should minimize the project-related increase in dry and wet-weather surface flows, and integrate on site Best Management Practices (BMPs) that would attenuate the flows (prior to their discharge) to reduce their impacts on the morphology of sensitive habitats to which they ultimately discharge. Examples of BMPs to consider include appropriately sized grass swales and vegetated detention basins. All BMPs should be within the development footprint, outside of the buffers.

B-33

**B-31** The comment requests that the Final EIR include a large-scale aerial image providing a delineation of areas with sensitive habitats that may be exposed to light levels of higher intensity. The Revised DEIR contains a complete analysis of potential indirect impacts of lighting on sensitive habitat areas, and contains mitigation measures to avoid significant effects. Specifically, **Mitigation Measure 4.8-6** states that, "where necessary, lighting of all developed areas adjacent to the habitat buffers, Preserve Areas, habitats, or open water shall provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the habitat buffers, Preserve Areas, habitats, or open water and sensitive species from night lighting," and includes details on how this standard is to be achieved. **Mitigation Measure 4.8-6**, including the lighting requirements, was prepared in accordance with the City's MSCP Subarea Plan, which has been approved by the wildlife agencies and is considered sufficient to mitigate for the potential impacts resulting from lighting. Although the comment suggests additional graphics would be helpful, as lead agency, the Port has discretion to determine that the information provided in the Revised DEIR is sufficient and such additional information is not warranted.

**B-32** The suggested methods for avoiding indirect lighting impacts on biological resources provided in this comment are incorporated into project mitigation. **Mitigation Measure 4.4-2** in the Revised DEIR sets forth measures to reduce or avoid lighting impacts throughout the project site, which includes, but is not limited to, impacts on sensitive biological resources. As stated in the response to comment B-31, **Mitigation Measure 4.8-6** in the Revised DEIR includes lighting requirements to reduce or avoid indirect lighting impacts on biological resources. Similarly, design criteria for lighting near or adjacent to the SDBNWR are provided to ensure that project lighting is directed away from sensitive habitat areas (page 4.8-146).

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was provided as to the corresponding appendix that discusses those results. As was previously suggested for each development option, the final EIR should provide three-dimensional images of any structure that would cast shadows on adjacent freshwater, intertidal, and tidal wetland areas (including development adjacent to L-Marsh, J Street Marsh, and F&G Marsh). These images should reflect the maximum allowable floor area ratio, the maximum allowable height, and the minimum contemplated setbacks (i.e., buffers). The acreages of the shaded areas should be quantified by habitat type, described, and mitigated.

B-30  
(Cont.)

*Increased Illumination*

22. The final EIR should provide a delineation of areas with sensitive habitats that are expected to be directly or indirectly exposed to light levels of higher intensity (including increased sky glow) than ambient levels. The delineation should be on a large scale aerial image (a scaled figure).
23. Similar to the mitigation measure outlined in Section 4.8-6 (D), Mitigation Measure 4.4-2 should be revised to identify the specific biological resource areas of concern (e.g., habitat buffers, habitats or open water) for outdoor and parking lot lighting, as opposed to referring to these areas as "adjacent properties". All lights, including street lights, pedestrian and bicycle path lighting, and any recreational lighting should be directed away from and fully shielded so as to not illuminate adjacent biological resource areas of concern. In addition, no external lighting of buildings (e.g., cosmetic lighting) or other structures should be permitted, no lighted building signs should be permitted beyond the first floor, and all commercial signage should be provided on monument signs rather than pole signs or on the sides of buildings.

B-32

All lighting proposed for the Signature Park (Parcel S-2) and the Shoreline Promenade (Parcels HP-3, HP-6, and HP-7) should be placed only where needed for human safety. Lights should be placed on low-standing (e.g., 2-foot tall) bollards, shielded, and flat-bottomed so illumination is directed downward onto the walkway and does not scatter. Low-pressure sodium bulbs that emit only a narrow range of yellow light should be utilized because monochromatic yellow light, which is not perceived as "natural" light by wildlife, minimizes ecological disruptions.

*Increased Freshwater Input, Degraded Water Quality, and/or Erosional Surface Flows*

24. The site design for the Proposed Project should minimize the project-related increase in dry and wet-weather surface flows, and integrate on site Best Management Practices (BMPs) that would attenuate the flows (prior to their discharge) to reduce their impacts on the morphology of sensitive habitats to which they ultimately discharge. Examples of BMPs to consider include appropriately sized grass swales and vegetated detention basins. All BMPs should be within the development footprint, outside of the buffers.

B-33

In addition, the Final EIR has been revised to include measures to further reduce the indirect impacts to biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. **Mitigation Measure 4.8-6D** has been revised in the Final EIR to incorporate additional measures related to lighting and illumination, including lighting requirements to reduce impacts to wildlife habitat areas, shield external lighting, and minimize lighting trespass and non-security lighting. **Mitigation Measure 4.8-7** has been added to the Final EIR, which provides for the creation, implementation, and enforcement of an NRMP. The adaptive management components of the NRMP will address, among other things, resource threats and management of bird flushing. As provided for in **Mitigation Measure 4.8-7** in the Final EIR, paths running parallel to shore or marsh areas that will cause or contribute to bird flushing will be minimized throughout the project area. In addition, walkways and overlooks approaching sensitive areas will be blinded, raised, or otherwise screened so that birds are not flushed or frightened and to generally minimize visual impacts on the wildlife habitats from people on the walkways.



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The final EIR should provide the location(s) and descriptions of the proposed construction and post-construction BMPs, and should discuss the long-term maintenance of the latter.

25. Although there is a reference that the Proposed Project would be exempt from the Interim Hydromodification Criteria (page 4.5-20), selected treatment BMPs or low impact development that detains flow or limits post-project peak flows to pre-development levels throughout all project-level phases of development should be used. Storm water discharges at the source and impacts to hydrologic functions should be minimized and mitigated as close to the source as possible. We remain concerned with post-project flows and the potential degradation of existing wetlands within and adjacent to the project site due to project-related changes in surface storm water flows. We are particularly concerned with the project-related storm water (freshwater) flows that would be discharged into the seasonal wetlands in the Sweetwater District (Parcel S-2), the F&G Marsh and its tidal tributary, the J Street channel, Telegraph Creek, and the J Street Marsh. Grading in SP-1 and S-1 would increase surface water flows into SP-2 (season wetlands) and F&G Street Marsh, and there would be more storm drains draining into the J Street Channel and Telegraph Creek.
26. Increased storm water flows into salt-water wetlands can result in a type-conversion to more common freshwater wetlands. In addition, depending on the velocity of the storm water discharges, the flows could disrupt the morphology of the receiving waters/habitats by ongoing erosion. Over time, the discharges can seriously damage sensitive habitats. Increased flows from impervious surfaces associated with urbanization can result in: a) stream bed scouring and habitat degradation; b) shoreline erosion and stream bank widening; c) loss of aquatic species; and d) decreased baseflow. Furthermore, project-related increases in traffic would result in higher concentrations of vehicle-related contaminants (e.g., copper, zinc, asbestos, hydrocarbons, and antifreeze) in the storm water flows.
27. We are concerned about deleterious changes to the salt balance, morphology, hydrology, and water quality of the F&G Street Marsh and its tidal tributary because such changes can negatively affect future restoration of the F&G Street Marsh, and because the light-footed clapper rail has been known to reside there. Conversely, current storm water flows into the L-Marsh (Parcel HP-5) would be redirected to the street, potentially reducing water flows to the wetland and thereby also reducing the wetland habitat quality. Please provide a discussion in the final EIR about how these issues would be addressed.
28. The Design, Source Control BMPs, and Treatment Control BMPs section (page 4.5-62) of the final EIR should include a requirement for the routine sweeping of all residential and commercial parking lot areas. This requirement is referenced the technical Appendix 4.7-2 and should be include in the final EIR.

B-33  
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**B-33** An extensive discussion and description of LID measures and BMPs is contained in *Section 4.5, Hydrology and Water Quality*, of the Revised DEIR. All of the issues raised in this comment are fully addressed in that discussion.

**B-34** The comment expresses concern regarding post-project stormwater flows and requests that the project be required to limit post-project peak flows to pre-development levels. As described on pages 4.5-27 through 4.5-33 of the Revised DEIR, the Proposed Project is exempt from the Interim Hydromodification Criteria because the only existing channel within the project site is concrete-lined. Nonetheless, the Proposed Project includes numerous features discussed in *Section 4.5*, which will ensure that post-project stormwater flows are managed properly and are in compliance with all applicable regulations. Although development will change the drainage characteristics of the site, including J Street Marsh and Telegraph Creek, the changes would not be substantial such that significant adverse effects on marsh communities would result. As an example, the proposed stormwater discharge within the channel connecting the F&G Street Marsh to the bay is sufficiently far enough toward the bay side of the channel to avoid a substantial change in brackish conditions within the marsh. Moreover, the project proposes to widen the channel and remove existing flow impediments, including the existing culvert crossing at Marina Parkway, replacing the crossing with a bridge. Therefore, the project will result in improved tidal flow conditions in the F&G Street Marsh overall.

**B-35** Please see the response to comment B-34. Per the author's comment, *Section 4.5, Hydrology/Water Quality*, of the Revised DEIR describes how the Proposed Project meets the Interim Hydromodification Criteria with regard to discharge, and includes project designs that address: (a) stream bed scouring and habitat degradation, (b) shoreline

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The final EIR should provide the location(s) and descriptions of the proposed construction and post-construction BMPs, and should discuss the long-term maintenance of the latter.

25. Although there is a reference that the Proposed Project would be exempt from the Interim Hydromodification Criteria (page 4.5-20), selected treatment BMPs or low impact development that detains flow or limits post-project peak flows to pre-development levels throughout all project-level phases of development should be used. Storm water discharges at the source and impacts to hydrologic functions should be minimized and mitigated as close to the source as possible. We remain concerned with post-project flows and the potential degradation of existing wetlands within and adjacent to the project site due to project-related changes in surface storm water flows. We are particularly concerned with the project-related storm water (freshwater) flows that would be discharged into the seasonal wetlands in the Sweetwater District (Parcel S-2), the F&G Marsh and its tidal tributary, the J Street channel, Telegraph Creek, and the J Street Marsh. Grading in SP-1 and S-1 would increase surface water flows into SP-2 (season wetlands) and F&G Street Marsh, and there would be more storm drains draining into the J Street Channel and Telegraph Creek.
26. Increased storm water flows into salt-water wetlands can result in a type-conversion to more common freshwater wetlands. In addition, depending on the velocity of the storm water discharges, the flows could disrupt the morphology of the receiving waters/habitats by ongoing erosion. Over time, the discharges can seriously damage sensitive habitats. Increased flows from impervious surfaces associated with urbanization can result in: a) stream bed scouring and habitat degradation; b) shoreline erosion and stream bank widening; c) loss of aquatic species; and d) decreased baseflow. Furthermore, project-related increases in traffic would result in higher concentrations of vehicle-related contaminants (e.g., copper, zinc, asbestos, hydrocarbons, and antifreeze) in the storm water flows.
27. We are concerned about deleterious changes to the salt balance, morphology, hydrology, and water quality of the F&G Street Marsh and its tidal tributary because such changes can negatively affect future restoration of the F&G Street Marsh, and because the light-footed clapper rail has been known to reside there. Conversely, current storm water flows into the L-Marsh (Parcel HP-5) would be redirected to the street, potentially reducing water flows to the wetland and thereby also reducing the wetland habitat quality. Please provide a discussion in the final EIR about how these issues would be addressed.
28. The Design, Source Control BMPs, and Treatment Control BMPs section (page 4.5-62) of the final EIR should include a requirement for the routine sweeping of all residential and commercial parking lot areas. This requirement is referenced the technical Appendix 4.7-2 and should be include in the final EIR.

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(Cont.)

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erosion and stream bank widening, (c) loss of aquatic species (pages 4.5-69 through 4.5-71), and (d) decreased baseflow. *Section 4.8, Terrestrial Biological Resources*, and *Section 4.9, Marine Biological Resources*, also address loss of aquatic species. Pages 4.5-36 through 4.5-71 describe impacts and project designs related to increased pollutants. Project design includes adequate protection from erosion and scouring at stormwater discharge locations. In addition, LIDs and BMPs mitigate potential impacts related to water quality to less-than-significant levels. The potential impacts identified in this comment area described in the Revised DEIR.

**B-36** Please see the responses to comments B-34 and B-35. With respect to drainage within the L-Ditch, the USFWS' interpretation that the drainage will be redirected to the street is incorrect. The original function of the ditch (drainage of the adjacent H-13 and H-14 parcels) will be retained under the Proposed Project. Therefore, under the Proposed Project, there will be no significant impacts on water quality or quantity within the L-Ditch. On March 2, 2010, the Port adopted a Work Plan that provides for clean-up of existing contamination and filling the L-Ditch in a manner consistent with the Alternate L-Ditch Remediation Alternative described in *Section 5.7* of the Revised DEIR. The Work Plan is subject to review and approval by the RWQCB, which has jurisdiction over clean-up and remediation of the L-Ditch.

**B-37** The reference in this comment is not clear. *Appendix 4.7-2* is the noise technical study and contains no reference to street sweeping. However, street sweeping is included in the requirements of the MS4 permit and are not specific to the Proposed Project. Street sweeping will be implemented in conjunction with the City's and Port's responsibilities in implementing the requirement of the MS4 permit.

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|--|---------------|
| <p>29. <i>Appendix 4.5-2</i> (Civil Engineering Technical Studies, May 2006) mentions a potential modification to Telegraph Canyon Channel that includes a proposal for replacing the existing concrete-lined channel with a natural vegetated channel. However, this proposal is not mentioned in the revised draft DEIR (page 4.5-69). The proposal to improve this portion of the storm drain conveyance system should be included as a point of discussion in the Water/Hydrology section of the final EIR. We consider this an effective treatment control option in limiting direct storm water discharge into J Street Marsh.</p>   | <p>— B-38</p> |
| <p>30. Consideration should be given to utilizing alternative paving materials (<i>e.g.</i>, porous/pervious pavement) for the proposed Chula Vista Nature Center asphalt parking (Parcel SP-3 Nature Center Parking and Access Road -Phase I).</p>  | <p>— B-39</p> |
| <p>31. All storm water flows should be treated and filtered prior to entering existing wetlands and San Diego Bay to avoid the introduction of pollutants (<i>e.g.</i>, hydrocarbons, sediments, fertilizers, pesticides, and trash).</p>  | <p>— B-40</p> |
| <p><b><u>Direct Effects and Mitigation</u></b></p>   |               |
| <p>32. All proposed mitigation should be submitted to the Service for review and approval, in addition to being submitted to the Port and/or City.</p>   | <p>— B-41</p> |
| <p>33. The 200-foot “no touch” ecological buffer cannot be used as mitigation to offset direct habitat impacts. We consider the restored habitat within the no-touch buffer zone as mitigation only for indirect impacts to the adjacent sensitive biological resources (<i>e.g.</i>, Sweetwater Marsh and associated mudflats and J Street Marsh), not for direct impacts (<i>i.e.</i>, habitat losses). Therefore, the final EIR should identify locations other than the no-touch buffer zone to create or restore habitat as mitigation for direct habitat losses. We do, however, concur that the habitat restoration within the buffer should be subject to a monitoring and maintenance program.</p>  | <p>— B-42</p> |
| <p>34. Created or restored habitat that is intended as mitigation for loss of sensitive habitat should have a minimum 100-foot no-touch habitat buffer between it and adjacent development to minimize indirect impacts from development to the mitigation site.</p>   | <p>— B-43</p> |
| <p>35. The overall design of the Proposed Project should minimize biological impacts in all three project Phases. Project components of Phase I should not foreclose the potential to avoid or minimize the biological impacts from Phases II and III. For example, the design (<i>e.g.</i>, height) and location of the buildings (<i>i.e.</i>, aspects of the buildings that affect biological resources such as the Pacific Flyway) in Phase I will dictate the same for buildings in Phases II and III. Trade-offs among the three Phases in the design and location of buildings warrant considering the entire project as a whole to avoid or minimize its biological impacts. Table 4.8-5 should identify the corresponding mitigation acreage obligation for the proposed project.</p> | <p>— B-44</p> |

**B-38** The comment expresses concern that *Section 4.5, Hydrology and Water Quality*, of the Revised DEIR does not appear to include a proposal to modify the existing concrete-lined Telegraph Canyon Channel with a natural vegetated channel. As stated on page 4.5-26 of the Revised DEIR, Phase III development in the Otay District includes widening Telegraph Canyon Channel and connecting new storm drain lines from the project site to the channel. In order to increase the channel’s capacity, the bottom width of the channel will be increased to 110 feet, to include the construction of a 20-foot-wide, low-flow vegetated channel. The remaining 90 feet of the channel would be concrete. A detailed hydrologic and hydraulic analysis will be required prior to beginning development of Phase III to confirm that the channel’s future capacity would be sufficient. All development contemplated for the Otay District is proposed to occur in Phase III and has been assessed at a program level in the Revised DEIR. All project-specific proposals, including improvements to Telegraph Creek Channel (OP-2B), must undergo subsequent environmental review. The feasibility of widening Telegraph Canyon Channel will be considered and analyzed as part of that review process.

The power plant cooling channels are not included within the boundaries of the proposed master plan.

**B-39** The commenter recommends utilizing alternative paving materials (*i.e.*, porous/pervious pavement) for the Nature Center parking lot proposed on Parcel SP-3 in the Sweetwater District. *Section 4.5, Hydrology and Water Quality*, of the Revised DEIR, identifies impervious surfaces as a major component to water quality degradation. As a result, site design BMPs and LID measures as described in *Section 4.5* will be required and will include minimizing impervious surfaces. As provided on page 4.5-67 of the Revised DEIR, the LID solutions considered for parking include landscape

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29. *Appendix 4.5-2* (Civil Engineering Technical Studies, May 2006) mentions a potential modification to Telegraph Canyon Channel that includes a proposal for replacing the existing concrete-lined channel with a natural vegetated channel. However, this proposal is not mentioned in the revised draft DEIR (page 4.5-69). The proposal to improve this portion of the storm drain conveyance system should be included as a point of discussion in the Water/Hydrology section of the final EIR. We consider this an effective treatment control option in limiting direct storm water discharge into J Street Marsh. B-38
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- Direct Effects and Mitigation**
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detention areas and permeable surfaces (porous pavement and sidewalks). The precise locations of these LID strategies will be determined during the on-site plan development. The comment letter will be included in the Final EIR, which will inform the Port decision makers of USFWS' support for alternative paving materials prior to making a final decision on the project.

**B-40** The comment expresses concern regarding the introduction of pollutants from stormwater flows. The commenter recommends that all stormwater flows be treated and filtered prior to entering existing wetlands and the Bay. As discussed in *Section 4.5, Hydrology and Water Quality*, of the Revised DEIR, the Proposed Project will incorporate both source control and treatment control measures to avoid or reduce impacts to water quality in compliance with existing regulations and specific Port and City Standard Urban Stormwater Mitigation Plan (SUSMP) requirements. Treatment control BMPs are designed to filter or treat runoff prior to discharging into an on- or off-site storm drain system. The Proposed Project will include the installation of single and combined stormwater BMPs to remove anticipated pollutants of concern in site runoff to the maximum extent practicable. Treatment control BMPs include, but are not limited to, vegetated swales, water quality inlets, high-rate filtering, rain collection systems, and vegetative roof systems. The acceptable stormwater treatment BMPs for the Port and City are listed in Appendix A to *Appendix 4.5-9* of the Revised DEIR and Attachment B2 to *Appendix 4.5-10* of the Revised DEIR.

Pollution removal is maximized when a combination of BMPs are used. The Proposed Project would implement the BMPs described in *Section 4.5* to efficiently remove potential pollutants from stormwater. These BMPs are approved by the Port and City SUSMP documents. *Table 4.5-10* of the Revised DEIR describes the Treatment BMP Efficiency for each measure. Environmentally sensitive areas, such as

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29. *Appendix 4.5-2* (Civil Engineering Technical Studies, May 2006) mentions a potential modification to Telegraph Canyon Channel that includes a proposal for replacing the existing concrete-lined channel with a natural vegetated channel. However, this proposal is not mentioned in the revised draft DEIR (page 4.5-69). The proposal to improve this portion of the storm drain conveyance system should be included as a point of discussion in the Water/Hydrology section of the final EIR. We consider this an effective treatment control option in limiting direct storm water discharge into J Street Marsh. B-38

30. Consideration should be given to utilizing alternative paving materials (*e.g.*, porous/pervious pavement) for the proposed Chula Vista Nature Center asphalt parking (Parcel SP-3 Nature Center Parking and Access Road -Phase I). B-39

31. All storm water flows should be treated and filtered prior to entering existing wetlands and San Diego Bay to avoid the introduction of pollutants (*e.g.*, hydrocarbons, sediments, fertilizers, pesticides, and trash). B-40

**Direct Effects and Mitigation**

32. All proposed mitigation should be submitted to the Service for review and approval, in addition to being submitted to the Port and/or City. B-41

33. The 200-foot "no touch" ecological buffer cannot be used as mitigation to offset direct habitat impacts. We consider the restored habitat within the no-touch buffer zone as mitigation only for indirect impacts to the adjacent sensitive biological resources (*e.g.*, Sweetwater Marsh and associated mudflats and J Street Marsh), not for direct impacts (*i.e.*, habitat losses). Therefore, the final EIR should identify locations other than the no-touch buffer zone to create or restore habitat as mitigation for direct habitat losses. We do, however, concur that the habitat restoration within the buffer should be subject to a monitoring and maintenance program. B-42

34. Created or restored habitat that is intended as mitigation for loss of sensitive habitat should have a minimum 100-foot no-touch habitat buffer between it and adjacent development to minimize indirect impacts from development to the mitigation site. B-43

35. The overall design of the Proposed Project should minimize biological impacts in all three project Phases. Project components of Phase I should not foreclose the potential to avoid or minimize the biological impacts from Phases II and III. For example, the design (*e.g.*, height) and location of the buildings (*i.e.*, aspects of the buildings that affect biological resources such as the Pacific Flyway) in Phase I will dictate the same for buildings in Phases II and III. Trade-offs among the three Phases in the design and location of buildings warrant considering the entire project as a whole to avoid or minimize its biological impacts. Table 4.8-5 should identify the corresponding mitigation acreage obligation for the proposed project. B-44

the seasonal wetlands located north of Lagoon Drive in the Sweetwater District on Parcel SP-2 and the F&G Street Marsh, will incorporate secondary treatment BMPs. Discharge from F&G Street will first be treated with a bio-retention filtration system and then a sand filter prior to discharging into the marsh. The sand filter will not contain standing water to avoid vector issues. The project proposes protection of the sensitive resources in the F&G Street Marsh from urban runoff by the design and implementation of permanent BMP facilities on parcels adjacent to these sensitive areas.

While exact locations for source BMPs cannot be identified as site plans have not yet been developed (except for the Pacifica project), *Figure 4.5-5* in the Revised DEIR illustrates the anticipated locations for BMPs in the developed areas of the Sweetwater District and Harbor District. LID techniques are required in the MS4 permit and will be incorporated into project design to reduce the generation of runoff and to further reduce pollution from entering the Bay. *Figure 4.5-6* in the Revised DEIR illustrates a site design concept for LID techniques.

- B-41** This comment states that all proposed mitigation measures should be submitted to the USFWS for review and approval. All proposed mitigation measures were set forth in the Revised DEIR, which was provided to the USFWS for its review pursuant to CEQA Guidelines Section 15087. If any additional mitigation measures are added to the Final EIR, the USFWS will have an opportunity to review them pursuant to CEQA Guidelines Section 15089. Pursuant to CEQA Guidelines Sections 15090–15092 and 15096, the lead agency and all responsible agencies are charged with the duty of approving mitigation measures. Accordingly, in the event the USFWS is a responsible agency as defined in CEQA Guidelines Section 15381, USFWS will have the duty of approving the mitigation measure recommended in the Final EIR.

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**B-42** Please see the responses to comments B-10 through B-13.

**B-43** The comment requests that a 100-foot buffer be established between created or restored habitat and adjacent development. The establishment and size of buffer zones requires the balancing of the competing demands for habitat protection, public access to coastal resources, and reasonable development. In addition, the USFWS routinely requires and accepts restoration as mitigation for direct impacts, which is closer than 100 feet to existing and proposed development, and sometimes is adjacent to proposed development. Where feasible, a 100-foot buffer will be preserved between proposed development and mitigation areas. Please also see the responses to comments B-6 and Q-11.

**B-44** This comment expresses a belief that the design and location of buildings in Phase I will dictate the design and location of buildings in subsequent phases of the Proposed Project and will foreclose the consideration of potential mitigation measures, including those related to biological resources, such as the Pacific Flyway. Buildings in each phase will be subject to consistent requirements. In addition, it is anticipated that as more research is conducted, and more information is gathered through project monitoring, that design techniques for future development will improve over time. Therefore, the comment that "the design...and location of the buildings...in Phase I will dictate the same for buildings in Phases II and III" is speculative and not likely to occur. On the contrary, it is anticipated that future phases of development will benefit from additional information and technology that is currently unavailable. Moreover, as a general response to the general comment in the first sentence of this comment, avoidance and minimization of project impacts on biological resources has been planned and incorporated into the project to the greatest extent feasible. Almost 6 years of planning and discussions have taken place regarding development of the project and the numerous project redesigns that have been made as a result of the comments and recommendations of the wildlife agencies, environmental organizations, and the public.

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36. The mitigation tables referenced in Mitigation Measures 4.8-9 and 4.8-10 appear to have computational errors. Please verify the correctness of the data entered in tables. B-45

37. Mitigation Measure 4.8-4, which addresses direct impacts to light-footed clapper rail (*Rallus longirostris levipes*; clapper rail), should be modified to assure that impacts to clapper rail are avoided year-round because this species is a year-round resident. As the species is secretive and reacts to disturbances by hiding in the vegetation, it is susceptible to being crushed by heavy equipment. Therefore, any work occurring within potential clapper rail habitat may affect this listed species and requires consultation with the Service pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). The final EIR should acknowledge that any take must be authorized by the Service and should be expanded to indicate how implementation of the proposed biological monitoring will be assured. Mitigation measure 4.8-7 should be revised to provide assurance that there will be no take of clapper rail. B-46

38. Mitigation for project-related losses of raptor foraging habitat should occur at a ratio of 1:1 away from the project site (e.g., east of Interstate 5 or south of the South San Diego Bay Unit) since concentrating raptor habitat, and thus raptors, into the remaining habitat within and adjacent to the project site could compromise the survivorship of least terns and snowy plovers (sensitive birds that raptors are known to prey upon). B-47

39. We recommend an open expanse for the bridge of the proposed E Street crossing the primary tidal channel between the F&G Street Marsh and San Diego Bay. In addition, the length and height of the bridge should be maximized. This would ensure that the restoration potential within F&G Street Marsh is not limited by insufficient tidal exchange and that adequate high-tide refugia are provided to accommodate wildlife moving between the San Diego Bay and the marsh. B-48

Marine Biological Resources and In-water Construction

40. To adequately evaluate marine biological resources and potential impacts to these resources, the final EIR should: B-49

a. Provide a figure indicating the different marine habitat classifications (i.e., intertidal, shallow subtidal, moderate subtidal, deep subtidal, salt marsh, and eelgrass) within and adjacent to the project area. B-49

b. Provide a table that identifies the range of depth of different marine habitat classifications, including: (1) intertidal (+7.8 feet to -2.2 feet MLLW (mean lower low water)); (2) shallow subtidal (-2.2 MLLW to -12 feet MLLW); (3) medium subtidal (-12 feet MLLW to -20 feet MLLW), and deep subtidal (deeper than -20 feet MLLW) habitats. B-50

B-45 This comment requests that the mitigation tables referenced in **Mitigation Measures 4.8-9** and **4.8-10** be verified for accuracy. These two tables (*Tables 4.8-6 and 4.8-7 of the Revised DEIR*) have been revised in the Final EIR to correct mathematical errors. In addition, the acreages in these tables have been revised in the Final EIR to reflect the fact that some Phase I components (and associated impacts) have been shifted from project level to program level.

B-46 The comment requests that impacts to light-footed clapper rail (*Rallus longirostris levipes*) be avoided year round as this species is a year-round resident. **Mitigation Measure 4.8-4** in the Final EIR has been revised to state that a qualified biologist shall be present during removal of southern coastal salt marsh vegetation within the inlet to the F&G Street Marsh year round, not only during the breeding season. As described in **Mitigation Measure 4.8-4** of the Revised DEIR, the bio-monitor is required to send monthly monitoring letter reports to the City and/or Port to ensure implementation of the required biological monitoring. In addition, as recommended by the commenter, **Mitigation Measure 4.8-4** has been revised to provide for coordination with USFWS regarding potential take of light-footed clapper rail.

B-47 Proposed mitigation for loss of sensitive vegetation communities that provide raptor foraging opportunities is consistent with the mitigation requirements established in the Chula Vista MSCP Subarea Plan. Within these sensitive communities, raptor foraging occurs primarily within non-native grasslands, which are identified as a Tier III community (common uplands) with a corresponding mitigation ratio of 0.5:1. No additional mitigation is required or proposed. In terms of the location of the mitigation, on-site mitigation is not proposed, and mitigation would likely occur east of Interstate 5, as suggested in this comment.

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38. Mitigation for project-related losses of raptor foraging habitat should occur at a ratio of 1:1 away from the project site (e.g., east of Interstate 5 or south of the South San Diego Bay Unit) since concentrating raptor habitat, and thus raptors, into the remaining habitat within and adjacent to the project site could compromise the survivorship of least terns and snowy plovers (sensitive birds that raptors are known to prey upon).
39. We recommend an open expanse for the bridge of the proposed E Street crossing the primary tidal channel between the F&G Street Marsh and San Diego Bay. In addition, the length and height of the bridge should be maximized. This would ensure that the restoration potential within F&G Street Marsh is not limited by insufficient tidal exchange and that adequate high-tide refugia are provided to accommodate wildlife moving between the San Diego Bay and the marsh.

Marine Biological Resources and In-water Construction

40. To adequately evaluate marine biological resources and potential impacts to these resources, the final EIR should:
- Provide a figure indicating the different marine habitat classifications (i.e., intertidal, shallow subtidal, moderate subtidal, deep subtidal, salt marsh, and eelgrass) within and adjacent to the project area.
  - Provide a table that identifies the range of depth of different marine habitat classifications, including: (1) intertidal (+7.8 feet to -2.2 feet MLLW (mean lower low water)); (2) shallow subtidal (-2.2 MLLW to -12 feet MLLW); (3) medium subtidal (-12 feet MLLW to -20 feet MLLW), and deep subtidal (deeper than -20 feet MLLW) habitats.

B-45

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**B-48** As discussed in *Section 3.4.5.1* and shown on *Figure 3-14, Proposed Bridge Over F&G Street Marsh Drainage*, of the Revised DEIR, the proposed E Street Bridge over the F&G Street Channel fully spans the channel and proposes widening of the channel to enhance tidal flow. In addition, approximately 10 feet of clearance has been provided under the bridge during high-tide conditions, and the span is sufficiently broad to allow terrestrial movement under the bridge during high-tide conditions. Additionally, the project includes removal of the existing culvert crossing and widening of the channel in the existing culvert location to further improve tidal flow. Therefore, the USFWS recommendations contained in this comment have been incorporated into the project's design.

**B-49** The description of marine habitats in *Section 4.9.1.2* and *Appendix 4.9-1* of the Revised DEIR provides general background for the discussion of sensitive resources, which is contained in *Section 4.9.1.3*. The only sensitive marine habitat that is potentially affected by the project is eelgrass habitat. Mapping of eelgrass habitat is provided in *Figures 4.9-1* and *4.9-2*. The mapping provided is sufficient to adequately evaluate marine biological resources and potential impacts to these resources.

**B-50** Please see the response to comment B-49. The information requested in this comment would not provide meaningful data relative to sensitive resources. Data regarding estimates of special-status species abundance at various depths is provided in *Section 4.9, Marine Biological Resources*, and *Appendix 4.9-1* to the Revised DEIR.



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- |  |             |
|--|-------------|
| <p>c. Indicate the areas of intertidal habitat and shallow subtidal habitat that are/would be natural (e.g., soft-bottom) vs. artificial (e.g., rip rap, concrete) before and after project development. Soft bottom intertidal habitat provides foraging habitat for wading birds and shorebirds, including western snowy plover. Shallow subtidal habitat consisting of either unvegetated soft bottom areas or areas vegetated with eelgrass (<i>Zostera marina</i>) are considered significant habitats for birds, including the least tern and brown pelican (<i>Pelecanus occidentalis</i>), fish, benthic invertebrates, and other organisms, including the Pacific green sea turtle (<i>Chelonia mydas</i>).</p> | <p>B-51</p> |
| <p>41. Section 4.9, <i>Marine Biology</i>, in the final EIR should include a discussion of permanent and temporary losses of foraging habitat for birds that visually search for their fish prey and plunge-dive into the water to capture their fish. We recognize that there is a discussion of the permanent impacts to surface water foraging habitat in the Section 4.8, <i>Terrestrial Biology</i>, but the impacts to this resource resulting from in-water construction make it appropriate to include a discussion of these impacts in Section 4.9.</p>   | <p>B-52</p> |
| <p>42. We agree that increases in structures (e.g., docks, wharfs, piers) covering the San Diego Bay should be offset (Mitigation Measures 4.8-7 and 4.8-8 in the Section 4.8, <i>Terrestrial Biology</i>). Temporary and/or permanent reductions in foraging habitat for sight-foraging birds that feed on fish (e.g., least tern, brown pelican) should be avoided and minimized. We also recommend in-water construction activities that result in increased turbidity (e.g., dredging, pile pulling, jetting, and driving) be conducted outside the breeding season of the least tern (April 1 to September 15).</p>   | <p>B-53</p> |
| <p>43. We recommend that losses of intertidal habitat (i.e., 0.03 acre anticipated from redevelopment of HW-3) be mitigated with creation of in-kind habitat and at a minimum 1:1 ratio. Impacts to pickleweed habitat (i.e., salt marsh habitat) should be mitigated at a 4:1 ratio to be consistent with City's MSCP Subarea Plan. As such, Mitigation Measure 4.9-5A should be revised to include mitigation of 0.004 acre of pickleweed.</p>   | <p>B-54</p> |
| <p>44. We recommend that dredging activities be surrounded by silt curtains to minimize sedimentation and smothering of adjacent eelgrass.</p>   | <p>B-55</p> |
| <p>45. We recommend that the dredging activities be coupled with a benthic study to characterize (e.g., rate and community composition) recolonization of the benthic community.</p>   | <p>B-56</p> |
| <p>46. The proposed modification to the South Bay Boatyard boat basin (page 4.1-121) states that impacts to the subtidal benthic habitat upon dredging would be minor, due to the rapid colonization of the benthic community. This statement is speculative and should be revised in the final EIR.</p>   | <p>B-57</p> |

**B-51** The areas of intertidal habitat and shallow subtidal habitat that are or would be natural vs. artificial and impacts related to changes in natural and artificial bottom habitat are fully analyzed and quantified in *Section 4.9.3* of the Revised DEIR.

**B-52** As noted in this comment, impacts on foraging habitat for birds are addressed in *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR. In the interest of enhancing public disclosure while avoiding unnecessary repetition, the Final EIR will include a reference in *Section 4.9, Marine Biological Resources*, to the portion of *Section 4.8, Terrestrial Biological Resources*, that discusses the potential loss of foraging habitat for birds.

**B-53** As noted in this comment, potential impacts on surface water foraging are analyzed and mitigated through **Mitigation Measures 4.8-7** and **4.8-8**. Additionally, potential for increased turbidity due to dredging and other in-water construction is addressed in *Section 4.9, Marine Biological Resources*, and mitigation for potential impacts is contained in **Mitigation Measure 4.9-4**. Significant impacts related to turbidity would be avoided or reduced to less-than-significant levels with implementation of **Mitigation Measure 4.9-4**; therefore, restricting construction to outside the breeding season of the least tern would not be necessary.

**B-54** This comment recommends that impacts to intertidal habitat be mitigated in-kind at a minimum of 1:1 ratio and that impacts to pickleweed habitat be mitigated at a 4:1 ratio for consistency with the City's MSCP Subarea Plan. Impacts on intertidal habitats within Parcel HW-3 are addressed in *Section 4.9, Marine Biological Resources*, of the Revised DEIR, and as part of that analysis, **Mitigation Measure 4.9-3** includes a mitigation ratio of 2:1 for those impacts, which satisfies the commenter's suggestion of a minimum

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c. Indicate the areas of intertidal habitat and shallow subtidal habitat that are/would be natural (e.g., soft-bottom) vs. artificial (e.g., rip rap, concrete) before and after project development. Soft bottom intertidal habitat provides foraging habitat for wading birds and shorebirds, including western snowy plover. Shallow subtidal habitat consisting of either unvegetated soft bottom areas or areas vegetated with eelgrass (*Zostera marina*) are considered significant habitats for birds, including the least tern and brown pelican (*Pelecanus occidentalis*), fish, benthic invertebrates, and other organisms, including the Pacific green sea turtle (*Chelonia mydas*).

B-51

41. Section 4.9, *Marine Biology*, in the final EIR should include a discussion of permanent and temporary losses of foraging habitat for birds that visually search for their fish prey and plunge-dive into the water to capture their fish. We recognize that there is a discussion of the permanent impacts to surface water foraging habitat in the Section 4.8, *Terrestrial Biology*, but the impacts to this resource resulting from in-water construction make it appropriate to include a discussion of these impacts in Section 4.9.

B-52

42. We agree that increases in structures (e.g., docks, wharfs, piers) covering the San Diego Bay should be offset (Mitigation Measures 4.8-7 and 4.8-8 in the Section 4.8, *Terrestrial Biology*). Temporary and/or permanent reductions in foraging habitat for sight-foraging birds that feed on fish (e.g., least tern, brown pelican) should be avoided and minimized. We also recommend in-water construction activities that result in increased turbidity (e.g., dredging, pile pulling, jetting, and driving) be conducted outside the breeding season of the least tern (April 1 to September 15).

B-53

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B-54

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B-55

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B-56

46. The proposed modification to the South Bay Boatyard boat basin (page 4.1-121) states that impacts to the subtidal benthic habitat upon dredging would be minor, due to the rapid colonization of the benthic community. This statement is speculative and should be revised in the final EIR.

B-57

1:1 ratio. The Port disagrees that the mitigation ratio should be reduced to 1:1, as the comment suggests, but the Final EIR has been revised. **Mitigation Measure 4.9-3** in the Final EIR has been revised to mitigate the impacts to pickleweed habitat at a 4:1 ratio and to clarify that impacts to intertidal mudflat will be mitigated through in-kind creation.

**B-55** This comment agrees with the Revised DEIR that the use of silt curtains included in **Mitigation Measure 4.9-4** is necessary.

**B-56** As discussed in *Section 4.9.3* of the Revised DEIR, temporal loss of benthic communities associated with work within the South Bay Boatyard basin are not considered significant, due to the fact that the time lapse for regeneration is short. This is not a speculative statement, as suggested in this comment, but is rather supported by evidence provided in the technical analysis of marine biological impacts in *Appendix 4.9-1* (see pages 19 and 20) and supporting literature.

**B-57** Please see the response to comment B-56.

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Hazards and hazardous materials/public safety (i.e., contaminants)

47. The revised DEIR highlights areas where property owners are potentially liable for impacts of contamination. The DEIR notes that known contaminated sites must be remediated to the satisfaction of the Regional Water Quality Control Board, County of San Diego Department of Environmental Health, State Department of Toxic Substances and Disease Control (DTSC) and perhaps others. We would like to work with the above regulatory agencies to ensure that remedial actions at identified sites would be protective of ecological receptors. Such actions include consideration of ecological risk based cleanup goals for contaminated media, and ensuring that contaminated media that are on site do not migrate off site into ecologically sensitive areas. In that regard, the final EIR should address the following specific comments.

B-58

a. Mitigation for hazards posed by clean-up and construction operations should include the preparation and implementation of plans to prevent migration of contaminated material into environmentally sensitive areas. Migration paths of concern for ecological receptors include groundwater that may surface in marshes, streams or San Diego Bay (especially at the sediment-water interface), and soil that may migrate off site via erosion and surface runoff. Contaminant levels that pose insignificant risk to human health, especially under the commercial/industrial use scenario, may still pose significant risk to ecological receptors, both in terrestrial and aquatic settings. Consequently, contaminant levels deemed to be safe for humans are not necessarily safe for ecological receptors, and measures to prevent off-site migration of hazardous contaminants should be planned and implemented even though risks to humans may not be significant.

B-59

b. Mitigation Measures 4.12-1, Items C & D, should mention the actions being taken to address ecological hazards. The remediation of any potentially contaminated areas should ensure that concentrations of contaminants in materials left on-site and/or leaving the site(s) should not meet or exceed concentrations of risk to ecological receptors (e.g., invertebrates, birds).

B-60

Consistency with the City of Chula Vista's MSCP Subarea Plan

48. Since the Port does not have a habitat conservation plan to guide its development projects, the entire project should meet or exceed the mitigation ratios, guidelines, and standards required by the City's MSCP Subarea Plan (Plan) to maintain consistency with adjacent areas within the Plan. We appreciate the current efforts in the revised DEIR to ensure habitat losses throughout the project site, regardless of jurisdiction, will be mitigated at ratios in accordance with the City's MSCP Subarea Plan.

B-61

49. As indicated on page 3-17 of the DEIR, "The project site is situated entirely within the Chula Vista Coastal Zone." To be consistent with the City's MSCP Subarea Plan, the

B-62

**B-58** This comment acknowledges the Revised DEIR addresses known contamination on the project site and requires contaminated sites to be remediated to the satisfaction of the regulatory agencies. The comment also expresses the USFWS' interest in working with the regulatory agencies to ensure remedial actions are protective of ecological receptors. No further response is warranted.

**B-59** This comment requests that mitigation measures to prevent the off-site migration of hazardous contaminants address the potential risks to ecological receptors. As discussed in *Section 4.12, Hazards and Hazardous Materials/Public Safety*, of the Revised DEIR, the remediation of on-site contamination, including where appropriate to prevent off-site migration of contaminants, is subject to the regulatory oversight and approval of the RWQCB, Division of Environmental Health (DEH) and Department of Toxic Substances Control (DTSC). The mitigation of hazards posed by construction activities also is addressed in *Section 4.12* and in **Mitigation Measures 4.12-1** through **Measure 4.12-6**. *Section 4.5, Hydrology/Water Quality*, addresses impacts from potentially contaminated soils (pages 4.5-69 through 4.5-71). **Mitigation Measure 4.5-4** addresses this impact (page 4.5-75).

**B-60** There are no established thresholds for determining significance of impacts to ecological receptors. Please also see the response to comment B-59.

**B-61** Please see the response to comment B-8.

**B-62** This comment suggests that impacts to riparian scrub be mitigated at a 3:1 ratio to be consistent with the City's MSCP Subarea Plan. **Mitigation Measures 4.8-9** and **4.8-10** have been revised to mitigate impacts to riparian scrub at a 3:1 ratio. In addition, *Tables 4.8-6* and *4.8-7* in the Final EIR have been revised to reflect a 3:1 mitigation ratio for riparian scrub (mulefat scrub).

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final EIR should require that all impacts to riparian scrub be mitigated at a 3:1 ratio, not 2:1 as indicated in Mitigation Measures 4.8-9 and 4.8-10.

50. We recommend that vegetation classifications provided in Table 4.8-1 *Existing Vegetation Communities and Land Cover Types (acres)* and Figure 4.8-3 *Vegetation Communities and Land Cover Types* be consistent with the vegetation classification for the City's MSCP. B-63

51. Mitigation Measure 4.8-2 references the breeding season for burrowing owls (*Athene cunicularia*) extending from January 15 through July 15. As was previously suggested in our prior comments the end date should extend to July 31 (i.e., January 15 through July 31). Additionally, any passive relocation of burrowing owls should include coordination with the Service. B-64

52. Mitigation Measure 4.8-3 references the breeding season for migratory birds extending from January 15 through July 31. As was previously suggested in our prior comments the end date should extend to August 31 (i.e., January 15 through August 31). B-65

53. Mitigation Measure 4.8-4 references the breeding season for light-footed clapper rail from February 15 through January 15 through July 31. The end date should be revised to extend to August 31 (i.e., January 15 through August 31) to correspond with conditions identified in Mitigation Measure 4.8-6A. B-66

54. Mitigation Measure 4.8-6 A. should be modified to read as follows.

*Construction related noise shall be limited adjacent to the Sweetwater Marsh and South San Diego Bay Units of the Refuge, F&G Street Marsh, the mudflats west of the Sweetwater District, and J Street Marsh during the general avian breeding season of January 15 to August 31. During the avian breeding season, noise levels from construction activities must not exceed 60 dB(A)  $L_{eq}$  or ambient noise levels if higher than 60dB(A). Before any construction begins, a qualified acoustician shall prepare and submit to the Port and City for review and approval an acoustical analysis to determine the ambient noise level, anticipated noise level of construction, and whether noise attenuation measures will need to be implemented to reduce the expected noise level to below 60dB(A). If noise attenuation measures or modifications to construction activities are unable to reduce the noise level below 60dB(A), either the applicant must immediately consult with the Service to develop a noise attenuation plan or construction in the affected areas must cease until the end of the breeding season.* B-67

**B-63** The vegetation mapping conventions used for the biological analysis are from Holland's *Preliminary Descriptions of the Terrestrial Natural Communities of California* (1986), which are consistent with those used for the MSCP, upon which the Chula Vista Subarea Plan is based. Therefore, this comment is addressed in the Revised DEIR.

**B-64** This comment suggests the breeding season for burrowing owls (*Athene cunicularia*) be revised to January 15 to July 31. **Mitigation Measure 4.8-2** has been revised to state the breeding season for burrowing owl is from January 15 to July 31.

**B-65** This comment suggests the breeding season for migratory birds be revised to January 15 to August 31. **Mitigation Measure 4.8-3** has been revised to state the breeding season for migratory birds is from January 15 to August 31.

**B-66** This comment suggests the breeding season for light-footed clapper rail be revised to January 15 to August 31. **Mitigation Measure 4.8-4** in the Final EIR has been revised (as described in the response to comment B-46) to require a qualified biologist year round and eliminate a reference to the breeding season.

**B-67** The comment suggests revisions to **Mitigation Measure 4.8-6**. The mitigation measure related to construction noise contained in the Revised DEIR (**Mitigation Measure 4.8-6**), provides more specific enforceable mitigation for construction noise than the suggested modifications. Nonetheless, **Mitigation Measure 4.8-6** in the Final EIR has been revised to incorporate some of the commenter's suggested modifications.

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Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

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55. The first sentence of Mitigation Measure 4.8-6 B should read as follows.

*To reduce the potential for raptors to perch within the landscaping and hunt sensitive bird species from those perches, the following design criteria will be identified in the CVBMP master landscape plan and incorporated into all building and landscape plans with a line-of-sight to the City's MSCP Preserve, buffer zones, and on-site open space.*

B-68

56. Mitigation Measure 4.8-6 F should also require that all project-related landscaping plans include, to the maximum extent practicable, native plants that are compatible with native vegetation located in the ecological buffers and/or MSCP Preserve.

B-69

57. Mitigation Measure 4.8-6 H should specify that all trash cans installed on the project would be animal – (non-human) proof. The current proposal to provide trash cans with lids that close is not specific enough to ensure this would be a deterrent to scavenging animals.

B-70

58. The mitigation ratio for disturbed seasonal pond (e.g., classified as disturbed wetland per the City's MSCP) in Table 4.8-6 and 4.8-7 should be increased from 1:1 to 2:1 to be consistent with the City's MSCP Subarea Plan.

B-71

59. Impacts and mitigation for losses to non-native grassland and other raptor foraging habitat (i.e., habitat in the Sweetwater District) should be included in the table consistent with the City's MSCP. The mitigation ration for losses to non-native grassland and other raptor foraging habitat is 0.5:1 if mitigated inside Preserve-designated land and 1:1 if mitigated outside Preserve-designated land. Mitigation for project-related losses of raptor foraging habitat should occur away from the project site.

B-72

60. The acreage of permanent impacts to southern coastal salt marsh during Phase II should be increased from 0.04 to 0.10 to be consistent with the text on page 4.8-75 of the DEIR. The acreage of mitigation provided for this impact should be revised to 0.4 acre, as written under Mitigation Measure 4.8-9.

B-73

61. The DEIR indicates that all temporary impacts would be mitigated at 1:1. This is inconsistent with the guidelines established by the City's MSCP Subarea Plan, which requires the same mitigation for temporary and permanent impacts (see Tables 5-3 and 5-6 of the City's MSCP Subarea Plan).

B-74

**Growth Inducement**

62. The Growth Inducement discussion in the DEIR focuses on the economic effects of the Proposed Project, but ignores the effects to the environment that could result from growth in the surrounding area, that is, growth that is related to redevelopment of the subject

B-75

**B-68** This comment suggests revisions to **Mitigation Measure 4.6-8B**. The mitigation measure to avoid significant impacts related to increased predation associated with raptor perching (**Mitigation Measure 4.8-6B**) contained in the Revised DEIR is adequate to reduce the potential impact to less-than-significant levels. Nonetheless, in response to this and other comments, **Mitigation Measure 4.6-8B** in the Final EIR has been revised as recommended by the commenter.

**B-69** This comment suggests revisions to **Mitigation Measure 4.8-6F** regarding invasives. **Mitigation Measure 4.8-6F** in the Final EIR has been revised to include landscape guidelines that will apply to the Proposed Project area as well as prohibitions of non-native plants and invasive species. Landscaping plans for development projects adjacent to ecological buffers and/or the MSCP Preserve will include native plants that are compatible with native vegetation located within the ecological buffers and/or MSCP Preserve. In addition, non-native plants will be prohibited adjacent to Wildlife Habitat Areas and will be strongly discouraged and minimized elsewhere where they will provide breeding of undesired scavengers.

In addition, as described in **Mitigation Measure 4.4-1D** of the Revised DEIR, the Port and City will collectively develop a master landscaping plan for the project's public components and improvements prior to final approval of Phase I infrastructure design plans. The master landscape plan will provide sufficient detail to ensure conformance to streetscape design guidelines and that future developers/tenants, as applicable, provide screening of parking areas.

**B-70** This comment suggests revisions to **Mitigation Measure 4.8-6H**. As provided in **Mitigation Measure 4.8-6H** in the Revised DEIR, trash cans will be emptied daily or more often if required during high-use periods. Buildings and stores will have dumpsters located in a courtyard or carport that is bermed and enclosed to ensure that litter

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55. The first sentence of Mitigation Measure 4.8-6 B should read as follows.

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B-68

56. Mitigation Measure 4.8-6 F should also require that all project-related landscaping plans include, to the maximum extent practicable, native plants that are compatible with native vegetation located in the ecological buffers and/or MSCP Preserve.

B-69

57. Mitigation Measure 4.8-6 H should specify that all trash cans installed on the project would be animal – (non-human) proof. The current proposal to provide trash cans with lids that close is not specific enough to ensure this would be a deterrent to scavenging animals.

B-70

58. The mitigation ratio for disturbed seasonal pond (e.g., classified as disturbed wetland per the City's MSCP) in Table 4.8-6 and 4.8-7 should be increased from 1:1 to 2:1 to be consistent with the City's MSCP Subarea Plan.

B-71

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B-72

60. The acreage of permanent impacts to southern coastal salt marsh during Phase II should be increased from 0.04 to 0.10 to be consistent with the text on page 4.8-75 of the DEIR. The acreage of mitigation provided for this impact should be revised to 0.4 acre, as written under Mitigation Measure 4.8-9.

B-73

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B-74

**Growth Inducement**

62. The Growth Inducement discussion in the DEIR focuses on the economic effects of the Proposed Project, but ignores the effects to the environment that could result from growth in the surrounding area, that is, growth that is related to redevelopment of the subject

B-75

does not blow into the Bay or marshes. In response to this and other comments, **Mitigation Measure 4.8-6H** in the Final EIR has been revised to also specify “animal-proof” trash cans with self-closing lids. Please also see the response to comment B-23.

In addition, the Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the South San Diego Bay Unit of the SDBNWR, and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). The fencing will be designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums, and other small terrestrial animals [collectively, “predators”]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be a minimum 6-foot-high, vinyl-coated chain-link fence or other suitable barrier as described in the Final EIR. The fence design may include appropriate locked access points for maintenance and other necessary functions.

**B-71** The mitigation ratio provided for disturbed seasonal pond in the Revised DEIR is consistent with the ratios specified in the City's Subarea Plan. Specifically, Table 5-6 of the Subarea Plan indicates a ratio of 1:1 to 2:1 for disturbed wetlands, depending on the quality of the resource. As described in *Section 4.8.1.4* of the Revised DEIR, the seasonal ponds on site are associated with urban stormwater runoff and/or the impoundment of water within bermed areas that are former containment basins for fuel oil storage tanks associated with the power plant. Because of their highly disturbed nature and low resource value, a ratio of 1:1 is appropriate, and is consistent with the Subarea Plan.

**B-72** Mitigation for non-native grassland within the City's jurisdiction is provided in **Mitigation Measure 4.8-10** of the Revised DEIR (renumbered to **Mitigation Measure 4.8-11** in the Final EIR). The

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55. The first sentence of Mitigation Measure 4.8-6 B should read as follows.

*To reduce the potential for raptors to perch within the landscaping and hunt sensitive bird species from those perches, the following design criteria will be identified in the CVBMP master landscape plan and incorporated into all building and landscape plans with a line-of-sight to the City's MSCP Preserve, buffer zones, and on-site open space.*

B-68

56. Mitigation Measure 4.8-6 F should also require that all project-related landscaping plans include, to the maximum extent practicable, native plants that are compatible with native vegetation located in the ecological buffers and/or MSCP Preserve.

B-69

57. Mitigation Measure 4.8-6 H should specify that all trash cans installed on the project would be animal – (non-human) proof. The current proposal to provide trash cans with lids that close is not specific enough to ensure this would be a deterrent to scavenging animals.

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58. The mitigation ratio for disturbed seasonal pond (e.g., classified as disturbed wetland per the City's MSCP) in Table 4.8-6 and 4.8-7 should be increased from 1:1 to 2:1 to be consistent with the City's MSCP Subarea Plan.

B-71

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60. The acreage of permanent impacts to southern coastal salt marsh during Phase II should be increased from 0.04 to 0.10 to be consistent with the text on page 4.8-75 of the DEIR. The acreage of mitigation provided for this impact should be revised to 0.4 acre, as written under Mitigation Measure 4.8-9.

B-73

61. The DEIR indicates that all temporary impacts would be mitigated at 1:1. This is inconsistent with the guidelines established by the City's MSCP Subarea Plan, which requires the same mitigation for temporary and permanent impacts (see Tables 5-3 and 5-6 of the City's MSCP Subarea Plan).

B-74

**Growth Inducement**

62. The Growth Inducement discussion in the DEIR focuses on the economic effects of the Proposed Project, but ignores the effects to the environment that could result from growth in the surrounding area, that is, growth that is related to redevelopment of the subject

B-75

required mitigation ratio of 0.5:1 is consistent with the City's Subarea Plan. As suggested by the commenter, *Table 4.8-7* has been revised in the Final EIR to state that non-native grassland shall be mitigated at a 0.5:1 ratio if mitigated inside Preserve-designated land and mitigated at a 1:1 ratio if mitigated outside of Preserve-designated land.

**B-73** The references provided in this comment are unclear. Page 4.8-75 of the Revised DEIR is *Figure 4.8-8*, not a discussion of project impacts. Furthermore, **Mitigation Measure 4.8-9** does not contain the figure 0.40 acre as a mitigation requirement for permanent impacts to southern coastal salt marsh. Therefore, without further clarification of the meaning of this comment, no further response can be provided.

**B-74** As the commenter states, the City's Subarea Plan does not differentiate between temporary and permanent impacts. However, the City's MSCP Wetlands Protection Program (Section 5.2.4), states the following:

*Additionally, this component of the Subarea Plan is not intended to result in subjecting projects to additive or, in some measure, duplicative, mitigation requirements for the same wetlands impacts evaluated under the Federal and/or State wetland permitting process. Thus, the City reserves the right to provide flexibility in the CEQA mitigation analysis and the Mitigation Monitoring and Reporting Program (MMRP) requirements to enable a project applicant to substitute the mitigation measures imposed by another Federal or State agency for the same wetlands impacts for the mitigation imposed under this City program; provided that the Federal or State agency mitigation measures are equivalent or greater than those imposed by the City.*

As the typical mitigation ratio applied to temporary impacts through the federal and state wetland regulatory programs is 1:1, the application of a 1:1 ratio for temporary impacts is therefore consistent with the City's Subarea Plan.



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property. The final EIR should expand this section to address effects on the environment, both individually and cumulatively, from growth stimulated by the subject project (i.e., growth that would likely not occur but for the approval and implementation of the Chula Vista Bayfront Master Plan). An evaluation of the effects on air and water quality as a result of this new growth should be provided, as well as a discussion of the potential for even greater impacts (e.g., night lighting, human and pet intrusion, increased noise levels) than the Proposed Project alone would cause to nearby sensitive biological resources.

B-75  
(Cont.)

Other Comments

The following comments address sections in the DEIR where project information is inadequate or not clear.

63. Similar to the design renderings provided for proposed buildings a tentative design proposal for S-2 Signature Park *Phase I* (Parcels S-2, HP-1, and H-8) should be included within the final EIR. These renderings should include information such as permitted uses, anticipated activities, operational hours, total number of structures, lighting features, and other accessory features. Consequently this information should be used in the impact analysis of the final EIR.

B-76

64. The final EIR should reflect wetland delineations that have been verified by the appropriate agencies so that the public can review all impacts to wetlands and waters, and their associated mitigation.

B-77

65. The DEIR does not provide adequate information to enable the reviewer to understand how the existing elevations within the Proposed Project site would be changed or how existing drainage patterns would be altered to accommodate future development. The full project-level impact analysis of Phase I in the final EIR should include a detailed grading plan for each of the Phase I development areas. Without this information, it is infeasible to properly assess the Phase I potential effects to adjacent coastal resources.

B-78

66. The project description for Parcel S-2 Signature Park (Phase I) lacks the detail necessary for a full analysis of its impacts. The final EIR should include: an as-built 11"x17" rendering of the of the Proposed Project design; a full description, with all permitted uses, anticipated activities, hours of operation, structures, lighting fixtures, and other accessory features fully described; and, a detailed analysis of the impacts associated with each of these proposed elements.

B-79

67. Figure 4.8-1 should be revised to identify the specific location of mudflats due west of the Sweetwater Marsh and north of the Harbor Drive District. Section 4.8.1.7(b) of the final EIR should discuss the importance of this mudflat as a biological resource that provides essential foraging and resting areas for migratory birds along the Pacific Flyway.

B-80

**B-75** As described in *Chapter 7.0, Growth Inducement*, of the Revised DEIR, CEQA clearly defines which potential impacts, both direct and indirect, should be considered in the analysis of potential growth to an area. However, the Revised DEIR addresses all the suggested issue areas (including air quality, biological impacts, and water quality, for example) in both *Chapter 4, Environmental Analysis*, and also goes in great detail in *Chapter 6, Cumulative Impacts*, for each issue area described, and looks at the project's contribution in conjunction with other projects.

**B-76** The Signature Park proposed for Parcel S-2 is described in *Section 3.4.4.1* of the Revised DEIR, which includes substantial detail on the components of the proposed park, not just grading of the site, as the comment suggests. Specifically, *Section 3.4.4.1* states that the park is designed as a passive use, meadow-type park with amenities such as landscaping, lighting, restrooms, drinking fountains, parking, bicycle racks, tot lots, picnic areas, benches, trash bins, interpretive signage, landscaped berms, public art, and decomposed granite paving. An approximately 12-foot-wide meandering pedestrian trail constructed of natural material that is easily maintained would be interwoven throughout the park.

The comment expresses concern with the lack of specificity for the proposed S-2 Signature Park. As described on page 3-40 of *Chapter 3.0, Project Description*, Parcel S-2 is proposed as a passive-use park. Passive-use park areas are intended to emphasize open-space elements and involve a low level of development, such as picnic areas and trails. Such areas are not intended for intensive development or cooperative or team activities. In response to this comment, *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that the proposed Signature Park is planned as a passive-use park, and those in the Harbor District (Parcels HP-1 and H-8) are planned to



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property. The final EIR should expand this section to address effects on the environment, both individually and cumulatively, from growth stimulated by the subject project (i.e., growth that would likely not occur but for the approval and implementation of the Chula Vista Bayfront Master Plan). An evaluation of the effects on air and water quality as a result of this new growth should be provided, as well as a discussion of the potential for even greater impacts (e.g., night lighting, human and pet intrusion, increased noise levels) than the Proposed Project alone would cause to nearby sensitive biological resources.

B-75  
(Cont.)

Other Comments

The following comments address sections in the DEIR where project information is inadequate or not clear.

63. Similar to the design renderings provided for proposed buildings a tentative design proposal for S-2 Signature Park *Phase I* (Parcels S-2, HP-1, and H-8) should be included within the final EIR. These renderings should include information such as permitted uses, anticipated activities, operational hours, total number of structures, lighting features, and other accessory features. Consequently this information should be used in the impact analysis of the final EIR.

B-76

64. The final EIR should reflect wetland delineations that have been verified by the appropriate agencies so that the public can review all impacts to wetlands and waters, and their associated mitigation.

B-77

65. The DEIR does not provide adequate information to enable the reviewer to understand how the existing elevations within the Proposed Project site would be changed or how existing drainage patterns would be altered to accommodate future development. The full project-level impact analysis of Phase I in the final EIR should include a detailed grading plan for each of the Phase I development areas. Without this information, it is infeasible to properly assess the Phase I potential effects to adjacent coastal resources.

B-78

66. The project description for Parcel S-2 Signature Park (Phase I) lacks the detail necessary for a full analysis of its impacts. The final EIR should include: an as-built 11"x17" rendering of the of the Proposed Project design; a full description, with all permitted uses, anticipated activities, hours of operation, structures, lighting fixtures, and other accessory features fully described; and, a detailed analysis of the impacts associated with each of these proposed elements.

B-79

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B-80

accommodate flexible spaces for more active uses or events. Pursuant to Section 8.02, Park Areas Regulated, of the San Diego Unified Port District Code, operational hours for all proposed park areas shall be limited to between the hours of 6:00 a.m. and 10:30 p.m.

Additionally, in response to this and other comments, *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that Phase I park amenities within Parcel S-2 will meet the following minimum standards:

- The park will be passive in nature and encourage passive recreation, be low impact, and contain minimal permanent structures. Structures will be limited to single-story heights and will be limited in function to restrooms, picnic tables, shade structures, and overlooks. "Passive" will mean that which emphasizes the open-space aspect of a park and which involves a low level of development, including picnic areas and trails. In contrast, active recreation is that which requires intensive development and includes programmable elements that involve cooperative or team activity, including ball fields and skate parks.
- The park will be constructed using low-water-use ground cover alternatives where possible.
- Pedestrian and bike trails will be segregated where feasible. A meandering public trail will be provided along the entire length of the Bayfront. The meandering trail within the Sweetwater Park and adjacent to Buffer Areas, as described in **Mitigation Measure 4.8-7**, will not be paved.
- The park will not include athletic field amenities.
- No unattended food vending will be allowed.
- The park will include enforcement signage that prohibits tenants,

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property. The final EIR should expand this section to address effects on the environment, both individually and cumulatively, from growth stimulated by the subject project (i.e., growth that would likely not occur but for the approval and implementation of the Chula Vista Bayfront Master Plan). An evaluation of the effects on air and water quality as a result of this new growth should be provided, as well as a discussion of the potential for even greater impacts (e.g., night lighting, human and pet intrusion, increased noise levels) than the Proposed Project alone would cause to nearby sensitive biological resources.

B-75  
(Cont.)

Other Comments

The following comments address sections in the DEIR where project information is inadequate or not clear.

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B-76

64. The final EIR should reflect wetland delineations that have been verified by the appropriate agencies so that the public can review all impacts to wetlands and waters, and their associated mitigation.

B-77

65. The DEIR does not provide adequate information to enable the reviewer to understand how the existing elevations within the Proposed Project site would be changed or how existing drainage patterns would be altered to accommodate future development. The full project-level impact analysis of Phase I in the final EIR should include a detailed grading plan for each of the Phase I development areas. Without this information, it is infeasible to properly assess the Phase I potential effects to adjacent coastal resources.

B-78

66. The project description for Parcel S-2 Signature Park (Phase I) lacks the detail necessary for a full analysis of its impacts. The final EIR should include: an as-built 11"x17" rendering of the of the Proposed Project design; a full description, with all permitted uses, anticipated activities, hours of operation, structures, lighting fixtures, and other accessory features fully described; and, a detailed analysis of the impacts associated with each of these proposed elements.

B-79

67. Figure 4.8-1 should be revised to identify the specific location of mudflats due west of the Sweetwater Marsh and north of the Harbor Drive District. Section 4.8.1.7(b) of the final EIR should discuss the importance of this mudflat as a biological resource that provides essential foraging and resting areas for migratory birds along the Pacific Flyway.

B-80

employees, residents, or visitors from feeding or encouraging feral cat colonies; prevents feral cat drop-off or abandonment of pets; and prohibits leash-free areas near buffers.

- Due to the immediate adjacency to wildlife habitat areas, as described in **Mitigation Measure 4.8-7**, the S-2 Signature Park will be designated as a passive-use park. Use of amplified sound equipment or reservations for group events and activities will be prohibited.
- Phase I Signature Park improvements (including development of Parcel S-2), within the Transition Buffer Areas and Limited Use zones of Parcel SP-1, and the fencing of the No Touch Buffer Area of Parcel SP-1 will be completed prior to the issuance of Certificates of Occupancy for projects developed on either Parcel H-3 or H-23 and after any additional necessary environmental review. The public participation process for the design of the park will be completed prior to Port staff seeking Concept Approval from the Board of Port Commissioners.

The specific placement and design of these improvements will be reviewed and analyzed for conformance with those impacts analyzed in the Revised DEIR prior to the issuance of Coastal Development Permits for the park areas.

B-77

This comment states that the Final EIR should reflect wetland delineations that have been verified by the appropriate agencies. Verification of wetland impacts by agencies with jurisdiction over wetlands occurs through regulatory processes that are separate from the Port's environmental review of the Proposed Project under CEQA. The Revised DEIR includes verified wetland delineations to the extent they have been provided by the appropriate agencies. The Revised DEIR has also identified wetlands whose delineation has not yet been

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property. The final EIR should expand this section to address effects on the environment, both individually and cumulatively, from growth stimulated by the subject project (i.e., growth that would likely not occur but for the approval and implementation of the Chula Vista Bayfront Master Plan). An evaluation of the effects on air and water quality as a result of this new growth should be provided, as well as a discussion of the potential for even greater impacts (e.g., night lighting, human and pet intrusion, increased noise levels) than the Proposed Project alone would cause to nearby sensitive biological resources.

B-75  
(Cont.)

Other Comments

The following comments address sections in the DEIR where project information is inadequate or not clear.

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B-79

67. Figure 4.8-1 should be revised to identify the specific location of mudflats due west of the Sweetwater Marsh and north of the Harbor Drive District. Section 4.8.1.7(b) of the final EIR should discuss the importance of this mudflat as a biological resource that provides essential foraging and resting areas for migratory birds along the Pacific Flyway.

B-80

verified and the regulatory agency responsible for doing so in order to inform the public and decision makers of additional proceedings concerning wetlands that may occur.

**B-78** *Section 4.5, Hydrology and Water Quality*, and specifically *Figures 4.5-3 and 4.5-4* of the Revised DEIR, show the proposed grading plan and the earthwork plan, and address parcel-specific drainage to demonstrate all potential impacts and provide detailed mitigation measures and locations for BMPs for project-level components in *Figures 4.5-8 and 4.5-9*.

**B-79** Please see the response to comment B-76.

**B-80** The purpose of *Figure 4.8-1* is to identify the location and geographic relationship of areas with established conservation mechanisms in place, not to delineate habitat or vegetation communities. Nonetheless, in response to this comment and comment D-16, *Figure 4.8-1* in the Final EIR has been revised to identify the specific location of the mudflats due west of the Sweetwater Marsh and north of the Harbor District. Mudflats and their function as foraging areas are discussed in the description of southern coastal salt marsh communities on pages 4.8-21 through 4.8-23 of the Revised DEIR. In response to this comment and comment D-16, *Section 4.8.1.7(b)* of the Final EIR has been revised to include a discussion of the mudflats as an important biological resource.

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Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

Enclosure Page 15

- |   |               |
|---|---------------|
| <p>68. Per the current description provided in the revised DEIR (Section 4.8.1.8; Atypical Situations/Problem Areas) it is unclear whether all wetland perimeters were associated with the seasonal ponds in the Otay District (whereas information in <i>Appendix 4.8-6</i> identifies sample points 11 &amp; 27 as wetland). There is an acknowledgement that the U.S. Army Corps of Engineers (USACE) may take jurisdiction for this area, yet there is another statement that indicates that “These ponds, however, appear to be disconnected hydrologically from adjacent waters and are assumed to be exempt from USACE jurisdiction”. Until a jurisdictional determination has been made by the appropriate regulatory agencies, the final EIR should not reference areas as exempt from jurisdiction.</p> | <p>— B-81</p> |
| <p>69. Proposed project impacts that would occur at program-level stage to coastal brackish marsh are not referenced under discussion item 2.a.ii. (Page 4.8-111). Furthermore, the permanent impact acreage category mentioned under the discussion section does not correspond with the program-level permanent impact acreage category in <i>Table 4.8-6</i>. Depending on the required corrections the corresponding mitigation ratios should also be revised.</p>  | <p>— B-82</p> |
| <p>70. Project-level impact acreage to non-native grassland on City of Chula Vista (City) lands (page 4.8-119) does not correspond with project-level impact acreage category for City lands in <i>Table 4.8-7</i>. Furthermore, the permanent impact acreage for disturbed coastal sage scrub at the program-level for City Lands (page 4.8-119) is not listed on <i>Table 4.8-7</i>. Any revision to impact acreage should include revision to mitigation acreage requirements (i.e., corresponding mitigation table).</p>  | <p>— B-83</p> |
| <p>71. Program-level wetland impact acreage to Port lands (page 4.8-120) does not correspond with program-level impact acreage category for Port lands in <i>Table 4.8-8</i>. Any revision to impact acreage should include revision to mitigation acreage requirements (i.e., corresponding mitigation table).</p>   | <p>— B-84</p> |

**B-81** The areas identified in this comment are program-level components of the Proposed Project. The U.S. Army Corp of Engineers (ACOE) typically determines jurisdictional responsibility at the point in time where a project applicant applies for permits for activities that could impact the areas. The program-level components would require additional environmental review at the point in time when specific project information is available. Further, the program-level components that would affect these areas are not defined sufficiently to initiate the permitting process. Finally, based on typical exercise of jurisdiction by the ACOE, it is not anticipated that the areas in question would be subject to their jurisdiction. Therefore, the characterization of the seasonal ponds in the Otay District as “exempt” from ACOE jurisdiction is appropriate.

**B-82** This comment expresses concern regarding the program-level impacts to coastal brackish marsh. As provided in *Tables 4.8-1A* and *4.8-1B* of the Revised DEIR, approximately 3.40 acres of coastal brackish marsh exist on Parcel SP-2; however, as part of the Proposed Project, Parcel SP-2 will be preserved, not impacted. The only coastal brackish marsh located within the project area, therefore, will be avoided. There are no impacts to coastal brackish marsh from implementation of the Proposed Project, which is what the referenced discussion on page 4.8-111 and *Table 4.8-6* disclose. *Tables 4.8-3A* and *4.8-3D* of the Final EIR have been revised to be consistent with the discussion in *Section 4.8.5* and *Table 4.8-6* that no impact would occur to coastal brackish marsh.

**B-83** The correct project-level impact acreage for non-native grassland within the City’s jurisdiction in Phase I is approximately 19.13 acres, which represents the acreage of non-native grassland that will be impacted through development of Parcels H-13, H-14, HP-5, and H-17. The Final EIR has been revised to reflect this in the impact

Comment Letter B (Page 19)

Mr. John W. Helmer (FWS- SDG-02B0001-08TA0702)

Enclosure Page 15

- 68. Per the current description provided in the revised DEIR (Section 4.8.1.8; Atypical Situations/Problem Areas) it is unclear whether all wetland perimeters were associated with the seasonal ponds in the Otay District (whereas information in *Appendix 4.8-6* identifies sample points 11 & 27 as wetland). There is an acknowledgement that the U.S. Army Corps of Engineers (USACE) may take jurisdiction for this area, yet there is another statement that indicates that "These ponds, however, appear to be disconnected hydrologically from adjacent waters and are assumed to be exempt from USACE jurisdiction". Until a jurisdictional determination has been made by the appropriate regulatory agencies, the final EIR should not reference areas as exempt from jurisdiction. B-81
- 69. Proposed project impacts that would occur at program-level stage to coastal brackish marsh are not referenced under discussion item 2.a.ii. (Page 4.8-111). Furthermore, the permanent impact acreage category mentioned under the discussion section does not correspond with the program-level permanent impact acreage category in *Table 4.8-6*. Depending on the required corrections the corresponding mitigation ratios should also be revised. B-82
- 70. Project-level impact acreage to non-native grassland on City of Chula Vista (City) lands (page 4.8-119) does not correspond with project-level impact acreage category for City lands in *Table 4.8-7*. Furthermore, the permanent impact acreage for disturbed coastal sage scrub at the program-level for City Lands (page 4.8-119) is not listed on *Table 4.8-7*. Any revision to impact acreage should include revision to mitigation acreage requirements (i.e., corresponding mitigation table). B-83
- 71. Program-level wetland impact acreage to Port lands (page 4.8-120) does not correspond with program-level impact acreage category for Port lands in *Table 4.8-8*. Any revision to impact acreage should include revision to mitigation acreage requirements (i.e., corresponding mitigation table). B-84

discussion (*Section 4.8.5*) and in *Table 4.8-7*. In response to the second part of the comment, *Table 4.8-7* has been revised in the Final EIR to include the permanent impact acreage for disturbed coastal sage scrub at the program level for City lands, consistent with the acreage provided in the impact analysis contained in *Section 4.8.5*.

**B-84** The correct impact acreage for non-wetland waters within the Port jurisdiction in Program Phases is 1.17 acre, as identified in *Table 4.8-8* of the Revised DEIR. The Final EIR (*Section 4.8.5*) has been revised to reflect this correction.

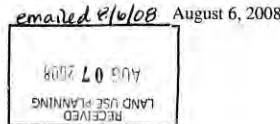
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## Comment Letter C



### United States Department of the Interior

FISH AND WILDLIFE SERVICE  
San Diego National Wildlife Refuge Complex  
6010 Hidden Valley Road, Suite 101  
Carlsbad, California 92011



Mr. John W. Helmer  
Acting Director, Land Use Planning  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, California 92112-0488

RE: Comments on the Revised Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment, City of Chula Vista, California (SCH #2005081077)

Dear Mr. Helmer:

The San Diego National Wildlife Refuge (NWR) Complex has reviewed the above-referenced revised Draft Environmental Impact Report (DEIR) and supporting documentation for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment (Proposed Project), dated May 2008. Our review was directed primarily at how the revised DEIR analyzed the potential impacts to the lands, waters, and associated resources included within the San Diego Bay NWR (Refuge) that were outlined in our comment letter for the previously circulated Chula Vista Bayfront Master Plan and Port Master Plan Amendment DEIR, dated September 29, 2006. In addition to the comments provided in our letter for the previous DEIR (attached), we also provided a letter, dated September 12, 2005, in response to the Notice of Preparation for the Proposed Project. We also emphasized the importance of the habitats in the south end of San Diego Bay and the need for the Proposed Project to adequately protect the south bay's locally, regionally, and globally important natural resources in a letter to the Port of San Diego (Port) and City of Chula Vista (City), dated April 22, 2004.

Although our review of the revised DEIR did identify some revisions to the analysis and scope of the project in response to concerns raised in comments on the previous DEIR, many of the issues raised in our previous letter have not been addressed. Specifically, the revised DEIR does not provide adequate assurance that impacts to the sensitive coastal resources will be mitigated to below a level of significance. Our previous letter included a range of mitigation measures that could be incorporated into the scope of the project to reduce potential impacts, however, these measures are not addressed in the revised DEIR as required in Section 15126.4(a)(1)(A) of the California Environmental Quality Act (CEQA) Guidelines. As a result, we continue to have concerns regarding the adequacy of the impact analysis and do not concur with the overall conclusion that the Proposed Project would not have significant unmitigated adverse direct, indirect, or cumulative effects on Refuge habitat and wildlife resources.



## Response to Comment Letter C

### United States Fish And Wildlife Service San Diego National Wildlife Refuge Complex August 6, 2008

- C-1** This comment provides a summary of previously submitted comment letters on the Notice of Preparation and previously-circulated Draft EIR and retains some concern as previously described. The SDBNWR's previous letters were reviewed and considered in the preparation of the Revised DEIR, and revisions were made as appropriate. However, not all of the suggested mitigation measures were incorporated because the Port determined that they were not necessary to mitigate project impacts, based on a thorough analysis of project effects, including incorporation of project features and/or project mitigation measures designed to avoid or minimize impacts. The comment expresses NWR's opinion that the Proposed Project would have significant unmitigated, adverse effects on biological resources; however, the comment does not identify specific issues related to the adequacy of the analysis, or occurrences where previous comments were not addressed. The Port disagrees with this opinion and provides detailed responses for more detailed comments contained later in this letter.

Comment Letter C (Page 2)

Mr. John W. Helmer

2

Specific concerns regarding the adequacy and accuracy of the DEIR are provided below.

1. Area S-2, the Signature Park, is proposed to be developed in Phase I, however, with the exception of grading the site, it is unclear when and how the park will be constructed. Neither the DEIR nor the draft Port Master Plan amendment provide sufficient details regarding the design, siting of buildings, or landscape features for this part of the project. What opportunities will there be for reviewing specific project plans prior to construction? Additional details regarding the design of the bridge that crosses the F&G Street Marsh tidal channel, including a depiction of the bridge's appearance and major features, should also be provided.

C-2

2. Area SP-1, described as an ecological buffer, is proposed in Phase II and according to the DEIR the improvements proposed for this buffer "will be phased in as funding becomes available" (page 3-105). Once grading in the Sweetwater District is complete and a public road is constructed through this area, it will be easily accessible to the general public, yet no measures are proposed in Phase I to protect sensitive resources from disturbance. The potential for significant impacts to coastal resources from unauthorized access onto Refuge lands and adjacent tidal mudflats will only increase following the completion in Phase I of a 2,000 room conference center. The "no use" portion of the proposed buffer should be established in Phase I and should be fenced, as described below, to prevent access into sensitive habitat areas within the Refuge and along the adjacent mudflats and to stop trash and future construction debris from contaminating these habitats. As currently written, the DEIR does not include an adequate analysis of potential impacts from the developments in Phase I to the sensitive habitats or listed species located within the Refuge. Without adequate measures to protect these resources, these Phase I development proposals will result in significant, unmitigated impacts to biological resources.

C-3

In addition, when all of the improvements to the ecological buffer that are described in the DEIR are completed, they will still not provide adequate protection for adjacent resources. The signature park as proposed would attract thousands of people to this area, an area that up until now has experienced almost no human activity. Even under current conditions, unauthorized access onto sensitive wetland habitat by the public, including the homeless, and their pets is a common problem. The introduction of more people will only exacerbate this problem. As a result, we do not concur with the conclusions of the DEIR that intermittent fencing, stands of native cacti, and signage would adequately mitigate potential impacts to listed and sensitive species occupying habitats within the adjacent Refuge. As recommended in our comment letter for the previous DEIR, a six-foot-high, black vinyl chain linked fence or comparable barrier should be constructed within the buffer along the entire length of the Refuge to prevent any human or pet encroachment, as well as blowing trash and construction debris, from the proposed signature park into the adjacent wetland habitat.

C-4

3. To minimize direct and indirect impacts related to wildlife and habitat disturbance from human activity, dogs and other pets, night lighting, increased noise levels, and other activities a minimum 100-foot setback from the Refuge boundary should be provided along the northern edge of Parcel S-4. The area within this setback should be closed to all public use activities and a chain link fence (refer to Comment 2 above) should be installed along the northern parcel

C-5

C-2 The Signature Park proposed for the S-2 Parcel is described in *Section 3.4.4.1* of the Revised DEIR, which includes substantial detail on the components of the proposed park, not just grading of the site, as the comment suggests. Specifically, *Section 3.4.4.1* states that the park is designed as a passive use, meadow-type park with amenities such as landscaping, lighting, restrooms, drinking fountains, parking, bicycle racks, tot lots, picnic areas, benches, trash bins, interpretive signage, landscaped berms, public art, and decomposed granite paving. An approximately 12-foot-wide meandering pedestrian trail constructed of natural material that is easily maintained would be interwoven throughout the park. As provided in the response to comment B-76, pursuant to Section 8.02, Park Areas Regulated of the San Diego Unified Port District Code, operational hours for all proposed park areas shall be limited to between the hours of 6:00 a.m. and 10:30 p.m. Additionally, in response to this and other comments, *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that Phase I park amenities within Parcel S-2 will meet certain minimum standards, as described in the response to comment B-76.

The comment further requests additional details regarding the bridge proposed over the F&G Street Marsh. *Figure 3-14* of the Revised DEIR shows the proposed bridge, including an aerial photo-base plan view of the bridge span, proposed grading to widen the channel connecting the marsh to the bay, and dimensions of the bridge span, as well as a cross-section view of the bridge showing overhead clearance under the bridge at high tide, which provide a thorough depiction of the bridge's major features.

C-3 This comment expresses a concern regarding impacts to sensitive resources in Parcel SP-1 prior to fencing constructed around sensitive areas. The Final EIR has been revised to require fencing around Parcel SP-1 prior to occupancy of the first buildings constructed during Phase I.



Comment Letter C (Page 2)

Mr. John W. Helmer

2

Specific concerns regarding the adequacy and accuracy of the DEIR are provided below.

1. Area S-2, the Signature Park, is proposed to be developed in Phase I, however, with the exception of grading the site, it is unclear when and how the park will be constructed. Neither the DEIR nor the draft Port Master Plan amendment provide sufficient details regarding the design, siting of buildings, or landscape features for this part of the project. What opportunities will there be for reviewing specific project plans prior to construction? Additional details regarding the design of the bridge that crosses the F&G Street Marsh tidal channel, including a depiction of the bridge's appearance and major features, should also be provided.

C-2

2. Area SP-1, described as an ecological buffer, is proposed in Phase II and according to the DEIR the improvements proposed for this buffer "will be phased in as funding becomes available" (page 3-105). Once grading in the Sweetwater District is complete and a public road is constructed through this area, it will be easily accessible to the general public, yet no measures are proposed in Phase I to protect sensitive resources from disturbance. The potential for significant impacts to coastal resources from unauthorized access onto Refuge lands and adjacent tidal mudflats will only increase following the completion in Phase I of a 2,000 room conference center. The "no use" portion of the proposed buffer should be established in Phase I and should be fenced, as described below, to prevent access into sensitive habitat areas within the Refuge and along the adjacent mudflats and to stop trash and future construction debris from contaminating these habitats. As currently written, the DEIR does not include an adequate analysis of potential impacts from the developments in Phase I to the sensitive habitats or listed species located within the Refuge. Without adequate measures to protect these resources, these Phase I development proposals will result in significant, unmitigated impacts to biological resources.

C-3

In addition, when all of the improvements to the ecological buffer that are described in the DEIR are completed, they will still not provide adequate protection for adjacent resources. The signature park as proposed would attract thousands of people to this area, an area that up until now has experienced almost no human activity. Even under current conditions, unauthorized access onto sensitive wetland habitat by the public, including the homeless, and their pets is a common problem. The introduction of more people will only exacerbate this problem. As a result, we do not concur with the conclusions of the DEIR that intermittent fencing, stands of native cacti, and signage would adequately mitigate potential impacts to listed and sensitive species occupying habitats within the adjacent Refuge. As recommended in our comment letter for the previous DEIR, a six-foot-high, black vinyl chain linked fence or comparable barrier should be constructed within the buffer along the entire length of the Refuge to prevent any human or pet encroachment, as well as blowing trash and construction debris, from the proposed signature park into the adjacent wetland habitat.

C-4

3. To minimize direct and indirect impacts related to wildlife and habitat disturbance from human activity, dogs and other pets, night lighting, increased noise levels, and other activities a minimum 100-foot setback from the Refuge boundary should be provided along the northern edge of Parcel S-4. The area within this setback should be closed to all public use activities and a chain link fence (refer to Comment 2 above) should be installed along the northern parcel

C-5

C-4 In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, the Final EIR has been revised to include a 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent any human or pet encroachment, as well as blowing trash and construction debris, from the proposed Signature Park into the adjacent wetland habitat. This fencing will be incorporated into the design features of the project to protect the SDBNWR Preserve areas from trespassing and other intrusions and will be installed prior to occupancy of the first buildings constructed during Phase I. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement.

As described in the response to comment B-6, the Final EIR has also been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the SDB Refuge, and the north side of parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). The fencing will be designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums and other small terrestrial animals [collectively, "predators"]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be a minimum 6-foot-high, vinyl-coated chain-link fence or other suitable barrier as described in the Final EIR. The fence design may include appropriate locked access points for maintenance and other necessary functions. Installation of the fence will include land contouring to minimize visual impacts of the fence. The installation of the fencing will be completed prior to the issuance of Certificates of Occupancy for development projects on either Parcel H-3 or H-23 and in conjunction with development or road improvements in the Sweetwater District.

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Mr. John W. Helmer

boundary. The need for a buffer in this area should also be addressed in the City of Chula Vista's Local Coastal Program (LCP) Amendment.

4. To minimize the potential for access onto the Refuge from the mudflats located to the south of the Sweetwater Marsh Unit, fencing or other effective access controls should be provided to the north of Parcel H-1A. In addition, the fencing proposed in the Otay District in the vicinity of Parcel O-3A should be extended around the entire western perimeter of Parcels OP-1A and O-4 to protect listed species nesting areas on the salt pond levees within the South San Diego Bay Unit.

5. The DEIR's discussion of shading impacts from proposed structures to adjacent natural areas is not sufficient. The DEIR should graphically depict the shading effects under a worst case scenario (i.e., maximum permitted height and closest allowable footprint to a natural area) of all structures proposed in proximity to natural habitat, including structures on Parcel S-4. No figures are provided in the document, the shading analysis is not included in the appendices, and no information regarding the assumptions made in preparing the analysis has been provided in the document. Shading on the Refuge could result in direct adverse effects to vegetation that supports listed and sensitive species, therefore, the DEIR should provide adequate information to allow the reader to understand how the shading analysis was conducted. Alternatives that include multiple story buildings on S-1 and S-2 should also be evaluated for potential impacts related to shading.

6. The "South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge" should be identified in Figure 3-2, as this part of the Refuge is relevant to the Proposed Project's overall environmental setting.

7. The Adjacent Land Uses section (page 4.1-32) under Land/Water Use Compatibility does not adequately describe the uses adjacent to the Proposed Project. In order to analyze potential compatibility issues, it is necessary to understand the uses and adopted plans for the adjacent areas. In the case of the Sweetwater Marsh Unit of the Refuge, the DEIR should state that the Refuge is included within the City of Chula Vista's MSCP Preserve; therefore, projects adjacent to this area should comply with the MSCP Adjacency Management guidelines. In addition, the City of Chula Vista's MSCP Adjacency Management guidelines should be listed in the document to allow the reader to understand how the Proposed Project may or may not be consistent with these guidelines. The goals and objectives for the adjacent Refuge lands, including the goal of protecting federally and state listed endangered and threatened species, should also be included in this discussion.

The analysis of compatibility of the Proposed Project with the Refuge as described on page 4.1-119 is inadequate. Issues that should be considered in determining compatibility with the Refuge include impacts to Refuge habitats and wildlife related to increased public activities in proximity to sensitive habitats (including, but not limited to fireworks, outdoor concerts, and other special events, as well as in-water uses), increased noise levels and increased night lighting, as well as increases in predation (resulting from potential new perches, increases in trash accumulation, and increases in the number of roaming pets and feral animals), sky glow, and other factors addressed throughout this comment letter. Corresponding enforceable

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C-5  
(Cont.)

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C-10

**C-5** This comment suggests a 100-foot setback between the SDBNWR and Parcel S-4 to minimize direct and indirect impacts to wildlife and habitat. As discussed on page 3-116 of the Revised DEIR, the 100-foot-wide habitat buffer will be included on the north end of Parcel S-4 to buffer the sensitive habitat to the north from development. The 100-foot buffer on Parcel S-4 described in *Chapter 3.0, Project Description*, of the Revised DEIR (page 3-116) is consistent with CCC buffer requirements. As described in *Chapter 2.0 Introduction*, and *Chapter 3.0, Project Description*, of the Revised DEIR, program-level components of the Proposed Project would require subsequent environmental review as "subsequent activities" pursuant to CEQA Section 15168. Therefore, once detailed project-level plans are proposed for Parcel S-4, subsequent environmental review will consider potential impacts from the proposed development project pursuant to CEQA Guidelines Section 15168. Nonetheless, in response to this comment and other comments on the Revised DEIR regarding the buffer on S-4, *Chapter 3.0, Project Description*, of the Final EIR has been revised for Parcel S-4 to clarify that at the time project-specific development is proposed, shading impacts, as well as appropriate setbacks, step backs, and/or height reductions, will be analyzed as part of the necessary subsequent environmental review for this parcel. Please also see the responses to comments B-10 through B-13, B-17, and B-43.

**C-6** Parcel H-1A is currently fenced as part of the existing South Bay Boatyard operations, and fencing would be maintained after the construction of the E Street extension. The western perimeter of parcels in the Otay District will be fenced in conjunction with development of these parcels.

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Mr. John W. Helmer

boundary. The need for a buffer in this area should also be addressed in the City of Chula Vista's Local Coastal Program (LCP) Amendment.

4. To minimize the potential for access onto the Refuge from the mudflats located to the south of the Sweetwater Marsh Unit, fencing or other effective access controls should be provided to the north of Parcel H-1A. In addition, the fencing proposed in the Otay District in the vicinity of Parcel O-3A should be extended around the entire western perimeter of Parcels OP-1A and O-4 to protect listed species nesting areas on the salt pond levees within the South San Diego Bay Unit.

5. The DEIR's discussion of shading impacts from proposed structures to adjacent natural areas is not sufficient. The DEIR should graphically depict the shading effects under a worst case scenario (i.e., maximum permitted height and closest allowable footprint to a natural area) of all structures proposed in proximity to natural habitat, including structures on Parcel S-4. No figures are provided in the document, the shading analysis is not included in the appendices, and no information regarding the assumptions made in preparing the analysis has been provided in the document. Shading on the Refuge could result in direct adverse effects to vegetation that supports listed and sensitive species, therefore, the DEIR should provide adequate information to allow the reader to understand how the shading analysis was conducted. Alternatives that include multiple story buildings on S-1 and S-2 should also be evaluated for potential impacts related to shading.

6. The "South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge" should be identified in Figure 3-2, as this part of the Refuge is relevant to the Proposed Project's overall environmental setting.

7. The Adjacent Land Uses section (page 4.1-32) under Land/Water Use Compatibility does not adequately describe the uses adjacent to the Proposed Project. In order to analyze potential compatibility issues, it is necessary to understand the uses and adopted plans for the adjacent areas. In the case of the Sweetwater Marsh Unit of the Refuge, the DEIR should state that the Refuge is included within the City of Chula Vista's MSCP Preserve; therefore, projects adjacent to this area should comply with the MSCP Adjacency Management guidelines. In addition, the City of Chula Vista's MSCP Adjacency Management guidelines should be listed in the document to allow the reader to understand how the Proposed Project may or may not be consistent with these guidelines. The goals and objectives for the adjacent Refuge lands, including the goal of protecting federally and state listed endangered and threatened species, should also be included in this discussion.

The analysis of compatibility of the Proposed Project with the Refuge as described on page 4.1-119 is inadequate. Issues that should be considered in determining compatibility with the Refuge include impacts to Refuge habitats and wildlife related to increased public activities in proximity to sensitive habitats (including, but not limited to fireworks, outdoor concerts, and other special events, as well as in-water uses), increased noise levels and increased night lighting, as well as increases in predation (resulting from potential new perches, increases in trash accumulation, and increases in the number of roaming pets and feral animals), sky glow, and other factors addressed throughout this comment letter. Corresponding enforceable

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C-5  
(Cont.)

C-6

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C-7 Please see the response to comment B-30.

C-8 In response to this comment and comment D-5, *Figure 3-2* in the Final EIR has been revised to identify the "South San Diego Bay Unit of the San Diego Bay NWR." This revision has also been made in the Final EIR on *Figures 3-3, 3-4, 3-7, 3-17, and 4.1-5*.

C-9 This comment expresses concern that the Adjacent Land Uses discussion in *Section 4.1, Land/Water Use Compatibility*, does not adequately describe the uses adjacent to the Proposed Project. Adjacent land uses are described in *Section 4.1* of the Revised DEIR on pages 4.1-29, 4.1-32, and throughout *Tables 4.1-7 and 4.1-10*. As described on page 4.1-113 of the Revised DEIR, *Section 4.8, Terrestrial Biological Resources*, further addresses the land-use adjacency issues, including the compliance of the City's MSCP Subarea Plan Adjacency Management Issues associated with development near Preserve areas (see pages 4.8-107 through 4.8-109 of the Revised DEIR).

C-10 This comment suggests that the analysis of compatibility of the Proposed Project with the SDBNWR is inadequate. Please see the response to comment C-9. *Section 4.8, Terrestrial Biological Resources*, discusses compliance with the City's MSCP Subarea Plan Adjacency Management Issues, including lighting, noise, drainage, invasive species, toxic substances, and public access.

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Mr. John W. Helmer

mitigation measures that would reduce impacts to below a level of significance should also be addressed. Timing for implementing proposed measures must also be provided. Currently, the mitigation measures described in association with the ecological buffer are inadequate to mitigate significant incompatibility between the proposed park and the Sweetwater Marsh Unit (refer to Comment 2 above). The DEIR should therefore conclude that the Proposed Project would conflict with the applicable habitat conservation plan's adjacency guidelines and would create substantial incompatibility with adjacent land uses.

8. Any habitat mitigation proposed within the F & G Street Marsh must be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit. Habitat mitigation and/or changes to the existing tidal channel that connects the F&G Street Marsh to the Bay must also be coordinated with the Refuge Manager to ensure that adequate measures have been incorporated into the project design and construction phasing to minimize adverse effects to Refuge resources.

9. The DEIR does not adequately address impacts associated with increased levels of predation to sensitive species supported on the Refuge. The DEIR should be revised to adequately analyze the effects to sensitive wildlife of increased predation due to: 1) increases in nocturnal lighting; 2) displacement of foraging raptors and mammalian predators from the project site to adjacent wildlife areas; 3) increases in the numbers of generalist predators (e.g., rats, ravens, crows, gulls) being attracted to the area due to increases in inevitable trash; and 4) the introduction of additional cats and dogs as a result of new residential development. The DEIR should also propose adequate measures to mitigate these impacts to below a level of significance.

10. Disturbances to wildlife associated with the long-term operation of the Proposed Project are not adequately addressed in the DEIR. There is little or no discussion of wildlife disturbance as a result of outdoor activities such as fireworks, concerts, new or expanded motorized water uses in the south bay and adjacent to Sweetwater Marsh and other light and noise generating activities that could be associated with public parks, piers, harbor, ferry terminal, and various retail/commercial recreation areas. Such uses could impact migratory shorebirds, wintering waterfowl, and the globally significant seabird nesting colonies that are present at the South San Diego Bay Unit during the summer. Mitigation measures should include but not be limited to: the development of maps and informational brochures that describe appropriate areas within the bay for on-water motorized activities; expanding the number of patrol vehicles and personnel needed to enforce existing speed limits in the south bay as uses that promote expanded motorized water activities in the south bay are approved; providing funding for predator management adjacent to and within the Refuge to compensate for increases in predators due to new development along the bayfront; limitations on and noticing requirements for fireworks displays, outdoor concerts, and any other special events that could adversely affect wildlife; acknowledgement of the need to coordinate with the Refuge Manager as development proceeds in order to address other unanticipated adverse effects to Refuge resources as a result of project implementation.

11. For those mitigation measures that are addressed in Section 4.8.6 of the DEIR, we recommend the following revisions:

C-10  
(Cont.)

C-11

C-12

C-13

C-14

C-11 The Port acknowledges the fact that any restoration work within the existing NWR will require coordination and agreements with the USFWS as the Refuge Manager, in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit.

In addition, the Port will enter into a cooperative agreement with USFWS or other appropriate agencies or organizations to provide for the long-term protection and management of the sensitive biological habitat known as the Sweetwater Tidal Flats. The agreement will also address educational signage, long-term maintenance, and additional protection measures such as increased monitoring and enforcement. The Final EIR has been revised to include the provision of this cooperative agreement (see **Mitigation Measure 4.8-7**). The Port will also enter into a cooperative agreement with USFWS or other appropriate agencies or organizations to provide for the long-term protection and management of the sensitive biological habitat within the J Street Marsh. The agreement will also address educational signage, long-term maintenance, and additional protection measures such as increased monitoring and enforcement. The Final EIR has been revised to include the provision of this cooperative agreement (**Mitigation Measure 4.8-7**).

These cooperative agreements will be executed prior to the commencement of mass grading for any infrastructure or site development (excluding construction of H Street or the grading of Parcels HP-5, H-13, H-14, and H-15), subject to the cooperation of the appropriate resource agencies. If the cooperative agreement is not achieved within 3 years after Final EIR certification, the Port will develop another mechanism that provides long-term, additional protection and natural resource management for this area. It is

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mitigation measures that would reduce impacts to below a level of significance should also be addressed. Timing for implementing proposed measures must also be provided. Currently, the mitigation measures described in association with the ecological buffer are inadequate to mitigate significant incompatibility between the proposed park and the Sweetwater Marsh Unit (refer to Comment 2 above). The DEIR should therefore conclude that the Proposed Project would conflict with the applicable habitat conservation plan's adjacency guidelines and would create substantial incompatibility with adjacent land uses.

C-10  
(Cont.)

8. Any habitat mitigation proposed within the F & G Street Marsh must be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit. Habitat mitigation and/or changes to the existing tidal channel that connects the F&G Street Marsh to the Bay must also be coordinated with the Refuge Manager to ensure that adequate measures have been incorporated into the project design and construction phasing to minimize adverse effects to Refuge resources.

C-11

9. The DEIR does not adequately address impacts associated with increased levels of predation to sensitive species supported on the Refuge. The DEIR should be revised to adequately analyze the effects to sensitive wildlife of increased predation due to: 1) increases in nocturnal lighting; 2) displacement of foraging raptors and mammalian predators from the project site to adjacent wildlife areas; 3) increases in the numbers of generalist predators (e.g., rats, ravens, crows, gulls) being attracted to the area due to increases in inevitable trash; and 4) the introduction of additional cats and dogs as a result of new residential development. The DEIR should also propose adequate measures to mitigate these impacts to below a level of significance.

C-12

10. Disturbances to wildlife associated with the long-term operation of the Proposed Project are not adequately addressed in the DEIR. There is little or no discussion of wildlife disturbance as a result of outdoor activities such as fireworks, concerts, new or expanded motorized water uses in the south bay and adjacent to Sweetwater Marsh and other light and noise generating activities that could be associated with public parks, piers, harbor, ferry terminal, and various retail/commercial recreation areas. Such uses could impact migratory shorebirds, wintering waterfowl, and the globally significant seabird nesting colonies that are present at the South San Diego Bay Unit during the summer. Mitigation measures should include but not be limited to: the development of maps and informational brochures that describe appropriate areas within the bay for on-water motorized activities; expanding the number of patrol vehicles and personnel needed to enforce existing speed limits in the south bay as uses that promote expanded motorized water activities in the south bay are approved; providing funding for predator management adjacent to and within the Refuge to compensate for increases in predators due to new development along the bayfront; limitations on and noticing requirements for fireworks displays, outdoor concerts, and any other special events that could adversely affect wildlife; acknowledgement of the need to coordinate with the Refuge Manager as development proceeds in order to address other unanticipated adverse effects to Refuge resources as a result of project implementation.

C-13

11. For those mitigation measures that are addressed in Section 4.8.6 of the DEIR, we recommend the following revisions:

C-14

important to note that the establishment of such an agreement is contingent upon the cooperation of the appropriate agencies (i.e., USFWS). The Port and City have met with the agencies on October 1, 2008, to discuss cooperative agreements on management.

C-12 The comment states that the Revised DEIR does not adequately address indirect effects of the Proposed Project related to potential for increased predation of native wildlife species. Discussion and analysis of predation effects and lighting is addressed in *Section 4.8, Terrestrial Biological Resources*, (see pages 4.8-106 and 4.8-107) of the Revised DEIR and specific measures are included to avoid and/or reduce these effects to less-than-significant levels, consistent with the requirements of the City's MSCP Subarea Plan. Predator management measures are included in the Revised DEIR in **Mitigation Measure 4.8-6**, and include building design criteria to avoid raptor perching opportunities, raptor management and monitoring, trash management measures to avoid attracting non-native predators, fencing, and control of domestic animals. Specifically, **Mitigation Measure 4.8-6** contains specific design criteria to avoid raptor perching opportunities near sensitive habitat areas within the NWR (pages 4.8-145 and 4.8-146), as well as raptor management and monitoring measures. Similarly, design criteria for lighting near or adjacent to the NWR are provided to ensure that project lighting is directed away from sensitive habitat areas (page 4.8-146). Predator controls measures include exclusionary fencing, buffers, trash containment and management measures, and signage/enforcement of leash laws. These measures, as further detailed in the Revised DEIR, would reduce the referenced indirect effects of the Proposed Project to less-than-significant levels. Please also see the response to comment B-68.

In addition, the Final EIR has been revised to require that the No Touch

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Mr. John W. Helmer

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mitigation measures that would reduce impacts to below a level of significance should also be addressed. Timing for implementing proposed measures must also be provided. Currently, the mitigation measures described in association with the ecological buffer are inadequate to mitigate significant incompatibility between the proposed park and the Sweetwater Marsh Unit (refer to Comment 2 above). The DEIR should therefore conclude that the Proposed Project would conflict with the applicable habitat conservation plan's adjacency guidelines and would create substantial incompatibility with adjacent land uses.

C-10  
(Cont.)

8. Any habitat mitigation proposed within the F & G Street Marsh must be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit. Habitat mitigation and/or changes to the existing tidal channel that connects the F&G Street Marsh to the Bay must also be coordinated with the Refuge Manager to ensure that adequate measures have been incorporated into the project design and construction phasing to minimize adverse effects to Refuge resources.

C-11

9. The DEIR does not adequately address impacts associated with increased levels of predation to sensitive species supported on the Refuge. The DEIR should be revised to adequately analyze the effects to sensitive wildlife of increased predation due to: 1) increases in nocturnal lighting; 2) displacement of foraging raptors and mammalian predators from the project site to adjacent wildlife areas; 3) increases in the numbers of generalist predators (e.g., rats, ravens, crows, gulls) being attracted to the area due to increases in inevitable trash; and 4) the introduction of additional cats and dogs as a result of new residential development. The DEIR should also propose adequate measures to mitigate these impacts to below a level of significance.

C-12

10. Disturbances to wildlife associated with the long-term operation of the Proposed Project are not adequately addressed in the DEIR. There is little or no discussion of wildlife disturbance as a result of outdoor activities such as fireworks, concerts, new or expanded motorized water uses in the south bay and adjacent to Sweetwater Marsh and other light and noise generating activities that could be associated with public parks, piers, harbor, ferry terminal, and various retail/commercial recreation areas. Such uses could impact migratory shorebirds, wintering waterfowl, and the globally significant seabird nesting colonies that are present at the South San Diego Bay Unit during the summer. Mitigation measures should include but not be limited to: the development of maps and informational brochures that describe appropriate areas within the bay for on-water motorized activities; expanding the number of patrol vehicles and personnel needed to enforce existing speed limits in the south bay as uses that promote expanded motorized water activities in the south bay are approved; providing funding for predator management adjacent to and within the Refuge to compensate for increases in predators due to new development along the bayfront; limitations on and noticing requirements for fireworks displays, outdoor concerts, and any other special events that could adversely affect wildlife; acknowledgement of the need to coordinate with the Refuge Manager as development proceeds in order to address other unanticipated adverse effects to Refuge resources as a result of project implementation.

C-13

11. For those mitigation measures that are addressed in Section 4.8.6 of the DEIR, we recommend the following revisions:

C-14

Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the South San Diego Bay Unit of the SDBNWR, and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). The fencing will be designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums, and other small terrestrial animals [collectively, "predators"]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be a minimum 6-foot-high, vinyl-coated chain-link fence or other suitable barrier, as described in the Final EIR. The fence design may include appropriate locked access points for maintenance and other necessary functions. Installation of the fence will include land contouring to minimize visual impacts of the fence. The installation of the fencing will be completed prior to the issuance of Certificates of Occupancy for development projects on either Parcel H-3 or H-23 and in conjunction with development or road improvements in the Sweetwater District.

C-13 This comment suggests that the Revised DEIR does not adequately address disturbances to wildlife associated with the long-term operation of the Proposed Project, including disturbances resulting from outdoor activities such as fireworks, concerts, new or expanded motorized water uses, and other light- and noise-generating activities.

Indirect impacts of the Proposed Project on biological resources, including wildlife, have been fully mitigated, as discussed and analyzed in *Sections 4.8 and 4.9* of the Revised DEIR. The Final EIR has been revised to include additional measures to further reduce the indirect impacts to biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. Amongst other things, the additional mitigation (see

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Mr. John W. Helmer

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mitigation measures that would reduce impacts to below a level of significance should also be addressed. Timing for implementing proposed measures must also be provided. Currently, the mitigation measures described in association with the ecological buffer are inadequate to mitigate significant incompatibility between the proposed park and the Sweetwater Marsh Unit (refer to Comment 2 above). The DEIR should therefore conclude that the Proposed Project would conflict with the applicable habitat conservation plan's adjacency guidelines and would create substantial incompatibility with adjacent land uses.

C-10  
(Cont.)

8. Any habitat mitigation proposed within the F & G Street Marsh must be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit. Habitat mitigation and/or changes to the existing tidal channel that connects the F&G Street Marsh to the Bay must also be coordinated with the Refuge Manager to ensure that adequate measures have been incorporated into the project design and construction phasing to minimize adverse effects to Refuge resources.

C-11

9. The DEIR does not adequately address impacts associated with increased levels of predation to sensitive species supported on the Refuge. The DEIR should be revised to adequately analyze the effects to sensitive wildlife of increased predation due to: 1) increases in nocturnal lighting; 2) displacement of foraging raptors and mammalian predators from the project site to adjacent wildlife areas; 3) increases in the numbers of generalist predators (e.g., rats, ravens, crows, gulls) being attracted to the area due to increases in inevitable trash; and 4) the introduction of additional cats and dogs as a result of new residential development. The DEIR should also propose adequate measures to mitigate these impacts to below a level of significance.

C-12

10. Disturbances to wildlife associated with the long-term operation of the Proposed Project are not adequately addressed in the DEIR. There is little or no discussion of wildlife disturbance as a result of outdoor activities such as fireworks, concerts, new or expanded motorized water uses in the south bay and adjacent to Sweetwater Marsh and other light and noise generating activities that could be associated with public parks, piers, harbor, ferry terminal, and various retail/commercial recreation areas. Such uses could impact migratory shorebirds, wintering waterfowl, and the globally significant seabird nesting colonies that are present at the South San Diego Bay Unit during the summer. Mitigation measures should include but not be limited to: the development of maps and informational brochures that describe appropriate areas within the bay for on-water motorized activities; expanding the number of patrol vehicles and personnel needed to enforce existing speed limits in the south bay as uses that promote expanded motorized water activities in the south bay are approved; providing funding for predator management adjacent to and within the Refuge to compensate for increases in predators due to new development along the bayfront; limitations on and noticing requirements for fireworks displays, outdoor concerts, and any other special events that could adversely affect wildlife; acknowledgement of the need to coordinate with the Refuge Manager as development proceeds in order to address other unanticipated adverse effects to Refuge resources as a result of project implementation.

C-13

11. For those mitigation measures that are addressed in Section 4.8.6 of the DEIR, we recommend the following revisions:

C-14

**Mitigation Measure 4.8-7** in the Final EIR) provides for the creation, implementation, and enforcement of an NRMP, and efforts to enter into cooperative management agreements with USFWS or other appropriate agencies. As described in **Mitigation Measure 4.8-7** in the Final EIR, the NRMP will take into consideration the potential changes in functionality of wildlife habitat areas due to rising sea levels and promote the long-term protection, conservation, monitoring, and enhancement of wetland habitat, coastal sage and coastal strand vegetation, and upland natural resources for their inherent ecological values and roles as buffers to more sensitive adjacent wetlands. Signage on buoys and boat markers may be considered as part of the NRMP.

In response to this and other comments regarding fireworks, the Final EIR has been revised (see **Mitigation Measure 4.8-6E**), requiring that a maximum of three firework events can be held each year. All firework events will be held outside of least tern nesting season, except the Fourth of July, which may be allowed if in full regulatory compliance and if the nesting colonies are monitored during the event and any impacts are reported to the Wildlife Advisory Committee so that they can be addressed. All shows must comply with all applicable water quality and species protection regulations. All shows must be consistent with policies, goals, and objectives in the NRMP. Currently, all proposed firework shows in the City of Chula Vista must be permitted by the U.S. Coast Guard. As provided in the response to comment B-26, all fireworks "within the limits of a Public Park of the District" are prohibited under Section 8.02(b)12 of the San Diego Unified Port District Code. In addition, fireworks are not proposed as a part of the project and would need to be permitted separately, as they would be without the project. Please also see the response to comment B-26 regarding fireworks.



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Mr. John W. Helmer

4

mitigation measures that would reduce impacts to below a level of significance should also be addressed. Timing for implementing proposed measures must also be provided. Currently, the mitigation measures described in association with the ecological buffer are inadequate to mitigate significant incompatibility between the proposed park and the Sweetwater Marsh Unit (refer to Comment 2 above). The DEIR should therefore conclude that the Proposed Project would conflict with the applicable habitat conservation plan's adjacency guidelines and would create substantial incompatibility with adjacent land uses.

C-10  
(Cont.)

8. Any habitat mitigation proposed within the F & G Street Marsh must be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit. Habitat mitigation and/or changes to the existing tidal channel that connects the F&G Street Marsh to the Bay must also be coordinated with the Refuge Manager to ensure that adequate measures have been incorporated into the project design and construction phasing to minimize adverse effects to Refuge resources.

C-11

9. The DEIR does not adequately address impacts associated with increased levels of predation to sensitive species supported on the Refuge. The DEIR should be revised to adequately analyze the effects to sensitive wildlife of increased predation due to: 1) increases in nocturnal lighting; 2) displacement of foraging raptors and mammalian predators from the project site to adjacent wildlife areas; 3) increases in the numbers of generalist predators (e.g., rats, ravens, crows, gulls) being attracted to the area due to increases in inevitable trash; and 4) the introduction of additional cats and dogs as a result of new residential development. The DEIR should also propose adequate measures to mitigate these impacts to below a level of significance.

C-12

10. Disturbances to wildlife associated with the long-term operation of the Proposed Project are not adequately addressed in the DEIR. There is little or no discussion of wildlife disturbance as a result of outdoor activities such as fireworks, concerts, new or expanded motorized water uses in the south bay and adjacent to Sweetwater Marsh and other light and noise generating activities that could be associated with public parks, piers, harbor, ferry terminal, and various retail/commercial recreation areas. Such uses could impact migratory shorebirds, wintering waterfowl, and the globally significant seabird nesting colonies that are present at the South San Diego Bay Unit during the summer. Mitigation measures should include but not be limited to: the development of maps and informational brochures that describe appropriate areas within the bay for on-water motorized activities; expanding the number of patrol vehicles and personnel needed to enforce existing speed limits in the south bay as uses that promote expanded motorized water activities in the south bay are approved; providing funding for predator management adjacent to and within the Refuge to compensate for increases in predators due to new development along the bayfront; limitations on and noticing requirements for fireworks displays, outdoor concerts, and any other special events that could adversely affect wildlife; acknowledgement of the need to coordinate with the Refuge Manager as development proceeds in order to address other unanticipated adverse effects to Refuge resources as a result of project implementation.

C-13

11. For those mitigation measures that are addressed in Section 4.8.6 of the DEIR, we recommend the following revisions:

C-14

Additional mitigation (see **Mitigation Measure 4.8-6I** in the Final EIR) reduces impacts associated with boating activities. In response to this and other comments, the Final EIR has been revised to include the prohibition of jet-ski rentals within the Chula Vista Bayfront Master Plan area. Please also see the responses to comments V-87, V-90, and V-181 regarding jet-skis. Not only will the rental of jet-skis and motorized PWCs be prohibited in the project area, but also the use of jet-skis/PWCs will be prohibited in wildlife habitat areas. Watercraft outside of the navigation channel are restricted to a 5-mile-per-hour speed limit. Furthermore, Port Code Section 4.3 includes regulations related to anchoring, mooring, towing, and docking of vessels for purposes of controlling navigable waters. The Port will continue to cooperate with the wildlife agencies for enforcement of existing regulations. Please also see the response to comment B-27 regarding boating restrictions.

Noise from potential night-time activities, such as concerts, will comply with the City's Noise Ordinance. In response to this and other comments, **Mitigation Measure 4.8-6D** in the Final EIR has been revised to include the prohibition of laser light shows in the Chula Vista Bayfront Master Plan area.

Predator management measures are included in the Revised DEIR in **Mitigation Measure 4.8-6**, and include building design criteria to avoid raptor perching opportunities, raptor management and monitoring, trash management measures to avoid attracting non-native predators, fencing, and control of domestic animals. **Mitigation Measure 4.8-6** also addresses measures to control adverse indirect effects associated with lighting and noise. Please also see the response to comment C-12 regarding predator management.



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Mr. John W. Helmer

Mitigation Measure 4.8-3. January 15 through July 31 should be changed to February 15 through September 15 to ensure that all nesting species within and adjacent to proposed construction areas are accounted for.

Mitigation Measure 4.8-4. Light-footed clapper rails are present in the project vicinity year round, therefore, the phrase "and, if grading or construction within these areas occurs during the breeding season for light-footed clapper rails (February 15 through July 31)" should be removed and a qualified biologist should be required to confirm that light-footed clapper rails are not present near construction areas located adjacent to Sweetwater Marsh and the F&G Street Marsh.

Mitigation Measure 4.8-6A. Refer to comment for 4.8-3 and expand this requirement to areas adjacent to Sweetwater Marsh as well.

Mitigation Measure 4.8-6D. All lighting should be fully shielded to reduce the impacts of night lighting on adjacent habitat areas and to prevent sky glow, which can affect bird migration.

Mitigation Measure 4.8-6E. Mitigation related to construction and operational noise should also apply to areas adjacent to Sweetwater Marsh, and measures should also be provided to address noise generated from special events, including fireworks, light shows, concerts, and in-water activities. Year round maximum noise levels at the property line should also be established to protect sensitive species.

Mitigation Measure 4.8-6H (Fencing). In addition to temporary orange fencing, silt fencing should be installed along the edge of the Refuge during grading within the western portion of the ecological buffer.

Mitigation Measure 4.8-6H (Trash). Trash containers should be designed so that the lids are always closed unless opened, simply having a lid will not ensure that they will remain closed.

Thank you for the opportunity to provide comments and for accommodating the various requests for an extension of the public review period. If you have any questions or would like to meet with us to further discuss these issues, please contact Don Brubaker, Refuge Manager, at (619) 575-2704.

Sincerely,



Andrew R. Yuen  
Project Leader

cc: Cara McGary, Carlsbad Fish and Wildlife Office  
Paul Schlitt, California Department of Fish and Game  
Robert Hoffman, NOAA Fisheries  
Diana Lily and Debra Lee, California Coastal Commission

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C-14  
(Cont.)

C-15

C-16

C-17

C-18

C-19

C-20

**C-14** This comment suggests revisions to **Mitigation Measure 4.8-3** in regard to the breeding season for burrowing owls. Please see the response to comment B-64, which addresses revisions to **Mitigation Measure 4.8-3** with regard to the burrowing owl breeding season.

**C-15** This comment suggests revisions to **Mitigation Measure 4.8-4** in regard to the breeding season for light-footed clapper rail. Please see the response to comment B-66, which addresses revisions to **Mitigation Measure 4.8-4** with regard to the light-footed clapper rail breeding season. Please also see the response to comment B-46 in regard to additional revisions to **Mitigation Measure 4.8-4**.

**C-16** This comment suggests revisions to **Mitigation Measure 4.8-6A**. The Final EIR has been revised as recommended. Please see the response to comment B-67 in regard to revisions to extending the mitigation to Sweetwater Marsh.

**C-17** Please see the response to comment B-31. Please also see **Mitigation Measure 4.8-22** on page 4.8-137 of the Revised DEIR, which provides limitations on exterior lighting to reduce or avoid impacts on bird migration. **Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts related to bird strikes and disorientation. In addition, **Mitigation Measure 4.8-6D** has been revised in the Final EIR to incorporate measures related to lighting and illumination, including lighting requirements to reduce impacts to wildlife habitat areas, shield external lighting, and minimize lighting trespass and non-security lighting.

**C-18** This comment suggests revisions to **Mitigation Measure 4.8-6E** related to noise from special events. Please see the responses to comments B-26 and C-13.

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Mr. John W. Helmer

Mitigation Measure 4.8-3. January 15 through July 31 should be changed to February 15 through September 15 to ensure that all nesting species within and adjacent to proposed construction areas are accounted for.

Mitigation Measure 4.8-4. Light-footed clapper rails are present in the project vicinity year round, therefore, the phrase "and, if grading or construction within these areas occurs during the breeding season for light-footed clapper rails (February 15 through July 31)" should be removed and a qualified biologist should be required to confirm that light-footed clapper rails are not present near construction areas located adjacent to Sweetwater Marsh and the F&G Street Marsh.

Mitigation Measure 4.8-6A. Refer to comment for 4.8-3 and expand this requirement to areas adjacent to Sweetwater Marsh as well.

Mitigation Measure 4.8-6D. All lighting should be fully shielded to reduce the impacts of night lighting on adjacent habitat areas and to prevent sky glow, which can affect bird migration.

Mitigation Measure 4.8-6E. Mitigation related to construction and operational noise should also apply to areas adjacent to Sweetwater Marsh, and measures should also be provided to address noise generated from special events, including fireworks, light shows, concerts, and in-water activities. Year round maximum noise levels at the property line should also be established to protect sensitive species.

Mitigation Measure 4.8-6H (Fencing). In addition to temporary orange fencing, silt fencing should be installed along the edge of the Refuge during grading within the western portion of the ecological buffer.

Mitigation Measure 4.8-6H (Trash). Trash containers should be designed so that the lids are always closed unless opened, simply having a lid will not ensure that they will remain closed.

Thank you for the opportunity to provide comments and for accommodating the various requests for an extension of the public review period. If you have any questions or would like to meet with us to further discuss these issues, please contact Don Brubaker, Refuge Manager, at (619) 575-2704.

Sincerely,



Andrew R. Yuen  
Project Leader

cc: Cara McGary, Carlsbad Fish and Wildlife Office  
Paul Schlitt, California Department of Fish and Game  
Robert Hoffman, NOAA Fisheries  
Diana Lily and Debra Lee, California Coastal Commission

5

C-14  
(Cont.)

C-15

C-16

C-17

C-18

C-19

C-20

**C-19** This comment suggests revisions to **Mitigation Measure 4.8-6H** with regard to fencing. **Mitigation Measure 4.8-6H** has been revised in the Final EIR to include temporary silt fencing installed along the edge of the SDBNWR during grading within the western portion of the ecological buffer.

**C-20** This comment suggests revisions to **Mitigation Measure 4.8-6H** related to trash containers. As stated in the responses to comments B-23 and B-70, the specific impacts identified in the comments related to trash and trash enclosures are mitigated through provisions contained in **Mitigation Measure 4.8-6**, which specifically includes requirements for trash enclosures and daily trash removal from the enclosures. Please see the revisions made in response to comments B-23 and B-70, which indicate that **Mitigation Measure 4.8-6H** has been revised in the Final EIR to include self-closing lids. As provided in **Mitigation Measure 4.8-6**, trash cans will be emptied daily or more often if required during high-use periods. Buildings and stores will have dumpsters located in a courtyard or carport that is bermed and enclosed to ensure that litter does not blow into the Bay or marshes. Please also see the response to comments B-23, B-70, and C-20 regarding self-closing trash receptacles. In response to this and other comments, **Mitigation Measure 4.8-6H** in the Final EIR has been revised to also specify "animal-proof" trash cans.

**Comment Letter C (Page 6)**



**United States Department of the Interior**

FISH AND WILDLIFE SERVICE  
San Diego National Wildlife Refuge Complex  
6010 Hidden Valley Road  
Carlsbad, California 92011



January 11, 2007

Mr. Ralph Hicks  
Director, Land Use Planning  
Port of San Diego  
3165 Pacific Highway  
San Diego, CA 92112-0488

RE: Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan and  
Port Master Plan Amendment, City of Chula Vista, California (SCH #2005081077)

Dear Mr. Hicks:

The San Diego National Wildlife Refuge (NWR) Complex has completed our review of the Draft Environmental Impact Report (DEIR) for the Chula Vista Bayfront (Proposed Project), dated September 29, 2006. Our review was directed primarily at the DEIR's analysis of potential impacts to the lands, waters, and associated resources included within the San Diego Bay National Wildlife Refuge (NWR or Refuge). The Refuge, which consists of the Sweetwater Marsh and South San Diego Bay Units, is located to the north, south, and west of the Proposed Project (Attachment 1- Location Map).

The Sweetwater Marsh Unit, generally located to the north of the Chula Vista Bayfront, was established in 1988 for the purpose of protecting federally listed endangered species, in particular the California least tern, light-footed clapper rail, and salt marsh bird's beak. The South San Diego Bay Unit was established in 1999 for the purposes of protecting federally listed endangered and threatened species and migratory birds and to maintain and enhance the biological diversity of native plants and animals within the Refuge. A Comprehensive Conservation Plan (CCP) (USFWS 2006) was recently approved for the Refuge that sets forth the Refuge's vision, goals, and objectives. The CCP is intended to guide Refuge management for at least the next 15 years. The goals of the CCP address the following issues:

- protecting, managing, enhancing, and restoring coastal wetland and upland habitats to benefit native fish, wildlife, and plant species within the Refuge;
- aiding in the recovery and protection of federally and state listed species and other species of concern;
- protecting globally important seabird nesting and migratory bird foraging areas; and
- providing opportunities for compatible wildlife-dependent recreational uses.



Comment Letter C (Page 7)

Mr. Ralph Hicks

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Prior comments related to potential impacts to Refuge resources as a result of implementing the Proposed Project were provided to the San Diego Unified Port District (Port) and the City of Chula Vista on several occasions including in response to the Notice of Preparation (NOP), dated September 12, 2005; in a letter dated April 22, 2004 that emphasized the importance of the habitats in the south end of San Diego Bay and the need for the Proposed Project to adequately protect the south bay's locally, regionally, and globally important natural resources; and at various meetings with the Wildlife Agencies where specific mitigation recommendations were provided. Although a few of our recommended mitigation measures have been incorporated into the project description, our review of the DEIR indicates that many project-specific recommendations for mitigating potentially significant impacts to adjacent sensitive biological resources have not been addressed. As a result, we cannot concur with the overall conclusion of the DEIR, that the Proposed Project would not have significant unmitigated adverse direct, indirect, or cumulative effects on biological resources.

C-21

We also have concerns regarding the analysis of Phase 1 projects, which according to the DEIR are intended to be evaluated at a project-specific level. In our opinion, the DEIR does not provide adequate information regarding the specifics of these projects to allow full disclosure to the public or agency reviewers of the potential adverse effects on the environment that could occur as a result of project implementation. Further, the mitigation measures described for projects included in Phase 1 in many cases are not adequately assured or have been deferred for future study. As a result, the mitigation measures, as currently described in the DEIR, do not provide the assurances required by the California Environmental Quality Act (CEQA) that impacts to biological resources would be reduced to below a level of significance.

C-22

Specific concerns regarding the adequacy and accuracy of the DEIR are provided below.

1. Neither the DEIR nor the draft Port Master Plan amendment provide sufficient details regarding the location and design of proposed outlooks, spur trails, and picnic areas within the "ecological" buffer area. There is also a lack of information regarding the design of the signature park including how and where the variety of uses permitted within this area would be distributed throughout the site. As a result, the DEIR does not include an adequate analysis of potential impacts from implementing this proposal at the project-level. Further, the DEIR's discussion of potential direct and indirect impacts to Refuge resources and appropriate mitigation measures to reduce such impacts is inadequate even at the programmatic level.
2. In order to minimize direct and indirect impacts related to wildlife disturbance from human activity, dogs and other pets, night lighting, increased noise levels, and other activities proposed within the signature park, Parcel S-1, and Parcel S-4, the 100 feet of proposed habitat buffer closest to the Refuge boundary should be closed to all public use activities and continuous fencing (refer to Comment 3 below) should be installed around the entire northern and western boundary of the signature park. The passive uses (spur trails and overlooks) proposed for the western edge of the buffer area should be constructed outside of the initial 100 feet of buffer area. (Note: The draft Port Master Plan amendment and Project Description in the DEIR do not provide consistent

C-23

C-24

**C-21** This comment states general concerns regarding the former EIR, which was revised and recirculated in response to this and other public comments pursuant to CEQA Guidelines Section 15088.5. Please see the response to comment C-1.

**C-22** This comment states general concerns regarding the previously circulated Draft EIR, which was revised and recirculated in response to this and other public comments pursuant to CEQA Guidelines Section 15088.5. The Revised DEIR contains additional detail on project components and revised mitigation measures with more specificity regarding the Phase I project components.

**C-23** Please see the responses to comments C-2 and C-3.

**C-24** The issues raised in this comment received on the previously circulated Draft EIR have been addressed through modifications to the project, as discussed in the Revised DEIR. Specifically, the first 200 feet of the buffer have been designated as a No Touch Zone, and no passive or active uses are proposed in this area.

<p>Comment Letter C (Page 8)</p>	
<p>Mr. Ralph Hicks</p> <p>3</p> <p>descriptions of what activities are permitted within the first 100 feet of the buffer; refer to page 112 of the draft Port Master Plan and page 3-28 of the DEIR.)</p> <p>3. Although the proposal to develop a signature park adjacent to the Sweetwater Marsh Unit is a significant improvement over past proposals to construct intensive residential development in proximity to sensitive coastal wetland habitat, the proposed park would also attract thousands of people to this area, an area that up until now has experienced almost no human activity. Even with this very limited activity, unauthorized access onto sensitive wetland habitat by the public and their pets is a common problem. The introduction of more people will only exacerbate this problem. As a result, we do not concur with the conclusions of the DEIR that intermittent fencing, stands of native cacti, and signage would ensure the sensitive species occupying habitats within Refuge lands would not be disturbed. As we have recommended on various occasions, a six-foot-high, black vinyl chain linked fence or comparable barrier should be constructed within the 400-foot buffer to prevent any human or pet encroachment from the proposed signature park into the adjacent wetland habitat. Intermittent fencing, cactus plantings, and signage would not provide adequate protection for listed species such as the light-footed clapper rail, salt marsh bird's beak, and Belding's savannah sparrow, nor would it reduce potential disturbance impacts to the migratory birds that forage within Sweetwater Marsh.</p> <p>4. The DEIR does not adequately evaluate the potential impacts to sensitive coastal resources of allowing "passive uses" (e.g., picnic areas, spur trails, kiosks) in Wetland and Mitigation Bank areas (page 33 of the draft Port Master Plan amendment) and open space buffer areas (page 32 of the draft Port Master Plan amendment) that are intended to offset impacts related to wildlife disturbance. We are particularly concerned with the proposal to permit picnicking in wetland and open space buffer areas. Activities associated with picnic areas have the potential to: 1) create excessive noise that can disturb and displace wildlife; 2) generate trash and other debris that can attract predators and non-native invasive species; and 3) result in unauthorized intrusion into adjacent sensitive areas particularly if adequate barriers to prevent such intrusion are not proposed as part of the overall project design. The DEIR should include a discussion of potential direct, indirect, and cumulative impacts to sensitive species and habitats as a result of allowing these types of uses within designated wetlands and open space buffer areas.</p> <p>5. The generalized grading plan provided in Section 4.5 of the DEIR does not provide adequate information about how the existing topography immediately adjacent to the Sweetwater Marsh Unit would be altered. It appears from the information provided in Figure 4.5-3 that runoff from the proposed park would sheet flow into the wetland areas on the Refuge. A detailed analysis of potential impacts to the Refuge as they relate to water quality, sediment accumulation in the marsh, and increases in freshwater flow into the marsh, as well as a discussion of appropriate mitigation measures to address any impacts, should be provided before any site-specific development plans are considered for approval.</p>	<p>C-24 (Cont.)</p> <p>C-25</p> <p>C-26</p> <p>C-27</p> <p>C-25 In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, project features in the Final EIR have been revised to include a 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. <b>Mitigation Measure 4.8-6H</b> has also been revised to reflect this requirement. In addition, the Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the South San Diego Bay Unit of the SDBNWR, and the north side of Parcel H-3 (see <b>Mitigation Measure 4.8-7</b> in the Final EIR). Please also see the response to comment B-6.</p> <p>C-26 Please see the response to comment C-24.</p> <p>C-27 The Revised DEIR contains additional detail regarding site grading and drainage. Details on the drainage plan and water quality features are discussed in <i>Section 4.5, Hydrology and Water Quality</i>, of the Revised DEIR (pages 4.5-27 and 4.5-29).</p>

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Mr. Ralph Hicks

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6. The DEIR should include an expanded discussion of potential impacts to Refuge resources and adjacent intertidal mudflat habitat as a result of implementing the proposed storm water conveyance system. Of particular concern is the proposal to continue to use the existing storm drain system in F Street. Would this storm drain direct storm flows through the F&G Street Marsh? If so, the DEIR should describe any potential increases in the velocity of flows during a storm due to increases in impervious surfaces within the area, any changes in the current conditions regarding freshwater flows into the marsh, the potential for increased sedimentation or erosion in the marsh, and potential degradation of water quality in the marsh due to the overall increase in urban runoff entering the marsh.
7. The DEIR does not address the issue of shading of sensitive habitat areas by multiple story buildings. Shading on the Refuge could result in direct adverse effects to vegetation that supports listed and sensitive species. Some areas of concern include the F&G Street Marsh and the southeast portion of Sweetwater Marsh. Alternatives that include multiple story buildings on S-1 and S-2 should also be evaluated for potential impacts related to shading.
8. The DEIR should be revised to clearly describe the surrounding land uses, particularly the San Diego Bay NWR, which is located to the north, south, and west of the Proposed Project. Various graphics within the DEIR should be revised to include the Refuge boundary in order to more clearly describe the proximity of the Proposed Project to the entire Refuge. The label "South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge" should be used to identify the Refuge in Figures 3-2, 3-3, 3-4, 3-5, 3-7, and 4.8-1. In addition, Section 3.1 and associated graphics should be revised to properly identify the Refuge as the Sweetwater Marsh Unit of the San Diego Bay NWR and the South San Diego Bay Unit of the San Diego Bay NWR. The last sentence in the second paragraph of Section 3.1 should read: "Palomar Street and the South San Diego Bay Unit of the San Diego Bay NWR, which includes the existing salt evaporation ponds, at the southern end of San Diego Bay border the planning area to the south and west."
9. Section 4.1.1.1 should be revised to address the San Diego NWR and Figure 4.1-5 should be revised to not only include the current boundary of the Sweetwater Marsh Unit of the San Diego NWR, but also the current boundary of the South San Diego Bay Unit of the San Diego NWR to the south and west (a map indicating the boundaries of the Refuge is attached). Suggested language for Section 4.1.1.1 (San Diego Bay NWR Comprehensive Conservation Plan) is provided below.

**San Diego Bay NWR Comprehensive Conservation Plan**

*The U.S. Fish and Wildlife Service recently completed a Comprehensive Conservation Plan (CCP) for the San Diego Bay NWR (USFWS 2006). The CCP, which provides a 15-year strategy for achieving refuge purposes and contributing towards the mission of the National Wildlife Refuge System, describes why this Refuge was established and outlines the Refuge purposes, vision, goals, and objectives.*

C-28

C-29

C-30

C-31

C-28 Please see the response to comment C-27.

C-29 The Revised DEIR contains a discussion of shading impacts in *Section 4.8, Terrestrial Biological Resources*. Please also see response to comment B-30 regarding the addition of *Appendix 4.4-4* to the Final EIR, which includes the graphics depicting the shading analysis that was performed for Phase I project elements.

C-30 Additional detail, both graphic and text, was added to the Revised DEIR to clarify the relationship of the project to the NWR (see *Section 4.8.1.1* in the Revised DEIR).

C-31 The language suggested in this comment has been added to *Section 4.1.1.1* of the Final EIR to describe the SDBNWR Comprehensive Conservation Plan. In addition, *Figure 4.1-5* has been revised as suggested by the commenter.

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Mr. Ralph Hicks

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*The San Diego Bay NWR includes the 316-acre Sweetwater Marsh Unit located to the north of the Proposed Project and the South San Diego Bay Unit, which currently includes 2,300 acres of land and water to the south and west of the Proposed Project. The Refuge was established to protect, manage, and restore habitats for federally listed species and migratory birds and to maintain and enhance the biological diversity of native plants and animals. The Refuge includes most of what remains of San Diego Bay's historic coastal salt marsh and intertidal mudflat habitat. Refuge goals include protecting, managing, enhancing, and restoring the coastal wetland and upland habitats on the Refuge to benefit native fish, wildlife, and plant species; protecting state and federally listed species and migratory birds supported on the Refuge; protecting foraging and nesting habitat for colonial nesting seabirds in the South San Diego Bay Unit; and providing opportunities for public uses that are compatible with Refuge purposes.*

10. The analysis of compatibility of the Proposed Project with the Refuge as described on page 4.1-77 is inadequate. The significant impacts identified on pages 4.1-68 related to public access, lighting, and noise (which should also address fireworks, outdoor concerts, and in-water uses) should also be clearly presented under Criterion 3 in Section 4.1.3 and should be expanded to address both the Sweetwater Marsh and South San Diego Bay Units. Issues that should be considered in determining compatibility with the Refuge include impacts to Refuge habitats and wildlife related to shading, storm water discharge, changes in topography that could affect current hydrological conditions on the Refuge, increased noise levels and increased night lighting, as well as increases in predation, unauthorized access onto sensitive habitats, sky glow, and other factors addressed throughout this comment letter. Corresponding enforceable mitigation measures that would reduce impacts to below a level of significance should also be added to Section 4.1.4.

11. Any habitat mitigation proposed within the F & G Street Marsh must be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit. Habitat mitigation and/or changes to the existing tidal channel that connects the F&G Street Marsh to the Bay must also be coordinated with the Refuge Manager to ensure that adequate measures have been incorporated into the project design and construction phasing to minimize adverse effects to Refuge resources.

12. The DEIR does not address the potential impacts associated with the lack of a wetland buffer along the northern edge of Parcel S-4, which abuts wetlands located on the Sweetwater Marsh Unit. The need for a buffer in this area should also be addressed in the City of Chula Vista's Local Coastal Program (LCP) Amendment. In addition to the need for a buffer, the DEIR should also describe the potential indirect impacts (e.g., shading of wetlands, bird strikes, predator perching) to the adjacent biological resources in this area as a result of constructing 125-foot-tall buildings on this parcel. To minimize impacts to the adjacent biological resources, measures such as restrictions related to

C-31  
(Cont.)

C-32

C-33

C-34

C-32 Please see the responses to comments C-9 and C-10.

C-33 Please see the response to comment C-11.

C-34 Please see the response to comment C-5 regarding setbacks between the SDBNWR and Parcel S-4 to minimize direct and indirect impacts to wildlife and habitat. Please see the response to comment B-17 regarding design of Parcel S-4 in consideration of sensitive adjacent areas. Please see the response to comment B-28 regarding measures required to reduce or avoid the Proposed Project's potential significant impacts on bird strikes. Please also see the responses to comments B-24 and B-68 regarding measures to avoid significant impacts related to raptor perching.



<p>Comment Letter C (Page 11)</p>	
<p>Mr. Ralph Hicks</p> <p>6</p> <p>building heights in the northern portion of this parcel and building design standards that would reduce bird strikes and avoid predator perches with a line-of-site into habitats should be included in the draft LCP or other appropriate document.</p> <p>13. The DEIR does not adequately address impacts associated with increased levels of predation to sensitive species supported on the Refuge. The DEIR should be revised to adequately analyze the effects to sensitive wildlife of increased predation due to: 1) increases in nocturnal lighting; 2) displacement of foraging raptors and mammalian predators from the project site to adjacent wildlife areas; 3) increases in the numbers of generalist predators (e.g., rats, ravens, crows, gulls) being attracted to the area due to increases in trash; and 4) the introduction of additional cats and dogs as a result of new residential development. The DEIR should also propose adequate measures to mitigate these impacts to below a level of significance.</p> <p>14. Disturbances to wildlife associated with the long-term operation of the Proposed Project are not adequately addressed in the DEIR. There is little or no discussion of wildlife disturbance as a result of outdoor activities (e.g., fireworks, concerts, new or expanded motorized water uses in the south bay and adjacent to Sweetwater Marsh) and other light and noise generating activities that could be associated with the resort/conference center, public parks, piers, harbor, ferry terminal, and various retail/commercial recreation areas. Such uses could impact migratory shorebirds, wintering waterfowl, and the globally significant seabird nesting colonies that are present at the South San Diego Bay Unit during the summer. Mitigation measures should include but not be limited to: the development of maps and informational brochures that describe appropriate areas within the bay for on-water motorized activities; expanding the number of patrol vehicles and personnel needed to enforce existing speed limits in the south bay as uses that promote expanded motorized water activities in the south bay are approved; providing funding for predator management adjacent to and within the Refuge to compensate for increases in predators due to new development along the bayfront; limitations on and noticing requirements for fireworks displays, outdoor concerts, and any other special events that could adversely affect wildlife; acknowledgement of the need to coordinate with the Refuge Manager as development proceeds in order to address other unanticipated adverse effects to Refuge resources as a result of project implementation.</p> <p>15. With respect to the Alternatives, we do not consider the information provided for the various alternatives to be adequate to constitute project-level review. If one or parts of any of the alternatives are selected over the Proposed Project, additional CEQA analysis should be conducted when project level details of the proposed developments for each parcel are available for review and analysis. For instance, simply providing tables and a map without any accompanying text, as has been done for the alternatives in the draft Port Master Plan amendment, does not provide adequate detail about each alternative, nor does it provide any assurances that mitigation proposed in the DEIR would be implemented.</p>	<p>C-35 Please see the response to comment C-12.</p> <p>C-36 Please see the response to comment C-13.</p> <p>C-37 This comment expresses concern regarding the lack of project-level analysis for each of the alternatives. Pursuant to State CEQA Guidelines, an EIR "must include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project" (Section 15126.6(e)). As such, the EIR is not required to examine each alternative in detail as if conducting a project-level review. Each alternative section in the Revised DEIR provides a discussion of the major characteristics and significant environmental effects of each alternative, but in less detail than those of the Proposed Project. In addition, a matrix is provided to display a comparison of the Proposed Project's impacts to each of the five alternatives' impacts (see <i>Table 5.1-1</i> of the Revised DEIR). Although the Harbor Park Alternative and No Land Trade Alternative are analyzed in greater detail than is normally required, this is not intended as a project-level review of development for each parcel.</p> <p>The comment further states that should one of the alternatives, or a portion thereof, be selected over the Proposed Project, additional analysis should be completed as a project-level review. Once detailed project-level plans are proposed for each parcel, whether consistent with the Proposed Project or one of the alternatives, subsequent environmental review will consider potential impacts from the proposed development projects pursuant to CEQA Guidelines Section 15168.</p>

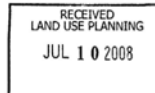


## Comment Letter D



State of California - The Resources Agency  
**DEPARTMENT OF FISH AND GAME**  
<http://www.dfg.ca.gov>  
 South Coast Region  
 4949 Viewridge Avenue  
 San Diego, CA 92123  
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ARNOLD SCHWARZENEGGER, Governor



July 7, 2008

Mr. John W. Helmer  
 Acting Director, Land Use Planning  
 San Diego Unified Port District  
 3165 Pacific Highway  
 San Diego, California 92112-0488

**Comments on the Revised Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment, City of Chula Vista, California (SCH #2005081077)**

Dear Mr. Helmer:

The California Department of Fish and Game (Department) has reviewed the above-referenced revised Draft Environmental Impact Report (DEIR) and supporting documentation for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment (Proposed Project), dated May 2008. The public review period for the revised DEIR ends July 8, 2008. The comments provided in this letter represent our concerns about the Proposed Project's potential impacts on sensitive biological resources, particularly those associated with San Diego Bay National Wildlife Refuge.

The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; Sections 15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (Fish and Game Code Section 2050 *et seq.*) and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) Program. The City of Chula Vista (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan.

The Department and the U.S. Fish and Wildlife Service (Service) previously commented on the Notice of Preparation (NOP, SCH# 2002081116) for the Bayfront Village Project that was restricted to the 128-acre area currently included in the Sweetwater District. The Department commented in a letter dated September 24, 2002, and the Service provided a similar letter, dated September 19, 2002. The Department and the Service also commented on the NOP for the Proposed Project in a letter dated September 12, 2005. The Service also provided a letter to the Port and City, dated April 22, 2004, that emphasized the importance of the habitats in the south end of San Diego Bay and the need for the Proposed Project to adequately protect the south bay's locally, regionally, and globally important natural resources. The latest correspondence associated with this project involved a joint letter from both agencies commenting on the previously circulated DEIR for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment, dated September 29, 2006. We appreciate that, relative to the project previously proposed in 2002, it appears that the currently Proposed Project would result in fewer adverse biological impacts within the Sweetwater District. However, considering the overall intensity of the larger project proposal, we retain many of the concerns that we raised in

*Conserving California's Wildlife Since 1870*

## Response to Comment Letter D

### California Department of Fish and Game

July 7, 2008

- D-1** This comment is introductory in nature and states the California Department of Fish and Game's (CDFG's) responsibility as a Trustee Agency, lists previously submitted comment letters on the Notice of Preparation and the previously circulated Draft Environmental Impact Report (EIR), and indicates that CDFG has concerns regarding the project.

D-1

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our previous letters. All of our comments in past letters also apply to the Proposed Project, as described in the revised DEIR dated May 2008.

The Department offers the following general and specific recommendations and comments on the adequacy of the revised DEIR to assist the San Diego Unified Port District (Port) and City of Chula Vista (City) in ensuring project impacts to biological resources are avoided and/or minimized to a level less than significant. Our specific comments are based on the Proposed Project. If the alternative approved for implementation deviates from the Proposed Project presented in the revised DEIR, we may have additional comments.

**Proposed Land Exchange and Project Alternatives**

1. The Department recommends that every effort be directed at considering an alternative design proposal that is environmentally superior and clearly demonstrates avoidance and minimization of impacts to native vegetation communities and associated species (CEQA Guideline §15021(a)(2)). The Department supports a land exchange that eliminates or minimizes the possibility of residential development and its associated direct and indirect impacts to on-site and adjacent sensitive biological habitat (*i.e.*, intertidal wetlands and subtidal bay habitats). The Reduced Overall Density Alternative design proposal meets some of those objectives. Also, we would strongly recommend that consideration be given to a Reduced Overall Density Alternative that includes a design modification that relocates the Resort Conference Center from Parcel H-3 to H-23, while the Resort Hotel and Cultural/Retail is shifted to Parcel H-3, in an effort to further minimize impact concerns to sensitive biological resources associated with the F&G Street Marsh and the San Diego Bay.

**Adequacy of Environmental Review under CEQA**

2. The Department emphasizes that the programmatic level analysis of the revised DEIR should describe a "range of reasonable alternatives to the project, and evaluate the comparative merits of the alternatives," (CEQA Guideline §15126.6(a)). Also, the discussion should include these alternatives, even if these alternative would impede to some degree the attainment of the project objective, or would be more costly" (CEQA Guideline §15126.6(b)).
3. The existing conditions discussion of Land/Water Use Compatibility (Section 4.1 of the revised DEIR) is generally limited to land uses within the Proposed Project footprint. The discussion should also address the Proposed Project's compatibility with adjacent land uses. The document should describe the land uses and planning policies established for the San Diego Bay National Wildlife Refuge (SDBNWR), which about the Proposed Project site to the north, south, and west. For this purpose, Section 4.1.1.5 of the final EIR should include a discussion of the recently approved Comprehensive Conservation Plan for the SDBNWR. In addition, the final EIR should accurately analyze the potentially significant land use compatibility impacts to the SDBNWR that could result from the implementation of various components of the Proposed Project.

**Specific Comments**

The following comments address specific sections in the revised DEIR where project information is insufficient for the level of review necessary under CEQA. The final EIR should provide a level of detail necessary for adequate analysis and disclosure of biological impacts and determination of appropriate mitigation.

D-1  
(Cont.)

D-2

D-3

D-4

D-2

This comment recommends an alternative that minimizes impacts to native vegetation communities and associated species. The comment supports some of the objectives of the Reduced Density Alternative, which would minimize residential development and associated impacts to on site and adjacent sensitive biological habitat. The comment suggests a modification to the Reduced Density Alternative to include relocation of the Resort Conference Center (RCC) from Parcel H-3 to Parcel H-23 while moving the resort hotel and cultural/retail uses to Parcel H-3. During project planning and EIR preparation, the Port and City analyzed a series of alternatives, including a No Project Alternative, Harbor Park Alternative, and Reduced Density Alternative to minimize impacts while preserving project objectives. The Proposed Project has incorporated several design modifications in order to meet some of the CDFG's concerns regarding the impact of residential development to on site and adjacent sensitive biological habitat, including removal of residential uses from the Otay District and minimizing intensive uses from the Sweetwater District and Otay District. Several design options were considered for development on Parcels H-3 and H-23 to minimize impacts, including a Signature Park and cultural/retail uses on Parcels HP-1 and H-3 and an RCC on Parcel H-23 in the Harbor Park Alternative. Decision makers will be made aware of the CDFG's recommendations prior to making a final decision on the project.

D-3

This comment provides a summary of California Environmental Quality Act (CEQA) Guidelines, Sections 15126.6(a) and (b) in regard to a reasonable range of alternatives to the Proposed Project and the purpose of the alternatives discussion pursuant to CEQA (14 CCR 15000 et seq.). The comment does not address the adequacy or accuracy of the Revised DEIR. No further response is warranted.

**Comment Letter D (Page 2)**

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our previous letters. All of our comments in past letters also apply to the Proposed Project, as described in the revised DEIR dated May 2008.

The Department offers the following general and specific recommendations and comments on the adequacy of the revised DEIR to assist the San Diego Unified Port District (Port) and City of Chula Vista (City) in ensuring project impacts to biological resources are avoided and/or minimized to a level less than significant. Our specific comments are based on the Proposed Project. If the alternative approved for implementation deviates from the Proposed Project presented in the revised DEIR, we may have additional comments.

**Proposed Land Exchange and Project Alternatives**

1. The Department recommends that every effort be directed at considering an alternative design proposal that is environmentally superior and clearly demonstrates avoidance and minimization of impacts to native vegetation communities and associated species (CEQA Guideline §15021(a)(2)). The Department supports a land exchange that eliminates or minimizes the possibility of residential development and its associated direct and indirect impacts to on-site and adjacent sensitive biological habitat (*i.e.*, intertidal wetlands and subtidal bay habitats). The Reduced Overall Density Alternative design proposal meets some of those objectives. Also, we would strongly recommend that consideration be given to a Reduced Overall Density Alternative that includes a design modification that relocates the Resort Conference Center from Parcel H-3 to H-23, while the Resort Hotel and Cultural/Retail is shifted to Parcel H-3, in an effort to further minimize impact concerns to sensitive biological resources associated with the F&G Street Marsh and the San Diego Bay.

**Adequacy of Environmental Review under CEQA**

2. The Department emphasizes that the programmatic level analysis of the revised DEIR should describe a "range of reasonable alternatives to the project, and evaluate the comparative merits of the alternatives," (CEQA Guideline §15126.6(a)). Also, the discussion should include these alternatives, even if these alternative would impede to some degree the attainment of the project objective, or would be more costly" (CEQA Guideline §15126.6(b)).
3. The existing conditions discussion of Land/Water Use Compatibility (Section 4.1 of the revised DEIR) is generally limited to land uses within the Proposed Project footprint. The discussion should also address the Proposed Project's compatibility with adjacent land uses. The document should describe the land uses and planning policies established for the San Diego Bay National Wildlife Refuge (SDBNWR), which about the Proposed Project site to the north, south, and west. For this purpose, Section 4.1.1.5 of the final EIR should include a discussion of the recently approved Comprehensive Conservation Plan for the SDBNWR. In addition, the final EIR should accurately analyze the potentially significant land use compatibility impacts to the SDBNWR that could result from the implementation of various components of the Proposed Project.

**Specific Comments**

The following comments address specific sections in the revised DEIR where project information is insufficient for the level of review necessary under CEQA. The final EIR should provide a level of detail necessary for adequate analysis and disclosure of biological impacts and determination of appropriate mitigation.

**D-4** This comment suggests that *Section 4.1* of the EIR should address the land uses and planning policies established for the San Diego Bay National Wildlife Refuge (SDBNWR). Please see responses to comments C-9 and C-10. The Final EIR has been revised to include a detailed description of the SDBNWR Comprehensive Conservation Plan (*Section 4.1.1.1j*).

D-1  
(Cont.)

D-2

D-3

D-4

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4. As previously requested in the Wildlife Agencies joint correspondence (January 11, 2007), the label/boundaries of "South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge" should be used to identify the Refuge units on Figures 3-2, 3-3, 3-4, 3-5, 3-7, 4.1-5, and 4.4-1. D-5
5. Similarly to labeling J Street Marsh on Figure 3-7, this biological resource area should also be identified on Figures 3-2, 3-3, and 3-4, and 3-5. D-6
6. Figure 3-11A includes an area labeled "L ditch". This area should be revised to accurately be identified as L Marsh. D-7
7. Provide clarification for renaming what was previously identified as the "L shaped drainage channel" (i.e., Parcel HP-5; southern coastal salt marsh habitat) to its current designation as the "L - shaped drainage ditch". D-8
8. Similar to the design renderings provided for proposed buildings, a tentative design proposal for S-2 Signature Park Phase I (Parcels S-2, HP-1, and H-8) should be included within the final EIR. These renderings should include information such as permitted uses, anticipated activities, operational hours, total number of structures, lighting features, and other accessory features. Consequently this information should be used in the impact analysis of the final EIR. D-9
9. Figure 4.1-5 should be revised to include not only the current boundary of the Sweetwater Marsh Unit of the SDBNWR, but also the current boundary of the South San Diego Bay Unit of the SDBNWR to the south and west. Suggested language for Section 4.1.1.5 (San Diego Bay NWR Comprehensive Conservation Plan) is provided below. D-10

*San Diego Bay NWR Comprehensive Conservation Plan*

*The U.S. Fish and Wildlife Service recently completed a Comprehensive Conservation Plan (CCP) for the San Diego Bay NWR (USFWS 2006). The CCP, which provides a 15-year strategy for achieving refuge purposes and contributing towards the mission of the National Wildlife Refuge System, describes why this Refuge was established and outlines the Refuge purposes, vision, goals, and objectives.*

*The San Diego Bay NWR includes the 316-acre Sweetwater Marsh Unit to the north of the Proposed Project, and the South San Diego Bay Unit, which includes 2,300 acres of land and water to the south and west of the Proposed Project. The Refuge was established to protect, manage, and restore habitats for federally listed species and migratory birds, and to maintain and enhance the biological diversity of native plants and animals on the Refuge. The Refuge includes most of what remains of San Diego Bay's historic coastal salt marsh and intertidal mudflat habitat. Refuge goals include: protecting, managing, enhancing, and restoring the coastal wetland and upland habitats on the Refuge to benefit native fish, wildlife, and plant species; protecting state and federally listed species and migratory birds supported on the Refuge; protecting foraging and nesting habitat for colonial nesting seabirds in the South San Diego Bay Unit; and providing opportunities for public uses that are compatible with Refuge purposes.*
10. The analysis of the Proposed Project's consistency with the California Coastal Act in Table 4.1-7 (page 4.1-46; Article 5) should provide a thorough discussion on the compatibility of D-11

**D-5** As requested in this comment, *Figures 3-2, 3-3, 3-4, 3-7, 3-17, and 4.1-5* in the Final EIR have been revised to identify the "South San Diego Bay Unit of the San Diego Bay NWR."

**D-6** As requested in the comment, *Figures 3-1, 3-3, and 3-4* in the Final EIR have been revised to identify the J Street Marsh as it is identified on *Figure 3-7*.

**D-7** This comment requests that "L Ditch" be referred to as the "L Marsh." The area referred to as the "L-Ditch" is made up of several vegetation communities, and only a portion of the area consists of a marsh; therefore, the term "L Marsh" does not correctly describe the area. In addition, the area in question does not have a formally adopted name and has been referred to over the years by several informal, descriptive names. The San Diego Unified Port District (Port) historically has referred to this area as the "L Ditch" and has used this nomenclature in the Revised DEIR.

**D-8** Please see the response to comment D-7.

**D-9** This comment requests additional information regarding the Signature Park S-2. Please see the responses to comments B-76, B-79, and C-2.

**D-10** Please see the responses to comments C-8 and C-31.

**D-11** Please see the responses to comments C-9 and C-10

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the Proposed Project to the SDBNWR. Consideration should include public access, lighting, and noise (which should also address fireworks, outdoor concerts, and in-water use). Section 4.1.4 should also be amended to include enforceable mitigation measures that would reduce impacts to a level less than significant.

11. Revision of the Proposed Project's consistency with the objectives of the Chula Vista General Plan (*Table 4.1-9*, LUT 6) should be provided to address J Street Marsh and the South San Diego Bay Units of the SDBNWR.
12. The proposed modification to the South Bay Boatyard boat basin (page 4.1-121) states that impacts to the subtidal benthic habitat upon dredging would be less than significant due to the rapid colonization of the benthic community. This statement is considered speculative and should be revised from the final EIR.
13. The referral to the Sweetwater Marsh National Wildlife Refuge and Chula Vista Nature Center (Unit 1) within the aesthetics/visual analysis (Section 4.4.1.2) should include mention of the South San Diego Bay Unit of the SDBNWR. The final EIR should include mention of visual character units 10 within Section 4.4.1.2.
14. The land adjacency discussion pertaining to the South Bayfront/Salt Ponds (page 4.4-7) should mention that a large portion of the salt works is located within the boundaries of the South San Diego Bay Unit of the SDBNWR.
15. Figure 4.8-1 should be revised to identify the specific location of mudflats due west of the Sweetwater Marsh and north of the Harbor Drive District. Section 4.8.1.7(b) of the final EIR should discuss the importance of this mudflat as a biological resource that provides essential foraging and resting areas for migratory birds along the Pacific Flyway.
16. Section 4.8.1.6 states that the California horned lark, Cooper's hawk, osprey, double-crested cormorant, and elegant tern are current listed as state Species of Special Concern (SSC). According to the current *California Bird Species of Special Concern* (April 10, 2008) these species are no longer identified as SSC ([http://www.dfg.ca.gov/wildlife/species/ssc/docs/Table1\\_FIN.pdf](http://www.dfg.ca.gov/wildlife/species/ssc/docs/Table1_FIN.pdf)). However, these species are still afforded protective measures per Sections 3503 and 3503.5 of the Fish and Game Code.
17. From the current description provided in the revised DEIR (Section 4.8.1.8; Atypical Situations/Problem Areas) it is unclear whether all wetland perimeters were associated with the seasonal ponds in the Otay District (whereas information in *Appendix 4.8-6* identifies sample points 11 & 27 as wetland). There is an acknowledgement that the USACE may take jurisdiction for this area, yet there is another statement that indicates that "These ponds, however, appear to be disconnected hydrologically from adjacent waters and are assumed to be exempt from USACE jurisdiction". Until a jurisdictional determination has been made by the appropriate regulatory agencies the final EIR should refrain from referencing all areas exempt from jurisdiction and corresponding figures revised to reflect the same.
18. Proposed project impacts that would occur at program-level stage to coastal brackish marsh are not referenced under discussion item 2.a.ii. (page 4.8-111). Furthermore, the permanent impact acreage category mentioned under the discussion section does not correspond with the program-level permanent impact acreage category in *Table 4.8-6*. Depending on the required corrections the corresponding mitigation ratios should also be revised.

D-11  
(Cont.)

D-12

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**D-12** The comment requests that *Table 4.1-9* of the Revised DEIR related to LUT 6 be revised to address the J Street Marsh and the South San Diego Bay Units of the SDBNWR. The requested revisions have been made in *Table 4.1-9* in the Final EIR.

**D-13** Please see the response to comment B-57.

**D-14** No sensitive viewers are located within the SDBNWR. The purpose of identifying the Chula Vista Nature Center is to assess impacts from that viewing location. Because access to the SDBNWR is restricted, no impacts to viewers would occur from those locations.

**D-15** *Section 4.4* of the Final EIR has been revised to reflect the change to the land adjacency discussion as requested in the comment.

**D-16** *Section 4.8.1.7(b)* of the Final EIR has been revised to include a discussion of the mudflats as an important biological resource. *Figure 4.8-1* in the Final EIR has also been revised to identify the specific location of the mudflats due west of the Sweetwater Marsh and north of the Harbor District.

**D-17** *Section 4.8* of the Final EIR has been revised to reflect the current status of the referenced species as indicated in this comment.

**D-18** Please see the response to comment B-81.

**D-19** Please see the response to comment B-82.

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- |   |   |      |
|---|---|------|
| 19. Project-level impact acreage to non-native grassland on City lands (page 4.8-119) does not correspond with project-level impact acreage category for City lands in <i>Table 4.8-7</i> . Furthermore, the permanent impact acreage for disturbed coastal sage scrub at the program-level for City Lands (page 4.8-119) is not listed on <i>Table 4.8-7</i> . Any revision to impact acreage should include revision to mitigation acreage requirements ( <i>i.e.</i> , corresponding mitigation table).  | } | D-20 |
| 20. Program-level wetland impact acreage to Port lands (page 4.8-120) does not correspond with program-level impact acreage category for Port lands in <i>Table 4.8-8</i> . Any revision to impact acreage should include revision to mitigation acreage requirements ( <i>i.e.</i> , corresponding mitigation table).  |   |      |
| 21. Please verify that the program-level wetland impacts for Port lands that are under the Department's jurisdiction (page 4.8-128) correspond to the acreage impact values reported in <i>Tables 4.8-4</i> and <i>4.8-8</i> . Any revision to impact acreage should include revision to mitigation acreage requirements ( <i>i.e.</i> , corresponding mitigation table).   | } | D-22 |
| 22. The program-level impact acreage to CDFG streambed (page 4.8-128) does not correspond with the same program-level impact category referenced in <i>Table 4.8-8</i> . Any revision to impact acreage should include revision to mitigation acreage requirements ( <i>i.e.</i> , corresponding mitigation table).   |   |      |
| 23. The discussion pertaining to Bird Air Strike concerns (pages 4.8-133 -135) should include a map showing potential migration corridors through and/or adjacent to the subject property and how the migration corridor would be affected by the project.  | } | D-24 |
| 24. The current CEQA determination that "the biological effect of the proposed land exchange and MSCP Amendment would be less than significant" should be revised within the final EIR (page 4.8-137). Until the proposed amendment is approved by the Department and the Service the revised DEIR should refrain from the CEQA determination as being less than significant.   |   |      |
| <b><u>Mitigation for Direct Losses of Habitat and Species</u></b>   |   |      |
| 25. The statement on page 4.8-56 indicating that coastal California gnatcatchers have not been reported in the project vicinity is incorrect. The statement should be revised to state that gnatcatcher have been observed in upland habitat on the Sweetwater Marsh Unit of the SDBNWR. The impact and mitigation section should also be revised to recognize the project's effect on gnatcatchers. Any potential take, either direct or indirect, of gnatcatchers requires consultation with the Service pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 <i>et seq.</i> ). | } | D-26 |
| 26. Any habitat mitigation and/or changes to the existing tidal channel (in conjunction with the proposed bridge crossing of the F&G Street Marsh) that connects the F&G Street Marsh to the San Diego Bay should be coordinated with the Refuge Manager to ensure that no adverse effects to SDBNWR resources result from such actions. Any habitat mitigation proposed within the F&G Street Marsh must be also be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit.    |   |      |
| 27. <i>Table 4.8-5</i> should identify the corresponding mitigation acreage obligation for the proposed project.  | } | D-28 |

- D-20** Please see the response to comment B-83.
- D-21** Please see the response to comment B-84.
- D-22** *Table 4.8-8* reflects the temporary impacts (0.23 acre) to CDFG-jurisdictional resources for program-level components in the column that identifies mitigation for this temporary impact. The mitigation ratio is identified as 1:1; therefore, if the mitigation required is 0.23 acre, the impact is likewise 0.23 acre.
- D-23** Please see the response to comment D-22.
- D-24** Please see the response to comment B-29.
- D-25** It is necessary for the Revised DEIR to identify potential impacts on established Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs). Specifically, the CEQA threshold related to this issue is whether the Proposed Project would conflict with the provisions of an adopted HCP, NCCP, or other approved local, regional, or state HCP. The CEQA lead agency does not require the plan amendment to be in place in order to analyze and come to a conclusion relative to this issue.
- D-26** The Final EIR has been revised to incorporate the information provided in this comment in the existing conditions discussion in *Section 4.8, Terrestrial Biological Resources*, based solely on the reference provided, since additional details on the California gnatcatcher (*Poliophtila californica*) observation were not provided in this comment (e.g., location, date, time, number of individuals/pairs, nesting status). However, the impact and mitigation sections do not require revision because, as noted in this comment, the observation was made off of the project site within the SDBNWR. Therefore, no direct impacts on, or take of California gnatcatcher would result.

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|---|---|------|
| 19. Project-level impact acreage to non-native grassland on City lands (page 4.8-119) does not correspond with project-level impact acreage category for City lands in <i>Table 4.8-7</i> . Furthermore, the permanent impact acreage for disturbed coastal sage scrub at the program-level for City Lands (page 4.8-119) is not listed on <i>Table 4.8-7</i> . Any revision to impact acreage should include revision to mitigation acreage requirements ( <i>i.e.</i> , corresponding mitigation table).  | } | D-20 |
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|   |   |      |
| 21. Please verify that the program-level wetland impacts for Port lands that are under the Department's jurisdiction (page 4.8-128) correspond to the acreage impact values reported in Tables 4.8-4 and 4.8-8. Any revision to impact acreage should include revision to mitigation acreage requirements ( <i>i.e.</i> , corresponding mitigation table).  | } | D-22 |
|   |   |      |
| 22. The program-level impact acreage to CDFG streambed (page 4.8-128) does not correspond with the same program-level impact category referenced in <i>Table 4.8-8</i> . Any revision to impact acreage should include revision to mitigation acreage requirements ( <i>i.e.</i> , corresponding mitigation table).   | } | D-23 |
|   |   |      |
| 23. The discussion pertaining to Bird Air Strike concerns (pages 4.8-133 -135) should include a map showing potential migration corridors through and/or adjacent to the subject property and how the migration corridor would be affected by the project.  | } | D-24 |
|   |   |      |
| 24. The current CEQA determination that "the biological effect of the proposed land exchange and MSCP Amendment would be less than significant" should be revised within the final EIR (page 4.8-137). Until the proposed amendment is approved by the Department and the Service the revised DEIR should refrain from the CEQA determination as being less than significant.   | } | D-25 |
|   |   |      |
| <b><u>Mitigation for Direct Losses of Habitat and Species</u></b>   |   |      |
| 25. The statement on page 4.8-56 indicating that coastal California gnatcatchers have not been reported in the project vicinity is incorrect. The statement should be revised to state that gnatcatcher have been observed in upland habitat on the Sweetwater Marsh Unit of the SDBNWR. The impact and mitigation section should also be revised to recognize the project's effect on gnatcatchers. Any potential take, either direct or indirect, of gnatcatchers requires consultation with the Service pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 <i>et seq.</i> ). | } | D-26 |
|   |   |      |
| 26. Any habitat mitigation and/or changes to the existing tidal channel (in conjunction with the proposed bridge crossing of the F&G Street Marsh) that connects the F&G Street Marsh to the San Diego Bay should be coordinated with the Refuge Manager to ensure that no adverse effects to SDBNWR resources result from such actions. Any habitat mitigation proposed within the F&G Street Marsh must be also be coordinated with, and approved by, the Refuge Manager in accordance with the existing Memorandum of Understanding for the Mitigation Leasehold Overlays on the Sweetwater Marsh Unit.    | } | D-27 |
|   |   |      |
| 27. Table 4.8-5 should identify the corresponding mitigation acreage obligation for the proposed project.   | } | D-28 |
|   |   |      |

Indirect impacts to sensitive bird species have been addressed in the Revised DEIR, and the issues and measures discussed for those species would also be applicable to gnatcatcher. Therefore, no additional revisions to the Final EIR are warranted.

**D-27** Please see the response to comment C-11.

**D-28** Mitigation obligations are presented in *Table 4.8-6* of the Revised DEIR. The purpose of *Table 4.8-5* referenced by the commenter is to provide an inventory of potential mitigation available within the proposed restoration areas. Therefore, the requested revision would not be appropriate.

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28. The mitigation tables referenced in Mitigation Measures 4.8-9 and 4.8-10 appear to have computational errors. Please verify the correctness of the data entered in tables.

D-29

**Indirect Impacts and Habitat Degradation**

*Buffers to Sensitive Habitat and Wildlife*

29. The Department continues to recommend that a minimum of a 100-foot buffer be provided for wetland resources associated with the "L" shaped drainage channel (Parcel HP-5) and the surrounding Pacifica development proposal.

D-30

30. There is no reference within the project design to the proposed habitat buffer that would be provided between J Street Marsh and the HP-3 Shoreline Promenade (page 3-102). As previously suggested in the Wildlife Agencies joint correspondence (January 11, 2007), at a minimum, a 100-foot buffer should be established between proposed development (prior recommendations to reduce the width of the Shoreline Promenade) and J Street Marsh.

D-31

31. The no-touch SP-1 ecological buffer that would extend onto Parcel S-4 to separate the proposed office building from wetland area to the north should be at least 200 feet in width.

D-32

32. In reference to the discussion in sections 3.4.4.2 (Phase II) and 4.8.5 Impact Analysis (1.e.) of the revised DEIR, the Department does not concur with the use of native cacti (in lieu of fencing) as being an effective deterrent to discourage human activity in the sensitive areas. However, we do agree that coast cholla (*Cylindropuntia prolifera*) should be strategically used in areas along with fencing as an additional deterrent to prevent unauthorized access. At a minimum the Department continues to recommend at least a six-foot-high black vinyl coated chain link fence or other suitable barriers for the entire boundary of the Proposed Project to prevent unauthorized access by humans and pets into sensitive coastal habitats (to address project-level and program-level impacts). To prevent human and mammalian access into the ecological buffer defined as "No Use No Touch Zone," fencing (and all other project infrastructure, such as erosion control devices, brush management, trails, and picnic tables) should be installed at the outside edge of this buffer zone prior to the initiation of project construction. Figures 4.8-24 and 4.8-25 should be revised to show the placement of the 6-foot fence outside of the no touch buffer. Mitigation Measure 4.8-6 H should reflect the same requirement.

D-33

33. The Department continues to recommend that impacts to the wooly sea-blite population located within SP-1, which is considered a buffer, be avoided.

D-34

**Disturbances to Wildlife**

34. The Department previously raised concerns for disturbances to wildlife associated with outdoor activities such as fireworks, concerts, and other light and noise generating activities that could be associated with the resort/conference center, Signature Park, and various retail/commercial recreation areas. There should be a corresponding discussion within the noise analysis or Section 4.7.4 under mitigation measures that examines or addresses these concerns.

D-35

**D-29** Please see the response to comment B-45.

**D-30** Please see the response to comment B-15.

**D-31** Please see the response to comment B-16.

**D-32** Please see the response to comment B-17.

**D-33** Please see the response to comment B-14.

**D-34** Please see the response to comment B-18.

**D-35** Please see the response to comment B-26.



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Mitigation Measures

- 35. Fireworks and outdoor concerts that generate noise beyond the development boundary should be restricted to outside the avian breeding season (*i.e.*, January through September, depending on the species) to minimize impacts to nesting and fledging birds.
- 36. To partially mitigate the Proposed Project's indirect impacts, the final EIR should: (a) prohibit boating in the open waters east of the proposed realigned navigation channel and north of the South Bay boat yard to avoid or minimize disturbance to migratory birds feeding along the mudflats and resting in San Diego Bay; (b) require the installation of regulatory signage on buoys and boat markers along the boat channel; and, (c) require increased enforcement by the Harbor Patrol to deter watercraft from going ashore onto sensitive habitat areas (*e.g.*, Chula Vista Wildlife Reserve, northern levees of the Salt Ponds, mudflats along Sweetwater Marsh, J Street Marsh) and adversely affecting the birds and habitat that nest, forage, and rest there, and are subject to indirect project-related impacts.

D-36

D-37

Human Encroachment

- 37. The Department remains concerned that the Signature Park on Parcel S-2 would invite uncontrolled human and domestic animal encroachment onto the Refuge and the adjacent mudflats, thus disrupting wildlife. The final EIR should require that the Proposed Project provide full-time personnel at the Signature Park to enforce restrictions on human and domestic animal access to the SDBNWR and mudflats.
- 38. Shoreline promenades (Parcels HP-3, HP-6, and HP-7) occur immediately north of the J Street Channel and J Street Marsh. A four-foot-high railing is proposed to minimize encroachment into the J Street Channel and Marsh. As was previously suggested in prior comments related to encroachment concerns, the four-foot-high railing that is proposed to limit encroachment into the J Street Channel and Marsh should be redesigned (*e.g.*, closely spaced horizontal railings and/or mesh fencing) to more effectively prevent the movement of domestic animals under the railing and into the marsh.
- 39. The Chula Vista Bayfront Master Plan and Port Master Plan Amendment (*Appendix 3.4-1*) proposes language (page 7) that allows passive uses such as overlooks, picnic areas, and/or spur trails within buffers. The language should be revised to identify allowable placement within the "Limited Use Zone" or "Transitional Zone".

D-38

D-39

D-40

Bird Strikes and Disorientation

- 40. The Department is not in agreement with placing a specific building height range (*i.e.*, 100-200 feet) to serve as the significance threshold for bird strikes and/or disorientation from collisions with buildings (due to the lack of site-specific analysis to support such a conclusion). As has been stated in the previously circulated draft EIR, "both tall building and low buildings can be dangerous to birds". Consequently, the proposed mitigation measures should be applied to all buildings that have an unobstructed line of sight to nearby open water or large areas of open space regardless of height. The Department has previously raised these concerns and suggested that they could partially be addressed by orienting the tallest buildings as far away as possible from the San Diego Bay and/or reducing building heights to a maximum of 50 feet to minimize the potential for bird strikes.

D-41

D-36 Please see the response to comment B-26.

D-37 Please see the response to comment B-27.

D-38 This comment expresses concern that the Signature Park on Parcel S-2 would result in human and domestic animal encroachment in adjacent sensitive areas. Please see responses to comments B-6, B-14, C-4, and C-25 regarding installation of 6-foot-high, vinyl-coated chain-link fencing around sensitive coastal areas to prevent uncontrolled human and domestic animal access. District enforcement personnel will patrol these areas and be trained in the importance of preventing human and domestic animal encroachment in these areas. In addition, **Mitigation Measure 4.8-6H** has been revised in the Final EIR to include the provision of signs adjacent to the sensitive areas that provide contact information for the Harbor Police to report trespassing within sensitive areas. As described in **Mitigation Measure 4.8-7** in the Final EIR, a Natural Resources Management Plan (NRMP) will be developed in coordination with the wildlife agencies to specifically define predator management, including funding for personnel and educational outreach.

D-39 This comment suggests revisions to fencing provided for Parcels HP-3, HP-6, and HP-7. Parcels HP-3, HP-6, and HP-7 are separated from the J Street Marsh by riprap shoreline protection and open water. Additionally, the parcels are elevated above the marsh, making access to the marsh difficult. Nonetheless, as recommended by the commenter, the description of the fencing provided for Parcels HP-3, HP-6, and HP-7 in *Chapter 3.0, Project Description*, (pages 3-82 through 3-84) has been revised in the Final EIR to include approximately 4-foot-high mesh fencing along the shoreline promenades to prevent encroachment to adjacent sensitive resources instead of a four-foot-high railing.

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Mitigation Measures

35. Fireworks and outdoor concerts that generate noise beyond the development boundary should be restricted to outside the avian breeding season (*i.e.*, January through September, depending on the species) to minimize impacts to nesting and fledging birds.

D-36

36. To partially mitigate the Proposed Project's indirect impacts, the final EIR should: (a) prohibit boating in the open waters east of the proposed realigned navigation channel and north of the South Bay boat yard to avoid or minimize disturbance to migratory birds feeding along the mudflats and resting in San Diego Bay; (b) require the installation of regulatory signage on buoys and boat markers along the boat channel; and, (c) require increased enforcement by the Harbor Patrol to deter watercraft from going ashore onto sensitive habitat areas (*e.g.*, Chula Vista Wildlife Reserve, northern levees of the Salt Ponds, mudflats along Sweetwater Marsh, J Street Marsh) and adversely affecting the birds and habitat that nest, forage, and rest there, and are subject to indirect project-related impacts.

D-37

Human Encroachment

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D-38

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D-39

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D-40

Bird Strikes and Disorientation

40. The Department is not in agreement with placing a specific building height range (*i.e.*, 100-200 feet) to serve as the significance threshold for bird strikes and/or disorientation from collisions with buildings (due to the lack of site-specific analysis to support such a conclusion). As has been stated in the previously circulated draft EIR, "both tall building and low buildings can be dangerous to birds". Consequently, the proposed mitigation measures should be applied to all buildings that have an unobstructed line of sight to nearby open water or large areas of open space regardless of height. The Department has previously raised these concerns and suggested that they could partially be addressed by orienting the tallest buildings as far away as possible from the San Diego Bay and/or reducing building heights to a maximum of 50 feet to minimize the potential for bird strikes.

D-41

**D-40** Chapter 3.0, *Project Description*, of the Final EIR and Port Master Plan (PMP) documents have been revised to specify that only passive uses and overlooks will be allowed uses in the limited use zone.

**D-41** Please see the response to comment B-28.

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Shading of Adjacent Habitat

41. Section 4.8.5 (page 4.8-110) states that an analysis of the effects of shading of habitat by buildings and structures was conducted as part of the revised EIR, however no reference was provided as to the corresponding appendix that discusses those results. As was previously suggested for each development option, the final EIR should provide three-dimensional images of any structure that would cast shadows on adjacent freshwater, intertidal, and tidal wetland areas (including development adjacent to L-Marsh, J Street Marsh, and F&G Marsh). These images should reflect the maximum allowable floor area ratio, the maximum allowable height, and the minimum contemplated setbacks (*i.e.*, buffers). The acreages of the shaded areas should be quantified by habitat type and described. The analysis should either demonstrate the proposed developments impacts would be less than significant or require appropriate mitigation measures.

D-42

Increased Illumination

42. The final EIR should provide a delineation of areas with sensitive habitats that are expected to be directly or indirectly exposed to light levels of higher intensity (including increased sky glow) than ambient levels. The delineation should be on a large scale aerial image (a scaled figure).
43. Similar to the mitigation measure outlined in Section 4.8-6 (D), Mitigation Measure 4.4-2 should be revised to identify the specific biological resource areas of concern (*e.g.*, habitat buffers, habitats or open water) that outdoor and parking lot lighting should not be directed towards, as opposed to referring to these areas as "adjacent properties". Specifically, permit conditions should include that all lights, including street lights, pedestrian and bicycle path lighting, and any recreational lighting should be directed away from and fully shielded so as to not illuminate adjacent habitats. In addition, no external lighting of buildings (*e.g.*, cosmetic lighting) or other structures should be permitted, no lighted building signs should be permitted beyond the first floor, and all commercial signage should be provided on monument signs rather than pole signs or on the sides of buildings. All lighting proposed for the Signature Park (Parcel S-2) and the Shoreline Promenade (Parcels HP-3, HP-6, and HP-7) should be placed only where needed for human safety. Lights should be on low-standing (*e.g.*, 2-foot tall) bollards, shielded, and flat-bottomed so illumination is directed downward onto the walkway and does not scatter. Low-pressure sodium bulbs that emit only a narrow range of yellow light should be utilized because monochromatic yellow light, which is not perceived as "natural" light by wildlife, minimizes ecological disruptions.

D-43

D-44

D-45

D-46

Increased Freshwater Input, Degraded Water Quality, and/or Erosional Surface Flows

44. Although there is a reference that the Proposed Project would be exempt from the Interim Hydromodification Criteria (page 4.5-20), the Department would emphasize the need to concentrate on utilizing selected treatment BMPs or low impact development that detains flow or limit post-project peak flows to pre-development levels throughout all project-level phases of development. There should be a concerted effort to control storm water discharges at the source and minimizing/mitigating impacts to hydrologic functions as close to the source as possible. We remain concerned with post-project flows and the potential degradation of existing wetlands within and adjacent to the project site due to project-related changes in surface storm water flows. There is particularly concerned with the project-related storm water (freshwater) flows that would be discharged into the seasonal wetlands in the Sweetwater District (Parcel S-2), the F&G Marsh and its tidal tributary, the J Street channel, Telegraph Creek, and the J Street Marsh. Grading in SP-1

D-47

D-42 Please see the response to comment B-30.

D-43 Please see the response to comment B-31.

D-44 Please see the response to comment B-32.

D-45 Please see the response to comment B-32.

D-46 Please see the response to comment B-32.

D-47 Please see the response to comment B-34.

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and S-1 would increase surface water flows into SP-2 (season wetlands) and F&G Street Marsh, and there would be more storm drains draining into the J Street Channel and Telegraph Creek. Increases in storm water flows into relatively rare salt-water wetlands can result in a type-conversion to more common freshwater wetlands. In addition, depending on the velocity of the storm water discharges, the flows could disrupt the morphology of the receiving waters/habitats by ongoing erosion. Over time, the discharges can seriously damage sensitive habitats. Increases in flows from impervious surfaces associated with urbanization can result in: a) stream bed scouring and habitat degradation; b) shoreline erosion and stream bank widening; c) loss of aquatic species; and d) decreased baseflow<sup>1</sup>. Furthermore, the project-related increases in traffic would result in higher concentrations of vehicle-related contaminants (e.g., copper, zinc, asbestos, hydrocarbons, and antifreeze) in the storm water flows.

The Department is particularly concerned about deleterious changes to the salt balance, morphology, hydrology, and water quality of the F&G Street Marsh and its tidal tributary because such changes can negatively affect future restoration of the F&G Street Marsh, and because the light-footed clapper rail has been known to reside there. Conversely, current storm water flows into the L-Marsh (Parcel HP-5) would be redirected to the street, potentially reducing water flows to the wetland and thereby also reducing the wetland habitat.

45. The Design, Source Control BMPs, and Treatment Control BMPs section (page 4.5-62) of the final EIR should include a requirement for the routine sweeping of all residential and commercial parking lot areas. This requirement is referenced the technical *Appendix 4.7-2* and should be include in the final EIR.

46. *Appendix 4.5-2* (Civil Engineering Technical Studies, May 2006) mentions a potential modification to Telegraph Canyon Channel that includes a proposal for replacing the existing concrete-lined channel with a natural vegetated channel. However, this proposal is not mentioned in the revised draft DEIR (page 4.5-69). The proposal to improve this portion of the storm drain conveyance system should be included as a point of discussion in the Water/Hydrology section of the final EIR. The Department considers this an effective treatment control option in limiting direct storm water discharge into J Street Marsh.

47. Consideration should be given to utilizing alternative paving materials (e.g., porous/pervious pavement) for the proposed Chula Vista Nature Center asphalt parking (Parcel SP-3 Nature Center Parking and Access Road -Phase I).

**Marine Biological Resources and In-water Construction**

48. To adequately evaluate marine biological resources and potential impacts to these resources, the final EIR should:

- a. provide a figure indicating the different marine habitat classifications (i.e., intertidal, shallow subtidal, moderate subtidal, deep subtidal, salt marsh, and eelgrass) within and adjacent to the project area;
- b. provide a table that identifies the range of depth of different marine habitat classifications, including: (1) intertidal (+7.8 feet to -2.2 feet MLLW (mean lower low water)); (2) shallow subtidal (-2.2 MLLW to -12 feet MLLW); (3) medium

<sup>1</sup>U.S. Environmental Protection Agency. 1999. Preliminary Data Summary of Urban Storm Water Best Management Practices. EPA-821-R-99-012. Pp. 4-24

D-47  
(Cont.)

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D-48 Please see the response to comment B-36.

D-49 Please see the response to comment B-37.

D-50 Please see the response to comment B-38.

D-51 Please see the response to comment B-39.

D-52 Please see the response to comment B-49.

D-53 Please see the response to comment B-50.

Comment Letter D (Page 10)

Mr. Helmer  
July 7, 2008  
Page 10 of 13

low water)); (2) shallow subtidal (-2.2 MLLW to -12 feet MLLW); (3) medium subtidal (-12 feet MLLW to -20 feet MLLW), and deep subtidal (deeper than -20 feet MLLW) habitats; and

- c. indicate the areas of intertidal habitat and shallow subtidal habitat that are/would be natural (e.g., soft-bottom) vs. artificial (e.g., rip rap, concrete) before and after project development. Soft bottom intertidal habitat provides foraging habitat for wading birds and shorebirds, including the federally listed endangered western snowy plover (*Charadrius alexandrinus nivosus*). Shallow subtidal habitat consisting of either unvegetated soft bottom areas or areas vegetated with eelgrass (*Zostera marina*) are considered significant habitats for birds (including the least tern and brown pelican), fish, benthic invertebrates, and other organisms (including the Pacific green sea turtle).

49. Section 4.9, *Marine Biology*, in the final EIR should include a discussion of permanent and temporary losses of foraging habitat for birds that visually search for their fish prey and plunge-dive into the water to capture their fish. Foraging habitat is defined as open water containing suitable fish prey that is available for foraging by plunge-diving birds (e.g., least terns and brown pelicans) by not being obstructed and/or covered by structures (e.g., piers, docks, or boats). This is particularly significant resource at the project site due to its close proximity to the Sweetwater Marsh and South San Diego Bay Units of the Refuge and the Chula Vista Wildlife Reserve (i.e., approximately 1 mile or less), where plunge-diving birds both nest and/or roost during their migration. Additionally, covering open water habitats with structures would reduce light availability in the water column and introduce hard substrate which would likely support a different species composition and biological community than the extant composition. In essence, there could be an ecological type conversion where structures are introduced. We recognize that there is a discussion of the permanent impacts to surface water foraging habitat in the Section 4.8, *Terrestrial Biology*, but the impacts to this resource resulting from in-water construction make it appropriate to include a discussion of these impacts in Section 4.9.

*Mitigation measures*

50. The Department concurs that increases in structures (e.g., docks, wharfs, piers) covering the San Diego Bay should be offset (Mitigation Measures 4.8-7 and 4.8-8 in Section 4.8, *Terrestrial Biology*). Temporary and/or permanent reductions in foraging habitat for sight-foraging birds that feed on fish (e.g., least tern, brown pelican) should be avoided and minimized. We also recommend that a mitigation measure be added that requires that temporary reductions in foraging habitat due to in-water construction activities that result in increased turbidity (e.g., dredging, pile pulling, jetting, and driving) be conducted outside the breeding season of the least tern (April 1 to September 15) to avoid impacts to this listed species.
51. The Department recommends that losses of intertidal habitat (i.e., 0.03 acre anticipated from redevelopment of Parcel HW-3) be mitigated with creation of in-kind habitat and at a minimum 1:1 ratio. Impacts to pickleweed habitat (i.e., salt marsh habitat) should be mitigated at a 4:1 ratio to be consistent with City's MSCP Subarea Plan. As such, Mitigation Measure 4.9-3 should be revised to include mitigation of 0.004 acre of pickleweed.
52. The Department recommends that dredging activities be surrounded by silt curtains to minimize sedimentation and smothering of adjacent eelgrass.

D-53  
(Cont.)

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D-54 Please see the response to comment B-51.

D-55 Please see the response to comment B-52.

D-56 Please see the response to comment B-52.

D-57 Please see the response to comment B-53.

D-58 Please see the response to comment B-54.

D-59 Please see the response to comment B-55.

**Comment Letter D (Page 11)**

Mr. Helmer  
July 7, 2008  
Page 11 of 13

53. The revised DEIR indicates that losses in the existing benthic community from dredging activities would be less than significant due to the rapid recolonization of the benthic community in the new area. The Department requests that the final EIR provide documentation to support this conclusion. Absent such documentation, we recommend that the dredging activities be coupled with a benthic study to characterize (e.g., rate and community composition) recolonization of the benthic community.

D-60

**Hazards and Hazardous Materials/Public Safety (i.e., contaminants)**

54. The revised DEIR notes that known contaminated sites must be remediated to the satisfaction of the Regional Water Quality Control Board, County of San Diego Department of Environmental Health, State Department of Toxic Substances and Disease Control (DTSC) and perhaps others. The Department would like to work with the above regulatory agencies to ensure that remedial actions at identified sites would be protective of ecological receptors. Such actions include consideration of ecological risk based cleanup goals for contaminated media, and ensuring that contaminated media that are on site do not migrate off site into ecologically sensitive areas such as San Diego Bay and neighboring marsh habitats, especially those in the SDBNWR. In that regard, the final EIR should address the following specific comments.

D-61

- a. Mitigation for hazards posed by clean-up and construction operations should include the preparation and implementation of plans to prevent migration of contaminated material into environmentally sensitive areas. Migration paths of concern for ecological receptors include groundwater that may surface in marshes, streams or San Diego Bay (especially at the sediment-water interface), and soil that may migrate off site via erosion and surface runoff. Contaminant levels that pose insignificant risk to human health, especially under the commercial/industrial use scenario, may still pose significant risk to ecological receptors, both in terrestrial and aquatic settings. Consequently, contaminant levels deemed to be safe for humans are not necessarily safe for ecological receptors, and measures to prevent off-site migration of hazardous contaminants should be planned and implemented even though risks to humans may not be significant.

D-62

- b. Mitigation Measures 4.12-1, Items C & D, should mention the actions being taken to address ecological hazards. The remediation of any potentially contaminated areas should ensure that concentrations of contaminants in materials left on-site and/or leaving the site(s) should not meet or exceed concentrations of risk to ecological receptors (e.g., invertebrates, birds).

D-63

**Consistency with the City of Chula Vista MSCP Subarea Plan**

55. As the Department has emphasized in prior correspondence with the Service, since the Port does not have a habitat conservation plan/NCCP to guide its development projects, the entire project should meet or exceed the mitigation ratios, guidelines, and standards required by the City's MSCP Subarea Plan to maintain consistency with its application to the on-site and adjacent areas within the Plan. The Department appreciates the current efforts in the revised DEIR to ensure habitat losses throughout the project site, regardless of jurisdiction, would be mitigated at ratios in accordance with the City's MSCP Subarea Plan.

D-64

56. As indicated on page 3-25 of the revised DEIR, "The project site is situated entirely within the Chula Vista Local Coastal Zone (Figure 3-7)". To be consistent with the City's MSCP

D-65

**D-60** Please see the responses to comments B-56 and B-57.

**D-61** Please see the response to comment B-58.

**D-62** Please see the response to comment B-59.

**D-63** Please see the response to comment B-60.

**D-64** Please see the response to comment B-61.

**D-65** Please see the response to comment B-62.

Comment Letter D (Page 12)

Mr. Helmer  
July 7, 2008  
Page 12 of 13

Subarea Plan, the final EIR should require that all impacts to riparian scrub be mitigated at a 3:1 ratio (mitigation table should correspondingly be revised).

57. The Department previously recommended that the vegetation classification provided in Tables 4.8-1 and 4.8-3 be consistent with the vegetation classification for the City's MSCP. Tables 4.8-1 and 4.8-3 should include a footnote cross referencing the equivalent vegetation classification per the City's MSCP.

58. Mitigation Measure 4.8-2 references the breeding season for burrowing owls extending from January 15 through July 15. As was previously suggested in our prior comments the end date should extend to July 31 (i.e., January 15 through July 31). Additionally, any passive relocation of burrowing owls should include coordination with the Service.

59. Mitigation Measure 4.8-3 references the breeding season for migratory birds extending from January 15 through July 31. As was previously suggested in our prior comments the end date should extend to August 31 (i.e., January 15 through August 31).

60. Mitigation Measure 4.8-4 references the breeding season for light-footed clapper rail from February 15 through January 15 through July 31. The end date should be revised to extend to August 31 (i.e., January 15 through August 31) to correspond with conditions identified in Mitigation Measure 4.8-6A.

61. Mitigation Measure 4.8-6 F should also require that all project-related landscaping plans include, to the maximum extent practicable, native plants that are compatible with native vegetation located in the ecological buffers and/or MSCP Preserve.

62. Mitigation Measure 4.8-6 H should specify that all trash cans installed on the project would be animal – (non-human) proof. The proposal to provide trash cans with lids that close is not specific enough to ensure this would be a deterrent to scavenging animals.

63. The mitigation ratio for disturbed seasonal pond (e.g., classified as disturbed wetland per the City's MSCP) in Table 4.8-6 and 4.8-7 should be increased from 1:1 to 2:1 to be consistent with the City's MSCP Subarea Plan.

64. The final EIR (under General Findings, page 4.8-137) should include a map that clearly depicts: a) the jurisdictional boundaries before and after the land exchange; b) vegetation communities within both areas; and c) sensitive species points that are present in both the Port and City's jurisdictions after the land exchange. This will allow a determination of the Proposed Project's effects on habitats and species within each jurisdiction. This information will also be necessary to process the required amendment to the City's MSCP Subarea Plan and incidental take permit.

**Growth Inducement**

65. The Growth Inducement discussion in the DEIR focuses on the economic effects of the Proposed Project, but ignores the significant effects to the environment that could result from growth in the surrounding area, that is, growth that is related to redevelopment of the subject property. The final EIR should expand this section to address the significant effects on the environment, both individually and cumulatively, from growth stimulated by the subject project (i.e., growth that would likely not occur but for the approval and implementation of the Chula Vista Bayfront Master Plan). An evaluation of the effects on

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D-66 Please see the response to comment B-63.

D-67 Please see the response to comment B-64.

D-68 Please see the response to comment B-65.

D-69 Please see the response to comment B-66.

D-70 Please see the response to comment B-69.

D-71 Please see the response to comment B-70.

D-72 Please see the response to comment B-71.

D-73 The commenter requests a graphic depicting the jurisdictional boundaries before and after the land exchange, the vegetation communities within both areas, and special-status species present in both jurisdictions after the land exchange. *Figure 3-5* in the Revised DEIR illustrates the proposed land exchange and the resulting Port and City of Chula Vista (City) jurisdictions. *Figures 4.8-3* and *4.8-4* in the Revised DEIR identify existing vegetation communities and special-status species points in both areas. *Figures 4.8-18* and *4.8-19* identify Proposed Project impacts to vegetation communities and special-status species. As the Proposed Project includes the land exchange, *Figures 4.8-18* and *4.8-19* in the Revised DEIR depict impacts to vegetation communities and special-status species in both the Port and City's jurisdictions after the land exchange.

D-74 Please see the response to comment B-75.

Comment Letter D (Page 13)

Mr. Helmer  
July 7, 2008  
Page 13 of 13

air and water quality as a result of this new growth should be provided, as well as a discussion of the potential for even greater impacts (e.g., night lighting, human and pet intrusion, increased noise levels) than the Proposed Project alone would cause to nearby sensitive biological resources.

↑  
D-74  
(Cont.)

*Mitigation Measure*

Impacts associated with the growth-inducing effects of project implementation could be reduced if the appropriate planning documents that regulate development in the areas immediately surrounding the project are amended to include specific development and design criteria for new development. Such criteria would include: restrictions on lighted signage; requirements for fully shielded street and other outdoor lights; restrictions on uses that could generate excessive noise impacts, particularly at night; building design standards that address height, lighting, and window design; and requirements for adequately sized open space and public recreation areas to accommodate new residents and their pets.

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D-75

**Unavoidable and Irreversible Significant Environmental Effects**

66. The Wildlife Agencies do not agree that implementation of the mitigation measures identified in the DEIR would reduce the impacts to biological resources to a level less than significant. Therefore, this section in the final EIR should discuss the unavoidable and irreversible effects that implementation of the Proposed Project would have on the sensitive coastal resources that occur within and adjacent to the project boundaries.

—  
D-76

We appreciate the opportunity to comment on the revised DEIR for this project and to assist the Port and the City in further minimizing and mitigating project impacts to biological resources. If you have questions regarding terrestrial issues, contact Paul Schlitt at (858) 637-5510. If you have questions regarding marine issues please contact Lori Adams at (858) 627-3985.

Sincerely,



Edmund J. Port  
Regional Manager  
South Coast Region

cc: State Clearinghouse, Sacramento  
David Zoutendyk, U.S. Fish and Wildlife Service, Carlsbad

EP:ps

D-75 Please see the response to comment B-75.

D-76 This comment states the author's disagreement with the Revised DEIR's conclusion that implementation of the proposed mitigation measures would reduce impacts to biological resources to a level that is less than significant and requests that the EIR discuss the unavoidable and irreversible impacts that implementation of the Proposed Project would have on sensitive coastal resources in the project area. Although the comment states this general disagreement and general request for additional information, it does not identify any specific mitigation measure that would be ineffective in reducing impacts to biological resources to a less-than-significant level and does not identify any specific impact to sensitive coastal resources that would be unavoidable and irreversible. Based on the extensive analysis of the project's impact on sensitive coastal biological resources, as documented in *Sections 4.8* and *4.9* of the Revised DEIR, the Port appropriately concluded that no significant adverse impacts on terrestrial or marine biological resources would result with project implementation, including the extensive mitigation proposed to reduce project impacts to less-than-significant levels.



**Comment Letter E**

**Lesley Nishihira - Caltrans District 11 CVBMP Revised Draft EIR comments, SCH#2005081077**

**From:** Seth Cutter <seth\_cutter@dot.ca.gov>  
**To:** "Lesley Nishihira" <lnishih@portofsandiego.org>, <scott.morgan@opr.ca.gov>  
**Date:** 8/5/2008 12:31 PM  
**Subject:** Caltrans District 11 CVBMP Revised Draft EIR comments, SCH#2005081077  
**CC:** Jacob Armstrong <jacob\_armstrong@dot.ca.gov>, Bill Figge <bill\_figge@dot.ca.gov>, Mark Baza <mark\_baza@dot.ca.gov>, <scott.morgan@opr.ca.gov>, <rke@sandag.org>  
**Attachments:** CVBMP\_R\_draft\_EIR.pdf

Good Afternoon,  
 Attached is a file that contains Caltrans District 11 comments for the Chula Vista Bayfront Master Plan Revised DEIR (SCH#2005081077). If you have any questions, please feel free to contact me.

Thank You for the opportunity to comment.

Sincerely,

Seth Cutter Jr.  
 Transportation Planner  
 Caltrans District 11  
 Planning Division, MS-240  
 4050 Taylor St.  
 San Diego, CA 92110  
 Ph. (619) 688-6075  
 FAX (619) 688-4299

**Response to Comment Letter E**

**Caltrans, District 11  
 August 5, 2008**

Comment Letter E (Page 2)

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

District 11  
4050 Taylor Street, MS 240  
San Diego, CA 92110  
PHONE (619) 688-6960  
FAX (619) 688-4299  
TTY (800) 735-2929



*Flex your power!  
Be energy efficient!*

August 5, 2008

San Diego Unified Port District  
Land Use Planning Department  
Attn. Lesley Nishihira  
PO Box 120488-0488  
San Diego, CA 92112

11-SD-5  
PM 7.81  
Chula Vista Bayfront Master Plan  
Revised Draft EIR  
SCH #2005081077

Dear Ms. Nishihira:

The California Department of Transportation (Caltrans) appreciates the opportunity to review the Revised Chula Vista Bayfront Master Plan (CVBMP) Draft Environmental Impact Report (EIR). We have the following comments:

- Caltrans is a key stakeholder in regional transportation and land use efforts. The State Highways serving the Chula Vista Bayfront should be regarded as both local and regional assets facilitating access and mobility needs for the entire San Diego Region. Operation of these State facilities could be adversely affected by changes proposed in the CVBMP.

Caltrans would expect that Direct and Cumulative impact mitigation to I-5 now identified in the Chula Vista Western Traffic Development Impact Fee program be funded and implemented in a manner consistent with the issuance of building permits for the project phases as identified in the EIR. Although these mitigation projects are identified in the Chula Vista Western Traffic Development Impact Fee program, the timing of completing these mitigation improvements should still adhere to the implementation of such improvements based on when they occur as identified in the approving CEQA document.

- Should impacts as part of Phase I to the I-5 SB Ramps/Bay Boulevard be negated with the redistribution of traffic from the H Street connection, we would assume any condition of occupancy of Phase I not take place until the H Street connection is made; otherwise, direct impact mitigation should be implemented.
- Please explain the change in project mitigation to the J Steet/I-5 NB Ramps from Phase II (2006 EIR), to Phase III in the current revised EIR.
- As identified in mitigation 4.2-8 of the EIR, the CVBMP project will participate in a multi-jurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5

*"Caltrans improves mobility across California"*

**E-1** This comment summarizes the California Department of Transportation's (Caltrans') role as stakeholder. The comment also states expectations that mitigation as part of the Chula Vista Western Transportation Development Impact Fee (WTDIF) will occur to implement mitigation improvements as identified in each approving CEQA document. As provided in **Mitigation Measure 4.2-8**, the project applicants would be required to make fair-share contributions toward the Interstate 5 (I-5) South Corridor Plan.

**E-2** As described in the Revised DEIR (**Mitigation Measure 4.2-3** on page 4.2-228), prior to the certification of occupancy of Parcel H-3, H Street will be connected to mitigate potential effects.

**E-3** The Revised DEIR made several changes to the project between the 2006 Draft EIR and the current document. One such change was the phasing plan, including creating a new Phase I, which includes project-level features. Therefore, prior Phase II is now Phase III, and prior Phase III is now Phase IV. The land uses are the same; therefore, impacts and mitigation are the same, but the phases in which they occur have been renumbered.

**E-4** This comment summarizes the Proposed Project's participation in the I-5 South Corridor Plan. This comment does not address the adequacy of the Revised DEIR and therefore no further response is needed.

Comment Letter E (Page 3)

Lesley Nishihira  
August 5, 2008  
Page 2

corridor level study that will identify transportation improvements, along with funding, towards reducing congestion along the I-5 South Corridor.

As part of the "I-5 South Corridor Study", Caltrans supports the concept of a local circulation system which is pedestrian, bicycle, and transit-friendly in order to enable residents to choose alternative modes of transportation. The pattern of land use can affect both total vehicle miles traveled and the number of trips per household and/or business. In order to create more efficient and livable communities, Caltrans encourages local agencies to work towards a safe, functional, interconnected, multi-modal system integrated with "smart growth" type land use planning.

As a result, potential transit mitigation along the I-5 South Corridor for development impacts should also be analyzed, such as improved transit accommodation through the provision of park and ride facilities, bicycle access, signal prioritization for transit, or other enhancements which can improve mobility and alleviate traffic impacts to State facilities. Caltrans encourages the Port and The City of Chula Vista to engage and work with Caltrans, SANDAG and MTS to also incorporate potential transit improvements as part of the "I-5 South Corridor Study".

Any work performed within Caltrans Right of Way (R/W) will require an encroachment permit. Early coordination with Caltrans is strongly advised for all encroachment permits.

If you require further information or have any question, please contact Seth Cutter at (619) 688-6075.

Sincerely,



JACOB ARMSTRONG, Chief  
Development Review Branch

Cc: Scott Morgan, State Clearinghouse

"Caltrans improves mobility across California"

↑ E-4  
(Cont.)  
E-5  
E-6  
E-7

**E-5** This comment expresses Caltrans' support for pedestrian-, bicycle-, and transit-friendly development. The project has been designed to include many features to encourage pedestrian, bicycle, and transit use within the Bayfront area, including a pedestrian circulation plan of approximately 54,000 linear feet composed of shoreline promenade, trails, and sidewalks. Specific areas would also allow for bicycles, as further described in *Section 3.4.7.2, Bayfront Bikeway Loop Alignment*, on page 3-151, and throughout *Chapter 3.0, Project Description*. Furthermore, the project accounts for shuttle stops to be included in the project area to accommodate a Bayfront Shuttle once funding is established.

**E-6** This comment recommends additional analysis of potential transit mitigation, including transportation-demand measures. These issues and improvements will be addressed in the multijurisdictional effort conducted by Caltrans and the San Diego Association of Governments (SANDAG), as indicated in this comment and discussed more fully in **Mitigation Measure 4.2-8** (pages 4.2-228 through 4.2-230) of the Revised DEIR.

**E-7** This comment states that an encroachment permit is required for work proposed within Caltrans' right-of-way (ROW). Future development will comply with this request.

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## Comment Letter F



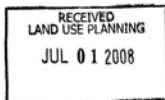
Linda S. Adams  
Secretary for  
Environmental Protection

### Department of Toxic Substances Control

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



Arnold Schwarzenegger  
Governor



June 23, 2008

Mr. Lesley Nishihara  
Associate Redevelopment Planner  
Unified Port of San Diego  
3165 Pacific Coast Highway  
San Diego, California 92101  
lnishihira@portofsandiego.org

NOTICE OF AVAILABILITY OF A REVISED DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE CHULA VISTA BAYFRONT MASTER PLAN (CVBMP) AND PORT MASTER PLAN AMENDMENT, UPD#83356-EIR-658; MARINA PARKWAY AND LAGOON DRIVE, CHULA VISTA (SCH#2005081077)

Dear Mr. Nishihara:

The Department of Toxic Substances Control (DTSC) has received your submitted Notice of Availability of a Revised Draft Environmental Impact Report (EIR) for the above-mentioned project. The following project description is stated in your document: "The Revised EIR contains numerous changes to the previously circulated Draft EIR. The Chula Vista Bayfront is located on the southeastern edge of San Diego Bay in the City of Chula Vista. In 2002, the San Diego Unified Port district (Port) and the City of Chula Vista (City) joined together to create a master plan for the approximately 556-acre Bayfront and reconfigure its 497 acres of land and 59 acres of water uses, connecting them in a way that would promote public access to and engagement with the water while enhancing the quality and protection of key habitat areas. Key components of this project known as the CVBMP include the following: A Signature Park; Improved visual corridors; A Resort and Convention Center and other hotels; Residential and mixed-use office/commercial recreation uses; Waterfront retail uses and public gathering spaces; A new commercial harbor and improved navigation channel; A public promenade and bike trail; and Large buffer zones to protect adjacent sensitive resources" Your previously submitted EIR stated: "Redevelopment of approx. 562 acres of land under both the SDUPD and the City of Chula Vista jurisdictions. The proposed project, which is intended to occur in three phases over a 25-year period, includes development of a resort conference center, hotels, residential, mixed-use office/commercial, retail, parks and open space, new or improved roadways, pedestrian routes, water and sewer systems improvements, reconfigured commercial harbor, and realigned navigation channel. The proposal involves amendments to the Port Master Plan and the City of Chula Vista General Plan and Local Coastal Program, as well as

F-1

## Response to Comment Letter F

### Department of Toxic Substances Control

June 23, 2008

**F-1** This comment states that most of the issues in the Department of Toxic Substances Control's (DTSC's) previous comment letter, dated November 6, 2006, have been addressed in the Revised DEIR.

**Comment Letter F (Page 2)**

Mr. Lesley Nishihara  
June 23, 2008  
Page 2

the approval of a land exchange. The 562-acre CVBMP project area is broken into three districts: the northern 129-acre Sweetwater District; the central 280-acre Harbor District; and the southern 152-acre Otay District. " Most of the issues identified in DTSC's letter to the United Port of San Diego, dated November 6, 2006, for the previous CEQA document, have been addressed.

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

Sincerely,



Greg Holmes  
Unit Chief  
Brownfields and Environmental Restoration Program - Cypress Office

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

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

CEQA#2181

F-1  
(Cont.)

## Comment Letter G

STATE OF CALIFORNIA  
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Arnold Schwarzenegger, Governor

RECEIVED  
 LAND USE PLANNING  
 JUN 13 2008

June 9, 2008

Ms. Lesley Nishihira  
 SAN DIEGO UNIFIED PORT DISTRICT  
 P.O. Box 120488  
 San Diego, CA 92112

Re: SCH#2005081077: CEQA Notice of Completion, revised draft Environmental Impact Report (EIR) for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment, San Diego Unified Port District, San Diego County, California

Dear Ms. Nishihira:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a "significant effect" requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c) (CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the "area of potential effect (APE)", and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

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

G-1

## Response to Comment Letter G

### Native American Heritage Commission

June 9, 2008

G-1

This comment explains the role of the Native American Heritage Commission (NAHC) in reviewing the Revised DEIR and indicates that the NAHC has recommendations for the project. As discussed in *Section 4.10.1.3* of the Revised DEIR, the cultural resources survey included a record search of the files at the Southern California Information Center and the San Diego Museum of Man. In addition, RECON conducted a cultural resources survey of the Proposed Project site to identify any impacts to cultural resources. As noted in *Section 4.10* of the Revised DEIR, the survey found that cultural resources will not be impacted. A Sacred Lands File search was completed by the NAHC in October 2005. The search failed to indicate the presence of Native American cultural resources in the immediate project area (NAHC 2005).

Furthermore, based on the cultural resources survey, the project area is primarily fill. As discussed in *Section 4.10, Cultural Resources*, of the Revised DEIR, it was determined that the potential for subsurface deposits does not warrant monitoring. It is not anticipated that subsurface deposits would reveal buried resources. Impacts remain less than significant and are adequately addressed. Any discovery of human remains during future construction, Native American or not, would be regulated pursuant to the California Health and Safety Code as noted. This code requires that no further disturbance shall occur until the County of San Diego coroner has made the necessary findings as to origin and disposition.

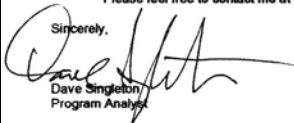
Comment Letter G (Page 2)

- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
  - CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.
- ✓ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.
- ✓ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation.

G-1  
(Cont.)

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

Sincerely,



Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse



Comment Letter G (Page 3)

**Native American Contacts**  
San Diego County  
June 9, 2008

Barona Group of the Capitan Grande  
Rhonda Welch-Scalco, Chairperson  
1095 Barona Road Diegueno  
Lakeside , CA 92040  
sue@barona-nsn.gov  
(619) 443-6612  
619-443-0681

Sycuan Band of the Kumeyaay Nation  
Danny Tucker, Chairperson  
5459 Sycuan Road Diegueno/Kumeyaay  
El Cajon , CA 92021  
ssilva@sycuan-nsn.gov  
619 445-2613  
619 445-1927 Fax

La Posta Band of Mission Indians  
Gwendolyn Parada, Chairperson  
PO Box 1120 Diegueno  
Boulevard , CA 91905  
(619) 478-2113  
619-478-2125

Viejas Band of Mission Indians  
Bobby L. Barrett, Chairperson  
PO Box 908 Diegueno/Kumeyaay  
Alpine , CA 91903  
daguiar@viejas-nsn.gov  
(619) 445-3810  
(619) 445-5337 Fax

San Pasqual Band of Mission Indians  
Allen E. Lawson, Chairperson  
PO Box 365 Diegueno  
Valley Center , CA 92082  
(760) 749-3200  
(760) 749-3876 Fax

Kumeyaay Cultural Historic Committee  
Ron Christman  
56 Viejas Grade Road Diegueno/Kumeyaay  
Alpine , CA 92001  
(619) 445-0385

Santa Ysabel Band of Diegueno Indians  
Johnny Hernandez, Spokesman  
PO Box 130 Diegueno  
Santa Ysabel , CA 92070  
brandietaylor@yahoo.com  
(760) 765-0845  
(760) 765-0320 Fax

Jamul Indian Village  
William Mesa, Chairperson  
P.O. Box 612 Diegueno/Kumeyaay  
Jamul , CA 91935  
jamulrez@sctdv.net  
(619) 669-4785  
(619) 669-48178 - Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2005081077; CEQA Notice of Completion; revised draft Environmental Impact Report (DEIR) for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment; San Diego Unified Port District; San Diego County, California.

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## Comment Letter H

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer  
(916) 574-1800 FAX (916) 574-1810  
Relay Service From TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1227  
Contact FAX: (916) 574-1324

July 7, 2008

File Ref: G10-08.16

SENT VIA FACSIMILE AND U.S. MAIL  
619-686-6508

Ms. Lesley Nishihira  
San Diego Unified Port District  
P.O. Box 120488  
San Diego, CA 92112-0488

Dear Ms. Nishihira:

RE: DEIR for the Chula Vista Bayfront Master Plan and Port Master Plan  
Amendment – UPD#83356-EIR-658/SCH #2005081077

Staff of the California State Lands Commission (CSLC or the Commission) has reviewed the Draft Environmental Impact Report (DEIR) for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment. Under the California Environmental Quality Act (CEQA), the Port of San Diego (Port) is the lead agency and the CSLC is a Responsible and/ or Trustee Agency for any and all projects that could directly or indirectly affect sovereign lands, their accompanying public trust resources or uses, and the public easement in navigable waters.

The Chula Vista Bayfront Master Plan and Port Master Plan Amendment proposes to redevelop approximately 550 acres of existing underutilized vacant areas on filled and water-covered tide and submerged lands within the city of Chula Vista with a variety of uses. Such uses include park, open space, civic/cultural, recreational, residential, hotel, office, entertainment, and retail. The Chula Vista Bayfront Master Plan is divided into three distinct districts. The Sweetwater District proposes ecologically sensitive themed uses, such as an ecological buffer and low intensity hotel and office/retail/civic uses. The Harbor District proposes the highest intensity development, including a mix of active land and water uses. The Otay District includes medium intensity development including residential, park/open space and energy/industrial uses.

In order to facilitate the development of the Chula Vista Bayfront, the plan proposes a land exchange between the Port and Pacifica Companies (Pacifica), a

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## Response to Comment Letter H

### State Lands Commission

July 7, 2008

H-1

This comment provides a summary of the Proposed Project and describes California State Lands Commission's (CSLC's) jurisdiction and management authority over the tidelands. This comment does not address the accuracy or adequacy of the Revised DEIR or significant environmental points discussed therein; therefore, no further response is necessary. For clarification purposes, no parcels in the Otay District are proposed for land exchange, as stated on page 1-1, third bullet, of the Revised DEIR.

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Page 2

private firm having an option to purchase land located in the northern portion of the bayfront planning area. In addition, the plan proposes to realign the existing 84-acre navigation channel to the Chula Vista Harbor. This channel realignment, consisting of dredging approximately 1,346,000 cubic yards of material for the new channel and the fill of approximately 1,035,000 cubic yards within the existing channel, would enhance boat access to and from the Chula Vista Harbor and San Diego Bay.

According to the DEIR the proposed land exchange will enable residential and non-trust related retail and office uses to be developed on existing Port properties located in the Harbor and Otay Districts of the Chula Vista Bayfront Master Plan. The proposed land exchange would include the transfer of up to 97 acres of land (Parcels S-1, S-3, SP-2, SP-3 and most of SP-1 and S-2) in the Sweetwater District from Pacifica to the Port, in exchange for up to 33 acres of land (Parcels H-13, H-14, H-15, and HP-5) in the Harbor District from the Port to Pacifica. The land under option by Pacifica in the City's jurisdiction would transfer to Port trusteeship and jurisdiction; likewise, the lands currently under Port trusteeship and jurisdiction would transfer to Pacifica for the development within the City's jurisdiction.

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. The CSLC has certain residual and review authority for tide and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code §6301 and §6306). All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, etc., are impressed with the common law Public Trust.

A portion of the project area involves sovereign tide and submerged lands, which were initially legislatively granted to the city of Chula Vista and subsequently transferred to the San Diego Unified Port District pursuant to Chapter 67, Statutes of 1962, as amended, with minerals reserved to the State. A portion of the project area also includes lands acquired by the Port through a land exchange with BF Goodrich/Rohr approved by the Commission in 1999 and other lands acquired through purchase by the Port. The Port, as a Trustee of these sovereign trust lands and acquired trust lands, must ensure that the specific uses proposed in the plan are consistent with the provisions of the relevant granting statutes and the public trust doctrine. As stated in the DEIR, implementation of the proposed project will require the Commission to take two distinct discretionary actions: consideration of the land exchange between the Port and Pacifica pursuant to Public Resources Code §6307 and consideration of a dredging lease for proposed dredging activities within San Diego Bay.

As the DEIR states, residential development is not a use consistent with the public trust doctrine, as residential development causes the privatization of public property resulting in a loss of its special character as public lands. General commercial recreational, mixed-use office, and retail uses are also uses inconsistent with the public trust doctrine, as such uses generally serve the local citizenry and are not water-related or visitor serving. Alternatively, commercial recreational, office, and retail uses which

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**H-2** This comment summarizes the actions that the CSLC will be required to take in regard to the proposed land exchange and the proposed dredging activities in the San Diego Bay (Bay). This comment does not address the accuracy or adequacy of the Revised DEIR or significant environmental points discussed therein; therefore, no further response is warranted.

**H-3** This comment describes the types of land uses that would be consistent with the public trust doctrine and those that would be inconsistent with the public trust doctrine. *Section 4.1* of the Revised DEIR analyzes the potential consistency of the proposed land exchange with the public trust doctrine in relation to the land exchange.

Comment Letter H (Page 3)

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are visitor-serving, catering to the regional or statewide general public, and are water-related, may be considered incidental and necessary in promoting the public's use of public trust lands and hence would be considered consistent with the public trust doctrine. Also, general civic/cultural uses that are not water-related and are not visitor-serving in nature are not appropriate public trust uses as such uses cater to the local community and do not serve the regional or statewide general public.

In general, the Chula Vista Bayfront Master Plan contains many elements that will improve public access, provide substantial beautification and attract visitors to the waterfront, while protecting and enhancing public trust resources. Staff's specific comments on the DEIR are as follows:

1. Page 3-15 (3.4.1.1 State Lands Commission (Land Exchange)): As stated in previous meetings and correspondence, when contemplating the proposed land exchange the Port should ensure that such an exchange does not result in a patchwork of Port controlled trust lands. One rationale supporting the 1999 land exchange with BF Goodrich/Rohr was the reconfiguration and consolidation of trust property to enhance the property's utility to the trust. As we understand it, the current proposal will substantially modify that consolidation. It appears from Figure 3-5 of the DEIR that the outcome of the proposed exchange will result in a configuration of trust lands that may isolate trust holdings. If the Port determines that a land exchange resulting in a configuration of trust lands that does not produce a consolidated holding of Port controlled trust lands is appropriate, the Port must also provide a detailed statement explaining why its preferred configuration will provide a significant benefit to the public trust and why such a configuration is in the best interest of the State.
2. Page 3-15 (Land Exchange) and Page 4.1.1a (Public Trust Doctrine/Public Res. Code Section 6307 (California State Lands Commission)): As stated in the DEIR, Public Resources Code §6307 sets forth the conditions under which the Commission may approve the exchange of trust lands for other lands to become subject to the trust. In addition to the statutory required findings, the California courts have identified several other legal requirements necessary for a conveyance of trust lands and a termination of the public trust interest in order to comply with Article X, §3 of the California Constitution. In particular, the lands must be: (1) reclaimed as the result of a highly beneficial program of harbor development; (2) relatively small in area; (3) useless for purposes of navigation, commerce and fisheries or the acquired lands are of such configuration that they can be used more effectively by the trustee in furtherance of public trust purposes than the filled tidelands to be conveyed.
3. Section 4.9 Marine Biological Resources – This section does not provide any potential impact assessment from vessels (e.g., collision) or dredging activities with the green sea turtles that are likely to occur in or near the navigation channel. Although these species are mobile as the document points out, these

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This comment refers to a prior land exchange between the Port and Rohr/BF Goodrich, which the CSLC approved to consolidate trust land in 1999. The CSLC points out that, "one rationale supporting the 1999 land exchange with BF Goodrich/Rohr was reconfiguration and consolidation of trust property to enhance the property's utility to the trust." The CSLC further states the proposed Chula Vista Bayfront Master Plan (CVBMP) land exchange will result in a configuration of trust lands that may isolate trust holdings.

As discussed in the CSLC's 2001 policy statement, public trust uses include, "those that are water depending or related, and include commerce, fisheries, and navigation, environmental preservation and recreation. Public trust uses include, among others, ports, marinas, docks and wharves, buoys, hunting, commercial and sport fishing, bathing, swimming, and boating. Public trust lands may also be kept in their natural state for habitat, wildlife refuges, scientific study, or open space. Ancillary or incidental uses, that is, uses that directly promote trust uses, are directly supportive and necessary for trust uses, or that accommodate the public's enjoyment of trust lands, are also permitted" (CSLC 2001). (See also California Public Resources Code, Section 6307(c).) As discussed, "[t]he public uses to which tidelands are subject are sufficiently flexible to encompass changing public needs. In administering the public trust the state is not burdened with an outmoded classification favoring one mode of utilization over another" (*Marks v. Whitney* (1971) 6 Cal.3d 251, 259).

The purpose of the Proposed Project is to impose, for the first time, a master plan on this extremely large, valuable, and complex collection of parcels and resources. Given the size and complicated ownership patterns in the project area, a certain amount of jurisdictional reconfiguration is required.

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are visitor-serving, catering to the regional or statewide general public, and are water-related, may be considered incidental and necessary in promoting the public's use of public trust lands and hence would be considered consistent with the public trust doctrine. Also, general civic/cultural uses that are not water-related and are not visitor-serving in nature are not appropriate public trust uses as such uses cater to the local community and do not serve the regional or statewide general public.

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As with the 1999 land exchange, the exchange contemplated in the current project is designed to enhance the public use value of the tidelands within the Port's jurisdiction. While it is true that the proposed land exchange would cause the Port to relinquish to private interests lands it acquired from Goodrich in 1999, this does not mean that the proposed exchange works contrary to public trust purposes. The two exchanges are viewed within their respective contexts to make a meaningful determination on this point.

The logic and chronology that identifies the changes in the project area and reasoning for the Proposed Project are set forth in the Revised DEIR in *Section 2.1.2, Project Site History*, pages 2-11 through 2-13. At the time of the prior land exchange (1999), there was no proposal for master planning the Chula Vista Bayfront. At that time, it made sense from a public trust perspective to consolidate disconnected tidelands property by exchanging certain Port lands for parcels owned by Goodrich. By 2005, however, it became evident that piecemeal development of the Bayfront was diminishing the public use value of parcels in the area, including the trust lands acquired by the Port in 1999. To avoid further diminishing public use values, the CVBMP effort was initiated.

The Proposed Project, including the land exchange, constitutes a coordinated and integrated development plan that would enhance the public use values of all trust parcels. As stated in the Revised DEIR in *Section 1.3, Project Objectives* (pages 1-5 through 1-6), the plan is intended to protect and enhance environmental resources; eliminate or reduce barriers to linking the Bayfront to the rest of Chula Vista; include recreational, public art, and open spaces opportunities as significant components; take advantage of the deep water at the harbor to create an active boating environment; and create a Bayfront park system that marries ecological habitats and the recreational needs

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of a community. This section of the Revised DEIR also highlights that the land exchange is an integral and important part of achieving these goals because it enables the land uses to be optimized in relation to the Bayfront. The successful completion of the land exchange as proposed would maximize the project's potential.

The Revised DEIR repeatedly discloses, though initially on page 1-8, that the project includes an approximately 18-acre park on Parcel S-2 in Phase I, which would include passive uses with pedestrian and bicycle trails, tot lots, picnic areas, benches, interpretive signage, restrooms, and landscaping. Overall implementation of the plan would result in 40 acres of continuous park through the Sweetwater District and Harbor District and 12,000 linear feet of continuous shoreline promenade providing visitors with visual and physical access to the water (*Chapter 1.0, Executive Summary*, page 1-13 of the Revised DEIR). In addition, the Final EIR has been revised to clarify that buffers in Parcel SP-1 between the proposed park and the existing SDBNWR (to protect the wetlands and resources within the refuge) would be established in Phase I. The project includes realignment of the existing navigation channel to make it easier and safer for boat navigation and move it further from the sensitive resources within the refuge (*Chapter 1.0, Executive Summary*, page 1-16 of the Revised DEIR). The Revised DEIR also discloses other enhancements to facilitate water use, such as inclusion of a ferry terminal and water taxis to promote alternative transport for commuters and visitors (*Chapter 1.0, Executive Summary*, page 1-15 of the Revised DEIR.)

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Section 4.1.1.1 of the Revised DEIR outlines Public Resources Code Section 6307 and the CSLC's authority to approve land exchanges. Section 4.1.3 of the Revised DEIR provides the Port's rationale for pursuing the land exchange described in the CVBMP. For example, it lists a range of purposes, such as improving boat navigation and access and placing development further from sensitive habitat through creation of a 400-foot-wide buffer between development and the Sweetwater Marsh NWR. Additionally, the land exchange would allow the Port to protect the seasonal wetland found in Parcel SP-2, which is currently designated under the City of Chula Vista's General Plan as "Commercial Retail."<sup>1</sup> The Port proposed to designate this parcel "Wetlands" under the PMP (see Figure 3-56 in the Revised DEIR). As discussed in the PMP, the wetland designation areas, "are scheduled for little or no development. The intent is to preserve, maintain and enhance natural habitat areas so that biological productivity will be sustained" (Port 2004, page 29).

In response to this and other comments, Chapter 1.0, *Executive Summary*, and Chapter 3.0, *Project Description*, of the Final EIR have been revised to include, within Parcel SP-2, a permanent 100-foot-wide buffer from proposed development for the seasonal wetland proposed on this parcel. The PMP Amendment will also be revised to reflect the permanent buffer width within Parcel SP-2. The establishment of this buffer will occur upon the adoption of the PMP and its assignment with the Open Space land use designations. These wetland protections would meet one of the many goals of the public trust: to preserve, enhance, or create wetland, riparian, or littoral habitat or open space.

<sup>1</sup> See Land Use Figure 5-12 of the City of Chula Vista's General Plan (1995); [http://www.chulavistaca.gov/City\\_Services/Developemtn\\_Services/Planning\\_Building/General\\_Plan/documents.asp](http://www.chulavistaca.gov/City_Services/Developemtn_Services/Planning_Building/General_Plan/documents.asp)



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are visitor-serving, catering to the regional or statewide general public, and are water-related, may be considered incidental and necessary in promoting the public's use of public trust lands and hence would be considered consistent with the public trust doctrine. Also, general civic/cultural uses that are not water-related and are not visitor-serving in nature are not appropriate public trust uses as such uses cater to the local community and do not serve the regional or statewide general public.

In general, the Chula Vista Bayfront Master Plan contains many elements that will improve public access, provide substantial beautification and attract visitors to the waterfront, while protecting and enhancing public trust resources. Staff's specific comments on the DEIR are as follows:

1. Page 3-15 (3.4.1.1 State Lands Commission (Land Exchange)): As stated in previous meetings and correspondence, when contemplating the proposed land exchange the Port should ensure that such an exchange does not result in a patchwork of Port controlled trust lands. One rationale supporting the 1999 land exchange with BF Goodrich/Rohr was the reconfiguration and consolidation of trust property to enhance the property's utility to the trust. As we understand it, the current proposal will substantially modify that consolidation. It appears from Figure 3-5 of the DEIR that the outcome of the proposed exchange will result in a configuration of trust lands that may isolate trust holdings. If the Port determines that a land exchange resulting in a configuration of trust lands that does not produce a consolidated holding of Port controlled trust lands is appropriate, the Port must also provide a detailed statement explaining why its preferred configuration will provide a significant benefit to the public trust and why such a configuration is in the best interest of the State.
2. Page 3-15 (Land Exchange) and Page 4.1.1a (Public Trust Doctrine/Public Res. Code Section 6307 (California State Lands Commission)): As stated in the DEIR, Public Resources Code §6307 sets forth the conditions under which the Commission may approve the exchange of trust lands for other lands to become subject to the trust. In addition to the statutory required findings, the California courts have identified several other legal requirements necessary for a conveyance of trust lands and a termination of the public trust interest in order to comply with Article X, §3 of the California Constitution. In particular, the lands must be: (1) reclaimed as the result of a highly beneficial program of harbor development; (2) relatively small in area; (3) useless for purposes of navigation, commerce and fisheries or the acquired lands are of such configuration that they can be used more effectively by the trustee in furtherance of public trust purposes than the filled tidelands to be conveyed.
3. Section 4.9 Marine Biological Resources – This section does not provide any potential impact assessment from vessels (e.g., collision) or dredging activities with the green sea turtles that are likely to occur in or near the navigation channel. Although these species are mobile as the document points out, these

H-3  
(Cont.)

H-4

H-5

H-6

The Final EIR has also been revised in *Chapter 1.0, Executive Summary*, and *Chapter 3.0, Project Description*, to clarify that the 3-acre road on Parcel S-2A separating the SP-2 wetland from the F&G Street Marsh would be vacated (not demolished) after the E Street extension is completed. The proposed project and land exchange would also increase public access along the water. As part of the Proposed Project, the Port would create walkways and recreational areas in Parcel S-2 and portions of SP-1. The parcels to be exchanged in the Harbor District would not provide the same recreational and educational values as the parcels in the Sweetwater District because of the industrial character of the area and the smaller size of the parcels. Whereas, the Sweetwater District parcels would connect with the F&G Street Marsh and the Sweetwater Marsh NWR, creating an enhanced recreational experience. Please also see the response to comment Q-10 regarding the protection of Parcel SP-2.

Overall, the coordinated and integrated development plan proposed by the Proposed Project would enhance waterfront and near-shore development and redevelopment for public trust purposes. While the project proposes to relinquish portions of the recently acquired parcels within the Harbor District, the opportunity to exchange these parcels for a much larger land area adjacent to the Bay and Sweetwater Marsh NWR holdings in the Sweetwater District is a unique opportunity that would consolidate an even greater area adjacent to the Bay. The proposed exchange would also provide opportunities for development of commercial recreation and marine-related uses that would provide an even greater benefit consistent with public trust uses.

H-5

This comment does not address the adequacy of the Revised DEIR or significant environmental points discussed herein, but instead identifies three legal requirements for the exchange of trust lands in California, as provided in Article X, Section 3 of the California Constitution.

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July 7, 2008  
L. Nishihira  
Page 4

species could go unnoticed and be stricken by vessels or dredging equipment. The Plan should provide for a marine mammal/sea turtle contingency plan to ensure no conflicts with these protected species during project implementation.

4. The removal of 45.9 acres of eelgrass is a significant amount of habitat being removed and although it is proposed to be replaced at a 1.2:1 ratio there is no assessment of the temporal loss of this habitat on the green sea turtle in which eelgrass is important foraging habitat for the green sea turtles.
5. Mitigation Measure 4.9-2 D. – Monitoring the eelgrass restoration areas should also include monitoring wildlife use to assess that species such as the green sea turtle is using the restored habitat.
6. Invasive Species – Section 4.8 Terrestrial Biological Resources provides mitigation to prevent invasive species in the upland areas; however, there is no assessment of aquatic invasive species in the Marine Biological Resources section. The Plan needs to include an assessment of any potential presence of aquatic invasive species such as the green alga, *Caulerpa*. The Plan also needs to incorporate the latest version of the *Caulerpa* Control Protocol for any disturbing activities in the Bay.

We appreciate the opportunity to comment. If you have any questions concerning the CSLC's jurisdiction, please do not hesitate to contact me at (916) 574-1227, if your questions relate to the environmental comments, please direct your call to Eric Gilles at (916) 574-1897. Thank you.

Sincerely,

*Grace Kato*

Grace Kato  
Public Land Management Specialist

cc: DEPM  
Curtis Fossum  
Jennifer Lucchesi  
Barbara Dugal

H-6  
(Cont.)  
H-7  
H-8  
H-9

**H-6** This comment requests analysis of potential impacts and a contingency plan to protect vessels or dredging impacts to green sea turtles. Regular/maintenance dredging in the area has occurred as part of efforts for the South Bay Boat Yard and the South Bay Power Plant intake channels, with no reported collisions with turtles or mammals. The Port, in coordination with the National Marine Fisheries Service (NMFS) and the U.S. Navy, is undertaking research on the green sea turtle population in the South Bay. The research includes a tagging program that indicates the turtles predominantly populate the area around the South Bay Power Plant discharge channels. As stated in the Revised DEIR, *Section 4.9, Marine Biological Resources* (pages 4.9-27 through 4.9-29), mobile marine species (such as the sea turtles and mammals) would evade machinery and vessels engaged in bottom-disturbing activities. Furthermore, the low speeds and motorized nature of dredging equipment would avoid surprising turtles and mammals, enabling them to avoid such operations. While the Port considers that collisions with sea turtles are unlikely based on the information above, it should be noted that as part of U.S. Army Corps of Engineers (ACOE) permits for dredging, biological monitors are required. A typical function of such monitors includes spotting for green sea turtles.

**H-7** As shown on *Figure 4.9-2* of the Revised DEIR, project impacts on eelgrass habitat resulting from dredging activities represent a small fraction of available habitat within south San Diego Bay. Therefore, the temporal loss of eelgrass habitat that would occur from the time that the dredging impacts occur until establishment of the required mitigation, would not substantially reduce foraging areas for the green sea turtle.

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L. Nishihira  
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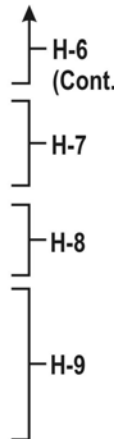
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Sincerely,

*Grace Kato*

Grace Kato  
Public Land Management Specialist

cc: DEPM  
Curtis Fossum  
Jennifer Lucchesi  
Barbara Dugal



**H-8** In response to this comment, the Port will revise **Mitigation Measures 4.9-1D** and **4.9-2D** to include the following: “...*if the success criteria (including presence of green sea turtles based on soundings from the existing tagging program) are not met, which would require...*” The Port, in coordination with NMFS and the U.S. Navy, has a tagging program that provides information regarding the location of green sea turtles within the Bay. Data from this program is continually generated and available. This data would be reviewed to determine the visitation by turtles of the eelgrass mitigation areas.

**H-9** Assessment of invasive terrestrial species was provided in the Revised DEIR due to the potential for project-related uses and activities to result in introduction of invasive species. Specifically, landscaping, grading, and habitat restoration without adequate invasive species control could result in introduction of invasive species either directly or indirectly through wind-dispersed seed. Although the example cited (green alga, *Caulerpa*), is typically caused by non-development-related events (e.g., direct introduction), the Proposed Project will comply with the *Caulerpa* Control Protocol for any in-water development activities. In fact, the Proposed Project would provide better control over public access and would likely result in the decreased potential for introduction of non-native marine species.

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## Comment Letter I



### City of National City Planning Department

1243 National City Blvd., National City, CA 91950 (619) 336-4310  
ROGER G. POST - DIRECTOR

August 7, 2008

John W. Helmer  
Unified Port of San Diego  
P. O. Box 120488  
San Diego, CA 92112-0488

Subject: Chula Vista Bayfront Master Plan and Port Master Plan Amendment  
Chula Vista, California (UPD #83356-EIR-658; SCH #2005081077)

Dear Mr. Helmer:

The City of National City appreciates the opportunity to comment on the proposed Bayfront Master Plan. We request comments and/or recommendations be considered in the Final Environmental Impact Report for possible changes to the project.

1. The Executive Summary should include an overall comprehensive project description that specifically states the size, height, number of hotel rooms, retail/office spaces, etc. The project description within the Executive Summary segments the project into phases and serves to mislead the magnitude of the project and potential impacts. I-1
2. Mitigation Measure 4.2-8 (pp 1-32) defines "the responsible entities (the Entities) included in this effort will include, but may not be limited to the City, other cities along I-5, the Port, SANDAG, and Caltrans." Please be advised this project cannot require neighboring entities to bear the burden of this project. The City of National City would be willing to participate in further studies on potential improvements along the I-5 corridor; however we will not participate in financing improvements of direct project impacts. The proposed mitigation is inadequate because it requires other entity participation for direct impacts from the project. The mitigation proposed is inadequate because of its requirement that we participate in financing improvements of direct project impacts. The project proponent has the obligation for mitigating direct impacts. I-2
3. The City questions the assumptions of the traffic volumes assigned to Broadway towards SR 54 and National City Boulevard given the fact that there is poor level of service on I-5. We request that the traffic report be revised to consider assigning higher, more realistic, volumes to Broadway heading north towards SR 54 and National City Boulevard. I-3

Recycled Paper

## Response to Comment Letter I

### City of National City, Planning Department

August 7, 2008

- I-1** This comment suggests that a comprehensive project description should be included in *Chapter 1.0, Executive Summary. Chapter 3.0, Project Description*, of the Revised Draft Environmental Impact Report (DEIR), is 161 pages and is comprehensive in nature. Many of the descriptive details of individual components of the project are summarized in an effort to keep the *Executive Summary* brief. The *Executive Summary* provides a series of tables (*Tables 1-1* through *1-8*), which provide the information as requested by the commenter for each phase.
- I-2** This comment states that the City of National City will not participate in financing required improvements of the Proposed Project. **Mitigation Measure 4.2-8** provides for the San Diego Unified Port District's (Port's) and City of Chula Vista's (City's) participation in the Interstate 5 (I-5) South Corridor Plan, which is a regional study that is planned with or without the Proposed Project. The Revised DEIR analyzes the impacts of the Proposed Project on a direct and cumulative basis and neither assumes nor requires that neighboring cities will provide portions of the mitigation in the form of financing or direct improvements to mitigate on its behalf.
- I-3** The comment requests that the traffic study be revised to assign higher traffic volumes to Broadway headed north toward State Route 54 and National City Boulevard. The comment does not provide any facts or other data indicating that the information provided in the Revised DEIR is inaccurate. The roads identified in the comment letter are not Congestion Management Plan (CMP) arterials, and according to the traffic study methodology, the study area was defined by CMP Guidelines, which are 2,400 average daily trips (ADT) and 50 peak hour trips attributed to the project. Those roadway locations did not fall within the study area.

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| <p>4. Mitigation Measure 4.2-8(g) (page 1-33) identifies a timeframe that allows for an unlimited number of extensions for the preparation of a multi-jurisdictional effort to develop the I-5 Corridor Plan to mitigate "Significant and unmitigated" traffic impacts. The Plan should be prepared within a finite timeframe that reflects the completion of improvements and the impact of these improvements. Otherwise, the mitigation is inadequate due to the lack of specificity, enforceability, and commitment.</p>  | I-4  |
| <p>5. Mitigation Measure 4.2-8 provides for the development of "The Plan" to address impacts of the project. This is not a mitigation measure since it is a Plan to Plan approach and does not result in measurable mitigation measures.</p>  | I-5  |
| <p>6. The EIR should evaluate consistency with the Regional Transportation Plan (RTP) and the Regional Comprehensive Plan (RCP) since it projects beyond the 2030 buildout of the RTP. The project provides direct impact on the planned land use and transportation improvements and should be evaluated as such.</p>  | I-6  |
| <p>7. Mitigation Measure 4.6-2 identifies the mitigation as a plan to address the significant and unmitigated impacts to air quality. Once again, this is a Plan to Plan evaluation and the project mitigation can not be dependent on mitigation measures that have not yet been identified and quantified.</p>  | I-7  |
| <p>8. The project will result in significant long-term, permanent impacts to terrestrial and marine biological resources. The mitigation measures should be identified, coordinated, and completed for each district of the project and not delayed to other phase and other districts. Many of the associated mitigation provides for additional reports to be prepared rather than specific quantifiable mitigation measures. If mitigation measures cannot be developed at the time of the certification of the EIR commitment by the project should include adequate funding to nonprofit wildlife organizations to develop wildlife management projects, wildlife rescue programs, and educational programs.</p> | I-8  |
| <p>9. The Mitigation Measures 4.8-6 C. provides for a raptor nest management plan to be implemented <u>once the project is built</u>. Since the project extends until 2031, is the mitigation measure reasonable since the impacts will occur with the development of Phase I?</p>  | I-9  |
| <p>10. Mitigation Measure 4.8-10 does not provide clear measurable mitigation measures and relies on the mitigation to be developed at a later time, without the benefit of public review. The mitigation measure should address and provide for adequate habitat for the Burrowing owls, quantifiable impact and measurable protection for avian in-flight mortality, long term impacts to raptor nesting, etc.</p>  | I-10 |
| <p>11. Mitigation Measure 4.8-11 offers mitigation ratios and total mitigation acreage but does not define location. The mitigation acreage should be within a reasonable distance from the project to benefit the south bay communities.</p>   | I-11 |
| <p>12. The Green Car Line presented may offer opportunities for the Chula Vista community to access the amenities of the project, but the traffic will impact the adjacent community of National City and access may be more severely impacted due to traffic and restricted access to the project. Additional resources should be provided to offer access to residents of National City. The project should consider funding mechanisms for the Green Car.'</p>   | I-12 |

**I-4** This comment states that the I-5 South Corridor Plan should be prepared with a finite timeframe for improvements. The I-5 South Corridor Plan is a regional multiagency effort conducted by Caltrans and the San Diego Association of Governments (SANDAG). **Mitigation Measure 4.2-8** describes the participation commitment made on behalf of the Port and City ; however, until Caltrans, SANDAG, and other member cities prepare the plan, the specific ultimate improvements cannot be identified. In the interim, the City has approved and is implementing the Western Traffic Development Impact Fee, of which a portion will be contributed toward the ultimate improvements, as required by the results of the I-5 South Corridor Plan. The California Environmental Quality Act (CEQA, 14 CCR 15000 et seq.) allows for payment of fees into an established program that will mitigate the cumulative impacts contributed by the Proposed Project.

**I-5** The comment expresses concern regarding whether **Mitigation Measure 4.2-8** is an improper plan-to-plan analysis. The project's traffic study did evaluate potential impacts to I-5 on- and off-ramps, as well as impacts to I-5 resulting from the Proposed Project. However, as part of a regional effort, Caltrans and SANDAG will be conducting an overall I-5 South Corridor Plan, which will identify regional solutions to the cumulative traffic impacts on I-5. **Mitigation Measure 4.2-8** specifically identifies a funding mechanism to participate in those improvements once they are determined.

**I-6** The Regional Transportation Plan (RTP) gets reassessed and updated every 5 years, and because the project features in Phase IV are relatively programmatic, any development will be required to conduct subsequent environmental review. The traffic analysis did not take exception with the approved RTP; therefore, it is consistent with this plan. The Port and City are participating agencies in the I-5 South Corridor Plan, and once completed, will comply with the recommendations set forth by the study.

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I-7 The comment states that **Mitigation Measure 4.6-2** proposes a plan rather than specific mitigation measures. The CEQA Guidelines, Section 15126.4 (a)(1)(B) states that, "formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (14 CCR 15000 et seq.). As described in **Mitigation Measure 4.6-2**, preparation of the Air Quality Improvement Plan (AQIP) during the final project design will ensure satisfaction of the requirements of the AQIP, such as site plan modifications or participation in the Greenstar Building Energy Program. The AQIP is required as part of the project and involves specific performance standards that will mitigate the project's significant effects. **Mitigation Measure 4.6-2** also requires energy-efficiency measures to be adopted.

I-8 This comment expresses concern with delayed mitigation to future phases and districts. The Revised DEIR was prepared to act as both a project-level EIR for the Phase I components, as well as a program-level EIR for Phases II through IV. CEQA recommends use of a program EIR when there are a series of actions that can be characterized as one large project. Some advantages include allowing the lead agency to consider broad policy alternatives and program-wide mitigation measures at an earlier time. Impacts were wholly quantified where project-level detail was available; however, in future phases and consistent with CEQA Guidelines Section 15168(c), subsequent activities will be examined with additional environmental review at the time of approving those future phased components (14 CCR 15000 et seq.). As such, CEQA further requires public notice when the agency later proposes to carry out or approve an activity within the program.

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**I-9** This comment mischaracterizes the raptor management requirements outlined in **Mitigation Measure 4.8-6**. First, it should be noted that design criteria mitigation for potential increased predation by raptors is included for each development component within 500 feet of preserve areas. Design criteria will be applied to structures within these areas to discourage raptor perching opportunities. Moreover, the requirement for a raptor management plan and monitoring is required at the coastal development permit stage for each development project. This measure ensures that as each development project comes on line, it is required to provide for raptor management and monitoring. Therefore, this measure is incrementally implemented with each development, and is not deferred to the end of the development phases, as this comment suggests.

**I-10** **Mitigation Measure 4.8-10** includes mitigation ratios; identifies the type and location of habitat creation, restoration, and enhancement; and establishes performance criteria for the mitigation plans. Therefore, the mitigation measure does in fact require measurable results, and does not defer mitigation to a later time. Mitigation for sensitive vegetation communities that support species such as burrowing owl (*Athene cunicularia*) is provided through the required mitigation ratios contained in the City's Subarea Plan. Mitigation measures to address bird strikes are provided in **Mitigation Measure 4.8-22** of the Revised DEIR, and because it is not related to vegetation communities, such mitigation is not included in **Mitigation Measure 4.8-10**. It is not clear what the commenter means by "long term impacts to raptor nesting." As noted in the discussion of existing conditions, impacts, and mitigation measures contained in *Section 4.8* of the Revised DEIR, raptor nesting in proximity of preserve areas should be discouraged. **Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts related to bird strikes and disorientation.



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| <p>12. The Green Car Line presented may offer opportunities for the Chula Vista community to access the amenities of the project, but the traffic will impact the adjacent community of National City and access may be more severely impacted due to traffic and restricted access to the project. Additional resources should be provided to offer access to residents of National City. The project should consider funding mechanisms for the Green Car.'</p>   | I-12 |

**I-11** The location of on-site proposed mitigation opportunities for jurisdictional waters impacts are shown on *Figures 4.8-23 and 4.8-26* of the Revised DEIR.

**I-12** *Section 4.2, Traffic and Circulation*, of the Revised DEIR includes a comprehensive evaluation of potential significant traffic impacts from the Proposed Project. No significant impacts are identified to occur within the boundaries of National City (although significant impacts to I-5 are identified). In addition, the Green Car Line is not a component of this project. *Chapter 3.0, Project Description*, of the Revised DEIR, makes reference to the City's adopted Urban Core Specific Plan, which identifies the potential for this shuttle service. However, the implementation of this shuttle is not part of the Proposed Project. In response to this comment, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. This comment does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

Comment Letter I (Page 3)

Page 3 of 3  
August 20, 2007

13. The project will create additional employment for the residents of National City and will require workforce housing into the City. The EIR should consider the impacts to the existing housing market in National City, the effects of rising rent (the effects of supply and demand), the impacts to already deteriorated housing in National City and opportunities for creating workforce housing.

I-13

Should you have any questions regarding the above or need additional information, please contact me at (619) 336-4319.

Sincerely,

  
Peggy Chapin, AICP  
Principal Planner

Attachments:

Cc: Claudia Silva, Senior Assistant City Attorney  
Steve Manganiello, Traffic Engineer

**I-13** This comment expresses concern with negative effects of the Proposed Project on housing in National City. The CEQA Guidelines limit the analysis of the effects on social and economic factors to the extent that they can result in a significant adverse physical effect. Nonetheless, the Proposed Project will result in additional housing in the Chula Vista Bayfront area, which will increase the supply of available housing to not only Chula Vista residents, but also National City residents. As such, the Proposed Project will provide additional housing options that may alleviate shortages in housing within National City.

In addition, as stated in the description for Parcels H-13 and H-14 in *Chapter 3.0, Project Description*, of the Revised DEIR, 150 units of the proposed residential development on Parcels H-13 and H-14 will be set aside for affordable housing. The Final EIR has been revised to clarify that 150 affordable restricted units will be provided by the residential developer, half for low-income households and half for moderate-income households. As the statutory requirement for new affordable housing production (15 percent) will result in a Redevelopment Agency requirement for 225 affordable units, the Redevelopment Agency will need to cause the production of the net 75 units. As the 15 percent requirement is not site specific, the Redevelopment Agency may meet the net requirement in another location.

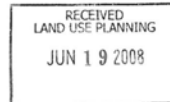
## Comment Letter J



### San Diego County Archaeological Society, Inc.

Environmental Review Committee

16 June 2008



To: Ms. Lesley Nishihira, Associate Planner  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, California 92101-1128

Subject: Revised Draft Environmental Impact Report  
Chula Vista Bayfront Master Plan and Port Master Plan Amendment

Dear Ms. Nishihira:

I have reviewed the cultural resources aspects of the subject Revised DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR, we have the following comments:

1. The impact analysis in Section 4.10.3, regarding archaeological site SDI-5512, states that "However, should excavation occur below the fill line, a qualified archaeological monitor would be present." This requirement has been omitted from Section 4.10.4, Mitigation Measures, and needs to be added there to be a clear requirement during project implementation. However, it also needs to be expanded to define the authority and responsibilities of the monitor, including reporting and curation of any resulting collections. We recommend that wording similar to the County's archaeological monitoring conditions be utilized. They can be found on the County's website, at [http://www.sdcounty.ca.gov/dplu/Resource/docs/3~pdf/Cultural\\_Report\\_Format.pdf](http://www.sdcounty.ca.gov/dplu/Resource/docs/3~pdf/Cultural_Report_Format.pdf), beginning on page 54. Wording for curation requirements is also included, on page 48. The contact person at the County's Department of Planning and Land Use is Planning Manager Donna Beddow (858-694-3656, or [donna.beddow@sdcounty.ca.gov](mailto:donna.beddow@sdcounty.ca.gov)). The San Diego Archaeological Center (a separate organization from SDCAS), working with Ms. Beddow, has developed a generic version of the County's mitigation conditions. If you would like a copy, I can provide an electronic copy, or you may contact the Center's Director, Cindy Stankowski, at [cstankowski@sandiegoarchaeology.org](mailto:cstankowski@sandiegoarchaeology.org).
2. While the potential need to monitor in the vicinity of SDI-5512 is addressed, our comment on the original version of this DEIR (see our letter dated 7 October 2006) regarding monitoring elsewhere has not been addressed. That comment was: "While the fill placed over much of the project area was deposited around 1968, the project archaeologists should identify areas where excavation that extends below the fill should be monitored by a qualified

J-1

J-2

P.O. Box 81106 • San Diego, CA 92138-1106 • (858) 538-0935

## Response to Comment Letter J

### San Diego County Archaeological Society, Inc.

June 16, 2008

**J-1** This comment recommends adding wording to require archaeological monitoring conditions as demonstrated by the County of San Diego website as mitigation measures. The Final EIR will include additional language as suggested in the comment letter; however, the Proposed Project does not have an identified significant environmental impact to cultural resources; therefore, mitigation measures are not the appropriate solution, as it would lead a reader to think there are significant impacts to cultural resources. In addition, these measures will serve as a project design feature, and will function as a requirement and condition of project approval.

**J-2** This comment states that "archaeologists should identify areas where excavation that extends below the fill should be monitored by a qualified archaeological monitor." As indicated on page 4.10-3 of the Revised DEIR, no previously unrecorded prehistoric cultural material was found during the field survey for the proposed development. The entire project area has been disturbed by previous historic and modern activities. Because the majority of the Harbor District has been developed on imported fill that was placed on the sandy bay bottom, it is highly unlikely that a significant cultural resource exists. As stated in the Revised DEIR (page 4.10-5), "...should excavation occur below the fill line, a qualified archaeological monitor would be present."


**Comment Letter J (Page 2)**

archaeological monitor." Please ensure that such consultation occurs and that any resulting recommendations are incorporated into the Final EIR.

3. We continue to believe that, as stated in our 2006 letter, that the need for additional CEQA review if a future project redesign could result in impacts to the Belt Line ROW, needs to be recognized by including it in the mitigation measures in Section 4.10.4. Please incorporate that requirement so that it is clearly binding on future development activities on the project area.

Thank you for the opportunity to offer our comments on this project's environmental documents.

Sincerely,

  
James W. Royle, Jr., Chairperson  
Environmental Review Committee

cc: SDCAS President  
File

P.O. Box 81106 • San Diego, CA 92138-1106 • (858) 538-0935

J-2  
(Cont.)

J-3

**J-3**

This comment is a request that information appearing in the Cultural Resources Report be added to the Final EIR. Per the suggested comment, *Section 4.10.3* of the Final EIR has been revised to state the following: "The Proposed Project would not result in a potential significant impact to cultural resources in the project area. Accordingly, no mitigation measures would be required. Should there be any future redesign of the project such that significant impacts to the Belt Line ROW occur, a subsequent review of the impacts using CEQA guidelines would be necessary. According to CEQA, a significant impact is a project effect that may cause a substantial adverse change in the significance of a historical resource."

## Comment Letter K

Lesley Nishihira - CV Bayfront EIR Comments

**From:** "Cleveland, Travis" <tl@sandag.org>  
**To:** "Lesley Nishihira" <lnishihira@portofsandiego.org>  
**Date:** 8/7/2008 1:51 PM  
**Subject:** CV Bayfront EIR Comments

Hi Lesley,

The text of our letter is copied in the email below. A printed, signed copy is on letterhead and in the mail to you as we speak. Would you confirm that you have received this email? Thank you!

August 7, 2008

7000300

Lesley Nishihira  
 San Diego Unified Port District  
 Land Use Planning Department  
 PO Box 120488-0488  
 San Diego, CA 92112

Dear Ms. Nishihira:

SUBJECT: Chula Vista Bayfront Master Plan

Thank you for the opportunity to review the recirculated Draft Environmental Impact Report (DEIR) for the Chula Vista Bayfront Master Plan (CVBMP) and Port Master Plan Amendment, which proposes the redevelopment of the Chula Vista Bayfront area with an assortment of commercial, hotel, retail, residential, open space, and recreational uses.

Prior to the previously circulated EIR, we had the opportunity to meet with members of the Port of San Diego and City of Chula Vista staff to review SANDAG's concerns about the DEIR, and to discuss how the Port and the City of Chula Vista might participate in making improvements to surface transportation to mitigate the project's traffic impacts and improve access to the Bayfront. We greatly appreciate the continued ability to offer input on this development project. Our letter on the previous EIR (dated January 11, 2007) is attached to this letter for reference; all applicable comments from the letter are still in effect.

Our current comments are based on policies included in the Regional Comprehensive Plan (RCP), the Regional Transportation Plan (RTP), and the Congestion Management Program (CMP), and are submitted from a regional perspective emphasizing the need for land use and transportation coordination and implementation of smart growth principles.

A key goal of the RCP is to focus growth in smart growth opportunity areas. The proposed project is located within a potential Town Center identified on the Smart Growth Concept Map. The Town Center calls for a residential density of 20 to 45 or more dwelling units per acre and an employment density of 30 to 50 employees per net acre. The transit service to support this place type exists nearby at the E Street and H Street trolley stops, which are within a walkable distance of parts of the project. However, direct transit service does not exist to the entire project area; therefore, more work is needed to ensure adequate service to enable a true "Smart Growth" development.

Nonetheless, the land uses proposed in the preferred alternative of the CVBMP reflect the City of Chula Vista and SANDAG's smart growth principles. The proposed land uses are significantly more intense than the residential and employment targets contained in the RCP; therefore, this project would contribute toward the project area meeting the density and intensity targets of the Town Center. SANDAG commends the Port of San Diego and the

K-1

K-2

K-3

## Response to Comment Letter K

San Diego Association of Governments

August 7, 2008

**K-1** This comment summarizes the Proposed Project and states appreciation of continued coordination with SANDAG regarding transportation and access issues, and states the comments on the previous EIR are still in effect.

**K-2** This comment describes the focus of smart growth in the Regional Comprehensive Plan (RCP), RTP, and CMP in the region. It also states that direct transit service does not exist to the entire project area and more work is needed to ensure adequate service to enable a true "Smart Growth" development. As discussed in *Sections 3.4.7.1* and *4.2.2.6(c)* of the Revised DEIR, the City's Urban Core Specific Plan identifies the potential for a shuttle service that would link various destinations within the western portions of Chula Vista, including the Proposed Project area. The Green Car Line (also called the West Side Shuttle) would stop frequently along its entire route to provide a fast and convenient link between the high-density redevelopment areas in the urban core and Bayfront and the regional light rail trolley system. As described in *Chapter 3.0, Project Description*, of the Revised DEIR (page 3-147), the Green Car Line is a route identified in the City's Urban Core Specific Plan; however, the implementation of this shuttle is not part of the Proposed Project. As discussed in the Revised DEIR, implementation of the Green Car Line transit system proposed in the City's Urban Core Specific Plan is dependent upon the availability of funding. This comment does not discuss the adequacy of the EIR; therefore, no further response is required.

Comment Letter K (Page 2)	
<p>City of Chula Vista for the commitment to smart growth, walkable, transit-supportive development. Given the scope of this development, these agencies may eventually wish to change the smart growth place type on the Concept Map from Town Center to Urban Center, which proposes residential densities of 40-75+ units per acre, mid- to high-rise mixed use, and regional employment with access to highways and regional transit.</p> <p>SANDAG applauds the plan's efforts to promote open spaces, mixed uses, walkability, high-density housing, affordable housing, terraced buildings, access to transit, and recreational/cultural amenities within the plan, as well as the overall mix of land uses (46% hotel, retail, office, housing, and facilities; 43% open space and parks; 11% water area uses).</p> <p>Since this project is located within an area on the Smart Growth Concept Map, the project area may be eligible to compete for Smart Growth Incentive Program (SGIP) funds through the Port or the City of Chula Vista.</p> <p><b>Multi-modal Transportation Analysis</b></p> <p>The 2030 RTP provides a multi-modal approach to meet the region's transportation needs. As such, SANDAG staff requests that the traffic analysis for this project also consider balancing the needs of motorists, transit riders, pedestrians, and bicyclists.</p> <p>The transportation analysis should address potential impacts to existing and planned transit by identifying the transit mode share (bus and light rail) as a share of total project trips, existing or planned transit stop locations within/adjacent to the proposed project, and any traffic delay on bus service resulting from the proposed project. This analysis is desired only as a reference to help quantify potential impacts on the transit system.</p> <p>In considering mitigation for regional transportation impacts, the transportation analysis should consider alternatives to driving alone during peak periods, such as carpooling, vanpooling, telecommuting, bicycling, internal shuttles, flexible work hours, and the potential of a Transportation Demand Management (TDM) plan as a part of this project.</p> <p>Regional plans for the Bayshore Bikeway include improvements within the project area. The Port and the City of Chula Vista have worked closely with SANDAG to address Bikeway needs as a part of this development. We appreciate the efforts on the part of both agencies in this regard and look forward to seeing these improvements made as part of the project's development. Improved bicycle access to local destinations can help to mitigate the traffic effects of projects and provide mobility options for residents and employees.</p> <p>SANDAG staff recommends that the project applicant also consult with the Metropolitan Transit System (MTS), the transit service provider within the project area, to determine the need/ability to integrate transit stops into the project and continue to work with SANDAG and Caltrans to coordinate planned highway improvements.</p> <p>Additionally, when analyzing future traffic conditions (2030), SANDAG recommends using the transportation network included in the RTP Reasonably Expected funding scenario.</p> <p>As possible traffic mitigation for the project, please consider a contribution to the grade separation of the trolley tracks at H Street and/or E Street as a part of the project.</p> <p><b>Specific EIR Revisions Requested:</b></p> <p><b>Page 4.1-90, Table 4.1-9, LUT 15.3:</b> In order to support the implementation of enhanced transit services, it will be important that the Bayfront plan closely identify infrastructure needs to support public and private transit services. Some of the infrastructure requirements will be space for bus stops, bus layovers, driver amenities (restrooms), and potential transit signal priority that will allow for schedule adherence. In places of severe congestion, it may be important to evaluate the use of queue jumpers and/or transit lanes. SANDAG feels that the EIR should include more detail on transit – rather than stating that the project will include public and private transit. More consideration needs to be given to how to make transit accessible, easy to use, and reliable.</p> <p><b>Page 4.1-90, Table 4.1-9, LUT 15.5:</b> SANDAG's position on green car or shuttle services is that they are very community-specific and not regional in nature. As such they require a high level of subsidy and are not competitive in the regional funding process for public transit. Green car/shuttle services are not eligible for regional public transit funds. Therefore, if it is the intent of the Port to operate a green car/shuttle service it will be important to identify local/private funding. SANDAG staff is available to assist in the planning/development of these services.</p>	<p><b>K-3</b> This comment states that the Proposed Project contributes toward the area meeting the density and intensity targets of the Town Center. SANDAG applauds the Port and City's efforts to implement "Smart Growth" principles in all aspects of the project.</p> <p><b>K-4</b> The proposed project's commitment to transit, pedestrian, and bicycle circulation and traffic analysis considered the needs of motorists, transit riders, pedestrians, and bicycles. The provision of transit service is out of the control of the Port or the City and demonstrated impacts on transit from additional ridership would be handled through the San Diego Metropolitan Transit System (MTS). As demand management is flexible and self-mitigating and under the purview of the MTS, no specific impacts from the Proposed Project are anticipated.</p> <p><b>K-5</b> Please see the response to comment K-4.</p> <p><b>K-6</b> This comment suggests the inclusion of transportation demand management as a part of the project. As described in <i>Section 4.6, Air Quality</i>, of the Revised DEIR (page 4.6-75), a series of measures are included as part of <b>Mitigation Measure 4.6-6</b> to reduce greenhouse gas emissions and thereby also reduce regional transportation impacts, such as the following: promotion of ride-sharing programs; designating a certain percentage of parking spaces for ride-sharing vehicles; designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles; providing a website or message board for coordination rides; providing public transit incentives, such as free or low-cost monthly transit passes; providing adequate bicycle parking; providing facilities that encourage bicycle commuting; and instituting a telecommuter work program and providing incentives for equipment purchases to allow high-quality teleconferences.</p>

Comment Letter K (Page 2)	
<p>City of Chula Vista for the commitment to smart growth, walkable, transit-supportive development. Given the scope of this development, these agencies may eventually wish to change the smart growth place type on the Concept Map from Town Center to Urban Center, which proposes residential densities of 40-75+ units per acre, mid- to high-rise mixed use, and regional employment with access to highways and regional transit.</p> <p>SANDAG applauds the plan's efforts to promote open spaces, mixed uses, walkability, high-density housing, affordable housing, terraced buildings, access to transit, and recreational/cultural amenities within the plan, as well as the overall mix of land uses (46% hotel, retail, office, housing, and facilities; 43% open space and parks; 11% water area uses).</p> <p>Since this project is located within an area on the Smart Growth Concept Map, the project area may be eligible to compete for Smart Growth Incentive Program (SGIP) funds through the Port or the City of Chula Vista.</p> <p><b>Multi-modal Transportation Analysis</b></p> <p>The 2030 RTP provides a multi-modal approach to meet the region's transportation needs. As such, SANDAG staff requests that the traffic analysis for this project also consider balancing the needs of motorists, transit riders, pedestrians, and bicyclists.</p> <p>The transportation analysis should address potential impacts to existing and planned transit by identifying the transit mode share (bus and light rail) as a share of total project trips, existing or planned transit stop locations within/adjacent to the proposed project, and any traffic delay on bus service resulting from the proposed project. This analysis is desired only as a reference to help quantify potential impacts on the transit system.</p> <p>In considering mitigation for regional transportation impacts, the transportation analysis should consider alternatives to driving alone during peak periods, such as carpooling, vanpooling, telecommuting, bicycling, internal shuttles, flexible work hours, and the potential of a Transportation Demand Management (TDM) plan as a part of this project.</p> <p>Regional plans for the Bayshore Bikeway include improvements within the project area. The Port and the City of Chula Vista have worked closely with SANDAG to address Bikeway needs as a part of this development. We appreciate the efforts on the part of both agencies in this regard and look forward to seeing these improvements made as part of the project's development. Improved bicycle access to local destinations can help to mitigate the traffic effects of projects and provide mobility options for residents and employees.</p> <p>SANDAG staff recommends that the project applicant also consult with the Metropolitan Transit System (MTS), the transit service provider within the project area, to determine the need/ability to integrate transit stops into the project and continue to work with SANDAG and Caltrans to coordinate planned highway improvements.</p> <p>Additionally, when analyzing future traffic conditions (2030), SANDAG recommends using the transportation network included in the RTP Reasonably Expected funding scenario.</p> <p>As possible traffic mitigation for the project, please consider a contribution to the grade separation of the trolley tracks at H Street and/or E Street as a part of the project.</p> <p><b>Specific EIR Revisions Requested:</b></p> <p><b>Page 4.1-90, Table 4.1-9, LUT 15.3:</b> In order to support the implementation of enhanced transit services, it will be important that the Bayfront plan closely identify infrastructure needs to support public and private transit services. Some of the infrastructure requirements will be space for bus stops, bus layovers, driver amenities (restrooms), and potential transit signal priority that will allow for schedule adherence. In places of severe congestion, it may be important to evaluate the use of queue jumpers and/or transit lanes. SANDAG feels that the EIR should include more detail on transit – rather than stating that the project will include public and private transit. More consideration needs to be given to how to make transit accessible, easy to use, and reliable.</p> <p><b>Page 4.1-90, Table 4.1-9, LUT 15.5:</b> SANDAG's position on green car or shuttle services is that they are very community-specific and not regional in nature. As such they require a high level of subsidy and are not competitive in the regional funding process for public transit. Green car/shuttle services are not eligible for regional public transit funds. Therefore, if it is the intent of the Port to operate a green car/shuttle service it will be important to identify local/private funding. SANDAG staff is available to assist in the planning/development of these services.</p>	<p><b>K-7</b> This comment commends the coordinated work between the Port, City, and SANDAG to address bikeway needs and to include improvements to the Bayshore Bikeway in the project area. This comment is noted but does not address the adequacy of the EIR. No further response is warranted.</p> <p><b>K-3 (Cont.)</b></p> <p><b>K-8</b> The comment suggests a meeting with MTS to discuss transit service within the project area. In August 2007, Port and City staff met with M. Daney of MTS to discuss provision of transit service within the area. At the time of the meeting, it was determined that ridership would need to be demonstrated before resources would be allocated to the Bayfront area.</p> <p><b>K-9</b> This comment recommends using the transportation network from the RTP "Reasonably Expected" funding scenario. The traffic analysis used the recommended scenario. No further response is warranted.</p> <p><b>K-10</b> <b>Mitigation Measure 4.2-8</b> describes the fair-share contribution that the project applicants will make towards the Western Transportation Development Impact Fee (WTDIF), which includes funding of and participation in the I-5 South Corridor Plan. Future projects may include the grade separation and no further mitigation is warranted.</p> <p><b>K-11</b> The commenter recommends that consideration be given to making transit services accessible, easy to use, and reliable. In response, infrastructure requirements for public transit will be addressed when final roadway designs are prepared. The comment will be included in the Final EIR and decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project.</p>

Comment Letter K (Page 2)

City of Chula Vista for the commitment to smart growth, walkable, transit-supportive development. Given the scope of this development, these agencies may eventually wish to change the smart growth place type on the Concept Map from Town Center to Urban Center, which proposes residential densities of 40-75+ units per acre, mid- to high-rise mixed use, and regional employment with access to highways and regional transit.

SANDAG applauds the plan's efforts to promote open spaces, mixed uses, walkability, high-density housing, affordable housing, terraced buildings, access to transit, and recreational/cultural amenities within the plan, as well as the overall mix of land uses (46% hotel, retail, office, housing, and facilities; 43% open space and parks; 11% water area uses).

Since this project is located within an area on the Smart Growth Concept Map, the project area may be eligible to compete for Smart Growth Incentive Program (SGIP) funds through the Port or the City of Chula Vista.

**Multi-modal Transportation Analysis**

The 2030 RTP provides a multi-modal approach to meet the region's transportation needs. As such, SANDAG staff requests that the traffic analysis for this project also consider balancing the needs of motorists, transit riders, pedestrians, and bicyclists.

The transportation analysis should address potential impacts to existing and planned transit by identifying the transit mode share (bus and light rail) as a share of total project trips, existing or planned transit stop locations within/adjacent to the proposed project, and any traffic delay on bus service resulting from the proposed project. This analysis is desired only as a reference to help quantify potential impacts on the transit system.

In considering mitigation for regional transportation impacts, the transportation analysis should consider alternatives to driving alone during peak periods, such as carpooling, vanpooling, telecommuting, bicycling, internal shuttles, flexible work hours, and the potential of a Transportation Demand Management (TDM) plan as a part of this project.

Regional plans for the Bayshore Bikeway include improvements within the project area. The Port and the City of Chula Vista have worked closely with SANDAG to address Bikeway needs as a part of this development. We appreciate the efforts on the part of both agencies in this regard and look forward to seeing these improvements made as part of the project's development. Improved bicycle access to local destinations can help to mitigate the traffic effects of projects and provide mobility options for residents and employees.

SANDAG staff recommends that the project applicant also consult with the Metropolitan Transit System (MTS), the transit service provider within the project area, to determine the need/ability to integrate transit stops into the project and continue to work with SANDAG and Caltrans to coordinate planned highway improvements.

Additionally, when analyzing future traffic conditions (2030), SANDAG recommends using the transportation network included in the RTP Reasonably Expected funding scenario.

As possible traffic mitigation for the project, please consider a contribution to the grade separation of the trolley tracks at H Street and/or E Street as a part of the project.

**Specific EIR Revisions Requested:**

**Page 4.1-90, Table 4.1-9, LUT 15.3:** In order to support the implementation of enhanced transit services, it will be important that the Bayfront plan closely identify infrastructure needs to support public and private transit services. Some of the infrastructure requirements will be space for bus stops, bus layovers, driver amenities (restrooms), and potential transit signal priority that will allow for schedule adherence. In places of severe congestion, it may be important to evaluate the use of queue jumpers and/or transit lanes. SANDAG feels that the EIR should include more detail on transit – rather than stating that the project will include public and private transit. More consideration needs to be given to how to make transit accessible, easy to use, and reliable.

**Page 4.1-90, Table 4.1-9, LUT 15.5:** SANDAG's position on green car or shuttle services is that they are very community-specific and not regional in nature. As such they require a high level of subsidy and are not competitive in the regional funding process for public transit. Green car/shuttle services are not eligible for regional public transit funds. Therefore, if it is the intent of the Port to operate a green car/shuttle service it will be important to identify local/private funding. SANDAG staff is available to assist in the planning/development of these services.

K-3  
(Cont.)

K-4

K-5

K-6

K-7

K-8

K-9

K-10

K-11

K-12

**K-12** This comment provides information regarding SANDAG's lack of funding for the provision of local transit, and highlights the financial burden on local communities to provide transit service. As described in *Chapter 3.0, Project Description*, of the Revised DEIR (page 3-147), the Green Car Line is a route identified in the City's Urban Core Specific Plan; however, the implementation of this shuttle is not part of the Proposed Project. As discussed in the Revised DEIR, implementation of the Green Car Line transit system proposed in the City's Urban Core Specific Plan is dependent upon the availability of funding. The Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. Although the Port and City are continuing their efforts to identify potential funding sources, SANDAG has indicated that the Green Car Line is considered to be purely a local transit facility, which is not eligible for regional public transit funds and will need to seek local or private funding.



Comment Letter K (Page 3)

As part of the future South I-5 Corridor study, the H Street Bus Rapid Transit (BRT) project will be readdressed. (Jennifer should review this section. My understanding is that it is not a BRT route, but rather a Rapid Bus route at this time in the RTP. The rest of the section seems correct.) The route currently does not score well on a regional level due to low demand/densities on the eastern end of the route and difficulty getting transit priorities on the western end of the route. As such, the route is currently in the Unconstrained Revenue Scenario of the RTP with low priority for implementation. In order to be more competitive with other regional routes and move the H Street BRT project into the Reasonably Expected revenue scenario of the RTP, the route needs to be restructured and overall densities along the H Street Corridor need to be increased. Our analysis of the H Street route will include an evaluation of extending the route directly into the Bayfront.

K-13

**Page 4.2-44, TABLE 4.2-8, Policy AC.5.A:** SANDAG supports the development of a private intra-project transit service to provide connections to the Mid-Bayfront area and local transit centers. As part of the development of this project, it will be essential that a long-term private funding source be identified to support this service. Additionally, it will be important that the plan for this service include an evaluation of space needs for the shuttle at local transit centers to allow for safe boarding/alighting of passengers. Currently, neither the E Street nor the H Street transit stations have sufficient space to add another bus bay or boarding platform. The Port and the City of Chula Vista should coordinate with MTS closely to determine how these services could be integrated.

K-14

**Page 4.2-226, Section 4.2.5, Mitigation Measures:** Please add SANDAG/MTS to the following sentence: "Developers of any parcel located within the Chula Vista Bayfront Master Plan shall reimburse the Port, City, SANDAG/MTS, and/or other developers the pro-rata cost of the installation of public transportation improvements."

K-15

**Page 4.2-228 and -229, Mitigation Measure 4.2-8:** Please remove the word "management" from the phrase "would reduce congestion management with Caltrans standards" at the top of page 4.2-229.

K-16

**Page 4.6-8:** Ozone depleting substances and the Montreal Protocol are not relevant to the discussion of climate change.

K-17

**Page 4.16-7:** What is the source of the 17 miles per gallon estimate? At a regional scale, the Air Resources Board EMFAC air quality model produces a fuel economy assumption of around 20 mpg. Please justify or revise.

K-18

**Page 4.16-9:** The 2003 Regional Energy Strategy (RES) is the most recent SANDAG regional energy plan and should be cited in place of the 1994 plan. A PDF of the 2003 RES is available at [http://www.energycenter.org/uploads/Regional\\_Energy\\_Strategy\\_Final\\_07\\_16\\_03.pdf](http://www.energycenter.org/uploads/Regional_Energy_Strategy_Final_07_16_03.pdf)

K-19

**Caltrans Comments**

In addition to the comments above, SANDAG wishes to state our support of the following comments made by Caltrans in their letter of August 5, 2008.

- Caltrans is a key stakeholder in regional land use and transportation efforts. The State Highways serving the Chula Vista Bayfront should be regarded as both local and regional assets facilitating access and mobility needs for the entire San Diego Region. Operation of these state facilities could be adversely affected by the changes proposed in the CVBMP.
- Caltrans would expect the Direct and Cumulative impact mitigation to I-5 now identified in the Chula Vista Western Traffic Development Fee program be funded and implemented in a manner consistent with the issuance of building permits for the project phases as identified in the EIR. Although these mitigation projects are identified in the Chula Vista Western Traffic Development Impact Fee program, the timing of completing these mitigation improvements should still adhere to the implementation of such improvements based on when they occur as identified in the approving CEQA document.

K-20

Should impacts as part of phase I to the I-5 SB Ramps/Boulevard be negated with the redistribution of traffic from the H Street connection, we would assume any condition of occupancy of Phase I not take place until the H Street Connection is made; otherwise, direct impact mitigation should be implemented.

- Please explain the change in project mitigation to the J Street/I-5 NB Ramps from Phase II (2006 EIR) to Phase III in the current revised EIR.

**K-13** This comment states that the H Street Bus Rapid Transit project will be readdressed in the I-5 South Corridor Plan and that the route needs to be structured and overall densities along the H Street Corridor need to be increased in order to increase the likelihood that funding will be available for its implementation. The comment does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

**K-14** The Green Car Line is not a component of this project. *Chapter 3.0, Project Description*, of the Revised DEIR, makes reference to the City's adopted Urban Core Specific Plan, which identifies the potential for this shuttle service. However, the implementation of this shuttle is not part of the Proposed Project. In response to this comment, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. As recommended in the comment, the Port and City will coordinate their efforts with MTS to determine how shuttle services could be integrated with local transit centers.

**K-15** As it is not anticipated that SANDAG or MTS will install improvements, no reimbursement to those agencies is anticipated.

**K-16** As suggested in the comment, the word "management" has been removed from **Mitigation Measure 4.2-8**.

**K-17** The inclusion of discussion regarding the Montreal Protocol was intended to provide background regarding the regulatory framework that has been evolving over the past several decades. No revisions to the Final EIR will be made based on this comment.

## Comment Letter K (Page 3)

As part of the future South I-5 Corridor study, the H Street Bus Rapid Transit (BRT) project will be readdressed. (Jennifer should review this section. My understanding is that it is not a BRT route, but rather a Rapid Bus route at this time in the RTP. The rest of the section seems correct.) The route currently does not score well on a regional level due to low demand/densities on the eastern end of the route and difficulty getting transit priorities on the western end of the route. As such, the route is currently in the Unconstrained Revenue Scenario of the RTP with low priority for implementation. In order to be more competitive with other regional routes and move the H Street BRT project into the Reasonably Expected revenue scenario of the RTP, the route needs to be restructured and overall densities along the H Street Corridor need to be increased. Our analysis of the H Street route will include an evaluation of extending the route directly into the Bayfront.

K-13

**Page 4.2-44, TABLE 4.2-8, Policy AC.5.A:** SANDAG supports the development of a private intra-project transit service to provide connections to the Mid-Bayfront area and local transit centers. As part of the development of this project, it will be essential that a long-term private funding source be identified to support this service. Additionally, it will be important that the plan for this service include an evaluation of space needs for the shuttle at local transit centers to allow for safe boarding/alighting of passengers. Currently, neither the E Street nor the H Street transit stations have sufficient space to add another bus bay or boarding platform. The Port and the City of Chula Vista should coordinate with MTS closely to determine how these services could be integrated.

K-14

**Page 4.2-226, Section 4.2.5., Mitigation Measures:** Please add SANDAG/MTS to the following sentence: "Developers of any parcel located within the Chula Vista Bayfront Master Plan shall reimburse the Port, City, SANDAG/MTS, and/or other developers the pro-rata cost of the installation of public transportation improvements."

K-15

**Page 4.2-228 and -229, Mitigation Measure 4.2-8:** Please remove the word "management" from the phrase "would reduce congestion management with Caltrans standards" at the top of page 4.2-229.

K-16

**Page 4.6-8:** Ozone depleting substances and the Montreal Protocol are not relevant to the discussion of climate change.

K-17

**Page 4.16-7:** What is the source of the 17 miles per gallon estimate? At a regional scale, the Air Resources Board EMFAC air quality model produces a fuel economy assumption of around 20 mpg. Please justify or revise.

K-18

**Page 4.16-9:** The 2003 Regional Energy Strategy (RES) is the most recent SANDAG regional energy plan and should be cited in place of the 1994 plan. A PDF of the 2003 RES is available at [http://www.energycenter.org/uploads/Regional\\_Energy\\_Strategy\\_Final\\_07\\_16\\_03.pdf](http://www.energycenter.org/uploads/Regional_Energy_Strategy_Final_07_16_03.pdf)

K-19

### Caltrans Comments

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- Caltrans is a key stakeholder in regional land use and transportation efforts. The State Highways serving the Chula Vista Bayfront should be regarded as both local and regional assets facilitating access and mobility needs for the entire San Diego Region. Operation of these state facilities could be adversely affected by the changes proposed in the CVBMP.
- Caltrans would expect the Direct and Cumulative impact mitigation to I-5 now identified in the Chula Vista Western Traffic Development Fee program be funded and implemented in a manner consistent with the issuance of building permits for the project phases as identified in the EIR. Although these mitigation projects are identified in the Chula Vista Western Traffic Development Impact Fee program, the timing of completing these mitigation improvements should still adhere to the implementation of such improvements based on when they occur as identified in the approving CEQA document.

K-20

Should impacts as part of phase I to the I-5 SB Ramps/Boulevard be negated with the redistribution of traffic from the H Street connection, we would assume any condition of occupancy of Phase I not take place until the H Street Connection is made; otherwise, direct impact mitigation should be implemented.

- Please explain the change in project mitigation to the J Street/I-5 NB Ramps from Phase II (2006 EIR) to Phase III in the current revised EIR.

**K-18** U.S. Department of Energy 2005 Energy Efficiency Administration provided the source for the 17-miles-per-gallon estimate used in the Revised DEIR. This provides an adequate estimate of energy consumption for analysis in the document.

**K-19** The Final EIR has been revised to include the correct reference to the most recent Regional Energy Strategy.

**K-20** Please see the responses to comments E-1 through E-7.

## Comment Letter K (Page 4)

### **Conclusion**

We appreciate the opportunity to comment on this project. If you have any questions or concerns regarding my comments on this project, please contact me at 619-699-1944 or [ccl@sandag.org](mailto:ccl@sandag.org).

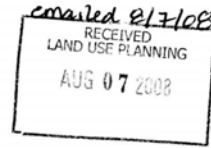
Sincerely,

Coleen Clementson  
Principal Regional Planner

-----  
Travis Cleveland  
Regional Planner  
San Diego Association of Governments (SANDAG)  
401 B Street, 7th Floor  
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Comment Letter L



August 7, 2008

Ms. Leslie Nishihara, Associate Redevelopment Planner  
San Diego Unified Port District  
Land Use Planning Department  
P.O. Box 120488  
San Diego, CA 92112-0488

RE: Recirculation of the Chula Vista Bayfront Master Plan (CVBMP) and Port Master Plan Amendment Revised Draft Environmental Impact Report (RDEIR)

Dear Ms. Nishihara:

San Diego Gas and Electric Company (SDG&E) respectfully submits this letter in response to the San Diego Port District and the City of Chula Vista's (City) recirculation of the Revised Draft Environmental Impact Report (RDEIR) for the Chula Vista Bayfront Master Plan (CVBMP) and Port Master Plan Amendment. As described in its previous comment letter dated January 22, 2007, SDG&E is a utility regulated by the California Public Utilities Commission (CPUC) that provides electric and gas services to customers throughout San Diego County. The CPUC mandates that SDG&E maintain its utility infrastructure and easements, and several facilities are located in the CVBMP project area including a switchyard, underground electric transmission lines and vaults, overhead electric towers, electric distribution poles, gas lines and access roads. SDG&E facilities are located in all three proposed districts of the CVBMP: Sweetwater, Harbor and Otay so it is critical that the environmental review appropriately address SDG&E's facilities.

SDG&E submits the following comments that should be incorporated into pertinent places of the Final Environmental Impact Report (FEIR).

- SDG&E currently owns and operates facilities in the proposed Sweetwater, Harbor and Otay Districts. SDG&E requests that the FEIR include a figure that identifies SDG&E's existing facilities and easements. Specifically, SDG&E needs to be assured that the Proposed Project does not adversely affect SDG&E's access and ability to conduct routine operation, maintenance and repair activities

L-1

Response to Comment Letter L

San Diego Gas & Electric  
August 7, 2008

- L-1** This comment recommends that the Final EIR include a figure that identifies San Diego Gas and Electric's (SDG&E's) existing facilities and easements. *Figure 3-18* in the Revised DEIR (which has been renumbered to *Figure 3-17* in the Final EIR) is intended to show all steel lattice structures on the Proposed Project site. *Section 3.4.9.1* of the Final EIR has been revised to describe the recent removal and undergrounding of steel lattice structures on the project site. *Figure 3-17* in the Final EIR has been revised to depict these conditions.

As stated in *Chapter 3.0, Project Description*, of the Revised DEIR (pages 3-110 and 3-116), the existing SDG&E right-of-way (ROW) would be maintained as separate identifiable parcels, wherein landscaping and a decomposed granite trail would occur consistent with SDG&E Guidelines for installation of landscaping within their easements. The designation of "Open Space" over the SDG&E properties would not encumber existing facilities or access thereto; rather, it acknowledges the existing SDG&E undergrounding and landscaping commitments.

Comment Letter L (Page 2)

on its infrastructure within the project area. This is necessary to ensure that SDG&E continues to provide safe, reliable energy to its customers. Accordingly, the FEIR should identify how the Proposed Project's impacts to SDG&E's facilities and activities will be avoided and should propose mitigation to reduce such impacts, if necessary.

- The FEIR should clarify that the South Bay Power Plant is under the jurisdiction of the California Energy Commission (CEC), and the SDG&E switchyard is under the jurisdiction of the CPUC, on pages 3-113 and 3-114. In addition, Section 3.4.9.1 should be revised to state that the undergrounding of transmission lines is subject to the jurisdiction of the CPUC, not the CEC. (See, page 3-156.) These changes should be consistently made throughout the FEIR.
- The proposed widening of Telegraph Creek Channel from 100 feet to 130 or 140 feet (page 3-115), should consider the existing underground facilities and transmission lines within the SDG&E easement. Coordination with SDG&E is required to avoid impacts to electric facilities and ongoing maintenance.
- The RDEIR proposes recreational pedestrian and bike paths, greenbelt strips, and "Open Space" and "Promenade" land use designations within the SDG&E easement. No dedication of open space or greenbelts strips will be allowed either for mitigation or as dedicated on a map. SDG&E will consider limited third-party use of its easement for trail or active recreational purposes on a case-by-case basis, however, the terms and conditions of any approval for such use is required by SDG&E Land Management. In addition, an encumbrance on any utility easement may require a Section 851 filing with the CPUC for an order by the CPUC authorizing the third-party use of utility property for trail or active recreational purposes or designations. Approval for such use will be subject to terms and conditions acceptable to SDG&E Land Management. These terms and conditions may include, but are not limited to landscaping, irrigation, drainage, lighting, fencing, pergolas, etc. The FEIR should reflect these obligations.
- Figure 3-19 is outdated in that the "Proposed" 230kV trench alignment and project is complete and the "Proposed" 138kV trench alignment and project is also complete. Figure 3-19 was given to the City of Chula Vista several years ago and was originally intended to propose to the City SDG&E's ultimate layout of the easement. The undergrounding of the 69kV tie lines will be completed in the future, when the City has the funds to do so.
- Figure 3-18 does not show all of the bridge structures along the Bayfront. Additionally, the furthest southern bridge structure as shown in the figure is not correct. In that location, there is a lattice tower that is not intended to be removed.
- SDG&E must maintain full and complete access to its easements and/or fee property as well as transmission and distribution facilities during and after any

L-1  
(Cont.)

L-2

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L-6

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L-2

The comment provides clarification regarding the responsibilities and roles of the California Energy Commission CEC and California Public Utilities Commission (CPUC). The revisions as suggested have been made in the Final EIR.

L-3

The comment recommends coordination with SDG&E for consideration of underground facilities. This comment is noted. The Port agrees that any alterations to Telegraph Creek that affect the SDG&E easement and facilities within, will require necessary coordination with SDG&E. This comment does not address the adequacy of the Revised DEIR, however, and no further response is warranted.

L-4

As stated in *Chapter 3.0, Project Description*, of the Revised DEIR (pages 3-110 and 3-116), the existing SDG&E ROW would be maintained as separate identifiable parcels, wherein landscaping and a decomposed granite trail would occur consistent with SDG&E Guidelines for installation of landscaping within their easements. The designation of "Open Space" over the SDG&E properties would not encumber existing facilities; rather, it acknowledges the existing SDG&E undergrounding and landscaping commitments. *Chapter 3.0, Project Description*, has been revised in the Final EIR to include the following language as part of the description of activities on Parcels SP-4, SP-6, and HP-12: "...within their easements, for which approvals will be subject to SDG&E Land Management."

L-5

Figure 3-19 in the Revised DEIR (which has been renumbered to Figure 3-18 in the Final EIR) has been revised to reflect the completion of the 138-kilovolt (kV) and 230 kV trench alignments and projects.

Comment Letter L (Page 2)

on its infrastructure within the project area. This is necessary to ensure that SDG&E continues to provide safe, reliable energy to its customers. Accordingly, the FEIR should identify how the Proposed Project's impacts to SDG&E's facilities and activities will be avoided and should propose mitigation to reduce such impacts, if necessary.

- The FEIR should clarify that the South Bay Power Plant is under the jurisdiction of the California Energy Commission (CEC), and the SDG&E switchyard is under the jurisdiction of the CPUC, on pages 3-113 and 3-114. In addition, Section 3.4.9.1 should be revised to state that the undergrounding of transmission lines is subject to the jurisdiction of the CPUC, not the CEC. (See, page 3-156.) These changes should be consistently made throughout the FEIR.
- The proposed widening of Telegraph Creek Channel from 100 feet to 130 or 140 feet (page 3-115), should consider the existing underground facilities and transmission lines within the SDG&E easement. Coordination with SDG&E is required to avoid impacts to electric facilities and ongoing maintenance.
- The RDEIR proposes recreational pedestrian and bike paths, greenbelt strips, and "Open Space" and "Promenade" land use designations within the SDG&E easement. No dedication of open space or greenbelts strips will be allowed either for mitigation or as dedicated on a map. SDG&E will consider limited third-party use of its easement for trail or active recreational purposes on a case-by-case basis, however, the terms and conditions of any approval for such use is required by SDG&E Land Management. In addition, an encumbrance on any utility easement may require a Section 851 filing with the CPUC for an order by the CPUC authorizing the third-party use of utility property for trail or active recreational purposes or designations. Approval for such use will be subject to terms and conditions acceptable to SDG&E Land Management. These terms and conditions may include, but are not limited to landscaping, irrigation, drainage, lighting, fencing, pergolas, etc. The FEIR should reflect these obligations.
- Figure 3-19 is outdated in that the "Proposed" 230kV trench alignment and project is complete and the "Proposed" 138kV trench alignment and project is also complete. Figure 3-19 was given to the City of Chula Vista several years ago and was originally intended to propose to the City SDG&E's ultimate layout of the easement. The undergrounding of the 69kV tie lines will be completed in the future, when the City has the funds to do so.
- Figure 3-18 does not show all of the bridge structures along the Bayfront. Additionally, the furthest southern bridge structure as shown in the figure is not correct. In that location, there is a lattice tower that is not intended to be removed.
- SDG&E must maintain full and complete access to its easements and/or fee property as well as transmission and distribution facilities during and after any

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(Cont.)

L-2

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L-6 Figure 3-18 in the Revised DEIR (which has been renumbered to Figure 3-17 in the Final EIR) is intended to show all steel lattice structures on the Proposed Project site. In response to this comment, the legend on Figure 3-17 of the Final EIR has been revised to state "Existing Steel and Lattice Structures Bridges," consistent with the text in Section 3.4.9.1. In addition, Section 3.4.9.1 of the Final EIR has been revised to describe the recent removal and undergrounding of steel lattice structures in the SDG&E transmission ROW on the project site. Figure 3-17 in the Final EIR has been revised to depict these conditions.

L-7 The Port agrees that necessary communications with SDG&E would occur regarding activities that affect their property. This comment does not address the adequacy of the Revised DEIR. No further response is warranted.

Comment Letter L (Page 3)

construction associated with the Proposed Project. Access is critical to the continued maintenance, repair, upgrade, relocation, or construction of SDG&E's public facilities. Any grading or improvements that affect access to and along the easement or fee owned property and/or gas and electric distribution and transmission lines will require prior written consent from SDG&E in the form of a "Permission to Grade" letter and a "Consent to Use of Land Agreement." The FEIR should mandate the foregoing.

- Section 4.16 entitled "Energy" adequately covers the existing energy resources, potential increased consumption and future resources. It should be noted, however, that SDG&E's proposed Sunrise Powerlink transmission project is critical to increasing the import of renewable energy into the region.
- Page 6-52 states in pertinent part that, "...the cumulative impact relative to energy supply would remain significant and unmitigated because of the uncertainty of the future supply of energy, which is within the responsibility and control of SDG&E and not the Port or the City." SDG&E does not believe that the cumulative impact of the project, (i.e., "the effects of the Proposed Project...added to the General Plan Update effects")—is "unmitigated". As pointed out on pages 5-152 and 5-153 for the "No Land Trade Alternative":

*"similar to the Proposed Project, the increased demand for energy resulting from development under this alternative and the potential to exceed the available supply would result in a significant impact....Mitigation measures detailed in Section 4.16, Energy, include...SDG&E efforts for long-term energy supply as outlined in their filing with the CPUC. These mitigation measures would reduce the significant impacts on energy to below a level of significance."*(Emphasis added.)

SDG&E does not believe that adding the impacts of the General Plan Update to the mitigated impacts of the Proposed Project would result in a cumulative unmitigable impact. SDG&E believes that the same mitigation measures contemplated for the Proposed Project (i.e., SDG&E's efforts to arrange long-term energy supply as outlined in its filing with the CPUC) are equally applicable to the Chula Vista General Plan Update EIR whose scope encompasses the entire City of Chula Vista.

SDG&E's electric energy supply obligations extend to all of San Diego County and to southern Orange County and thereby encompass the entire City of Chula Vista. These supply obligations are precisely the subject of SDG&E's LTPP which is submitted to, reviewed by, and approved by the California Public Utilities Commission. There is no basis for concluding that growth in energy demand for the entire City of Chula Vista is so great that it would have "the

L-7  
(Cont.)

L-8

L-9

L-10

L-8 This comment states that SDG&E concurs that *Section 4.16, Energy*, of the Revised DEIR adequately covers the existing energy resources, potential increased energy consumption, and future energy resources.

L-9 This comment disagrees with the conclusion in the Revised DEIR that the Proposed Project will have a significant and unavoidable cumulative impact on energy. The Revised DEIR describes SDG&E's plans to provide an adequate supply of energy to the region on a near- and long-term basis. The Revised DEIR's conclusion is not intended to question the likelihood of SDG&E's success in meeting future regional energy needs, but instead is intended to disclose that the Proposed Project will contribute to an increased regional demand for energy, that the increase is potentially significant, and that implementation of plans to meet the cumulative future increased demand is beyond the jurisdiction, responsibility, or control of the Port. In order to ensure full disclosure of information concerning future regional energy issues, *Section 6.17.1* of the Final EIR has been revised to include the information provided by SDG&E in this comment.

L-10 Please see the response to comment L-9.



## Comment Letter L (Page 4)

potential to exceed available supply” (that SDG&E is obligated to arrange) and therefore result in unmitigated impacts.

Additionally, SDG&E notes that the electric supply for Direct Access loads within the City of Chula Vista is the responsibility of entities other than SDG&E.<sup>1</sup> However, under existing statutes, SDG&E is the provider of last resort should a supplier of Direct Access loads fail to arrange the necessary electric energy supplies. This possibility is already contemplated in SDG&E’s planning and in CPUC rules governing Direct Access.

- As noted above, the “responsibility” for arranging electric energy supplies does not reside solely with SDG&E. Entities serving Direct Access customers assume the responsibility for arranging electric energy supplies for those customers, although, by law, SDG&E is designated as the supplier of last resort.<sup>2</sup>

While SDG&E has responsibility for arranging electric energy supplies for the non-Direct Access customers within the City of Chula Vista, the CAISO has responsibility for operating the interconnected electric grid such that the energy supplies arranged by SDG&E and other entities is reliably transmitted across the grid for delivery to electric end-users. If the CAISO believes, for any reason, that such supply arrangements are inadequate to meet end-use demand and thereby threaten grid reliability, the CAISO will undertake additional energy procurement activities on its own (sometimes called “back-stop procurement”). Accordingly, SDG&E is not the only entity with responsibility for arranging electric energy supplies. Consequently, the reference to SDG&E in Table 1-9 under Mitigation Measure 6.17-1 should be revised accordingly.

- There a number of statements indicating that “without an increased import capacity of at least 500 megawatts (MW) there would be a long-term grid reliability deficiency...” (“Brown 2004”) These statements appear on pages 4.16-3, 4.16-11, 5-152, and 6-51.

The first order question is whether this reference needs to be updated to reflect the latest information from the Sunrise Powerlink proceeding. For example, Table 11-1 in SDG&E’s March 12, 2008 Phase 2 Direct Testimony indicates that the San Diego area will need between 76 MW and 417 MW of additional dependable in-area generating capacity and/or additional import capability for the years of 2011 through 2016. This deficiency continues to grow after year 2016 as San Diego area loads grow.

<sup>1</sup> SDG&E is obligated to provide *delivery* service for all electric loads within San Diego County and southern Orange County.

<sup>2</sup> Suppliers of electric energy at retail, such as SDG&E and the entities responsible for Direct Access loads, are regulated by the CPUC. The CPUC’s role is primarily one of oversight; it does not arrange energy supplies on its own although it has the authority to direct its jurisdictional utilities to undertake certain supply activities.

L-10  
(Cont.)

L-11

L-12

**L-11** Please see the response to comment L-9. In addition, *Table 1-9* under **Mitigation Measure 6.17-1**, as well as **Mitigation Measure 6.17-1** in *Section 6.0, Cumulative Impacts*, has been revised in the Final EIR in response to this comment.

**L-12** This comment provides information from the Sunrise Powerlink proceeding, which suggests that the Revised DEIR’s conclusion, that there may be a long-term grid reliability deficiency if added import capability fails to develop, may be incorrect. In light of this information, the Revised DEIR’s conclusion may reflect a conservative or worst-case analysis. However, this comment and the information it provides will be a part of the Final EIR and will supplement the disclosure of information concerning regional energy supply.

## Comment Letter L (Page 5)

It should be noted that SDG&E's LTPP specifically provides for the possibility that the increased import capability referenced in the CVBMP RDEIR will not materialize or will be delayed beyond the current in-service date of year 2011.<sup>3</sup> In this sense the RDEIR incorrectly surmises that there would be a long-term grid reliability deficiency if the added import capability fails to develop.

- There are several statements in the RDEIR to the effect that the South Bay Power Plant (SBPP) consumes "two-thirds of the natural gas used in the City" (pages 4.16-3, 4.16-4 and 6-51.) These statements appear to be based on data collected for the year 1999. (See, page 4.16-4)

Beginning in year 2002, the SBPP has operated at far lower levels than in 1999. Additionally, SDG&E's LTPP contemplates the retirement of the SBPP, possibly by year 2010. Perhaps the references to gas consumption by the SBPP in the CVBMP DEIR should be updated to reflect the far lower level of operation beginning in year 2002, and the possibility that the unit will be retired as early as late 2009.

- The electric demand from the Chula Vista Bayfront Master Plan is estimated 23 MW. The existing electric distribution Montgomery Substation, located north and outside of the Master Plan, does not have sufficient capacity to serve the new 23 MW demand; also the substation can not be expanded to accommodate the new load. To serve the Chula Vista Bayfront Master Plan, a new substation will be required. Three 12kV feeders will be installed from the new substation to serve the load. The new substation should be included and its site identified in the Master Plan. The site for the new substation should be close to the existing electric transmission corridor and the load to minimize extension of the transmission and distribution lines, and impact to the community. The substation land requirement is approximately 2.5 acres.

SDG&E should have the opportunity to review future environmental documents and subsequent discretionary permits associated with specific projects contemplated by the CVBMP. Communication and coordination with SDG&E is essential to identifying and resolving potential temporary and permanent interferences with SDG&E operations that serve the public.

SDG&E thanks you for this opportunity to comment on the CVBMP RDEIR. As development progresses pursuant to the phased CVBMP, SDG&E looks forward to working with the Project Proponents.

Sincerely,

<sup>3</sup> SDG&E's current LTPP can be accessed at [http://www.sdge.com/regulatory/elec\\_pending.shtml](http://www.sdge.com/regulatory/elec_pending.shtml).

**L-13** This comment states that since 2002, the South Bay Power Plant has consumed less natural gas than estimated in the Revised DEIR because it has operated at far lower levels than in 1999. The comment further states that SDG&E may retire the South Bay Power Plant as early as the year 2010. In light of this information, the Revised DEIR may reflect a conservative or worst-case analysis. However, this comment and the information it provides will be a part of the Final EIR and will supplement the disclosure of information concerning regional energy supply.

**L-14** As described on page 3-114 of the Revised DEIR, Parcel O-4, which is planned to retain the switchyard, has adequate space to accommodate the required substation facility. In addition, the demand for electricity in the project area will be reduced by 30 percent by the implementation of **Mitigation Measure 4.16-2**, which applies to all development projects in the Port's jurisdiction in Phases I through IV.

**L-12  
(Cont.)**

**L-13**

**L-14**

**Comment Letter L (Page 6)**

Shannon Turek  
Senior Environmental Specialist  
Environmental Management South  
San Diego Gas & Electric Company

Cc:  
Don Haines, Manager, Environmental Management South, SDG&E  
Tom Acuna, Team Lead - Land Planning, SDG&E  
Jill Larson, Senior Counsel, Sempra Energy  
Darren Weim, Project Manager, SDG&E  
Kathy Babcock, Land Manager, SDG&E  
Ahmad Solomon, Government Affairs Manager San Diego, Sempra Energy

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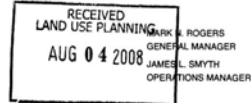
Comment Letter M



**SWEETWATER AUTHORITY**

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GOVERNING BOARD  
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JAMES "JIM" DOUD  
RON MORRISON  
W.D. "BUD" POCKINGTON  
TERRY THOMAS  
MARGARET COOK WELSH



August 4, 2008

DELIVERED BY MESSENGER

Ms. Lesley Nishihira  
Unified Port of San Diego  
Land Use Planning  
3165 Pacific Highway  
San Diego, CA 92101

Subject: REVISED DRAFT ENVIRONMENTAL IMPACT REPORT  
FOR THE CHULA VISTA BAYFRONT MASTER PLAN  
AND PORT MASTER PLAN AMENDMENT  
SWA DEV. FILE: BAYFRONT BASIN PLAN AMENDMENT

Dear Ms. Nishihira:

Sweetwater Authority (Sweetwater) appreciates the opportunity to review and comment on the revised Draft Environmental Impact Report (DEIR) for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment. Sweetwater requests that the following comments be addressed and/or information be clarified to accurately address the issues in the final the EIR:

1. Section 4.5.1.2, **Beneficial Water Uses**. As noted in this section, California Water Code Section 13240 and the Clean Water Act Section 303, all surface and groundwater in the San Diego region are assigned beneficial uses by the Regional Water Quality Board (RWQCB) in an adopted Basin Plan. Sweetwater strongly supports this assigned beneficial use, as it does utilize groundwater as a source of supply through its Richard A. Reynolds Groundwater Desalination Facility (Reynolds Desal Facility). Please see comment No. 3.
2. Section 4.9, **Marine Biological Resources**. The Reynolds Desal Facility was put into operation in January 2000. Sweetwater was to conduct long-term monitoring and assessment of effects to marine communities, riparian habitats, and other resources. Monitoring has included eelgrass surveys along the Sweetwater River and in control sites in San Diego Bay. As such, Sweetwater requests that eelgrass impact and monitoring and mitigation reports for the project be provided

M-1

M-2

Response to Comment Letter M

**Sweetwater Authority**

**August 4, 2008**

- M-1** This comment expresses support for the assigned beneficial use of the water in the area. No further response is required.
- M-2** As part of the Reynolds Desalination Facility, long-term monitoring for marine communities is ongoing. Sweetwater Authority requests that project eelgrass monitoring and reporting be coordinated with the Sweetwater Authority. The Port will share studies with the Sweetwater Authority during future eelgrass monitoring.

*A Public Water Agency  
Serving National City, Chula Vista and Surrounding Areas*

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Ms. Lesley Nishihira  
 Subject: Revised Draft Environmental Impact Report for the Chula Vista  
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to its Environmental and Governmental Services Department. Similarly, Sweetwater would be happy to provide copies of its eelgrass monitoring reports to the applicant. Additionally, any water quality assessments conducted on river flows, and results of any macro-algae or similar studies would be very helpful to Sweetwater. It is requested that Sweetwater be informed if these studies are undertaken, and also informed of the results.

3. Sections 4.12, **Hazards and Hazardous Materials/Public Safety**. The DEIR notes the Cleanup and Abatement Order (CAO) 98-08 issued by the RWQCB for the Goodrich property (both south and north campuses). The DEIR appears to address cleanup only, upon certain construction or project activities that may cause disturbance to the contaminated soil/groundwater. Please clarify whether the schedule and requirements of CAO 98-08 would be completed prior to any construction of this project.

4. Section 4.14.1.1, **a. Potable Water**, page 4.14-2, last paragraph, first sentence. Change "Joint Planning Agreement" to "Joint Powers Agreement."

5. Section 4.14.1.1, **b. Recycled Water**, page 4.14-3, please revise the paragraph to read, "Currently, Sweetwater does not produce or distribute recycled water. Sweetwater has completed its Recycled Water Master Plan, and conducted a feasibility study with Otay Water District and the City of Chula Vista for a recycled water treatment facility. Results of this study have determined that serving recycled water in Sweetwater's service area is not economically viable, including the Chula Vista Bayfront project."

6. Page 4.14-11, **y. Sweetwater Authority Water Distribution System Master Plan 2002**. Add the following to the end of the section: "Currently, Sweetwater is preparing an update to its 2002 Distribution System Master Plan that will address any offsite infrastructure need caused by the implementation of the Chula Vista Bayfront project and other proposed projects within Sweetwater's service area."

7. Page 4.14-13, **vii. City of Chula Vista Growth Management Ordinance, Municipal Code 19.09**, the last paragraph of this section should read, "The City, through Sweetwater Authority, also ensures that an adequate supply. . ."

8. Section 4.14.1.3, **Impact Analysis**:

- a. Table 4.14-3, page 4.14-23, Water Demand by Project Component. Modify this table by adding a new column reflecting which uses are within

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- M-3 CAO 98-08 calls for a site-wide Phase I site assessment, comprehensive stormwater runoff sampling, a comprehensive stormwater conveyance system investigation, site-wide data compilation, and interim remedial actions as necessary. These actions have been completed. Page 3-156 of the Revised DEIR describes which parcels are subject to CAO 98-08.

Remediation that may be required for any given parcel within the project will be conducted in a coordinated effort with development. Some remedial actions may be required to be completed prior to development (e.g., removal of contaminant hot spots in soil), whereas others may be able to be performed during or after development (e.g., groundwater remediation). The details of remediation necessary will be addressed in separate, stand-alone remedial action decision documents that would be reviewed and approved by the regulatory agencies.

For example, a Corrective Action Plan (CAP) that provides for the remediation of groundwater under the site will be submitted to the Regional Water Quality Control Board (RWQCB) for review and approval during 2010, and remediation as provided in that CAP will commence shortly after its approval and before site redevelopment activities. A Soil Management Plan for the detection and appropriate management of any impacted soils at the surface of the site will be approved prior to any site redevelopment activities and implemented in coordination with site grading activities.

- M-4 The comment requests the change of "Joint Planning Agreement" to "Joint Powers Agreement" in *Section 4.14.1.1* of the Revised DEIR under the description of potable water. This revision has been incorporated into the Final EIR.

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to its Environmental and Governmental Services Department. Similarly, Sweetwater would be happy to provide copies of its eelgrass monitoring reports to the applicant. Additionally, any water quality assessments conducted on river flows, and results of any macro-algae or similar studies would be very helpful to Sweetwater. It is requested that Sweetwater be informed if these studies are undertaken, and also informed of the results.

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M-5 This comment's suggested language for *Section 4.14.1.1* of the Revised DEIR pertaining to recycled water has been included in the Final EIR.

M-6 This comment's suggested language for *Section 4.14.1.1* of the Revised DEIR pertaining to the Sweetwater Authority Water Distribution System Master Plan has been included in the Final EIR.

M-7 This comment's suggested language for *Section 4.14.1.1* of the Revised DEIR pertaining to the City of Chula Vista Growth Management Ordinance has been included in the Final EIR.

M-8 This comment suggests revisions to *Table 4.14-3*, including the identification of phases associated with the proposed use for each parcel. Please refer to *Tables 3-4, 3-5, and 3-6* in *Chapter 3.0, Project Description*, of the Final EIR for a breakdown of Proposed Project components of each parcel by phase. The water usage projections presented in *Table 4.14-3* in the Revised DEIR include both domestic and irrigation water demands for each parcel.

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Ms. Lesley Nishihira  
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which of the three Phases, as well as identifying domestic and irrigation demands.

- b. Page 4.14-13, Impact No. 2. The first sentence of the first paragraph notes that the project, "... would require construction of water supply facilities." What new supplies are required? If this is only referencing new pipelines, then Sweetwater recommends that the term "supply" be removed. Also, Sweetwater has neither reviewed in detail nor validated the design of the water facilities proposed for this project. The developer(s) will need to contact Sweetwater to initiate the process of finalizing the design of the proposed water facility improvements for this project. The proposed pipelines reflected in this DEIR are generally adequate, but it should be understood that they are subject to change.

- c. Page 4.14-44, Construction Related Impacts. In the second full paragraph, it should be noted that construction requiring connections to existing water facilities, both onsite and offsite, may need to occur between the hours of 10:00 P.M. and 6:00 A.M. This is mainly due to minimizing impacts to existing customers who cannot have flow restricted during daytime hours.

- d. Page 4.14-43, the third paragraph, fourth sentence, should be changed to read, "Easements for new water facilities may be required. This is subject to final review by Sweetwater Authority."

9. Section 4.14.1.3, Impact Analysis. Impact Analysis 1, page 4.14-30, the first paragraph states, "Accordingly, the proposed Project would not have a significant impact because sufficient water supplies are available to serve the project from existing entitlements and resources." It should be noted that Sweetwater's July 2006 Water Supply Assessment and Verification, that was prepared for the project, relied on surplus water supplies identified by the Metropolitan Water District of Southern California (Metropolitan) to serve the increased water demands associated with the project. While Sweetwater is developing new local water supplies, and Metropolitan has not changed its conclusion of available surplus supplies, Sweetwater advises the Port that given the current water supply issues, including drought conditions in California and the Colorado River Basin, and legal and regulatory issues involving utilization of the San Francisco Bay Delta to convey California State Project Water to Southern California, conditions which form the basis of Governor Schwarzenegger's recent declaration of drought, Sweetwater cannot guarantee that, at some time in the future,

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M-9 This comment recommends that the term "supply" be removed from the description of construction of water supply facilities. The Sweetwater Authority also states that implementing developers shall contact the Sweetwater Authority to get final design approval of proposed water facility improvements.

M-10 The revision requested in this comment, regarding the limitation on hours when construction requiring connections to existing water facilities can occur, have been made in the Final EIR.

M-11 This comment recommends additional language describing the potential need for new water facility easements and final review by the Sweetwater Authority. The Final EIR has been revised to incorporate this description.

M-12 This comment states that in light of drought conditions, regulatory changes, and water supply issues, Sweetwater Authority cannot guarantee that in the future, a surplus of water may not be projected to serve the project. This comment agrees with the Revised DEIR's conclusions as stated in *Section 4.14.1.3*, where the issue of long-term water supply was extensively discussed in light of recent and anticipated legislation and litigation regarding water supply, but reminds the Port that conditions may change in the future. In addition to *Section 4.14.1.3* of the Revised DEIR, the potential impacts of the Proposed Project on water supply are analyzed *Appendices 4.5-2* and *4.14-1* through *4.14-4*. The cumulative potential impacts on water supply are discussed in *Section 6.15.1* of the Revised DEIR. Although CEQA requires an evaluation of water supply availability, CEQA does not require a project to identify a guaranteed source of future water supplies. In the event there is a change in future conditions, subsequent environmental review of water supply availability will be required pursuant to CEQA Guidelines Section 15168 (14 CCR 15000 et seq.).



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Metropolitan may not project a supply of surplus water required to serve the project

10. Section 4.14.1.4, **Mitigation Measures**. Mitigating Measure 4.14.1-1, page 4.14-46, the first bullet item. Refer to item 8c above regarding potential working hours beyond those stated.

11. Appendix I, **Civil Engineering Technical Study**. Refer to item 8d above regarding design review by Sweetwater.

↑ M-12  
(Cont.)  
M-13  
M-14

If you have any questions, please contact me at (619) 409-6750.

Sincerely,

SWEETWATER AUTHORITY



Jack Adam  
Director of Engineering

JA:MEG:vis

cc: Mr. Rick Alexander, Sweetwater Authority

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M-13 Please see the response to comment M-10.

M-14 Please see the response to comment M-11.

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Comment Letter N

**Klinedinst**  
ATTORNEYS AT LAW

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August 5, 2008



**VIA HAND DELIVERY**

Leslie Nishihira  
Associate Redevelopment Planner  
Unified Port of San Diego  
3165 Pacific Hwy.  
San Diego, CA 92101

**Re: Alliance for A Cleaner Tomorrow (ACT)  
Our File No.: 2724-1001**

Dear Ms. Nishihira:

The following comments are submitted on behalf of the Alliance for a Cleaner Tomorrow (ACT), in response to the Revised Draft Environmental Impact Report ("Revised DEIR") for the Chula Vista Bay Front Master Plan and Port Master Plan Amendment ("the project").

While the project at issue is located near the Mexican border in a predominantly Spanish-speaking community, no effort has been made to make the Revised DEIR available to that contingent for review or comment. As a practical matter, there has been no public disclosure to any individual who does not read and write English fluently. Statistics available through the U.S. Census for the area in question are compelling in this regard. Yet, the Revised DEIR disenfranchises a broad class of Spanish-speaking persons even while the project has a direct and substantial impact. Indeed, the Port has already admitted the merits of this complaint when, in response to similar comments made in 2006, the executive summary to the 2006 DEIR was translated in order to allow more adequate public participation in the CEQA process. Regardless of whether any translation is specifically required under CEQA, it is nevertheless necessary under the circumstances here. It is necessary in order to further the project's express objectives: to achieve "broad community input" and "celebrate the Hispanic culture of Chula Vista's bay front setting."

In keeping with CEQA's mandate for public disclosure, every EIR should use plain language, particularly in connection with important public disclosures. A matter which may impact a party's ability to access the judicial system is clearly important. Here, participation at the administrative level is required in order for any person to secure standing to challenge an EIR through our judicial system. Yet, the Revised DEIR does not explain whether the parties who submitted comments in response to the 2006 DEIR will have to do so again in order to maintain that legal standing. The Revised DEIR states that interested parties will need to submit new comments in order for the Port to respond in writing. The DEIR does not, however, state that

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Response to Comment Letter N

**Alliance for a Cleaner Tomorrow**

**August 5, 2008**

- N-1** This comment states that the Revised Draft Environmental Impact Report (DEIR) must be translated into Spanish. Generally, notices, reports, and other documents required by law must be in English (Gov. Code Section 8). The California Environmental Quality Act (CEQA, California Public Resources Code, Section 21000 et seq.) does not require that environmental documents be translated into non-English languages. Since this comment does not raise environmental issues, no further response is warranted.
- N-2** This comment expresses concern that the Revised DEIR is not clear if new comments need to be submitted in order to maintain standing. Page 1-3 of *Chapter 1.0, Executive Summary*, as well as within both the Notice of Recirculation and Availability and the Revised Notice of Recirculation and Availability, it is clearly stated that, "Pursuant to CEQA Guidelines Section 15088.5(f)(1), reviewers are advised that new comments must be submitted on this Revised DEIR, and the SDUPD will respond in writing in the Final EIR only to those comments and not to those submitted on the previously circulated Draft EIR." The comment does not address the adequacy of the Revised DEIR. No further response is warranted.

Comment Letter N (Page 2)

Leslie Nishihira  
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interested parties will have to submit new comments in order to maintain standing to sue. To complicate the matter, the DEIR states, in prominent text, that prior comments will be included in the administrative record. If the Port and/or the real parties in interest intend to attempt to deny standing to parties who only commented on the 2006 DEIR, that should be disclosed in the Revised DEIR.

N-2  
(Cont.)

The proposed phasing of this environmental review process under CEQA is inappropriate for several reasons, particularly since there is no commitment that further EIRs will be prepared for any subsequent phases of development. Where the DEIR states that further environmental review will be undertaken for subsequent phases, it is misleading to the public because such subsequent environmental review may never reach the level of additional impact reports. ACT proposes that the DEIR include an affirmative commitment to undertake EIR-level environmental review at each phase. Alternatively, this EIR must disclose to the public that further environmental review may mean something far less, from a substantive and procedural perspective, than the preparation of additional EIRs. The public has not been advised that if certified, this EIR will create a new baseline leaving the lead agency the option of determining that subsequent phases and/or projects do not present a substantial change from the previous iterations of this EIR, and hence no subsequent analysis is necessary. To the contrary, the DEIR is ambiguous and misleading in this respect because it states that further environmental review will be undertaken.

N-3

The use of this Revised DEIR as a project-level EIR for the convention center component is premature. More specific plans (e.g. architectural, grading and restoration plans) and more studies (e.g. a traffic calming study and a study on shading from new buildings) should be available for consideration and comment before project-level approval is granted. For example, a restoration plan should be submitted to address biological and ecological impacts from project-level work (e.g. Significant Impact 4.8-34). The preparation of a restoration plan should not be deferred for any aspect of the project subject to project-level approval. While the Revised DEIR identifies significant adverse impacts resulting in Phase I (e.g. Significant Impacts 4.8-22 and 4.8-32), the proposed mitigation is, apparently, only assessed at a program level. Any conclusion that such mitigation would reduce impacts to a level below significant is speculative and unsupported. Where mitigation for project-level impacts is proposed through the preservation, restoration or enhancement of land, a mechanism for perpetual preservation should be imposed (e.g. the recording of a perpetual conservation easement). Likewise, a management, maintenance and monitoring plan should not only be required, but a funding mechanism for the same (e.g. a non-wasting endowment) should be included as feasible mitigation.

N-4

For project or program level aspects of the project, CCC jurisdiction should already be resolved. With the footprint for redevelopment already drawn, there is no justification for leaving an open question on CCC jurisdiction. All wetlands within the footprint and all wetlands which might otherwise be impacted should be identified regardless of whether they fall under federal or state jurisdiction. Deferring the determination of jurisdiction necessarily means that the identification of appropriate mitigation for impacts is also impermissibly deferred. Deferring a jurisdictional determination also increases the likelihood that changed conditions (e.g. resulting

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N-3 This comment suggests that the EIR should include an affirmative commitment to undertake EIR-level environmental review at each phase. CEQA Guidelines Section 15152 does not require that subsequent phases of Program EIRs necessarily prepare EIR-level analysis, but stipulates that they should be individually scoped and analyzed at the appropriate level of review (14 CCR 15000 et seq.). “Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review” (14 CCR 15152(b)). With the exception of the Pacifica Residential and Retail Project and the H-17 fire station that are analyzed at the project level, all proposed development is analyzed in the Final EIR at a program level. Accordingly, all subsequent project activities will be analyzed pursuant to CEQA Guidelines Section 15168 to determine the nature and extent of additional environmental review that is required by CEQA.

N-4 This comment states that more specific plans and additional studies are needed for the convention center component of the Proposed Project, but does not state why such plans or studies are needed and does not indicate in what way the plans and studies contained in the Revised DEIR are insufficient. Absent such information, the comment’s demand for more plans and studies does not mean the Revised DEIR is inadequate or that additional plans and studies are required. As described in the *Preface to the Final EIR*, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The Resort Convention Center (RCC) development on Parcel H-3 is a Phase I program-level component of the Proposed Project, for which no

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Leslie Nishihira  
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interested parties will have to submit new comments in order to maintain standing to sue. To complicate the matter, the DEIR states, in prominent text, that prior comments will be included in the administrative record. If the Port and/or the real parties in interest intend to attempt to deny standing to parties who only commented on the 2006 DEIR, that should be disclosed in the Revised DEIR.

The proposed phasing of this environmental review process under CEQA is inappropriate for several reasons, particularly since there is no commitment that further EIRs will be prepared for any subsequent phases of development. Where the DEIR states that further environmental review will be undertaken for subsequent phases, it is misleading to the public because such subsequent environmental review may never reach the level of additional impact reports. ACT proposes that the DEIR include an affirmative commitment to undertake EIR-level environmental review at each phase. Alternatively, this EIR must disclose to the public that further environmental review may mean something far less, from a substantive and procedural perspective, than the preparation of additional EIRs. The public has not been advised that if certified, this EIR will create a new baseline leaving the lead agency the option of determining that subsequent phases and/or projects do not present a substantial change from the previous iterations of this EIR, and hence no subsequent analysis is necessary. To the contrary, the DEIR is ambiguous and misleading in this respect because it states that further environmental review will be undertaken.

The use of this Revised DEIR as a project-level EIR for the convention center component is premature. More specific plans (e.g. architectural, grading and restoration plans) and more studies (e.g. a traffic calming study and a study on shading from new buildings) should be available for consideration and comment before project-level approval is granted. For example, a restoration plan should be submitted to address biological and ecological impacts from project-level work (e.g. Significant Impact 4.8-34). The preparation of a restoration plan should not be deferred for any aspect of the project subject to project-level approval. While the Revised DEIR identifies significant adverse impacts resulting in Phase I (e.g. Significant Impacts 4.8-22 and 4.8-32), the proposed mitigation is, apparently, only assessed at a program level. Any conclusion that such mitigation would reduce impacts to a level below significant is speculative and unsupported. Where mitigation for project-level impacts is proposed through the preservation, restoration or enhancement of land, a mechanism for perpetual preservation should be imposed (e.g. the recording of a perpetual conservation easement). Likewise, a management, maintenance and monitoring plan should not only be required, but a funding mechanism for the same (e.g. a non-wasting endowment) should be included as feasible mitigation.

For project or program level aspects of the project, CCC jurisdiction should already be resolved. With the footprint for redevelopment already drawn, there is no justification for leaving an open question on CCC jurisdiction. All wetlands within the footprint and all wetlands which might otherwise be impacted should be identified regardless of whether they fall under federal or state jurisdiction. Deferring the determination of jurisdiction necessarily means that the identification of appropriate mitigation for impacts is also impermissibly deferred. Deferring a jurisdictional determination also increases the likelihood that changed conditions (e.g. resulting

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specific development proposal has been submitted to the San Diego Unified Port District (Port) for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review, which may be required for the RCC on Parcel H-3, will be determined pursuant to CEQA Guidelines Section 15168.

This comment also states that the Revised DEIR identifies **Significant Impacts 4.8-22** and **4.8-32** as project-level impacts in Phase I, but the proposed mitigation is assessed only at a program level. **Significant Impact 4.8-22** is the project-level impact from the E Street Road improvements in the Sweetwater District on 0.07 acre of California Coastal Commission (CCC) wetland composed of mulefat scrub, which is located within the road easement and Parcel S-1, adjacent to the roadway at Bay Boulevard and E Street (Page 4.8-129 of the Revised DEIR). **Significant Impact 4.8-32** is the project-level impact from improvements to the existing E Street, along the road easement and Parcel S-4, on 0.03 acre of CCC wetlands (Page 4.8-131 of the Revised DEIR). The mitigation for these project-level impacts is provided in **Mitigation Measure 4.8-13** in the Revised DEIR (renumbered to **Mitigation Measure 4.8-14** in the Final EIR), which explicitly states that the measure is intended to reduce the impacts on CCC wetlands that may result from road improvements during Phase I (Page 4.8-178 of the Revised DEIR). Accordingly, the Revised DEIR assesses mitigation for **Significant Impacts 4.8-22** and **4.8-32** at the project level.

This comment also states that the preparation of a restoration plan for biological impacts from project-level work should be prepared now and that the plan should include a mechanism for perpetual preservation and for funding a management, maintenance, and monitoring plan. As stated in **Mitigation Measure 4.8-13**, the

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interested parties will have to submit new comments in order to maintain standing to sue. To complicate the matter, the DEIR states, in prominent text, that prior comments will be included in the administrative record. If the Port and/or the real parties in interest intend to attempt to deny standing to parties who only commented on the 2006 DEIR, that should be disclosed in the Revised DEIR.

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N-3

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N-4

For project or program level aspects of the project, CCC jurisdiction should already be resolved. With the footprint for redevelopment already drawn, there is no justification for leaving an open question on CCC jurisdiction. All wetlands within the footprint and all wetlands which might otherwise be impacted should be identified regardless of whether they fall under federal or state jurisdiction. Deferring the determination of jurisdiction necessarily means that the identification of appropriate mitigation for impacts is also impermissibly deferred. Deferring a jurisdictional determination also increases the likelihood that changed conditions (e.g. resulting

N-5

guidelines for development of a restoration plan require the project applicant to consult with the regulatory agencies. Such consultation typically occurs after a lead agency approves a project because it is not until that time that the nature and extent of mitigation measures imposed on a project are established. Furthermore, **Mitigation Measure 4.8-13** does not improperly defer mitigation because it complies with the requirements of CEQA Guidelines Section 15126.4(a)(1)(B) in that it specifies performance standards that will mitigate the significant impact and which may be accomplished in more than one way. Funding for the mitigation measure will be provided by the project applicant for the Phase I project that causes the significant impact. The provisions for management, maintenance, and monitoring will be contained in the Mitigation Monitoring and Reporting Program, which will be adopted by the Port pursuant to Public Resources Code Section 21081.6 in the event the Board of Port Commissioners decides to approve the Proposed Project.

In addition, the Final EIR has been revised to include additional measures to further reduce the indirect impacts to biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. Amongst other things, the additional mitigation (see **Mitigation Measure 4.8-7** in the Final EIR) provides for the creation, implementation, and enforcement of a Natural Resource Management Plan (NRMP), and efforts to enter into cooperative management agreements with the U.S. Fish and Wildlife Service (USFWS) or other appropriate agencies.

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Leslie Nishihira  
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from near-term development activity) may change the character of the areas potentially subject to CCC jurisdiction.

For program-level aspects of the project, the Revised DEIR states that further environmental review will be conducted before final approval. The disclosure here is inadequate. It should be explained to the public that "further environmental review" may never rise to the level of another EIR for the public's consideration and comment. The promise of "further environmental review" is misleading as written.

Several program-level aspects of the project are substantial enough to warrant subsequent EIRs. For those substantial projects which are only assessed here at the program level, the agency can and should consider requiring and committing to a subsequent EIR, as opposed to simply stating there will be "further environmental review." The absence of specific plans, details and reports for subsequent phases of the project warrants some assurance that subsequent EIRs will be circulated.

Potentially significant traffic impacts from the project have not been adequately studied, disclosed, assessed or mitigated. In particular, there is no disclosure or analysis of potential impacts of the construction on traffic and congestion. Construction of near and long-term phases of this project will have potentially significant adverse impacts on traffic circulation and safety. Air quality will also be impacted from increased emissions during construction. These potentially significant impacts should be assessed and disclosed despite the fact that they result from temporary construction activity, as opposed to permanent post-construction operations. Further, feasible alternatives and mitigation are warranted to lessen the impacts of the construction activity in the vicinity of the project. For example, the Revised DEIR should not only identify additional vehicle trips which the construction will generate, but should go on to address increased emissions there from. Further, increased idling times and the use of heavy construction equipment will further impact air quality. These air quality impacts from construction should be addressed, as should any safety and circulation issues which will arise with construction-related traffic impacts. The Port should consider mitigation, including but not limited to a preference for the hiring of local contractors in order to lessen such impacts on traffic and air quality. It is also necessary to ensure that local contractors are incentivized to participate in the bidding and RFP processes in order to achieve the project's stated objective to develop a plan that is economically sustainable, provides revenue generation and encourages private sector participation.

Where the Revised DEIR proposes traffic mitigation (e.g. Mitigation Measures 4.2-2 through 4.2-7), it reports that the measures will reduce impacts to a level below significant. However, the DEIR (e.g. Table 1-9) does not state the level of service which will remain following implementation of the mitigation. There also is not disclosure of the percentage increase to average daily car trips from the current, baseline condition and the anticipated, post-mitigation conditions.

The analysis of traffic congestion and air quality from emissions (from both the construction phase and the operations phase) is also inadequate because impacts at the nearby

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N-5 Jurisdictional determinations are not required in order to provide full disclosure and public review of potential impacts. Moreover, mitigation proposed for the potential impacts is consistent with typical mitigation requirements of the CCC. Final determination of jurisdiction, mitigation, and permitting requirements will occur at such a time that the CCC considers approvals pursuant to their jurisdictional authority. For the CCC to confirm such requirements prior to certification of the Final EIR would be considered pre-decisional.

N-6 Please see the response to comment N-3.

N-7 Please see the response to comment N-3.

N-8 This comment suggests that there was insufficient analysis regarding construction-related traffic. The traffic analysis in the Revised DEIR studies ultimate traffic generation from the Proposed Project by phase and land uses, which would result in a higher trip generation rate than would construction-related traffic. As a result, the traffic study and Revised DEIR consider a worst-case scenario as impacts from construction-related activity would be less than the impacts of ultimate traffic generation analyzed in the Revised DEIR.

The Revised DEIR analyzed the potential impact of construction-related activity on air quality in *Section 4.6, Air Quality*, of the Revised DEIR. *Section 4.6.3.1*, criterion 3 (Page s 4.6-31 through 4.6-41), thoroughly analyzed the construction-related impacts of each phase of the Proposed Project on air quality, including the construction-related emissions of greenhouse gases (Page s 4.6-48, 4.6-53, 4.6-54, and 4.6-61). **Mitigation Measure 4.6-1** identifies the mitigation required to reduce or avoid the potential significant impacts to air quality that may result from construction activities in all

## Comment Letter N (Page 3)

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from near-term development activity) may change the character of the areas potentially subject to CCC jurisdiction.

For program-level aspects of the project, the Revised DEIR states that further environmental review will be conducted before final approval. The disclosure here is inadequate. It should be explained to the public that "further environmental review" may never rise to the level of another EIR for the public's consideration and comment. The promise of "further environmental review" is misleading as written.

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phases of the Proposed Project and estimates the project's maximum daily mitigated construction emissions in *Tables 4.6-34 through 4.6-40* for each phase of the Proposed Project (Page s 4.6-62 through 4.6-69). Accordingly, the Revised DEIR adequately analyzes and proposes mitigation for the potential significant impacts on air quality that may result from construction-related activities. Furthermore, both the City of Chula Vista (City) and Port require traffic control plans during construction to minimize impacts to area traffic. This comment also states that the Port should consider imposing a requirement that preference be given to local contractors as mitigation for impacts on traffic and air quality. While there is no formal policy regarding the use of local contractors, the Port prefers to hire local contractors when possible.

**N-9** This comment states that the Revised DEIR does not state the level of service (LOS) following implementation of mitigation and does not disclose the percentage increase to average daily trips (ADTs) in the anticipated post-mitigation conditions. The methodology used in the technical analysis of potential traffic impacts is provided in the Revised DEIR in *Section 4.2.1* (Page s 4.2-1 through 4.2-12). The Revised DEIR determined the existing traffic conditions on affected roadways and intersections using LOS criteria and identified the thresholds of significance established in the City's General Plan (see Page s 4.2-47 and 4.2-48 of the Revised DEIR). Finally, the Revised DEIR analyzed the extent to which traffic generated by the Proposed Project would cause the LOS on affected roadways and intersections to fall below the threshold of significance. Wherever the project-related traffic would cause the LOS for a roadway or intersection to fall below the established standard, the Revised DEIR identified the roadway or intersection improvements that would be required to improve traffic conditions to the established standards. The mitigation measures provided in *Section 4.6.5* of the Revised DEIR (Page s 4.2-



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227 through 4.2-235) were designed to improve traffic conditions on the affected roadways and intersections so that the LOS would be restored to the standards identified in *Section 4.2.4* (Page s 4.2-47 and 4.2-48). Accordingly, the LOS that would remain after implementation of the proposed mitigation measures would be LOS C for Non-Urban Core road segments, LOS D for Urban Core road segments, and LOS D for intersections.

This comment requests that the study area include the U.S.–Mexico Border. The border is located over 6 miles from the Proposed Project. The Traffic Study utilized accepted methodology as shown on Page s 4.2-1 through 4.2-5 to determine the study area and the border is significantly outside of the study area. As described in *Section 4.6.2.1*, the Port has established thresholds of significance demonstrated in *Table 4.6-5*. In the event that emissions exceed the thresholds, modeling is required. However, the thresholds examine only those project-related emissions and CEQA does not require analysis of existing deficiencies, such as border-related pollution.

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border crossing have not been assessed or disclosed. The DEIR should include a study of impacts to increasing border-crossing delay times which this project will cause. In connection therewith, increasing density and diminishing air quality in and around Tijuana should be taken into consideration in the analysis of cumulative impacts. Mitigation may be appropriate and, in any event, should at least be discussed. The DEIR must disclose any inconsistencies between the pending project and pending land use, community and border-plans, including those of the U.S. EPA which set objectives for the reduction of air emissions. The U.S. EPA reports that by the year 2020, the California/Mexico border population is expected to reach 19.4 million from approximately 12 million currently. The EPA also reports that border residents suffer disproportionately from certain health problems, including respiratory problems, linked to unhealthful air and excessive auto emissions. Such matters should be taken into consideration in the Revised DEIR.

The EIR should assess the project's impacts, including its cumulative impacts, upon global warming. More specifically, it should assess the release of green house gasses in light of AB-32's codification of California's goal for reducing and capping global warming emissions to 1990 levels.

The analysis on public services is inadequate because impacts upon hospitals and their emergency medical services are not addressed. Impacts to response times for emergency medical services, during construction and during occupancy, should be considered. Likewise, the capacity of local hospitals should be examined to determine whether existing facilities can accommodate the substantial increase in residents, workers and guests the project is intended to attract.

The Revised DEIR should identify the potential for using reclaimed water for non-potable purposes such as irrigation, construction, cooling systems and toilet systems. Impacts on groundwater table recharge should be assessed, and the DEIR should consider mitigating increased runoff through the use of permeable hard-scape, road and parking pavement. Alternatives for the on-site treatment of runoff should be considered as mitigation. Further, the fact that the Bay is already designated as "impaired" should be taken into consideration.

While the Revised DEIR identifies some contaminated sites within the project area, it does not include any environmental or human health risk assessment, even for the project-level components of the project. There's no analysis of the potential risk that contamination known to exist in one aquifer may be released and caused to spread to another aquifer. As such, no mitigation or safety measures are being required to minimize any such risk.

The Revised DEIR does not go far enough to assign and assure proper remediation of contamination encountered during development. For example, there is an indication in mitigation measure 4.12-1 that contamination encountered can be "avoided" rather than remediated. However, once construction is complete, the financial and technical feasibility of reaching that contamination for remediation will be substantially diminished to the point where it may be entirely excused. The option offered in this mitigation measure for avoiding contamination should be deleted. Contamination should be contained and remediated, in order to

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**N-11** This comment recommends that the EIR address impacts including cumulative global warming. Both the EIR and the Air Quality Technical Reports address global climate change, including quantification of greenhouse gases and policies designed to reduce greenhouse gas-emission levels based on the requirements of Assembly Bill (AB) 32. *Section 4.6.3.2* of the Revised DEIR presents the global climate change analysis. *Table 4.6-32* presents the measures that will be adopted to reduce greenhouse gas emissions.

**N-12** This comment states that the analysis of public services is inadequate because it does not address potential impacts on hospitals and their emergency medical services. The comment also states that impacts to emergency medical service response times should be considered. The Revised DEIR does analyze the potential impact of the Proposed Project on emergency medical services provided as public services in the project area. *Section 4.13, Public Services*, addresses the provision of emergency medical services pursuant to the Agreement for Police, Fire, and Emergency Medical Services between the City and Port (see Page 4.13-1 of the Revised DEIR), and analyzes the potential impact of the Proposed Project on City of Chula Vista Fire Department's emergency medical service response times (Page s 4.13-4 through 4.13-7). The Revised DEIR also explains that a new fire station will be constructed in the project area as part of Phase I of the Proposed Project (Page 4.13-6). The Revised DEIR does not analyze the potential impact of the Proposed Project on hospital services because a potential increase in the number of patients in hospitals in the vicinity, or overcrowding in such facilities as a result of the Proposed Project, is not an environmental impact that must be studied in an EIR.

**N-13** This comment requests identification of use of reclaimed water. As shown in *Section 4.14, Public Utilities*, the water agency providing

Comment Letter N (Page 4)

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border crossing have not been assessed or disclosed. The DEIR should include a study of impacts to increasing border-crossing delay times which this project will cause. In connection therewith, increasing density and diminishing air quality in and around Tijuana should be taken into consideration in the analysis of cumulative impacts. Mitigation may be appropriate and, in any event, should at least be discussed. The DEIR must disclose any inconsistencies between the pending project and pending land use, community and border-plans, including those of the U.S. EPA which set objectives for the reduction of air emissions. The U.S. EPA reports that by the year 2020, the California/Mexico border population is expected to reach 19.4 million from approximately 12 million currently. The EPA also reports that border residents suffer disproportionately from certain health problems, including respiratory problems, linked to unhealthful air and excessive auto emissions. Such matters should be taken into consideration in the Revised DEIR.

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water to the project area, Sweetwater Authority, has indicated that they have recently completed a Recycled Water Master Plan and conducted a feasibility study with Otay Water District and the City for a recycled water treatment plant. Results of the study determined that servicing recycled water, including the Proposed Project, is not economically viable. This comment also states that the Revised DEIR should consider mitigating increased run-off through the use of permeable surfaces, treating run-off on site, and the fact that the San Diego Bay (Bay) is already designated as impaired. The Revised DEIR explains that the Proposed Project incorporates the use of permeable surfaces to control run-off as a feature of the overall project, as well as for the specific development projects proposed in Phase I (Page s 4.5-38 and 4.5-43 through 4.5-61). The Revised DEIR also discusses and takes into account the sources of existing contamination that impair the water quality of the Bay (Page s 4.5-13 through 4.5-17). The Revised DEIR also addresses the on-site treatment of run-off on Page s 4.5-17 through 4.5-22.

**N-14** Human Health Risk Assessments (HHRAs) have been completed for the south campus and for the project area to the west of the north campus and are referenced in the Revised DEIR (Page s 4.12-41 through 4.12-43, 4.12-61 through 4.12-65, 4.12-68, and 4.12-69). Contaminants that were discharged to the shallow aquifer have already, due to naturally occurring pathways and the type of contamination (i.e., dense, chlorinated solvent compounds), migrated into deeper aquifers and this is also discussed in the Revised DEIR on Page 4.12-39 and in the Hydrogeologic and Groundwater Quality Evaluation Report, Goodrich South Campus Chula Vista (Rubicon 2004). Mitigation measures to minimize construction-related migration of contaminants from shallow to deeper aquifers will include driven or cast-in-place piles for deep foundation footings instead of more permeable stone columns (see **Mitigation Measure 4.12-3**).

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be consistent with the project's stated objective to not only protect, but to "enhance" environmental resources. For the same reasons, all inactive and/or non-compliant underground storage tanks should be closed in compliance with the San Diego County Department of Environmental Health's requirements. All such mitigation should also be assigned to responsible parties.

The Revised DEIR should clarify whether the project will be contingent upon financing for and/or construction of particular mitigation measures such as the public improvements necessary to mitigate substantial impacts. If the mitigation is uncertain, that fact should be disclosed more plainly.

Where public improvements are called for (e.g. sewer and other infrastructure improvements), assurances should be required so the same do not run through or under, or otherwise impact, buffer and preserve areas identified in the DEIR. If the construction of such improvements may impact those sensitive areas, either directly or indirectly, the same should be disclosed for consideration, along with an analysis of feasible mitigation. In the event any adverse impacts occur within an area designated for mitigation, additional mitigation would be warranted at a higher ratio.

Where the Revised DEIR addresses significant adverse impacts 4.8-25 and 4.8-26, it refers to those as temporary impacts allowed for under the Coastal Act, but concedes the impacts are nevertheless significant. The Revised DEIR then concludes that mitigation measure 4.8-14 will reduce these impacts to a level less than significant. However, this mitigation measure only refers to mitigation for "permanent and direct impacts." As such, it is unclear how this measure will mitigate the significant but temporary impacts it corresponds to.

Finally, it is plainly wrong – and shortsighted – to think that the release of contaminated material does not permanently impact our environment. Yet, the DEIR states precisely that (see, e.g., significant impact 4.9-6).

Thank you for your consideration of these comments. On behalf of the Alliance for a Cleaner Tomorrow, I look forward to your response.

Very truly yours,

KLINEDINST PC



CAREY L. COOPER

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**N-15** The remediation of existing contamination on the project site is subject to the jurisdiction and regulatory oversight of the Regional Water Quality Control Board (RWQCB), the California Department of Toxic Substances Control (DTSC), and the County of San Diego Department of Environmental Health (DEH). These regulatory agencies are responsible for review and approval of all plans for remediation in order to ensure that the method of proposed remediation is appropriate for the nature, extent, and location of the contamination. The regulatory agencies will not allow development to proceed on a parcel where soil contamination does not meet health risk criteria for the proposed land use. Investigations conducted to date have demonstrated where contamination exists in soil that would require remediation prior to development (i.e., primarily on non-project areas of the south campus). However, development may be allowed to proceed over areas where groundwater is impacted as long as there is no route of exposure to the contaminants for site occupants (e.g., construction workers, commercial workers, visitors, and residents). The primary route of exposure to contaminants in groundwater is inhalation of volatile contaminants that volatilize from groundwater and travel via soil vapor to shallow soil. The health risk assessment has already demonstrated that soil vapor does not propose an unacceptable health risk in project areas downgradient of the north campus. The HHRA has identified hotspots in soil and soil vapor on the south campus that, as stated previously, will require remediation prior to development. Development over groundwater contamination where there is no route of exposure can be coordinated with future groundwater remediation requirements (e.g., allow for groundwater extraction wells, treatment systems, ).

For contamination that is encountered during construction, **Mitigation Measure 4.12-1** requires that a Soil and Water Management Plan (SWMP) be prepared that will provide guidance for actions to be

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be consistent with the project's stated objective to not only protect, but to "enhance" environmental resources. For the same reasons, all inactive and/or non-compliant underground storage tanks should be closed in compliance with the San Diego County Department of Environmental Health's requirements. All such mitigation should also be assigned to responsible parties.

The Revised DEIR should clarify whether the project will be contingent upon financing for and/or construction of particular mitigation measures such as the public improvements necessary to mitigate substantial impacts. If the mitigation is uncertain, that fact should be disclosed more plainly.

Where public improvements are called for (e.g. sewer and other infrastructure improvements), assurances should be required so the same do not run through or under, or otherwise impact, buffer and preserve areas identified in the DEIR. If the construction of such improvements may impact those sensitive areas, either directly or indirectly, the same should be disclosed for consideration, along with an analysis of feasible mitigation. In the event any adverse impacts occur within an area designated for mitigation, additional mitigation would be warranted at a higher ratio.

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taken in this event. The SWMP will provide guidance on assessment, clean up (if necessary), handling of impacted soils, underground storage tanks, and water and reporting requirements.

**N-16** This comment requests clarification whether the project will be contingent upon financing and/or construction of particular mitigation measures. As discussed in *Chapter 3.0, Project Description*, and throughout *Chapter 4.0* and *Chapter 6.0* of the Revised DEIR, the Proposed Project will avoid or reduce potential environmental impacts through a combination of features incorporated into the design of the project and recommended mitigation measures. As with all development projects, all of the development of the public and private components of the Proposed Project may be contingent upon financing. However, the certainty or uncertainty of financing individual components of the Proposed Project will not affect the mitigation measures recommended in the Revised DEIR. Every project component that is constructed must implement the project features and mitigation measures discussed in the Revised DEIR.

**N-17** The comment recommends that improvements should not affect or impact buffer or preserve areas. Any impacts to biological resources from any project components, including infrastructure improvements, have been analyzed and mitigation has been described in *Section 4.8, Terrestrial Biological Resources*.

**N-18** **Mitigation Measure 4.8-14** in the Revised DEIR clearly states that it shall be implemented to reduce the "direct permanent and temporary impacts to CCC wetlands during program-level phases within the Port's jurisdiction" to below a level of significance. As described under **Mitigation Measure 4.8-14** in the Revised DEIR, mitigation for temporary impacts within Parcel OP-2B from the re-channelization of the Telegraph Canyon Channel (**Significant Impact 4.8-26**) would require mitigation at a ratio of 1:1.

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Leslie Nishihira  
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CAREY L. COOPER

CLC/jlc

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**N-19** This comment disagrees with the statement in the Revised DEIR in **Significant Impact 4.9-6** that the release of contaminated material does not permanently impact the environment. The comment misstates the analysis and conclusion of *Section 4.9.3*, criterion 1 (Page 4.9-25), of the Revised DEIR regarding temporary direct impacts to water quality and marine resources, which would occur from the unintentional release of excavated sediments and water during the construction of phased improvements, including the H Street Pier. The Revised DEIR found that such impacts would be significant and recommended specific mitigation measures to address the potential impacts from temporary construction activities (see **Mitigation Measure 4.9-4** on Page 4.9-35).

**Comment Letter O**



BY CHOICE HOTELS

August 7, 2008

San Diego Unified Port District  
Land Use Planning Department  
P.O. Box 120488  
San Diego, CA 92112-0488.

Re: Gaylord Hotel and Convention Center, Chula Vista Bay Front Development


Gentlemen,

As a one year new hotel just a few blocks from the proposed bay front development we enthusiastically support it. We believe that this project will greatly expand access to what will be our beautiful bay front to local and Southern California residents. We like the mix of commercial development, waterfront park and ecological preserve that the project achieves. The Gaylord Hotel and Convention Center will expose Chula Vista and the South Bay as a world class destination for tourists and conventions.

The bay front development will bring a tremendous amount of economic benefit to our area with the construction of the project, as well as the future convention and tourism business. Thousands of needed jobs will be created. This major project will also spur additional private investment in the area. News of the coming Gaylord Hotel and Convention Center and bay front development helped our decision to invest in Chula Vista three years ago and redevelop what was a rundown old hotel into the new Comfort Inn & Suites.

As all ships are lifted by a rising tide we hope to benefit along with our neighbor businesses from the development of this world class waterfront project. More and varied bay access, economic expansion and more local jobs of all kinds is great for Chula Vista and all San Diego area residents and business.

Sincerely,  
Comfort Inn and Suites

  
Kim J Walker, Partner

432 E St.  
Chula Vista, California 91910  
Phone: 619.426.2500 Fax: 619.478.8635  
For reservations worldwide: 800.4CHOICE choicehotels.com

**Response to Letter O**

**Comfort Inn and Suites**

**August 7, 2008**

**O-1** This comment expresses an opinion that development of the Proposed Project will act as a catalyst for economic expansion to the area. This comment is noted. As the comment does not address the accuracy or adequacy of the Revised DEIR, no further response is warranted.

O-1

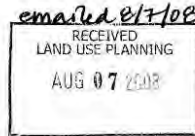
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Comment Letter P

August 7, 2008

San Diego Unified Port District  
Land Use Planning Department  
P.O. Box 120488  
San Diego, CA 92112-0488



Via electronic mail attachment to [lnishihira@portofsandiego.org](mailto:lnishihira@portofsandiego.org)

Subject: Comments on *Chula Vista Bayfront Master Plan and Port Master Plan Amendment Revised Draft Environmental Impact Report*

**Crossroads II** submits the following comments on the subject report.

Aesthetics/Visual Quality

The Revised DEIR should identify specific design measures that would keep a view corridor open from the I-5 overpass to the San Diego Bay. The document fails to do this, despite the fact that **CII** and the **South Bay Forum** specifically commented on this in our letter of response to the NOP (09/12/2005).

The Revised Draft EIR states: *Views of the Bay are considered to be regionally significant....The Bay can be viewed from the I-5 overpass at J Street...* (p.4.4-8) The Revised DEIR acknowledges that *Public views of the waterfront as seen from portions of I-5 would be blocked by the Pacifica development for a great number of individuals.* (p. 4.4-71) Figure 4.4-6A (visual simulation 2A) demonstrates that the Pacifica Residential and Retail project would obliterate views of the Bay from I-5 southbound at the J St. overpass. The Revised DEIR concludes that this impact to view quality from the Pacifica Residential and Retail project alone is significant under CEQA guidelines, and that *No feasible mitigation beyond redesign of the project as identified as a project alternative would reduce the impacts to view quality associated with the Pacifica Residential and Retail project.* (p. 4.4-86)

While the Reduced Overall Density alternative reduces this significant visual impact from the Pacifica project by reducing the number of residential units from 1500 to 1100, that alternative fails to reduce the significant impact to regionally important views to below a level of significance, even though **CII** and the **South Bay Forum** specifically requested that the content and scope of the DEIR should contain such an analysis.

Coastal Access

According the Revised DEIR, two of the objectives of the Bayfront master plan are:

- *Development of a plan that eliminates or reduces barriers to linking the Bayfront to the rest of western Chula Vista*
- *Development of a plan that enhances a culturally diverse community and integrates the Bayfront with the rest of Chula Vista*

Response to Comment Letter P

**Crossroads 2**  
**August 7, 2008**

**P-1** This comment summarizes the analysis and conclusions of the Revised DEIR concerning the impact of the proposed Pacifica project on views from I-5 at the J Street overpass to the San Diego Bay. This comment also states the Revised DEIR should identify design measures that would keep the view corridor open from the I-5 overpass to the San Diego Bay. The design of the Pacifica project incorporates the following planning and architectural measures to reduce visual impact and preserve view corridors:

- A minimum building setback of 50 feet from J Street, which will accommodate viewing opportunities from I-5 on parcels H-13 and H-14.
- Building setbacks and step-backs to provide a 70-foot-wide minimum street section at podium level and 95-foot-wide minimum street section at tower level on J Street.
- Building setback on J Street, between the I-5 Corridor and A Street (Parcel H-15), have been increased from 35 feet to 65 feet, measured from the north curb of J Street. Based on a visual analysis by Carrier-Johnson, this will permit a wider view corridor from I-5 than proposed by the project as originally planned. Uses such as a hotel pool will be permitted in the setback so long as the view to the bay is not impeded.
- Proposed towers gradually step downward in height from north to south, reflecting the more intensive proposed land uses to the north and the environmental preserve to the south.

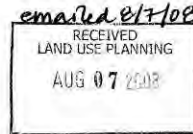
P-1

P-2

Comment Letter P

August 7, 2008

San Diego Unified Port District  
Land Use Planning Department  
P.O. Box 120488  
San Diego, CA 92112-0488



Via electronic mail attachment to [Inishihira@portofsandiego.org](mailto:Inishihira@portofsandiego.org)

**Subject:** Comments on *Chula Vista Bayfront Master Plan and Port Master Plan Amendment Revised Draft Environmental Impact Report*

**Crossroads II** submits the following comments on the subject report.

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According to the Revised DEIR, two of the objectives of the Bayfront master plan are:

- *Development of a plan that eliminates or reduces barriers to linking the Bayfront to the rest of western Chula Vista*
- *Development of a plan that enhances a culturally diverse community and integrates the Bayfront with the rest of Chula Vista*

The Final EIR has been revised to include the above information in the description of the Pacifica project in *Chapter 3.0, Project Description*, and in *Section 5.7.3* to further describe how the view corridor would be maintained from the I-5 overpass to the San Diego Bay.

The comment also summarizes the Revised DEIR's analysis and conclusions regarding the ability of the Reduced Density Alternative to reduce this impact, although not to a level below significance. In respect to the visual impacts described in *Section 4.4, Aesthetics/Visual Quality*, the Revised DEIR included the Reduced Density Alternative (*Section 5.6*) which would reduce visual impacts from the Pacifica project. Section 15126.6(a) of the CEQA Guidelines states that an "EIR shall describe a range of reasonable alternatives to the project . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the proposed project." The Revised Draft EIR included five different alternatives to the Proposed Project, two of which (No Project Alternative and the Reduced Density Alternative), would substantially lessen the view quality impacts of the Proposed Project as summarized in *Table 5.1-1* of the Revised DEIR. The five alternatives discussed in the Revised DEIR represent a reasonable range of alternatives to the Proposed Project as required by CEQA.

**P-2** *Section 4.1, Land/Water Use Compatibility*, provides an in-depth analysis of how the project provides enhanced connections from Western Chula Vista to the Bayfront, including a series of streets, pathways, and pedestrian/bicycle corridors that link the Bayfront planning area with the Chula Vista Urban Core and H and E Street trolley stations. Both the Green Car Line and the trolley grade separation projects are not within the authority of the City or Port, and therefore cannot be guaranteed by this project. However, payment of the Western Traffic Development Impact Fee (WTDIF) does contribute a fair share toward regional transportation needs, including I-5 South Corridor Plan improvements and future trolley grade projects.

## Comment Letter P (Page 2)

The Revised DEIR is inadequate in that fails to describe or explain, either in the Project Description chapter or Traffic and Circulation environmental analysis, how the master plan accomplishes these objectives, especially with regard to bicycle and pedestrian connections that would “reduce barriers to linking the Bayfront to the rest of western Chula Vista” and “integrates the Bayfront with the rest of Chula Vista.” Although the Revised DEIR goes into great detail about a loop shuttle service called the Green Car Line connecting Third Avenue with the Bayfront, the document acknowledges...*Implementation of the Green Car Line is unknown at this time, and this feature of the Proposed Project will not occur until operational and funding responsibilities are established.* The Revised DEIR must be amended to better address this east-west connectivity issue, so critical to the objectives of the project. These could include such things as widened sidewalks and class I or II bikeways along E St. F St., H St., and J St. between Third Ave. and Bay Blvd.; and grade-separating the trolley. Special attention should be given to F St., as residents of western Chula Vista have the potential to reach the bay along F St. without crossing a freeway interchange. Further, F St. is the only east-west street that links downtown Third Ave., city hall, and the civic center library with the Bay.

### Signature Park

1. The Revised DEIR is inadequate and incomplete in that it is impossible to verify the ultimate size of the Signature Park.

Ultimate Size of Signature Park		
Parcel	No. Acres	Development Phase
S-2	18	I
H-1A	5	IV
HP-1	--	I
H-8	--	I
H-9	--	--

All we know from the Revised DEIR is that parcels HP-1 and H-8 together total 17 acres (Table 3-8), and that the ultimate amount of park space in parcels H-8 and H-9 together total a minimum of 6 acres (p. 3-106). Without completion of the missing information in the above table, which is **not** disclosed in the Revised DEIR, it is impossible to know what the ultimate size of the Signature Park will really be. Although the document describes the Signature Park as totaling 40 acres (p.3-40) it is impossible to verify this statement. We cannot make the numbers in the document add up to 40.

Further, the size of the existing Chula Vista Bayside Park on parcel HP-1 is not disclosed, so it is impossible to determine the **net** amount of new park space. This is essential information that the Revised DEIR fails to disclose.

2. Although the Revised DEIR describes what it refers to a *Signature Park*, the document is inadequate in that it fails to disclose the fact this park is in reality two

P-2  
(Cont.)

P-3

P-4

As discussed in the Revised DEIR, implementation of the Green Car Line transit system proposed in the City’s Urban Core Specific Plan is dependent upon the availability of funding. Although the Port and the City are continuing their efforts to identify potential funding sources, San Diego Association of Governments (SANDAG) has indicated that the Green Car Line is not considered a regional transit project and is not eligible for regional public transit funds and will need to seek local or private funding. Please also see the response to comment K-12.

P-3 Tables 4.13-5 through 4.13-9 provide a specific parcel-by-parcel breakdown of acreage for all parks within the Proposed Project. As shown in Table 4.13-5, Parcel HP-1 shows Bayside Park as 9.2 acres.

P-4 The Signature Park is proposed for Parcel S-2. Though the Signature Park is separated from the park on Parcel H-8 by drainage, park users can get around the drainage channel to access the other side of the park via the E Street Bridge, which includes a 16-foot-wide, multipurpose trail that will allow pedestrians and bicyclists access to both sides of the park (see Section 3.4.5.1 and Figure 3-13A in the Revised DEIR). Prior to final design of the E Street Bridge connections, the Port will evaluate the feasibility of a separate pedestrian and bicycle bridge between the S-2 and H-8 park parcels. Prior to the development of Parcel H-3, the Port will also analyze the reconfiguration of E Street around parcel H-3 to accommodate park improvements on the west side of E Street equivalent to those park improvements proposed for Parcel H1-A. The proposed timing of construction for roadway improvements, including the E Street Bridge connections, are tied to requirements of proposed adjacent development. Roadway improvements necessary for Phase I program-level components would be required prior to or concurrently with the development of these specific components. The phasing of land uses is intended to balance the needs of the community, infrastructure, and economic feasibility.

**Comment Letter P (Page 3)**

parks. Signature Park parcel S-2 is cut off from parcels H-1 and H-8 by a drainage channel that crosses E St. north of the Gaylord project site and parcel H-1A, which will not be developed until phase IV. (Phase IV is the last phase of development under the proposed master plan, and may be as long as 24 years in the future - a generation away.)

The Revised DEIR should clearly and truthfully disclose the ultimate net new size of the Signature Park, should acknowledge that in fact there are two parks, not one, and examine alternatives that actually do result in 40 **contiguous** acres of **new** parkland.

Land/Water Use Compatibility

The Revised Draft EIR is inadequate in that it fails to address the impact of Chula Vista's 1988 "Cummings Initiative" on development in Chula Vista, including the Bayfront. The Land/Water Use Compatibility chapter of the document should be amended to include an analysis of the affect of this legislation, if any, on the proposed master plan.

Best regards,

Patricia Aguilar, President  
**Crossroads II**

P-4  
(Cont.)

P-5

**P-5**

This comment states that the Revised DEIR failed to address the impact of the Cummings Initiative, Chula Vista Municipal Code Chapter 19.80, "Controlled Residential Development," on the Proposed Project.

The Cummings Initiative was adopted by the citizens of the City in 1988 in response to concerns over growth and quality-of-life issues. The initiative states in Section 19.80.020.B that its major intent was to "better plan for and control the rate of residential growth in the city . . . in order that services provided by the city . . . can be effectively staged in a manner that will not overextend existing facilities." The initiative contains language in Section 19.80.030 that requires the City to include a Public Facilities and Services Element in the City's General Plan to make certain that new development does not degrade existing services but rather provides staged or incremental construction of any additional facilities required by new development. A Public Facilities and Services Element was included in the City's General Plan and General Plan Update.

Section 19.80.070.A of the initiative contains language that prohibits the rezoning of property designated for residential development (in this instance, potentially, Proposed Project Parcels H-13 and H-14) beyond the next highest residential density category in the City's Zoning Code within a 2-year period. The initiative also states in Section 19.80.070.D that "rezoning of commercial or industrial property to a residential zone shall be permitted only to the maximum residential density corresponding to the potential traffic generation that was applicable prior to the rezoning to residential." There is no language in the initiative, however, that addresses what should occur with land outside of the City's rezoning jurisdiction which may be subject to a land exchange between the Port District and a private property owner, which is what is being contemplated as part of the

Comment Letter P (Page 3)

Signature Park parcel S-2 is cut off from parcels H-1 and H-8 by a drainage channel that crosses E St. north of the Gaylord project site and parcel H-1A, which will not be developed until phase IV. (Phase IV is the last phase of development under the proposed master plan, and may be as long as 24 years in the future - a generation away.)

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Best regards,

Patricia Aguilar, President  
**Crossroads II**

P-4  
(Cont.)

P-5

Proposed Project. However, Section 19.80.070.B states that "any annexation of lands within the City's sphere of influence shall conform to the purposes, intent and requirements of this ordinance."

As stated, the only property proposed for rezoning that may be affected by the initiative is property currently within the City's zoning jurisdiction that is being changed from a residential zone to a more intense residential zone or from a commercial or industrial zone to a residential zone. The existing City Zoning Map applicable to the Bayfront reveals that only one portion of the Bayfront is currently zoned residential, or more specifically R3HP, which allows for development of residential apartment uses. The portion of the Bayfront that is currently zoned R3HP is not proposed for residential use in the Proposed Project; therefore, it would not contravene the residential limitations in the initiative.

The only portion of the Bayfront proposed for residential use is property currently within the jurisdiction of the Port and is not subject to City zoning. Any change in use on Port property as part of a land exchange does not implicate the Cummings Initiative because it was not subject to City zoning regulations at the time of adoption of the initiative. The Cummings Initiative also states in Section 19.80.070.D that "rezoning of commercial or industrial property to a residential zone shall be permitted only to the maximum residential density corresponding to the potential traffic generation that was applicable prior to zoning to residential." Moreover, Section 19.80.070.B, which deals with situations in which land that is within the City's sphere of influence is being annexed into the City, also is not applicable. The Port property that is part of the land exchange already is within the boundary of the City and does not need to be annexed into the City. In sum, the initiative is not applicable to the Proposed Project.

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Comment Letter Q



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August 7, 2008

Leslie Nishihira  
Associate Redevelopment Planner  
Unified Port of San Diego  
3165 Pacific Highway  
San Diego, CA 92101-1128

*Via Electronic Mail*  
lnishihira@portofsandiego.org

Re: **Revised Draft Environmental Impact Report**  
**Chula Vista Bayfront Master Plan and Port Master Plan Amendment**  
**UPD #83356-EIR-658; SCH #2005081077**  
**Bayfront Coalition Comments**

Dear Ms. Nishihira:

Coast Law Group LLP represents Environmental Health Coalition (EHC), through whose organizing efforts this letter is presented on behalf of the Bayfront Coalition. The Bayfront Coalition members include EHC, San Diego Coastkeeper, the Surfrider Foundation (San Diego Chapter), and San Diego Audubon Society. Thank you for the opportunity to provide comments on the Revised Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment (DEIR).

The Bayfront Coalition would first like to unequivocally convey to the San Diego Unified Port District (Port) and City of Chula Vista (City) that it supports redevelopment of the Bayfront (Project). The Coalition recognizes that an appropriate Project will protect and enhance the incredible natural resources of the area, while at the same time providing a base for tax revenue, economic enhancement, quality jobs, site cleanup, and significant public amenities. Following submission of comments on the prior DEIR, numerous individuals and members of the press incorrectly construed the Bayfront Coalition's concerns as indicative of an overall desire to stop any development on the Bayfront. Nothing could be further from the truth. The Coalition groups and their members have contributed countless hours over years (and for some, more than a decade) to see an appropriate Project developed.

Of course, the sensitivity of resources in and around the Bayfront, coupled with the sheer vastness of the proposed development, require that every care be given to ensure the needs of the natural environment and greater Chula Vista community are balanced against those of public agencies and developers. And because the massive amount of proposed development will undoubtedly re-frame the entire Bayfront experience for humans and wildlife alike for decades to come, extra concessions must be made to ensure long term indirect and cumulative impacts of the Project are disclosed and mitigated.

**CEQA Process**

Typically when participating in planning processes, Bayfront Coalition groups provide DEIR comment letters that comprehensively identify failures of the CEQA document, project assumptions, and impact significance determinations. As the Port and City experienced with the previous DEIR for this project, such comments can be helpful in spurring reconsideration of broad planning goals and analysis perspectives, as well as identifying potential legal weaknesses should inadequacies remain unaddressed when project approval is considered. The current DEIR is, in

Q-1

Q-2

Response to Comment Letter Q

Environmental Health Coalition

August 7, 2008

**Q-1** The comment includes an introduction to the letter, identifying the members of the Bayfront Coalition (Coalition) and thanking the Port for the opportunity to comment on the Proposed Project. The comment expresses the Coalition's support for redevelopment of the Bayfront area and summarizes some of the benefits that the Coalition believes can be achieved. The comment summarizes the process by which the Coalition has reviewed and commented on the Revised DEIR, emphasizing the need to identify, evaluate, and mitigate all significant impacts resulting from the project. The comment is noted. As the comment does not address the accuracy or adequacy of the Revised DEIR, no further response is warranted.

**Q-2** This comment summarizes the Coalition's typical approach to providing comments on environmental documents, the importance of submitting such comments, and the alternate approach the Coalition has taken in commenting on the Revised DEIR for the Proposed Project. The commenter acknowledges that the Revised DEIR is an improvement over the previously circulated EIR; however, the commenter makes a general assertion that inadequate impact analysis and mitigation exists for wildlife and habitat protection and management, energy use, public access, site remediation, air and water quality, and affordable housing. Detailed responses to the commenter's concerns will be provided in the following responses to comments, as specific issues are raised and detail regarding the commenter's concern is provided.

## Comment Letter Q (Page 2)

Chula Vista Bayfront/Port Master Plan Amendment DEIR  
Bayfront Coalition Comments  
August 7, 2008  
Page 2

several areas, an improvement over the prior document. Notwithstanding such positive evolution, however, several issues remain unaddressed or unmitigated, and serious deficiencies persist. Adequate impacts assessment and mitigation measures are lacking in areas of wildlife and habitat protection and management, energy use, public access, site remediation, air and water quality, and affordable housing.

Given the foregoing, the initial inclination of the Bayfront Coalition was to provide comprehensive comments and recommend significant changes to the DEIR. Upon reconsideration, the Bayfront Coalition has elected to propose an alternative approach, one by which only the Coalition's most critical concerns not addressed in the EIR will be highlighted for attention.

### Alternative Approach to Issue Resolution

The Bayfront Coalition recognizes there are certain important issues and impacts of the Project that are best addressed within the context of the DEIR and the CEQA process. Rectifying these issues within the DEIR will require either amendments to the overall Project Description or addition of critical new mitigation measures. Virtually all of these issues have been provided to the Port, City, and developers in numerous previous letters and meetings. The Green Bayfront Recommendation 'matrix', described further below, provides clear and concise concerns with the DEIR and includes recommended actions by specific entities.<sup>1</sup>

There are also indirect and cumulative environmental, social, and cultural issues the Coalition believes could be appropriately addressed outside of the traditional CEQA process and the DEIR. These issues, such as the provision of additional affordable housing, protection against gentrification in western Chula Vista, diversification of energy generation to reduce reliance on the South Bay Power Plant, general impacts on Westside residential neighborhoods, and long term land and wildlife management plans, will all have to be dealt with at some point in order for the Coalition's groups and the greater community to accept the scale and mass of development proposed for the Bayfront.

One effective mechanism for addressing these impacts would be establishment of a public, non-profit foundation endowed with funds to provide non-depleting annual operating capital sufficient to support mission-relevant projects. But please note, the Bayfront Coalition has not limited consideration to this specific funding vehicle. Rather, the Coalition seeks to work with the community, Port, City, and developers to choose the best mix of options to meet the needs of the environment and community, and thereby create a supportable Bayfront redevelopment project. The only caveat to the Coalition's flexibility in this regard is that no matter what form is ultimately chosen to address these issues, future action must be:

- Enforceable by, or directly accountable to, the public;
- Conditioned to address specific, designated purposes; and
- Funded for the long-term.

While, the Bayfront Coalition's proposed alternative approach represents a significant departure

<sup>1</sup> The details regarding each of these elements was provided in the prior DEIR comment letter dated January 11, 2007 and should still be considered to reflect the Bayfront Coalition's position if changes have not been made.

Q-2  
(Cont.)

Q-3

Q-4

Q-5

Q-6

**Q-3** This comment introduces a matrix provided by the Coalition that summarizes the Coalition's main concerns and recommended resolution. Detailed responses to the commenter's concerns are provided in the following responses to comments as specific issues are raised.

**Q-4** This comment states the Coalition's belief that certain indirect and cumulative environmental, social, and cultural issues could be addressed outside of the CEQA process and the EIR. The comment does not address the accuracy or adequacy of the Revised DEIR. Detailed responses to the commenter's concerns will be provided in the following responses to comments as specific issues are raised.

**Q-5** The comment express the Coalition's desire to work with the community, Port, City, and developers to identify the best mix of options to meet the needs of the environment and community, thereby creating a supportable Bayfront redevelopment project. The commenter suggests that one mechanism for addressing the environmental, social, and cultural concerns expressed in the previous comment could be to establish a public, non-profit foundation endowed with funds to provide non-depleting annual operating capital, although the commenter emphasizes that this is not the only effective mechanism to address these impacts.

Over a period of approximately 9 months, there have been extensive public outreach efforts between the Coalition's member organizations, the Port, City, and the Redevelopment Agency of the City of Chula Vista concerning measures for protection of the environment above and beyond those required by CEQA and any other federal, state, and local laws and regulations applicable to the Proposed Project. These measures have incorporated input from stakeholders concerned with environmental protection, community benefits, and the legal adequacy



## Comment Letter Q (Page 2)

Chula Vista Bayfront/Port Master Plan Amendment DEIR  
Bayfront Coalition Comments  
August 7, 2008  
Page 2

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Q-2  
(Cont.)

Q-3

Q-4

Q-5

Q-6

of the Revised DEIR, resulting in the incorporation of numerous significant and meaningful community recommendations in the Final EIR.

The Final EIR has been revised to provide additional measures undertaken by the Port in response to the Coalition's concerns. These measures have been incorporated throughout the Final EIR and Mitigation Monitoring and Report Plan (MMRP) and will be enforceable as mitigation measures. Amongst other things, the additional mitigation provides for the creation, implementation, and enforcement of an NRMP, and efforts to enter into cooperative management agreements with USFWS or other appropriate agencies.

Comment Letter Q (Page 3)

Chula Vista Bayfront/Port Master Plan Amendment DEIR  
Bayfront Coalition Comments  
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Page 3

from the manner in which it addressed deficiencies in the previous DEIR, recent meetings with the developers and staff from the Port and City have been constructive. As such, the Coalition remains optimistic a positive outcome is possible.

Green Bayfront Recommendations

Attached you will find a matrix entitled "Green Bayfront Recommendations for the Chula Vista Bayfront Master Plan" (matrix). The matrix identifies the totality of environmental and community impacts the Bayfront Coalition believes must be addressed for the Project to move forward, including key deficiencies with the DEIR. The matrix is not styled as a legal comment letter, and it intentionally focuses on the Bayfront Coalition's "bottom line" issues. Hence, numerous technically questionable impacts assessments and potentially inadequate mitigation measures have been left out, as have issues that the Bayfront Coalition believes are better left to other groups and/or individuals to address.

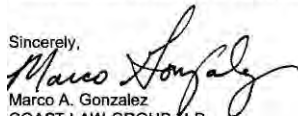
It should be noted, however, that by opting not to include lengthy and detailed legal and technical comments on the DEIR, the Bayfront Coalition has not given up its right to do so at some later time. CEQA case law is very clear about the public's right to submit comments on an environmental document any time prior to final project approval. See, e.g. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App. 4th 1184 ("Failure to participate in the public comment period for a draft EIR does not cause the petitioner to waive any claims relating to the sufficiency of the environmental documentation." (Citations omitted)). In the event agreements cannot be reached on matrix issues to the satisfaction of the Bayfront Coalition, the Port and City can certainly expect such additional comprehensive CEQA comments at a later date.

The Green Bayfront Recommendation matrix has been presented (in substantially the same form) in numerous past meetings with representatives for Gaylord Entertainment, Pacifica Companies, staff of the Port and City, and the organized labor community. It is the Bayfront Coalition's sincere belief constructive focus on these core issues will result in support from key stakeholders, without which, the project would certainly face a difficult road through the Coastal Commission process, and potentially even litigation.

Again, thank you for the opportunity to provide the above comments and the Green Bayfront Recommendations. The Bayfront Coalition remains committed to responsible development of the Bayfront, and looks forward to working with the Port and City to make that a reality.

Coalition members are available as needed for further meetings and to answer any questions. Please feel free contact me or Laura Hunter at Environmental Health Coalition.

Sincerely,



Marco A. Gonzalez  
COAST LAW GROUP LLP  
Attorney for Environmental Health Coalition

CC: (all via email pdf)  
Bayfront Coalition Members

Q-6  
(Cont.)

Q-7

**Q-6** In this comment, the Coalition characterizes recent meetings with Port and City staff and developers as being constructive. The commenter expresses optimism that a resolution of the Coalition's concerns will be reached. The Port and City agree that meetings with the Coalition have been constructive. As the comment does not address the accuracy or adequacy of the Revised DEIR, no further response is warranted.

**Q-7** This commenter formally describes the matrix attached as part of the comment letter, entitled "Green Bayfront Recommendations for the Chula Vista Bayfront Master Plan," and explains the intent of this matrix as a summary of the Coalition's "bottom-line" issues.

The commenter states that the Coalition reserves the right to submit future comment letters on the project should resolution of issues identified in the matrix not be achieved. Although comments on an environmental document may be made at any time prior to approval of a project, the lead agency is not required to respond to comments received after the close of the public comment period. (CEQA Guidelines Sections 15088(a), 15207). The Port understands that the Coalition may issue comments for components of the Proposed Project that require project-level review subsequent to Final EIR certification and approval of the Proposed Project.

The commenter concludes the letter by thanking the Port for the opportunity to provide comments and submit the matrix of recommendations. The commenter looks forward to working with the Port and the City.

Comment Letter Q (Page 4)

GREEN Bayfront Recommendations for the Chula Vista Bayfront Master Plan  
August 7, 2008

	Area	Issue/Impact	Agency	Bayfront Coalition Proposed Solution
Q-8	Wildlife: Restoration	Sweetwater tidal flats should have been permanently protected previously (per 2001 PMPA). Protection requires provision for management by appropriate natural resource agencies.	Port	<b>Amend project description:</b> implement the agreement in the 2001 PMPA prior to commencement of any on-site activities.
Q-9	Wildlife: Restoration	J street tidal flats must be protected through negotiated agreement with natural resource agencies.	Port	<b>Add mitigation measure:</b> working with the USFWS, the Port will apply for the J Street Tidal flats to be included in a NWR Refuge overlay to ensure permanent protection as salt marsh and intertidal mudflats, protection must be secured prior to commencement of grading for any Phase 1 activities.
Q-10	Wildlife: Restoration	Original CAC agreement included restoration of tidal flows to on-site marsh. No such commitment is included in the DEIR.	Port	<b>Amend project description:</b> require removal of unnecessary portions of Lagoon Drive to restore tidal connection. At least 300 feet of paving should be removed and replaced with a pedestrian and bike bridge to partially offset fragmentation that the extension of E street to the marina will cause. Emergency access at this location is unnecessary.
Q-11		Original CAC agreement included ecological buffers not as mitigation, but as project design. No such commitment is included in the DEIR.		<b>Amend project description:</b> SP-2 on-site marsh should be protected as wetland, with permanent buffer. In the alternative, a buffer of at least 200 feet should be established around marsh area.
Q-12		S-4 only has 100 foot ecological buffer despite significant adjacent resources; conceptual building is too tall to be located so close to the refuge.		<b>Amend project description:</b> include completion of ecological buffers in Sweetwater and Otay as pre-conditions to occupancy certificates. Ecological buffers should not qualify as mitigation for impacts elsewhere on the Bayfront. Sweetwater ecological buffer and trail amenities must be completed in Phase 1, and Otay buffers can be linked to timing of adjacent development. Funding for construction and maintenance of buffer should be included in Port Habitat Restoration Plan.
Q-13		Project will cumulatively degrade natural habitat values; enhancement of existing resources needed.		<b>Amend project description:</b> expand ecological buffer in full to parcel S-4. S-4 and S-1 building heights must be reduced and moved away from the buffer and habitat.
Q-14		Telegraph Creek channel has significant existing wildlife values, particularly for wintering migratory ducks and Savannah Sparrows (year round). The proposed changes to the channel appear designed primarily for flood control, and do not adequately take into account existing resource value and opportunity. Channel width should be expanded, which would reduce water velocities during flooding and allow for riparian vegetation to persist under such conditions. Channel should vertically terraced to contain water in a series of basins, with as much concrete removed as possible and replaced with stabilized soil. The bank slopes should be made more gradual. These improvements would substantially improve water quality and habitat value and they could be used to offset a portion of the mitigation required for wetlands and other habitat within the project. These changes will help protect the J Street Marsh from trash, pollutants, and extreme flood velocities.		<b>Amend project description:</b> develop Telegraph Creek restoration plan for implementation in Phase 3; include in Port's Habitat Restoration Plan.  <b>Amend project description:</b> develop plan to restore power plant cooling channels for implementation in Phase 3; include in Port's Habitat Restoration Plan or otherwise offer permanent protection to channel areas left-out of the National Wildlife Refuge.

**Q-8** This comment expresses concern regarding the protection of the Sweetwater Tidal Flats, including the provision for management by appropriate natural resource agencies. *Chapter 3.0, Project Description* for Parcel H-1A in the Revised DEIR \ identifies the 2001 Port Master Plan (PMP) Amendment requirement to enter into a cooperative agreement with appropriate agencies for the protection and/or enhancement, where appropriate, for the sensitive biological habitat running north from the South Bay Boatyard to the Sweetwater River Channel (known as the Sweetwater Tidal Flats).

In response to this requirement and the commenter’s recommendation, the Port will make a good faith effort to enter into a cooperative agreement with USFWS or other appropriate agencies or organizations to provide for the long-term protection and management of the sensitive biological habitat known as the Sweetwater Tidal Flats. The agreement will also address educational signage, long-term maintenance, and additional protection measures, such as increased monitoring and enforcement. The Final EIR had been revised to include a description of this cooperative agreement (see **Mitigation Measure 4.8-7** in the Final EIR).

The cooperative agreement will be executed prior to the commencement of mass grading for any infrastructure or site development (excluding construction of H Street or the grading of Parcels HP-5, H-13, H-14, and H-15), subject to the cooperation of the appropriate resource agencies. It is important to note that the establishment of such an agreement is contingent upon the cooperation of the appropriate agencies (i.e., USFWS). The Port and City have met with the agencies on October 1, 2008, to discuss cooperative agreements on management.

In addition, the Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the San Diego Bay National Wildlife Refuge (SDBNWR), and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). The fencing will be designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums, and other small terrestrial animals [collectively, “predators”]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be a minimum 6-foot-high, vinyl-coated chain-link fence or other suitable barrier as described in the Final EIR. The fence design may include appropriate locked access points for maintenance and other necessary functions.

**Q-9** This comment expresses concern regarding protection of the J Street Tidal Flats through a negotiated agreement with appropriate natural resource agencies. The Port will make a good faith effort to enter into a cooperative agreement with USFWS or other appropriate agencies or organizations to provide for the long-term protection and management of the sensitive biological habitat within the J Street Marsh. The agreement will also address educational signage, long-term maintenance, and additional protection measures, such as increased monitoring and enforcement. The Final EIR had been revised to include a description of this cooperative agreement (see **Mitigation Measure 4.8-7** in the Final EIR).

The cooperative agreement will be executed prior to the commencement of mass grading for any infrastructure or site development (excluding construction of H Street or the grading of Parcels HP-5, H-13, H-14, and H-15), subject to the cooperation of the appropriate resource agencies. It is important to note that the establishment of such an agreement is contingent upon the cooperation of the appropriate agencies (i.e., USFWS).

Comment Letter Q (Page 4)

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	Area	Issue/Impact	Agency	Bayfront Coalition Proposed Solution
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Q-9	Wildlife: Restoration	J street tidal flats must be protected through negotiated agreement with natural resource agencies.	Port	<b>Add mitigation measure:</b> working with the USFWS, the Port will apply for the J Street Tidal flats to be included in a NWR Refuge overlay to ensure permanent protection as salt marsh and intertidal mudflats, protection must be secured prior to commencement of grading for any Phase 1 activities.
Q-10	Wildlife: Restoration	Original CAC agreement included restoration of tidal flows to on-site marsh. No such commitment is included in the DEIR.	Port	<b>Amend project description:</b> require removal of unnecessary portions of Lagoon Drive to restore tidal connection. At least 300 feet of paving should be removed and replaced with a pedestrian and bike bridge to partially offset fragmentation that the extension of E street to the marina will cause. Emergency access at this location is unnecessary.
Q-11		Original CAC agreement included ecological buffers not as mitigation, but as project design. No such commitment is included in the DEIR.		<b>Amend project description:</b> SP-2 on-site marsh should be protected as wetland, with permanent buffer. In the alternative, a buffer of at least 200 feet should be established around marsh area.
Q-12		S-4 only has 100 foot ecological buffer despite significant adjacent resources; conceptual building is too tall to be located so close to the refuge.		<b>Amend project description:</b> include completion of ecological buffers in Sweetwater and Otay as pre-conditions to occupancy certificates. Ecological buffers should not qualify as mitigation for impacts elsewhere on the Bayfront. Sweetwater ecological buffer and trail amenities must be completed in Phase I, and Otay buffers can be linked to timing of adjacent development. Funding for construction and maintenance of buffer should be included in Port Habitat Restoration Plan.
Q-13		Project will cumulatively degrade natural habitat values; enhancement of existing resources needed.		<b>Amend project description:</b> expand ecological buffer in full to parcel S-4. S-4 and S-1 building heights must be reduced and moved away from the buffer and habitat.
Q-14		Telegraph Creek channel has significant existing wildlife values, particularly for wintering migratory ducks and Savannah Sparrows (year round). The proposed changes to the channel appear designed primarily for flood control, and do not adequately take into account existing resource value and opportunity. Channel width should be expanded, which would reduce water velocities during flooding and allow for riparian vegetation to persist under such conditions. Channel should vertically terraced to contain water in a series of basins, with as much concrete removed as possible and replaced with stabilized soil. The bank slopes should be made more gradual. These improvements would substantially improve water quality and habitat value and they could be used to offset a portion of the mitigation required for wetlands and other habitat within the project. These changes will help protect the J Street Marsh from trash, pollutants, and extreme flood velocities.		<b>Amend project description:</b> develop Telegraph Creek restoration plan for implementation in Phase 3; include in Port's Habitat Restoration Plan.  <b>Amend project description:</b> develop plan to restore power plant cooling channels for implementation in Phase 3; include in Port's Habitat Restoration Plan or otherwise offer permanent protection to channel areas left-out of the National Wildlife Refuge.

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In addition, the Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the SDBNWR, and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). The fencing will be designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums, and other small terrestrial animals [collectively, “predators”]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be a minimum 6-foot-high, vinyl-coated chain-link fence or other suitable barrier as described in the Final EIR. The fence design may include appropriate locked access points for maintenance and other necessary functions.

**Q-10** This comment expresses concern regarding restoration of tidal flows to on-site marshes, as provided in the original Citizens Advisory Committee (CAC) agreement. The commenter recommends the removal of unnecessary portions of Lagoon Drive to restore tidal connection and the addition of a pedestrian and a bicycle bridge to minimize fragmentation resulting from the E Street Extension.

F Street must remain in place in order to provide emergency access to the Bayfront until both the E Street and H Street extensions are completed. As described in *Chapter 3.0, Project Description*, of the Revised DEIR, in the description of Parcel SP-2 and the F Street/Lagoon Drive Termination, the westerly segment of F Street/Lagoon Drive west of the proposed terminus of F Street would be abandoned after the E Street Extension is completed. The abandoned segment of F Street/Lagoon Drive would remain in place but would prohibit vehicular access and only be accessible to emergency vehicles, pedestrians, and bicycles. Although the E Street Extension is proposed in Phase I, the Traffic Analysis conducted for the Proposed Project concludes that the extension is not required as mitigation until Phase III.

It is important to note that the Revised DEIR evaluates the Sweetwater Signature Park plan as the Proposed Project and the Harbor Park plan as an alternative (i.e., the Harbor Park Alternative), both of which were endorsed by the CAC agreement and subsequently directed for commencement of environmental review by the Board of Port Commissioners and the Chula Vista City Council on August 9, 2005. As presented, both plans included the closure of F Street (aka Lagoon Drive) to vehicular access with only pedestrian and bicycle access permitted. Nonetheless, *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that once emergency access to the Proposed Project area has been adequately established such that when F Street is no longer needed for public right-of-way (ROW), the Port and City will abandon/vacate the F Street ROW for vehicular use, but may reserve it for pedestrian and bicycle use if ecologically appropriate.

The commenter also recommends that the Parcel SP-2 on-site marsh be protected as a wetland with a permanent buffer. In response to this comment, *Chapter 1.0, Executive Summary*, and *Chapter 3.0, Project Description*, of the Final EIR have been revised to include, within Parcel SP-2, a permanent 100-foot-wide buffer from proposed development for the seasonal wetland proposed on this parcel. The PMP Amendment will also be revised to reflect the permanent buffer width within Parcel SP-2. The establishment of this buffer will occur upon the adoption of the PMP and its assignment with the Open Space land-use designations.



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Q-9	Wildlife: Restoration	J street tidal flats must be protected through negotiated agreement with natural resource agencies.	Port	<b>Add mitigation measure:</b> working with the USFWS, the Port will apply for the J Street Tidal flats to be included in a NWR Refuge overlay to ensure permanent protection as salt marsh and intertidal mudflats, protection must be secured prior to commencement of grading for any Phase 1 activities.
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Q-11		Original CAC agreement included ecological buffers not as mitigation, but as project design. No such commitment is included in the DEIR.		<b>Amend project description:</b> SP-2 on-site marsh should be protected as wetland, with permanent buffer. In the alternative, a buffer of at least 200 feet should be established around marsh area.
Q-12		S-4 only has 100 foot ecological buffer despite significant adjacent resources; conceptual building is too tall to be located so close to the refuge.		<b>Amend project description:</b> include completion of ecological buffers in Sweetwater and Otay as pre-conditions to occupancy certificates. Ecological buffers should not qualify as mitigation for impacts elsewhere on the Bayfront. Sweetwater ecological buffer and trail amenities must be completed in Phase 1, and Otay buffers can be linked to timing of adjacent development. Funding for construction and maintenance of buffer should be included in Port Habitat Restoration Plan.
Q-13		Project will cumulatively degrade natural habitat values; enhancement of existing resources needed.		<b>Amend project description:</b> expand ecological buffer in full to parcel S-4. S-4 and S-1 building heights must be reduced and moved away from the buffer and habitat.
Q-14		Telegraph Creek channel has significant existing wildlife values, particularly for wintering migratory ducks and Savannah Sparrows (year round). The proposed changes to the channel appear designed primarily for flood control, and do not adequately take into account existing resource value and opportunity. Channel width should be expanded, which would reduce water velocities during flooding and allow for riparian vegetation to persist under such conditions. Channel should vertically terraced to contain water in a series of basins, with as much concrete removed as possible and replaced with stabilized soil. The bank slopes should be made more gradual. These improvements would substantially improve water quality and habitat value and they could be used to offset a portion of the mitigation required for wetlands and other habitat within the project. These changes will help protect the J Street Marsh from trash, pollutants, and extreme flood velocities.		<b>Amend project description:</b> develop Telegraph Creek restoration plan for implementation in Phase 3; include in Port's Habitat Restoration Plan.  <b>Amend project description:</b> develop plan to restore power plant cooling channels for implementation in Phase 3; include in Port's Habitat Restoration Plan or otherwise offer permanent protection to channel areas left-out of the National Wildlife Refuge.

1

**Q-11** This commenter supports the provision of ecological buffers as part of the project rather than as mitigation. *Chapter 3.0, Project Description*, of the Revised DEIR describes the proposed ecological buffers on Parcels SP-1 and OP-2A as part of the Proposed Project, not as mitigation. The buffers would be established upon the certification of the Chula Vista Bayfront Master Plan by the CCC with their assignment of the Open Space land use designation. Buffers are established by land use designation, distance, and fencing. Buffers are not established by the design or implementation of enhancements or type of ground cover. Buffer areas are available for enhancements beyond that which is necessary for establishment of a buffer. Such enhancements may include improvements that mitigate other impacts and may further the value and function of the buffer. The utilization of buffers for mitigation opportunities, which will also result in enhanced ecological areas, is considered an acceptable use of these areas. The Port will coordinate with USFWS to ensure that mitigation enhancements within the buffer are not undertaken within 50 feet of the fence to avoid human activities that would affect the success of the proposed enhancements. The Final EIR has been revised to clarify in *Chapter 3.0, Project Description*, that the portions of the No Touch Zone within the ecological buffer identified for mitigation opportunities may be improved or enhanced at the time that specific mitigation is necessary to off-set impacts associated with Phases I through IV of development.

As described in *Chapter 2.0, Introduction*, and *Chapter 3.0, Project Description*, of the Revised DEIR, program-level components of the Proposed Project would require subsequent environmental review as “subsequent activities” pursuant to CEQA Section 15168. Therefore, once detailed project-level plans are proposed for Parcels SP-1 and OP-2A, subsequent environmental review will consider potential impacts from the projects pursuant to CEQA Guidelines Section 15168.

The commenter also recommends completion of ecological buffers in the Sweetwater and Otay districts as pre-conditions to occupancy certificates. In response to this and other comments, the Final EIR has been revised to clarify that buffers in Parcel SP-1 between the proposed park and the existing SDBNWR (to protect the wetlands and resources within the refuge) would be established in Phase I by land use designation, distance, and fencing.

**Q-12** The comment expresses concern regarding the width of the 100-foot ecological buffer proposed on Parcel S-4 and the heights of buildings proposed adjacent to the SDBNWR. The 100-foot buffer on Parcel S-4, as described in *Chapter 3.0, Project Description*, of the Revised DEIR is consistent with CCC buffer requirements. In response to this comment, *Chapter 3.0, Project Description*, of the Final EIR has been revised to add a requirement for fencing of the 100-foot buffer on the north side of the parcel prior to any physical alterations of the site. In addition, the description for Parcels S-4 and S-1 in *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that at the time project-specific development is proposed on these parcels, shading impacts, appropriate setbacks, step backs, and/or height reductions will be analyzed as part of the necessary subsequent environmental review for the projects.

**Q-13** *Section 4.8, Terrestrial Biological Resources*, and *Section 4.9, Marine Biological Resources*, of the Revised DEIR address, analyze, and identify appropriate mitigation for potential impacts to natural habitat values. Additionally, *Section 6.10, Cumulative Terrestrial Biological Resources*, and *Section 6.11, Cumulative Marine Biology*, of the Revised DEIR address, analyze, and identify appropriate mitigation for cumulative impacts to natural habitat.

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Q-14		Telegraph Creek channel has significant existing wildlife values, particularly for wintering migratory ducks and Savannah Sparrows (year round). The proposed changes to the channel appear designed primarily for flood control, and do not adequately take into account existing resource value and opportunity. Channel width should be expanded, which would reduce water velocities during flooding and allow for riparian vegetation to persist under such conditions. Channel should vertically terraced to contain water in a series of basins, with as much concrete removed as possible and replaced with stabilized soil. The bank slopes should be made more gradual. These improvements would substantially improve water quality and habitat value and they could be used to offset a portion of the mitigation required for wetlands and other habitat within the project. These changes will help protect the J Street Marsh from trash, pollutants, and extreme flood velocities.		<b>Amend project description:</b> develop Telegraph Creek restoration plan for implementation in Phase 3; include in Port's Habitat Restoration Plan.  <b>Amend project description:</b> develop plan to restore power plant cooling channels for implementation in Phase 3; include in Port's Habitat Restoration Plan or otherwise offer permanent protection to channel areas left-out of the National Wildlife Refuge.

Q-14 As stated on Page 4.5-26 of the Revised DEIR in *Section 4.5, Hydrology and Water Quality*, Phase III development in the Otay District includes widening Telegraph Canyon Channel and connecting new storm drain lines from the project site to the channel. In order to increase the channel’s capacity, the bottom width of the channel will be increased to 110 feet to include the construction of a 20-foot-wide, low-flow vegetated channel. The remaining 90 feet of the channel would be concrete. A detailed hydrologic and hydraulic analysis will be required prior to beginning development of Phase III to confirm that the channel’s future capacity would be sufficient. All development contemplated for the Otay District is proposed to occur in Phase III and has been assessed at a program level in the Revised DEIR. All project-specific proposals, including improvements to Telegraph Canyon Channel (OP-2B), must undergo subsequent environmental review. The feasibility of widening Telegraph Canyon Channel will be considered and analyzed as part of that review process. The power plant cooling channels are not included within the boundaries of the proposed master plan.

In response to the second part of the comment and other comments on the Revised DEIR in regard to fencing to protect sensitive habitats, the Final EIR has been revised to include a 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. This fencing will be installed in the Sweetwater and Harbor Districts prior to occupancy of the first buildings constructed during Phase I. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement.

In addition, the Final EIR has been revised to require that the No Touch Zone of the ecological buffers include fencing necessary to protect the Sweetwater Marsh and Sweetwater Tidal Flats, the J Street Marsh next to the SDBNWR, and the north side of Parcel H-3 (see **Mitigation Measure 4.8-7** in the Final EIR). The fencing will be designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums, and other small terrestrial animals [collectively, “predators”]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be a minimum 6-foot-high, vinyl-coated chain-link fence or other suitable barrier, as described in the Final EIR. The fence design may include appropriate locked access points for maintenance and other necessary functions. Installation of the fence will include land contouring to minimize visual impacts of the fence. The installation of the fencing will be completed prior to the issuance of Certificates of Occupancy for development projects on either Parcel H-3 or H-23 and in conjunction with development or road improvements in the Sweetwater District.

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Q-15		The introduction of new and greater numbers of predators will be a very significant and long term impact upon sensitive wildlife habitats on the Bayfront. Intrusion into such areas by these predators, as well as people, dogs, and cats, will also be significantly problematic over the long term.		<b>Amend project description or add a mitigation measure:</b> a permanent, effective, <b>contiguous</b> fence must be constructed in both the Sweetwater and Otay Districts. The fence must be non-obtrusive, yet effective at keeping people, small animals, and predators from passing through to sensitive areas (e.g. "fence in a ditch").  Long-term, dedicated funding is required for personnel to address management and education needs in the Sweetwater and Otay Districts.
	<b>Wildlife: Restoration</b>	<b>Amend Significant Impact 4.8-10</b> Loss of raptor foraging habitat is a significant impact on the Sweetwater District. Raptors and owls currently use this area frequently and appropriate characterization of loss is required.	Port	<b>Add Mitigation Measure 4.8-10 C. Raptor foraging.</b> As part of Phase 1, require purchase of off-site raptor foraging mitigation for losses of Sweetwater District foraging habitat in parcels S-1, S-2, S-3, SP-3. Require creation of habitat for Burrowing Owls.
Q-16	<b>Wildlife: Management</b>	Significant wildlife impacts include: <ul style="list-style-type: none"><li>• Introduction of new and greater numbers of predators will be a very significant and long term impact upon sensitive wildlife habitats. Intrusion into such areas by these predators, as well as people, dogs, and cats, will also be significantly problematic over the long term.</li><li>• Flushing impacts to shorebirds and other species by boaters, walkers, and impacts from headlights into habitat areas at night are a significant impact.</li><li>• Sea level rise coupled with cumulative and future unforeseen changes resulting from densification of this currently sparsely developed area will create various significant impacts.</li><li>• The presence and use of motorized personal water craft in or near sensitive foraging and nesting habitat areas will cause flushing and other significant impacts.</li><li>• Regular use of fireworks or loud sound systems in and near the Bay would result in a significant impact on avian life and possibly water quality.</li><li>• Impacts will occur to many species not mentioned in the DEIR (e.g. brant, other waterfowl and shorebirds); general flushing impacts have not been addressed.</li></ul>	Port	<b>Add mitigation measures:</b> <ul style="list-style-type: none"><li>• Develop and fund implementation of a Comprehensive Natural Resource Management Plan (with accompanying Implementation Plan) requiring approval by CCC and USFWS.</li><li>• Develop and fund a Comprehensive Trash Management and Recycling Program; require inclusion of solar powered 'big belly' solar trash compactor and recycling units such as is used in Boston public areas.</li><li>• Develop Comprehensive Lighting and Evaluation Plan requiring approval by CCC and USFWS.</li><li>• Add roadway and parking lot design features that eliminate headlights shining into habitat areas.</li><li>• Add design features to ensure birds will not be flushed by walkers, bikers, or boaters.</li><li>• Prohibit engine driven personal watercraft rentals within the CVBMP land-side businesses.</li><li>• Prohibit laser light shows within the CVBMP area.</li><li>• Require approvals from USFWS and RWQCB for any firework shows—not to exceed two per year.</li><li>• Restrict use of speaker systems or other loud sound generating equipment in Sweetwater and Otay Districts.</li></ul>
Q-17				
Q-18				
Q-19				
Q-20				
Q-21				

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**Q-15** Section 4.8, *Terrestrial Biological Resources*, of the Revised DEIR (Page s 4.8-107 through 4.8-109) addresses impacts to raptors, including loss of habitat (**Significant Impacts 4.8-6** and **4.8-7**). The Revised DEIR includes appropriate mitigation for these impacts (**Mitigation Measures 4.8-6** and **4.8-7**). Proposed mitigation for loss of sensitive vegetation communities that provide raptor foraging opportunities is consistent with the mitigation requirements established in the Chula Vista Multiple Species Conservation Plan (MSCP) Subarea Plan, which was approved by the resource agencies. Within these sensitive communities, raptor foraging occurs primarily within non-native grasslands, which are identified as a Tier III community (common uplands) with a corresponding mitigation ratio of 0.5:1. Additional mitigation is not required or proposed. In terms of the location of the mitigation, on-site mitigation is not proposed and mitigation would likely occur east of I-5, as suggested by USFWS in comment B-47. In response to the commenter’s concern regarding burrowing owl habitat, mitigation for sensitive vegetation communities that support species such as burrowing owl is provided through the required mitigation ratios contained in the City’s Subarea Plan. The Revised DEIR identifies potential impacts on burrowing owls and includes measures to avoid significant adverse effects on the species, in accordance with the requirements of the City’s MSCP Subarea Plan (see **Mitigation Measure 4.8-2**). Habitat loss for burrowing owl is also addressed and mitigation provided pursuant to the City’s Subarea Plan mitigation ratios (see **Mitigation Measure 4.8-9** in the Revised DEIR).

**Q-16** The commenter expresses concern regarding the adverse effects of predators on sensitive wildlife habitats, as well intrusion into sensitive habitats by predators, humans, and domestic animals. Section 4.8, *Terrestrial Biological Resources*, of the Revised DEIR (Page s 4.8-106 through 4.8-109), addresses indirect impacts from development adjacent to sensitive wildlife areas (**Significant Impacts 4.8-6** and **4.8-7**), as well as mitigation (**Mitigation Measure 4.8-6**), in accordance with established criteria consistent with the City’s MSCP, which was approved by the resource agencies.

As discussed in Section 4.8, *Terrestrial Biological Resources*, public access into open space and preserve areas would potentially result in indirect impacts to sensitive biological resources. A higher incidence of trash along the edges of sensitive habitats could result in degradation of the habitat, which would be a significant impact (**Significant Impact 4.8-7**). In addition to site-specific measures designed to prevent or minimize the impact to adjacent open space preserve areas from humans and domestic animals, mitigation is provided to reduce these impacts to below a level of significance. As provided in **Mitigation Measure 4.8-6**, trash cans will be emptied daily or more often if required during high-use periods. Buildings and stores will have dumpsters located in a courtyard or carport that is bermed and enclosed to ensure that litter does not blow into the Bay or marshes. Please also see the responses to comments B-23, B-70, and C-20 regarding self-closing trash receptacles.

The Final EIR has been revised to include additional measures to further reduce the indirect impacts to biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. The additional mitigation (see **Mitigation Measure 4.8-7** in the Final EIR) provides for the creation, implementation, and enforcement of an NRMP. In addition to requiring fencing specifically designed to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums, and other small terrestrial animals [collectively, “predators”]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas, implementation objectives of the plan will include additional controls and strategies restricting movement of humans and predators into sensitive areas beyond the boundaries of the designated buffer areas. Provisions designed to manage predator impacts on wildlife habitats include year-round predator management for the life of the Proposed Project, regular foot-patrols and implementation of tracking techniques to find and remove domestic or feral animals, and identification and implementation of clear trash management measures and restrictions (see **Mitigation Measure 4.8-7** in the Final EIR).



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Q-15		The introduction of new and greater numbers of predators will be a very significant and long term impact upon sensitive wildlife habitats on the Bayfront. Intrusion into such areas by these predators, as well as people, dogs, and cats, will also be significantly problematic over the long term.		<b>Amend project description or add a mitigation measure:</b> a permanent, effective, <b>contiguous</b> fence must be constructed in both the Sweetwater and Otay Districts. The fence must be non-obtrusive, yet effective at keeping people, small animals, and predators from passing through to sensitive areas (e.g. "fence in a ditch").  Long-term, dedicated funding is required for personnel to address management and education needs in the Sweetwater and Otay Districts.
	Wildlife: Restoration	<b>Amend Significant Impact 4.8-10</b> Loss of raptor foraging habitat is a significant impact on the Sweetwater District. Raptors and owls currently use this area frequently and appropriate characterization of loss is required.	Port	<b>Add Mitigation Measure 4.8-10 C. Raptor foraging.</b> As part of Phase 1, require purchase of off-site raptor foraging mitigation for losses of Sweetwater District foraging habitat in parcels S-1, S-2, S-3, SP-3. Require creation of habitat for Burrowing Owls.
Q-16	Wildlife: Management	Significant wildlife impacts include: <ul style="list-style-type: none"><li>• Introduction of new and greater numbers of predators will be a very significant and long term impact upon sensitive wildlife habitats. Intrusion into such areas by these predators, as well as people, dogs, and cats, will also be significantly problematic over the long term.</li><li>• Flushing impacts to shorebirds and other species by boaters, walkers, and impacts from headlights into habitat areas at night are a significant impact.</li><li>• Sea level rise coupled with cumulative and future unforeseen changes resulting from densification of this currently sparsely developed area will create various significant impacts.</li><li>• The presence and use of motorized personal water craft in or near sensitive foraging and nesting habitat areas will cause flushing and other significant impacts.</li><li>• Regular use of fireworks or loud sound systems in and near the Bay would result in a significant impact on avian life and possibly water quality.</li><li>• Impacts will occur to many species not mentioned in the DEIR (e.g. brant, other waterfowl and shorebirds); general flushing impacts have not been addressed.</li></ul>	Port	<b>Add mitigation measures:</b> <ul style="list-style-type: none"><li>• Develop and fund implementation of a Comprehensive Natural Resource Management Plan (with accompanying Implementation Plan) requiring approval by CCC and USFWS.</li><li>• Develop and fund a Comprehensive Trash Management and Recycling Program; require inclusion of solar powered 'big belly' solar trash compactor and recycling units such as is used in Boston public areas.</li><li>• Develop Comprehensive Lighting and Evaluation Plan requiring approval by CCC and USFWS.</li><li>• Add roadway and parking lot design features that eliminate headlights shining into habitat areas.</li><li>• Add design features to ensure birds will not be flushed by walkers, bikers, or boaters.</li><li>• Prohibit engine driven personal watercraft rentals within the CVBMP land-side businesses.</li><li>• Prohibit laser light shows within the CVBMP area.</li><li>• Require approvals from USFWS and RWQCB for any firework shows—not to exceed two per year.</li><li>• Restrict use of speaker systems or other loud sound generating equipment in Sweetwater and Otay Districts.</li></ul>

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**Q-17** *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR evaluates impacts to bird species pursuant to thresholds of significance identified on Page 4.8-100. Flushing is considered a component of indirect impacts to special-status birds that was addressed in *Section 4.8*. This is consistent with MSCP standards, which were approved by the resource agencies (see Page 4.8-106 of the Revised DEIR). As discussed in *Section 4.8*, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological monitoring, raptor management, and consultation with the USFWS and the California Department of Fish and Game (CDFG) (see **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6** in the Revised DEIR).

**Mitigation Measure 4.8-6D** has been revised in the Final EIR to incorporate measures related to lighting and illumination, including lighting requirements to reduce impacts to wildlife habitat areas, shield external lighting, and minimize lighting trespass and non-security lighting. The Final EIR has been revised to include additional measures to further reduce the indirect impacts to biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. The additional mitigation (see **Mitigation Measure 4.8-7** in the Final EIR) provides for the creation, implementation, and enforcement of an NRMP. The adaptive management components of the NRMP will address, among other things, resource threats and management of bird flushing. As provided in **Mitigation Measure 4.8-7** in the Final EIR, paths running parallel to shore or marsh areas that will cause or contribute to bird flushing, will be minimized throughout the project area. In addition, walkways and overlooks approaching sensitive areas will be blinded, raised, or otherwise screened so that birds are not flushed or frightened and to generally minimize visual impacts on the wildlife habitats from people on the walkways.

**Q-18** *Section 4.5, Hydrology and Water Quality* (Page s 4.5-24 and 4.5-25), *Section 4.6, Air Quality* (Page s 4.6-17 through 4.6-19), *Section 4.16, Energy*, and *Chapter 6.0, Cumulative Impacts*, of the Revised DEIR, evaluate sea-level rise and cumulative impacts associated with the Proposed Project. Appropriate mitigation is identified to address cumulatively significant impacts (**Mitigation Measure 6.8-3**).

In addition, the Final EIR has been revised to include additional measures to further reduce the indirect impacts to biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. The additional mitigation (see **Mitigation Measure 4.8-7** in the Final EIR) provides for the creation, implementation, and enforcement of an NRMP. As described in **Mitigation Measure 4.8-7** in the Final EIR, the NRMP will take into consideration the potential changes in functionality of wildlife habitat areas due to rising sea levels and promote the long-term protection, conservation, monitoring, and enhancement of wetland habitat, coastal sage and coastal strand vegetation, and upland natural resources for their inherent ecological values and roles as buffers to more sensitive adjacent wetlands.

**Q-19** The Final EIR has been revised to include additional measures to further reduce the indirect impacts to sensitive biological resources addressed in and reduced to below a level of significance by **Mitigation Measure 4.8-6** in the Revised DEIR. Additional mitigation (see **Mitigation Measure 4.8-6I** in the Final EIR) reduces impacts associated with boating activities. In response to this and other comments, the Final EIR has been revised to include the prohibition of jet-ski rentals within the CVBMP area. Please also see the responses to comments V-87, V-90, and V-181 regarding jet-skis. Not only will the rental of jet-skis and personal watercrafts (PWCs) be prohibited in the project area, but also the use of jet-skis/PWCs will be prohibited in wildlife habitat areas. Watercraft outside of the navigation channel are restricted to a 5-mile-per-hour speed limit. Please also see the response to comment B-27 regarding boating activities in the project area.



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		The introduction of new and greater numbers of predators will be a very significant and long term impact upon sensitive wildlife habitats on the Bayfront. Intrusion into such areas by these predators, as well as people, dogs, and cats, will also be significantly problematic over the long term.		<b>Amend project description or add a mitigation measure:</b> a permanent, effective, <b>contiguous</b> fence must be constructed in both the Sweetwater and Otay Districts. The fence must be non-obtrusive, yet effective at keeping people, small animals, and predators from passing through to sensitive areas (e.g. "fence in a ditch").  Long-term, dedicated funding is required for personnel to address management and education needs in the Sweetwater and Otay Districts.
Q-15	Wildlife: Restoration	<b>Amend Significant Impact 4.8-10</b> Loss of raptor foraging habitat is a significant impact on the Sweetwater District. Raptors and owls currently use this area frequently and appropriate characterization of loss is required.	Port	<b>Add Mitigation Measure 4.8-10 C. Raptor foraging.</b> As part of Phase 1, require purchase of off-site raptor foraging mitigation for losses of Sweetwater District foraging habitat in parcels S-1, S-2, S-3, SP-3. Require creation of habitat for Burrowing Owls.
Q-16	Wildlife: Management	Significant wildlife impacts include: <ul style="list-style-type: none"><li>• Introduction of new and greater numbers of predators will be a very significant and long term impact upon sensitive wildlife habitats. Intrusion into such areas by these predators, as well as people, dogs, and cats, will also be significantly problematic over the long term.</li><li>• Flushing impacts to shorebirds and other species by boaters, walkers, and impacts from headlights into habitat areas at night are a significant impact.</li><li>• Sea level rise coupled with cumulative and future unforeseen changes resulting from densification of this currently sparsely developed area will create various significant impacts.</li><li>• The presence and use of motorized personal water craft in or near sensitive foraging and nesting habitat areas will cause flushing and other significant impacts.</li><li>• Regular use of fireworks or loud sound systems in and near the Bay would result in a significant impact on avian life and possibly water quality.</li><li>• Impacts will occur to many species not mentioned in the DEIR (e.g. brant, other waterfowl and shorebirds); general flushing impacts have not been addressed.</li></ul>	Port	<b>Add mitigation measures:</b> <ul style="list-style-type: none"><li>• Develop and fund implementation of a Comprehensive Natural Resource Management Plan (with accompanying Implementation Plan) requiring approval by CCC and USFWS.</li><li>• Develop and fund a Comprehensive Trash Management and Recycling Program; require inclusion of solar powered 'big belly' solar trash compactor and recycling units such as is used in Boston public areas.</li><li>• Develop Comprehensive Lighting and Evaluation Plan requiring approval by CCC and USFWS.</li><li>• Add roadway and parking lot design features that eliminate headlights shining into habitat areas.</li><li>• Add design features to ensure birds will not be flushed by walkers, bikers, or boaters.</li><li>• Prohibit engine driven personal watercraft rentals within the CVBMP land-side businesses.</li><li>• Prohibit laser light shows within the CVBMP area.</li><li>• Require approvals from USFWS and RWQCB for any firework shows—not to exceed two per year.</li><li>• Restrict use of speaker systems or other loud sound generating equipment in Sweetwater and Otay Districts.</li></ul>
Q-17				
Q-18				
Q-19				
Q-20				
Q-21				

**Q-20** This comment expresses concern regarding use of fireworks or loud sound systems. Currently, all proposed firework shows in the City must be permitted by the U.S. Coast Guard. As stated in the response to comment B-26, all fireworks "within the limits of a Public Park of the District" are prohibited under Section 8.02(b)12 of the Port Code. In addition, fireworks are not proposed as a part of the project and would need to be permitted separately, as they would be without the project.

In response to this and other comments regarding fireworks, the Final EIR has been revised (see **Mitigation Measure 4.8-6E**), requiring that a maximum of three firework events can be held each year. All firework events will be held outside of Least tern nesting season, except the Fourth of July, which may be allowed if in full regulatory compliance and if the nesting colonies are monitored during the event and any impacts reported to the Wildlife Advisory Committee so that they can be addressed. All shows must comply with all applicable water quality and species protection regulations. All shows must be consistent with policies, goals, and objectives in the NRMP.

**Q-21** The comment expresses a general concern regarding the Revised DEIR’s analysis of impacts to species, including flushing impacts. As provided in the response to comment Q-17, *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR evaluates impacts to bird species pursuant to thresholds identified on Page 4.8-100. Flushing is considered a component of indirect impacts to special-status birds that was addressed in *Section 4.8*. This is consistent with MSCP standards, which were approved by the resource agencies (Page 4.8-106). As discussed in *Section 4.8*, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological monitoring, raptor management, and consultation with the USFWS and the CDFG (see **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6** in the Revised DEIR). Please refer to the response to comment Q-17 regarding additional mitigation provided in the Final EIR to address these impacts.

In response to the second part of the comment regarding monitoring periods, the Final EIR has been revised to address an adaptive management component of the NRMP (see **Mitigation Measure 4.8-7** of the Final EIR). This component of the plan will address, among other things, the monitoring of development impacts as they occur and ongoing management and restoration actions necessary for resource protection, resource threats, and management.

As described in *Chapter 1.0, Executive Summary*, and *Chapter 2.0, Introduction*, of the Final EIR, additional measures undertaken by the Port in response to the Coalition’s concerns have been incorporated into the Final EIR and MMRP and will be enforceable as mitigation measures.

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Q-22	Q-23	Q-24	Q-25				Extend monitoring periods: 5 year monitoring time period for a 25 year construction project is facially inadequate. Either the monitoring duration must be extended or funding dedicated to ensure monitoring and intervention, if needed, will occur.
				Permanent Funding	<b>Add Significant Impact 4.8-6</b> The scale and development of the project, at both the program and project levels, will cause significant long-term and permanent direct, indirect, and cumulative impacts to terrestrial and marine biological resources due to increased predation, general impacts from intense human presence near sensitive resources, flushing of shore, nesting, and rafting birds, light intrusion, and introduction of invasive species of plants and animals. Natural resource impacts will result that cannot be known or anticipated at this time. Management conflicts between users of park and buffer areas, introduced predators, and wildlife must be carefully managed. Such management will require a permanent and stable funding source.  Notwithstanding bird strike prevention measures identified thus far, the intensity and location of development will necessarily exacerbate avian in-flight mortality. Despite conscientious implementation, modification and enhancement of such measures may be required. The FEIR must provide mitigation in the form of additional nesting and foraging habitat, predator management, and support for wildlife rehabilitators.	Port City Gaylord Pacifica	<b>Add to Mitigation Measure 4.8-6 funding as follows:</b> <ul style="list-style-type: none"><li>• \$200,000/yr to USFWS for predator and wildlife management, or equivalent priority wildlife management projects.</li><li>• \$200,000/yr for on-site management personnel (buffer areas, parks, human/wildlife interface, and open water patrol).</li><li>• \$100,000/yr to Nature Center for educational program and staffing for Bayfront visitors and residents.</li><li>• \$50,000/yr to support contractors or skilled volunteer programs to remove invasive plants and to maintain rehabilitated areas beyond the 5 year required performance of the DEIR.</li><li>• \$10,000/yr to Project Wildlife or equivalent animal rescue and rehabilitation organization to assist with injured and/or displaced animals.</li><li>• \$50,000 one-time contribution to development of a Natural Resources Management Plan</li><li>• Additional funding for the Harbor Police to enforce South Bay boating rules in light of expanded use from Bayfront.</li></ul>
				Design Standards	Tall buildings may shade areas to the north and negatively impact habitat areas	Port Gaylord	Conduct shading study to ensure no habitat areas are impacted, particularly S-4, H-1, and H-1a.
				Energy	Energy consumption by new development will significantly increase demand regional demand and may frustrate local goal of removing the South Bay Power Plant from the Bayfront. Cumulative emissions of greenhouse gases from the CVBMP development will further exacerbating global climate change and associated impacts.	Gaylord Pacifica Port	<b>Add mitigation measures:</b> <ul style="list-style-type: none"><li>• The RCC development must include an energy generation plan sufficient to meet the worst-day, peak energy demand (11am-7pm on the hottest case day on-site). A minimum of 2 Megawatts of photovoltaic energy generation will be constructed on-site. An additional energy source such as a stationary fuel cell or combined heat and power units will be utilized to meet this peak demand.</li><li>• Ultimately, the project must ensure adequate on or off-site clean generation to meet the total demand of the project. This could either be met within the initial construction of the project or over</li></ul>

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**Q-22** This comment states the Proposed Project will have permanent direct, indirect, and cumulative impacts on terrestrial and marine biological resources, as well as some impacts that cannot be known at this time. The commenter is concerned about the management of park users, predators, and wildlife, suggesting that the management of such potential conflicts will require a permanent and stable funding source. The comment also proposes that **Mitigation Measure 4.8-6** be amended to provide \$560,000 per year in funding to the USFWS, on-site management personnel, the Nature Center, contractor or volunteer programs, and Project Wildlife, as well as a one-time contribution of \$50,000 to develop an NRMP.

Funding for implementation of provisions in **Mitigation Measure 4.8-6** will be provided by the appropriate entity (i.e., Port, City, and/or project applicant) depending on the entity responsible for performing the mitigation measure. Funding for the monitoring required for the implementation of **Mitigation Measure 4.6-8** will be provided by the Port and/or the City pursuant to the MMRP.

As provided in the response to comment Q-5, the Final EIR has been revised to summarize the additional measures undertaken by the Port in response to the Coalition’s concerns. Amongst other things, the additional mitigation (see **Mitigation Measure 4.8-7** in the Final EIR) provides for the creation, implementation, and enforcement of an NRMP, and efforts to enter into cooperative management agreements with USFWS or other appropriate agencies.

**Q-23** This comment states that, despite conscientious implementation of the proposed mitigation to reduce or avoid bird strikes, modification and enhancement of such mitigation may be required in the form of additional nesting and foraging habitat, predator management, and support for wildlife rehabilitation. As provided in **Mitigation Measure 4.8-23** of the Final EIR, modification or enhancement of mitigation may be necessary in order to establish a protocol and schedule to monitor bird strikes. A qualified biologist may be retained to monitor Phase I projects, in consultation with the wildlife resources agencies, during the first 12 months of project operation. Based on the findings of such monitoring and evaluation of the mitigation’s effectiveness, further action may be required.

**Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts related to bird strikes and bird disorientation. **Mitigation Measure 4.8-7** also provides additional measures for the preservation and protection of nesting and foraging habitat and predator management.

**Q-24** The commenter recommends shading studies to evaluate impacts on habitat areas, particularly on Parcels S-4, H-1, and H-1A. Parcels S-1, S-4, H-1, and H-1A, which are proposed for development in Phase IV, are program-level components that will be subject to subsequent environmental review pursuant to CEQA Guidelines Section 15168. In response to this and other comments, the description for Parcels S-4, H-1, and H-1A, as well as the description of other parcels, in *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that at the time project-specific development is proposed on these parcels, shading impacts, appropriate setbacks, step backs, and/or height reductions will be analyzed as part of the necessary subsequent environmental review for the projects.

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Q-22	Q-23	Q-24	Q-25				Extend monitoring periods: 5 year monitoring time period for a 25 year construction project is facially inadequate. Either the monitoring duration must be extended or funding dedicated to ensure monitoring and intervention, if needed, will occur.
				Permanent Funding	Add Significant Impact 4.8-6 The scale and development of the project, at both the program and project levels, will cause significant long-term and permanent direct, indirect, and cumulative impacts to terrestrial and marine biological resources due to increased predation, general impacts from intense human presence near sensitive resources, flushing of shore, nesting, and rafting birds, light intrusion, and introduction of invasive species of plants and animals. Natural resource impacts will result that cannot be known or anticipated at this time. Management conflicts between users of park and buffer areas, introduced predators, and wildlife must be carefully managed. Such management will require a permanent and stable funding source.  Notwithstanding bird strike prevention measures identified thus far, the intensity and location of development will necessarily exacerbate avian in-flight mortality. Despite conscientious implementation, modification and enhancement of such measures may be required. The FEIR must provide mitigation in the form of additional nesting and foraging habitat, predator management, and support for wildlife rehabilitators.	Port City Gaylord Pacifica	Add to Mitigation Measure 4.8-6 funding as follows: <ul style="list-style-type: none"><li>• \$200,000/yr to USFWS for predator and wildlife management, or equivalent priority wildlife management projects.</li><li>• \$200,000/yr for on-site management personnel (buffer areas, parks, human/wildlife interface, and open water patrol).</li><li>• \$100,000/yr to Nature Center for educational program and staffing for Bayfront visitors and residents.</li><li>• \$50,000/yr to support contractors or skilled volunteer programs to remove invasive plants and to maintain rehabilitated areas beyond the 5 year required performance of the DEIR.</li><li>• \$10,000/yr to Project Wildlife or equivalent animal rescue and rehabilitation organization to assist with injured and/or displaced animals.</li><li>• \$50,000 one-time contribution to development of a Natural Resources Management Plan</li><li>• Additional funding for the Harbor Police to enforce South Bay boating rules in light of expanded use from Bayfront.</li></ul>
				Design Standards	Tall buildings may shade areas to the north and negatively impact habitat areas	Port Gaylord	Conduct shading study to ensure no habitat areas are impacted, particularly S-4, H-1, and H-1a.
				Energy	Energy consumption by new development will significantly increase demand regional demand and may frustrate local goal of removing the South Bay Power Plant from the Bayfront. Cumulative emissions of greenhouse gases from the CVBMP development will further exacerbating global climate change and associated impacts.	Gaylord Pacifica Port	Add mitigation measures: <ul style="list-style-type: none"><li>• The RCC development must include an energy generation plan sufficient to meet the worst-day, peak energy demand (11am-7pm on the hottest case day on-site). A minimum of 2 Megawatts of photovoltaic energy generation will be constructed on-site. An additional energy source such as a stationary fuel cell or combined heat and power units will be utilized to meet this peak demand.</li><li>• Ultimately, the project must ensure adequate on or off-site clean generation to meet the total demand of the project. This could either be met within the initial construction of the project or over</li></ul>

3

**Q-25** Section 4.16, *Energy*, of the Revised DEIR addresses the Proposed Project's energy consumption and Section 4.6, *Air Quality*, addresses global climate change impacts. Both impacts areas are further discussed in Section 6.8, *Cumulative Air Quality*, and Section 6.17, *Cumulative Energy*, of the Revised DEIR. San Diego Gas and Electric (SDG&E), which supplies electricity and natural gas to the project area, has stated it has adequate existing and future capacity to serve the Proposed Project and that the increase in demand for energy resulting from the Proposed Project will not delay closure of the South Bay Power Plant. Please also see the responses to comments L-8 through L-13, in response to comments from SDG&E.

In addition, Section 4.16, *Energy*, of the Final EIR has been revised to include a description of the Port and City's commitments to achieving a Proposed Project that is composed of high-performance and highly energy-efficient buildings, as well as clean, efficient generation of energy. Although the implementation of **Mitigation Measure 4.16-1** in the Revised DEIR will reduce energy impacts to below a level of significance, the Final EIR has been revised to include specific measures to reduce energy consumption and additional energy-related guidelines governing the future build-out of the programmatic elements of the Proposed Project, as well as measures for appropriate implementation and enforcement (see **Mitigation Measure 4.16-2** in the Final EIR).

The commenter also questions the Proposed Project's consistency with the City's Climate Change Working Group Recommendations and 2008 Carbon Reduction Plan goals. The Proposed Project will be required to comply with the City's newly adopted increased energy-efficiency standards (EES), which mandate that each building will perform 15 percent above Title 24. As discussed in Section 4.16, *Energy*, project-level components proposed for Phase I incorporate project features to ensure efficient use of energy and program-level components for Phases I through IV will be required to reduce energy consumption by 30 percent pursuant to **Mitigation Measure 4.16-2** in the Final EIR.

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				<p>a period of time (e.g. through commitment of funding required for off-site solar projects). All Bayfront components must over time mitigate total annual energy demand of the development over time.</p> <ul style="list-style-type: none"><li>Development of combined heat and power units or other efficient generation must be included to power largest development areas consistent with the draft AB32 Scoping Plan and California Energy Commission's Energy Action Plan goals. Total energy demand should be met without increasing grid demand.</li></ul> <p><b>Amend project description:</b> Gaylord and Pacifica must meet an energy efficiency standard for 20% over the 2008 Title 24 consistent with the CV Climate Change Working Group Recommendations and the April 1, 2008 Carbon Reduction Plan goals of the City of Chula Vista. Development must reflect California Green Building Standards that will be in place as of 2010.</p>
Q-26	Cumulative Impacts	Impacts to adjacent community, west of I-5, will be significant and long-term	All	Establish an agreement and long term funding source to support mitigation and enhancement projects for western Chula Vista—the community to be most impacted by the CVBMP.
Q-27	Traffic/Public Access	Green Car Line is an excellent idea and is unfunded with no commitment to a date of operation.	Gaylord Port City	<b>Add mitigation measures:</b> Green Car line should be fully funded and operational prior to opening of the RCC Phase 1; alternatively, a funding plan and timeline for implementation should be developed and included as a condition of project approval.
Q-28	Affordable Workforce Housing	Influx of new workers will increase pressures on existing affordable housing stock in western Chula Vista; development of the Bayfront will cause gentrification of western Chula Vista.	City Gaylord	<b>Add mitigation measures:</b> City/Gaylord should commit to funding a local non-profit housing developer or provide funds (over time, restricted for affordable housing) to a local foundation sufficient funds to develop 200 affordable housing units in western Chula Vista, or secure 200 foreclosure units that could be added to the restricted affordable housing stock in Chula Vista. Suggest adequate funding so that 200 units are achieved over 5 years.  The City should commit to addressing housing impacts and use affordable housing funding outside of the redevelopment areas if necessary where the impacts will occur.
Q-29	Affordable Housing	Community affordable housing needs are low AMI and family housing.	City	Approval of an alternate affordable housing plan, if offered by Pacifica, allowing more bedrooms and/or is affordable by lower AMI.
Q-30	Job Quality	Labor agreements to ensure labor peace for project construction and operations.	Gaylord	Gaylord and local labor negotiate agreements.
Q-31	Site Cleanup/remediation	The potential of locating residences and parks on contaminated areas results in significant impacts if sites are not remediated to a sufficiently protective standard.		Since land uses may vary and analysis is still underway, EIR must ensure appropriate remediation to residential standards all sites where children will come in contact with soil. The process by which future remediation decisions are made must include a public/stakeholder participation

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**Q-26** The comment expresses concern regarding cumulative impacts to the adjacent community west of I-5, recommending that an agreement and a long-term funding source be established to support the western Chula Vista community. *Chapter 6.0, Cumulative Impacts*, of the Revised DEIR addresses cumulative impacts of the Proposed Project that may affect the community west of I-5, including those related to noise, air quality, traffic, population and housing, public utilities, public services, and parks and recreation. In each of these respective sections in *Chapter 6.0*, mitigation measures are provided where significant cumulative impacts have been identified, including for those impacts that may affect the community west of I-5. As this comment does not identify any specific impact to the adjacent community west of I-5, which was not addressed in the Revised DEIR, no further response is warranted.

**Q-27** *Chapter 3.0, Project Description*, of the Revised DEIR makes reference to the City’s adopted Urban Core Specific Plan, which identifies the potential for a Green Car Line shuttle service. However, the implementation of this shuttle is not part of the Proposed Project. As discussed in the Revised DEIR, implementation of the Green Car Line transit system proposed in the City’s Urban Core Specific Plan is dependent upon the availability of funding. In response to this and other comments, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan.

Although the Port and the City are continuing their efforts to identify potential funding sources, San Diego Association of Governments (SANDAG) has indicated that the Green Car Line is not considered a regional transit project and is not eligible for regional public transit funds and will need to seek local or private funding. As recommended by SANDAG in comment K-14, the Port and the City will coordinate their efforts with the Metropolitan Transit System (MTS) to determine how shuttle services could be integrated with local transit centers. Please also see the responses to comments K-12 and P-2. It is important to note that although the Green Car Line is not within the authority of the City or Port and therefore cannot be guaranteed by the Proposed Project, payment of the WTDIF does contribute a fair share toward regional transportation needs, including I-5 South Corridor Plan improvements and future trolley grade projects.

**Q-28** The comment expresses concern regarding adverse effects of the Proposed Project on existing affordable housing in Chula Vista, which could potentially result in gentrification within the community. The commenter recommends that the City and project developers address affordable housing and potential impacts of the Proposed Project on housing in Chula Vista, as well as provide funding to a local non-profit developer or location foundation to develop affordable housing units.

CEQA does not require the analysis of the effects on social and economic factors unless they can result in a significant adverse physical effect. As stated in the description for Parcels H-13 and H-14 in *Chapter 3.0, Project Description*, 150 units of the proposed residential development on Parcels H-13 and H-14 will be set aside for affordable housing. The Final EIR has been revised to clarify that 150 affordable restricted units will be provided by the residential developer, half for low-income households and half for moderate-income households. As the statutory requirement for new affordable housing production (15 percent) will result in a Redevelopment Agency requirement for 225 affordable units, the Redevelopment Agency will need to cause the production of the net 75 units. As the 15 percent requirement is not site specific, the Redevelopment Agency may meet the net requirement in another location.

The residential developer is working within existing City affordable housing parameters to offset potential impacts regarding affordable housing. The residential development is planned in a Redevelopment Project Area, and as such, 20 percent of the property tax increment (the increase in property taxes generated as a result of the construction of the projects) will be committed to the development of affordable housing. These tax increment revenues will be used in several ways to increase the supply of affordable housing in western Chula Vista, including partnerships with non-profit



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				<p>a period of time (e.g. through commitment of funding required for off-site solar projects). All Bayfront components must over time mitigate total annual energy demand of the development over time.</p> <ul style="list-style-type: none"><li>Development of combined heat and power units or other efficient generation must be included to power largest development areas consistent with the draft AB32 Scoping Plan and California Energy Commission's Energy Action Plan goals. Total energy demand should be met without increasing grid demand.</li></ul> <p><b>Amend project description:</b> Gaylord and Pacifica must meet an energy efficiency standard for 20% over the 2008 Title 24 consistent with the CV Climate Change Working Group Recommendations and the April 1, 2008 Carbon Reduction Plan goals of the City of Chula Vista. Development must reflect California Green Building Standards that will be in place as of 2010.</p>
Q-26	Cumulative Impacts	Impacts to adjacent community, west of I-5, will be significant and long-term	All	Establish an agreement and long term funding source to support mitigation and enhancement projects for western Chula Vista—the community to be most impacted by the CVBMP.
Q-27	Traffic/Public Access	Green Car Line is an excellent idea and is unfunded with no commitment to a date of operation.	Gaylord Port City	<b>Add mitigation measures:</b> Green Car line should be fully funded and operational prior to opening of the RCC Phase 1; alternatively, a funding plan and timeline for implementation should be developed and included as a condition of project approval.
Q-28	Affordable Workforce Housing	Influx of new workers will increase pressures on existing affordable housing stock in western Chula Vista; development of the Bayfront will cause gentrification of western Chula Vista.	City Gaylord	<b>Add mitigation measures:</b> City/Gaylord should commit to funding a local non-profit housing developer or provide funds (over time, restricted for affordable housing) to a local foundation sufficient funds to develop 200 affordable housing units in western Chula Vista, or secure 200 foreclosure units that could be added to the restricted affordable housing stock in Chula Vista. Suggest adequate funding so that 200 units are achieved over 5 years.  The City should commit to addressing housing impacts and use affordable housing funding outside of the redevelopment areas if necessary where the impacts will occur.
Q-29	Affordable Housing	Community affordable housing needs are low AMI and family housing.	City	Approval of an alternate affordable housing plan, if offered by Pacifica, allowing more bedrooms and/or is affordable by lower AMI.
Q-30	Job Quality	Labor agreements to ensure labor peace for project construction and operations.	Gaylord	Gaylord and local labor negotiate agreements.
Q-31	Site Cleanup/remediation	The potential of locating residences and parks on contaminated areas results in significant impacts if sites are not remediated to a sufficiently protective standard.		Since land uses may vary and analysis is still underway, EIR must ensure appropriate remediation to residential standards all sites where children will come in contact with soil. The process by which future remediation decisions are made must include a public/stakeholder participation

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developers to provide gap financing for affordable housing development. In addition to the use of tax increment, the City’s Inclusionary Housing Policy requires that 10 percent (of the residential units development in a Redevelopment Project Area is set aside as affordable housing. The affordability of these units is ensured through recorded covenants that limit prices for the units, income limitations for owners/renters, and deed restrictions governing the terms of re-sale of the units.

The City’s Housing Element (the City’s 5-year affordable housing policy document) identifies a goal of 260 affordable rental units and 30 to 50 affordable for-sale units for lower income households in western Chula Vista. These targets have been established anticipating the tax increment revenues generated by the residential project, and the inclusionary housing obligations of the residential development planned at the Bayfront. The location and actual quantity and configuration of affordable units built and/or purchased will be determined by a number of factors, including the number of market rate residential units developed, the sales prices of the market rate residential units, the assessed valuation of the RCC, and the availability of land and/or properties for affordable housing development or conversion available in western Chula Vista. This commitment to accommodate affordable housing in the immediate project area would offset any potential impacts caused by the project.

Although the Proposed Project will not have a significant impact with respect to the displacement of housing or people, the Final EIR has been revised to include a provision regarding the use of low and moderate income housing funds generated from within the Bayfront Redevelopment Project Area and the implementation and enforcement of these measures (see **Mitigation Measure 4.17-1** in the Final EIR).

**Q-29** As provided in the response to comment Q-28, the residential developer is working within existing City affordable housing parameters to offset potential impacts regarding affordable housing. The residential development is planned in a Redevelopment Project Area, and as such, 20 percent of the property tax increment (the increase in property taxes generated as a result of construction of the projects) will be committed to the development of affordable housing. Due to the property tax increment committed to the development of affordable housing, as discussed above, the recommendation for the approval of an alternate affordable housing plan, if offered by the residential developer, allowing more bedrooms and/or more affordable housing by lowering area medium income is not warranted.

As stated in the description for Parcels H-13 and H-14 in *Chapter 3.0, Project Description*, 150 units of the proposed residential development on Parcels H-13 and H-14 will be set aside for affordable housing. The Final EIR has been revised to clarify that 150 affordable restricted units will be provided by the residential developer, half for low income households and half for moderate income households. As the statutory requirement for new affordable housing production (15 percent) will result in a Redevelopment Agency requirement for 225 affordable units, the Redevelopment Agency will need to cause the production of the net 75 units. As the 15 percent requirement is not site specific, the Redevelopment Agency may meet the net requirement in another location.

**Q-30** The commenter recommends negotiated labor agreements between project developers and local labor groups. This comment addresses economic and social issues but does not address the accuracy or adequacy of the Revised DEIR; therefore, no further response is warranted.

**Q-31** *Section 4.12, Hazards and Hazardous Materials/Public Safety*, of the Revised DEIR identifies potential contamination issues and the mitigation necessary to avoid or reduce impacts to below a level of significance. Where remediation efforts are not part of a separate action in response to a Clean-Up and Abatement Order (CAO), mitigation is proposed to meet the applicable standards for proposed land uses. The clean-up and remediation of contaminated soil and groundwater is subject to the jurisdiction and regulatory oversight of the RWQCB, DTSC, and DEH, which are responsible for reviewing and approving all remedial action plans. The proceedings of these regulatory agencies are open to the public and subject to the Brown Act and the Public Records Act, ensuring that the process by which future remediation decisions are made are open to public/stakeholder participation. The Final EIR has been revised to clarify that parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment (see **Mitigation Measures 4.12-4, 4.12-8, 4.12-9, and 4.12-11**). Please also see the response to comment Q-33.

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Q-32	Hazardous Waste	Pesticide contamination of the Sweetwater District parcels designated for park use.	Port	process. <b>Add mitigation measure:</b> Ensure Residential Preliminary Remediation Goals are met to ensure safe use as parkland.
Q-33		Cleanup levels for all areas have been established assuming certain proposed land uses which may change.	Port City	In the event of a significant change in development type or intensity, cleanup levels must be reassessed to ensure protection of human and ecological health.
Q-34	Process	DEIR is still legally deficient and fails to representative all significant direct, indirect, and cumulative environmental impacts of the project.	All	Address Green Bayfront Recommendations through a combination of additional project description elements, new mitigation measures, and funding sources outside of the CEQA process.
Q-35		Currently, construction of a new Chargers Stadium on the Bayfront is a reasonably foreseeable project under CEQA.		In the event of failure to achieve Green Bayfront recommendations, the EIR and proposed project should be significantly revised, with the Harbor Park Alternative including the Low Density Alternative selected as the least environmentally damaging feasible project per Coastal Act Section 30233.  If adopted, the No Land Trade Alternative must be revised to locate the Signature Park on the H-3 and the RCC on H-23.  The proposed Chargers Stadium should be analyzed and rejected as an element of Bayfront development. The Industrial Business Park land use designation should be amended to specifically prohibit sports arenas and/or stadiums.

- Q-32** Section 4.12, *Hazards and Hazardous Materials/Public Safety*, of the Revised DEIR evaluates pesticide contamination on the S-2 parcel and provides mitigation to avoid or reduce potential impacts to below a level of significance (see **Mitigation Measure 4.12-8**). Per **Mitigation Measure 4.12-8**, soils would either be removed or capped with uncontaminated soil. Under each of these scenarios, the surface soils that park users would come into contact with would not be contaminated. No residential uses are proposed on Parcel S-2. Please also see the response to comment Q-31.
- Q-33** Section 4.12, *Hazards and Hazardous Materials/Public Safety*, of the Revised DEIR identifies potential contamination issues and appropriate mitigation to avoid or reduce impacts to below a level of significance, where such contaminants are not part of a separate effort in response to a CAO. **Mitigation Measure 4.12-9** of the Revised DEIR requires site assessments, as well as a HHRA or equivalent means of evaluation for all parcels and land use types proposed for development in subsequent phases. Furthermore, project-specific development proposals, as well as any revisions to proposed land uses, will be subject to subsequent environmental review, pursuant to CEQA Guidelines Section 15068, including, but not limited to, site assessment and evaluations for human health risks for exposure to hazardous contaminants. In response to this and other comments, the Final EIR has been revised to clarify that parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment (see **Mitigation Measures 4.12-4, 4.12-8, 4.12-9, and 4.12-11**). Please also see the response to comment Q-31.
- Q-34** This comment makes the general assertion that the Revised DEIR is legally deficient, failing to address all potential impacts of the Proposed Project. *Chapter 4.0, Environmental Analysis*, of the Revised DEIR evaluates all potential direct and indirect impacts of the Proposed Project. *Chapter 5.0, Alternatives*, of the Revised DEIR evaluates all potential direct and indirect impacts of the alternatives. *Chapter 6.0, Cumulative Impacts*, of the Revised DEIR evaluates all potential cumulative impacts of the Proposed Project. The Revised DEIR provides information to the Board of Port Commissioners, which will then determine whether or not to approve the Proposed Project, an alternative, or a modified project. Because this comment does not identify any specific deficiency in the Revised DEIR, no further response is possible.
- The comment also requests that the Green Bayfront Recommendations be addressed and the least environmentally harmful alternative be approved. In response to this and other comments, the Port and the City engaged in extensive outreach with concerned citizens and organizations, including the Bayfront Coalition. As a result of these efforts, the Port and City agreed to incorporate a variety of changes, including many of the Green Bayfront Recommendations, in the project description and additional mitigation measures in the Final EIR to address the specific concerns raised in this comment letter. The comment will be included in the Final EIR and decision makers will be made aware of the commenter’s recommendations prior to making a final decision on the project.
- Q-35** As stated on Page 6-9 of the Revised DEIR, “*The City and the San Diego Chargers (Chargers) have had discussions concerning a new football stadium in which the Chargers have identified two potential locations, including the site of the existing SBPP and switchyard. The Port is informed that no site has been agreed upon, no application or plan has been submitted, and no agreement has been reached between the City and the Chargers concerning a stadium project. Furthermore, the existing SBPP and switchyard site is within the jurisdiction of the Port, not the City, and the Port is not a party to the discussions between the City and the Chargers. The description of future uses in the Otay District does not include a football stadium because the Port has neither initiated nor received any plan or proposal for such use nor is it considered a cumulative project, as its nature is still speculative at this time.*” In addition, as discussed on Page s 3-111 and 3-112 of the Revised DEIR, “[t]he proposed land uses summarized in Table 3-8 [i.e., *Industrial Business Park Use*] are subject to removal of the SBPP’s RMR status, and demolition and relocation of the switchyard, and do not include use of the SBPP and switchyard site for a football stadium.”

**Comment Letter R**

**BINGHAM**

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August 6, 2008

**VIA HAND DELIVERY**

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Land Use Planning Department  
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**Re: Revised Draft Environmental Impact Report -- Chula Vista  
Bayfront Master Plan Draft; Comments on Behalf of Rohr, Inc.,  
operating as Goodrich Aerostructures Group**

Dear Sir or Madam:

These comments on the Revised Draft Environmental Impact Report (RDEIR) for the Chula Vista Bayfront Master Plan ("CVBMP" or "Project") are submitted on behalf of Rohr Inc., operating as Goodrich Aerostructures Group ("Goodrich"), whose aircraft parts manufacturing facility is located in the Bayfront area of Chula Vista (west of Bay Boulevard and south of Lagoon Drive).

Specific comments on the RDEIR's environmental analysis and treatment of the Project's impacts, as they relate to the Goodrich facility and remediation of the former South Campus and adjacent areas, are included in the attached technical memorandum from Goodrich's consultant, CH2M HILL.

**I. BACKGROUND**

Goodrich Aerostructures is one of the leading suppliers of engine-related components and structures to the world's major commercial aircraft and engine makers. Goodrich's Chula Vista facility, which has been in continuous operation on the Bayfront since the 1940s, is part of Goodrich's engine-systems unit, which makes aerostructures, engine and fuel controls, fuel systems, pumps and turbine components. This work includes manufacture of nacelles (the aerodynamic housings for jet engines) for Boeing's 787 Dreamliner. The Chula Vista facility is one of the largest employers in Chula Vista, and constitutes a substantial component of the City's tax base.



R-1

**Response Comment Letter R**

**Goodrich Aerostructures Group**

**August 6, 2008**

**R-1** This comment provides a summary of the background of Goodrich Aerostructures Group, as well as the land exchange occurring in 1998. No further response is required.

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Goodrich's Chula Vista facility was formerly spread over much of the land currently proposed for development as part of the CVBMP. This included land owned in fee by Goodrich (including Parcels H-16, H-18 and the portion H-23 located easterly [landward] of the historic mean-high tide line). It also included land leased by Goodrich from the Port westerly of the mean high-tide land. Property west of the mean high-tide line is under the jurisdiction of the Port pursuant to the Public Trust Doctrine, under which the Port, through delegation of authority from the State Lands Commission, holds and manages the property in trust for the people of the State of California. The uses of such property are limited to those consistent with the Public Trust, including commerce, navigation, fisheries, recreation, and other specified uses.

In early 1998, the Port and the City of Chula Vista expressed to Goodrich their collective desire to see the Chula Vista Bayfront redeveloped. A successful redevelopment necessitated the extension of H Street through Goodrich's existing manufacturing campus, as well as consolidation of the Port's existing Bayfront landholdings with Goodrich's property south of the proposed extension of H Street (South Campus). Redevelopment of the Bayfront would require access via H Street and assemblage of Bayfront land (Port and Goodrich property) to create the platform for a master commercial redevelopment project.

With these factors in mind, the Port and City proposed that Goodrich vacate its South Campus, and consolidate and relocate its current operations onto the area north of the H Street extension. To accomplish this, the parties agreed to a series of land transactions that realigned the Port/Goodrich property ownership in a north-south configuration as opposed to the formerly east-west configuration. As part of this arrangement, with the approval of the State Lands Commission, certain parcels north of H Street were removed from the Public Trust and conveyed to Goodrich, and certain parcels south of H Street formerly owned by Goodrich were placed in the Public Trust and conveyed to the State Lands Commission (and subsequently placed under Port jurisdiction). The result was to deliver to the Port a consolidated, 83-acre parcel of property south of the H Street extension that could be developed in a comprehensive, cohesive manner consistent with the Port's Public Trust responsibilities.

**A. The 2006 Draft EIR**

The original Draft EIR for the current Bayfront Development Project was released for public review in September 2006. During the public review period, the Port received voluminous public and agency commentary on the Draft EIR. Much of that commentary requested substantial additional information about the Project and its potential environmental effects, and urged the Port to conduct substantial additional review and analysis of potential environmental impacts and appropriate mitigation measures and alternatives.

These submittals included both legal and technical comments submitted on behalf of Goodrich (dated January 9, 2007) which raised a number of issues relating chiefly to incompatibilities between the proposed development (particularly the residential development on Parcels H-13 and H-14) and Goodrich's existing operations, and the Draft

R-1  
(Cont.)

R-2

**R-2** This comment provides a summary of the 2006 DEIR and summary of comments submitted at that time. No further response is required.

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EIR's failure to acknowledge and analyze these incompatibilities and propose appropriate mitigation measures.

The issues raised specifically by Goodrich included:

- (i) The Draft EIR's failure to fully analyze the potential impacts of noise, vibration, odor, dust, air emissions and other impacts from ongoing operation of the Goodrich facility on the proposed residential development;
- (ii) The use of current operations as a baseline for assessing potential impacts of the Goodrich facility rather than the most intensive uses at the facility that are allowed by current land use designations, zoning, and other regulations and standards;
- (iii) The inclusion of only ground-level analyses of the facility's potential noise and air-emissions impacts on the residential development and no assessment of their impact at the height of the proposed residential development on parcels H-13 and H-14;
- (iv) The assumption that all soil and groundwater remediation will have been completed at the time any development occurs without conditioning such development upon successful completion of the clean-up and approval by regulatory agencies;
- (v) The (inconsistent) assumption that some of the remediation will be "ongoing" at the time of development with no examination of the impacts of the proposed development (including substantial excavation, underground storm drains and utility lines, and other subsurface work) that may affect, and be affected by, the contamination; and
- (vi) The failure to demonstrate how the proposed exchange of trust properties in the mid-Bayfront for property in the Sweetwater area would conform to statutory and common law principles governing tidelands trust property and hence not conflict with applicable land use policies, plans and regulations, including the public trust doctrine and the Port's statutory mandates.

**B. The Revised Draft EIR.**

In response to these and other comments on the Draft EIR, the Port determined that the Draft EIR could not be used as the basis for approval of the CVBMP as then proposed, but would require substantial additional information and analysis in order to comply with CEQA's requirements. Accordingly, it announced that the Draft EIR was being withdrawn and would be recirculated after necessary revisions were made.

The Revised Draft EIR (RDEIR) was released for public review on May 23, 2008. It refers to the numerous public comments and substantial additional information concerning the Proposed Project and its environmental review received in response to the prior EIR. It states that the RDEIR was prepared by the Port "in a good faith effort to respond to the

R-2  
(Cont.)

R-3

**R-3**

This comment provides a general description of the Revised DEIR and states the general objections that the Revised DEIR does not: (1) properly examine land use and environmental incompatibilities between the Proposed Project and Goodrich's continued manufacturing operations; (2) contains unwarranted and inconsistent assumptions regarding development-related impacts on existing contamination; and (3) fails to demonstrate how the proposed land exchange conforms to the Port's responsibilities under the Public Trust Doctrine. Over a period of approximately 7 months, the Port, the City, and the Redevelopment Agency engaged in a public outreach effort with Goodrich representatives in order to develop specific recommendations to address all of the issues and concerns raised in Comment Letter R. As a result of these efforts, the parties entered into a written agreement, referred to as the Second Amendment to Relocation Agreement (Goodrich Agreement), which provides for the following:

- Specific measures for the disclosure of information regarding Goodrich's operations to future occupants of the residential project proposed on Parcels H-13 and H-14
- The minimum distance between residential dwellings and the northern boundary of the Goodrich property
- Development conditions for the residential parcels relating to foundation systems
- Grading requirements, development sequencing, vapor intrusion requirements, and interior noise levels
- Fencing, landscaping, screening, and buffer areas where appropriate.

The Goodrich Agreement also provides specific measures to ensure cooperation among the Port, the City, the Redevelopment Agency,

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public comments.” (RDEIR at 1-1). Unfortunately, this statement is incorrect as to the comments submitted by Goodrich. The RDEIR contains the same major flaws identified in Goodrich’s prior comments: it does not properly examine land-use and environmental incompatibilities between the Project as proposed and Goodrich’s continued operation as a manufacturing facility; it contains unwarranted and inconsistent assumptions about development-related impacts on existing contamination and its remediation; and it fails to demonstrate how the proposed land exchange conforms with tideland trust principles and related land use policies and regulations, including the Port’s trust responsibilities.

Instead, the RDEIR, like its predecessor, resorts to tautology rather than analysis to address the issues raised by Goodrich and thereby to find that no significant impacts will exist. It reasons that (1) the residential development will be sufficiently far away and separated by buffering uses from the facility to avoid any impacts because it will be sufficiently far away and sufficiently buffered to avoid any impacts (RDEIR at 4.1-119); (2) the proposed land exchange will be consistent with the public trust and applicable land use programs because the approval of the land exchange will make the exchange consistent with these policies and programs (DEIR at 4.1-33); and (3) that there will be no Project-related impacts from contaminated soil or groundwater because the property will be fully remediated in compliance with all regulatory requirements before any development occurs (RDEIR at 6-6). Such reasoning cannot substitute for the analysis required under CEQA.

Comments on specific issues in the RDEIR follow. In addition, technical comments on the RDEIR are provided in the attached memorandum from Goodrich’s consultant CH2M HILL.

### C. Comments on Revised Draft EIR Sections.

#### 1. Project Description and Hazardous Materials

In our comment letter on the 2006 Draft EIR, we pointed out significant inconsistencies and contradictory assumptions in the Draft EIR regarding the timing of remediation and commencement of construction of the Project. Specifically, we noted statements in the Draft EIR to the effect that no development would occur until all contaminated properties were completely remediated to the satisfaction of regulatory agencies, and hence that there would be no impacts from contamination. (Draft EIR at 3-73; 4.12-40; Table 1.7). Elsewhere in the Draft EIR there were statements indicating that remediation might be *ongoing* during development of construction. (See, e.g., Draft EIR § 3.4.9.2 [“Therefore, this report assumes the former Goodrich South Campus buildings have been demolished, and that remediation of the contamination on the affected parcels has been completed *or is in progress* pursuant to the requirements of the RWQCB.”]).

The RDEIR does not eliminate these inconsistent assumptions. It states that “[n]o development is planned to occur on contaminated parcels until remediation is completed and approval is received from the responsible regulatory agencies.” (RDEIR at 6-40). It repeatedly relies on this assumption to support its assertion that the pre-development

R-3  
(Cont.)

R-4

and Goodrich with respect to development and implementation of the Proposed Project, the placement and relocation of remediation facilities, and activities relating to the remediation of existing contamination, including measures designed to mitigate risks to human health and the environment, reduce the potential for lateral groundwater migration in utility corridors and vertical migration of contaminants, and avoid the infiltration of hazardous substances into storm drain lines. The Port, the City, and the Redevelopment Agency have approved the Goodrich Agreement and Goodrich agrees that the Port, the City, and the Redevelopment Agency have adopted significant and meaningful measures that adequately address all of the issues raised and concerns expressed in Comment Letter R. The Goodrich Agreement is a matter of public record and is available to the public during normal business hours in the office of the District Clerk, located at 1600 Pacific Highway, San Diego, California. Pursuant to CEQA Guidelines Section 15150, the Goodrich Agreement is incorporated in this response as though set forth in full.

R-4

This comment expresses confusion over the timing and responsibilities of remediation under the CAO 98-08. The Final EIR has been revised to clarify that remediation of a given parcel will proceed in accordance with an agency approved clean-up plan. *Chapter 3.0, Project Description*, on Page s 3-156 through 3-161 of the Revised DEIR discloses and describes the parcels addressed by CAO 98-08 issued to BF Goodrich by the RWQCB as amended on July 9, 2001. The Revised DEIR identifies the former Goodrich South Campus and the Goodrich North Campus, as well as contaminant discharges within adjacent Proposed Project parcels, such as H-3, HP-1, HP-5, H-8, H-9, H-13, H-14, and H-21. These Page s also include identification of the assumptions considered in the Revised DEIR regarding the CAO. *Section 4.12, Hazards and Hazardous Materials/Public Safety*, on Page 4.12-38 of the Revised DEIR also identifies the parcels addressed by

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remediation will “ensure that impacts are avoided or reduced to a level of less than significant prior to development of any given site.” (RDEIR 5-14). For example, it states:

The site is currently under a Cleanup and Abatement Order (CAO No. 98-08, revised April 2, 1998) for cleanup of contamination associated with past uses on the former BF Goodrich South Campus. Cleanup activities are being performed under separate approvals, and site remediation to appropriate standards for proposed uses is assumed as a baseline condition. As with the Proposed Project, implementation of Cleanup and Abatement Order programs and other remediation, combined with implementation of mitigation measures detailed in *Section 4.12, Hazards and Hazardous Materials/Public Safety*, which require the project to coordinate with responsible agencies to show that *remediation has been completed to a standard acceptable for proposed uses, would ensure that impacts are avoided or reduced to a level of less than significant prior to development of any given site.* [Emphasis added]

The same assumption is reiterated in several other sections of the RDEIR, and is made as to all parcels with any contamination. For example, the RDEIR states that “[s]imilar to the Proposed Project, implementation of programs and other remediation will clean up existing contamination *prior to development of any affected site.*” (5-147, emphasis added). In its discussion of remediation of specific parcels, the same assumption is made. For example, it is assumed that the HP-5 drainage ditch in the Harbor District will be remediated before any development can occur. (See, e.g., RDEIR at 4.12-38: “All work associated with the Goodrich CAO will be completed under the oversight of the RWQCB. The analysis of the Proposed Project assumes the existing HP-5 drainage ditch will be remediated as required by the CAO.” (4.12-38)).

However, the RDEIR also appears to assume that remediation may be ongoing at the time development occurs or that no remediation will have occurred at the time development occurs. The following language is carried over from the 2006 Draft EIR: “This EIR assumes the former Goodrich South Campus buildings have been demolished, and that remediation of the contamination on the affected parcels *has been completed or is in progress* pursuant to the requirements of the RWQCB.” (3-161)<sup>1</sup> (emphasis added)

<sup>1</sup> See also Mitigation Measure 4.12.1: “The applicant shall obtain written authorization from the regulatory agency (RWQCB/DEH/DTSC) confirming the completion of any remediation required for development of the site, exclusive of any on-going monitoring obligations. A copy of the authorization shall be submitted to the Port and City to confirm meeting all requirements acceptable to the governing agency and that the proposed

R-4  
(Cont.)

R-5

the CAO. *Section 4.12* includes identification and evaluation of contaminants for all parcels in the project area in the same manner, whether or not they are areas addressed in the CAO.

The CAO addresses contaminated groundwater, which exists beneath the surface and is not delineated consistent with parcels or physical surface features. The extent of groundwater contamination has been assessed through site investigations performed in several portions of the project area and is ultimately established by the data obtained through analysis of groundwater samples collected from groundwater monitoring wells. Groundwater monitoring data is used to confirm the horizontal and vertical extent of groundwater contamination. If analysis of groundwater samples from monitoring wells detect contamination above established levels, associated with sources (“sources” meaning anywhere on the BF Goodrich/Rohr facility) cited in the CAO, abatement or correction of the effects of the discharge and/or to mitigate emergency situations related to those contaminants, is required under the CAO regardless of whether they occur beyond the source area of the contamination. The data from the monitoring wells is also used to determine if contamination is migrating within the groundwater, and if so, the direction of the contaminated groundwater migration. As described in the Report of Groundwater Monitoring and Sampling First Quarter 2007, prepared by URS, cited in the Revised DEIR (Page 4.12-2), the horizontal direction of groundwater is primarily northwest to southwest (Bayward). There are local variations identified as follows: shallow groundwater, identified as Zone A, flows northwest (Bayward); deeper groundwater flows, identified as upper Zone B are variable and during that round of monitoring a northeast (landward) flow was indicated, possibly as a result of tidal influences during measurement. The vertical movement of groundwater is determined to be upward from Zone B to Zone A.

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remediation will "ensure that impacts are avoided or reduced to a level of less than significant prior to development of any given site." (RDEIR 5-14). For example, it states:

The site is currently under a Cleanup and Abatement Order (CAO No. 98-08, revised April 2, 1998) for cleanup of contamination associated with past uses on the former BF Goodrich South Campus. Cleanup activities are being performed under separate approvals, and site remediation to appropriate standards for proposed uses is assumed as a baseline condition. As with the Proposed Project, implementation of Cleanup and Abatement Order programs and other remediation, combined with implementation of mitigation measures detailed in *Section 4.12, Hazards and Hazardous Materials/Public Safety*, which require the project to coordinate with responsible agencies to show that *remediation has been completed to a standard acceptable for proposed uses, would ensure that impacts are avoided or reduced to a level of less than significant prior to development of any given site.* [Emphasis added]

The same assumption is reiterated in several other sections of the RDEIR, and is made as to all parcels with any contamination. For example, the RDEIR states that "[s]imilar to the Proposed Project, implementation of programs and other remediation will clean up existing contamination *prior to development of any affected site.*" (5-147, emphasis added). In its discussion of remediation of specific parcels, the same assumption is made. For example, it is assumed that the HP-5 drainage ditch in the Harbor District will be remediated before any development can occur. (See, e.g., RDEIR at 4.12-38: "All work associated with the Goodrich CAO will be completed under the oversight of the RWQCB. The analysis of the Proposed Project assumes the existing HP-5 drainage ditch will be remediated as required by the CAO." (4.12-38)).

However, the RDEIR also appears to assume that remediation may be ongoing at the time development occurs or that no remediation will have occurred at the time development occurs. The following language is carried over from the 2006 Draft EIR: "This EIR assumes the former Goodrich South Campus buildings have been demolished, and that remediation of the contamination on the affected parcels *has been completed or is in progress* pursuant to the requirements of the RWQCB." (3-161)<sup>1</sup> (emphasis added)

<sup>1</sup> See also Mitigation Measure 4.12.1: "The applicant shall obtain written authorization from the regulatory agency (RWQCB/DEH/DTSC) confirming the completion of any remediation required for development of the site, exclusive of any on-going monitoring obligations. A copy of the authorization shall be submitted to the Port and City to confirm meeting all requirements acceptable to the governing agency and that the proposed

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*Section 4.12, Hazards and Hazardous Materials/Public Safety*, of the Revised DEIR addresses contamination with regards to four distinct media: soil, sediment (L-Ditch), groundwater, and soil gas/vapor. Soil and sediment contamination is considered likely to cause an adverse impact upon implementation of the Proposed Project because it exists in surface or near-surface features that humans are most likely to come into direct contact with (**Significant Impacts 4.12-1, 4.12-7, 4.12-12, and 4.12-14**). **Mitigation Measures 4.12-1 and 4.12-11** in the Revised DEIR would avoid or reduce these impacts to below a level of significance. Remediation of soil and sediment that contain contaminants is required by the CAO and/or **Mitigation Measure 4.12-1**, as described in *Section 4.12, Hazards and Hazardous Materials/Public Safety*, on Pages 4.12-70 through 4.12-72, which will be completed prior to the development of those parcels.

Groundwater contamination is considered less likely to cause an adverse impact upon implementation because it exists below the surface and humans are less likely to come into direct contact with it. The exception is during construction, when some limited dewatering may be necessary, for which a significant impact is disclosed in the Revised DEIR (**Significant Impacts 4.12-3, 4.12-13, and 4.12-18**). During construction, dewatering requirements set forth in **Mitigation Measures 4.12-1C and 4.12-1D** in the Revised DEIR will be enforced. During operation of Proposed Project components, there would not be a "pathway" through which humans would come into contact with groundwater below the surface. Groundwater remediation is subject to the requirements of the CAO and will be ongoing because, for the reasons described previously, completion of groundwater remediation is not necessary prior to operation, as described in *Section 4.12, Hazards and Hazardous Materials/Public Safety*, on Page 4.12-38 of the Revised DEIR.

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Soil gas/vapor contamination is considered likely to cause an adverse impact upon implementation of the project in specific areas, particularly during construction, because the mobility and volatility of gaseous contaminants creates circumstances whereby "pathways" could be inadvertently opened. A pathway is a route of exposure for humans to come into contact with contaminants. For these reasons, the Revised DEIR discloses a potentially significant impact to construction workers associated with soil gas/vapor (**Significant Impacts 4.12-7 and 4.12-17**) during activities on or adjacent to specific parcels (including Parcels H-3, H-13, H-14, H-15, and HP-5) where soil gas/vapor is known or is likely to occur. **Mitigation Measures 4.12-6 and 4.12-1D** disclosed in the Revised DEIR would avoid or reduce these impacts to below a level of significance. During project operation on those parcels where soil gas/vapor is known or likely to occur (including Parcels H-3, H-13, H-14, H-15, and HP-5), the Revised DEIR discloses potentially significant impacts (**Significant Impacts 4.12-11, 4.12-15, 4.12-16, 4.12-19, and 4.12-20**) because of the uncertainty regarding how the soil gas/vapor contaminants may move in the future. **Mitigation Measures 4.12-10 and 4.12-11** identified in the Revised DEIR would avoid or reduce these impacts to below a level of significance.

**R-5 Mitigation Measure 4.12-1** is correct in that it indicates that specific remediation plans for each parcel will have to be prepared and approved by the regulatory agencies prior to development. The Final EIR has been revised to clarify that parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment. If soil remediation will be necessary to accommodate the proposed land use for a given parcel, it will be required to be completed in coordination with grading activities prior to development. However, remediation of groundwater may be allowed to be initiated before, during, or after development, depending on parcel-specific conditions and the proposed development for that parcel. Please also see the response to comment R-4.

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The RDEIR's analysis therefore remains demonstrably flawed since it does not analyze the ramifications of constructing the Project prior to or during remediation activities. Indeed, as noted, it assumes that full remediation prior to any development will ensure that impacts from the contamination are avoided or reduced to a less- than-significant level prior to development of any part of the Project. But it cannot have it both ways: if the RDEIR is to assume that all remediation will have been completed prior to any development, then commencement of such development must be conditioned upon the remediation being completed prior to any development not on remediation that is *either* complete or ongoing. If the remediation will not be complete at the time of development, the RDEIR must analyze the impacts of the proposed development, which includes substantial excavation, underground storm drains and utility lines, and other subsurface work that may affect, and be affected by, the contamination.

2. Project Impacts on Soil and Groundwater Contamination.

If, in fact, the RDEIR is contemplating that development will occur prior to or during remediation, it must analyze the potential impacts of that development on the ongoing and future remediation efforts, as well as other impacts that may occur as a result of the substantial grading, excavation, trenching, backfilling, dewatering and other activities associated with the Project in areas with contaminated soil or groundwater. The installation of underground utilities throughout this area, together with other proposed subterranean or semi-subterranean facilities, may impede or alter the direction of groundwater flow, create preferential pathways and entrain or sever contamination plumes. The RDEIR has not addressed these or a range of other issues associated with development impacts.

In determining whether significant environmental effects may result from a project, the EIR must focus on the "physical conditions existing within the area which will be affected by a proposed project, including land, air, [and] water . . . ." Pub. Res. Code § 21060.5. The RDEIR fails to adhere to this requirement. Instead, it avoids analysis of the impact of the Project in the context of the existing physical conditions by positing entirely different conditions based on a putative pre-development clean-up.

The groundwater depth in the Project area is a matter of particular concern. As the RDEIR notes, in March 1998, the San Diego Regional Water Quality Control Board (RWQCB) issued Cleanup and Abatement Order No. 98-08 (CAO). Goodrich and the Port have been conducting site investigation and remediation activities on both the current campus and the South Campus pursuant to the CAO and the Relocation Agreement. Groundwater is present in the Project area at depths as shallow as four to six feet below the ground surface in some areas. The RDEIR does not consider the possibility that the installation of large underground structures (such as "semi-subterranean garages") could alter or impede the

development parcel has been cleaned up *or is in process to the satisfaction of the regulatory agency.*" (Emphasis added) (See also, RDEIR 4.12-71).

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The Revised DEIR considers the impacts that development will have on groundwater and efforts to remediate groundwater. Mitigation measures in *Section 4.12, Hazards and Hazardous Materials/Public Safety*, of the Revised DEIR, provide for remediating the contaminant sources and impacts in the respective media (i.e., soil, sediment, soil gas/vapor, groundwater) to levels below the health-based remediation criteria. The Final EIR has been revised to clarify that parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment. If soil remediation will be necessary to accommodate the proposed land use for a given parcel, it will be required to be completed in coordination with grading activities prior to development. However, even if soil remediation in a given area has been completed, soil-disturbing construction activities shall be performed in accordance with an SWMP in the event that unknown contamination is encountered (**Mitigation Measure 4.12-1**). If contamination is encountered, construction would be coordinated with grading activities while the contamination is assessed and it is determined with the regulatory agencies what, if any, further actions are necessary. If development is proposed for an area where soil remediation is not necessary or has been completed, but groundwater remediation is required, there are several factors that will be considered, including, but not limited to:

- Depth to groundwater
- Depth of the contamination in groundwater
- Contaminant concentrations
- The type of remedial activities proposed
- The proposed location of remediation equipment.

In many of the project areas, although groundwater is impacted, the nature of the contaminants (dense chlorinated solvents) has caused the

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R-6

In determining whether significant environmental effects may result from a project, the EIR must focus on the "physical conditions existing within the area which will be affected by a proposed project, including land, air, [and] water . . . ." Pub. Res. Code § 21060.5. The RDEIR fails to adhere to this requirement. Instead, it avoids analysis of the impact of the Project in the context of the existing physical conditions by positing entirely different conditions based on a putative pre-development clean-up.

R-7

The groundwater depth in the Project area is a matter of particular concern. As the RDEIR notes, in March 1998, the San Diego Regional Water Quality Control Board (RWQCB) issued Cleanup and Abatement Order No. 98-08 (CAO). Goodrich and the Port have been conducting site investigation and remediation activities on both the current campus and the South Campus pursuant to the CAO and the Relocation Agreement. Groundwater is present in the Project area at depths as shallow as four to six feet below the ground surface in some areas. The RDEIR does not consider the possibility that the installation of large underground structures (such as "semi-subterranean garages") could alter or impede the

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development parcel has been cleaned up *or is in process to the satisfaction of the regulatory agency.*" (Emphasis added) (See also, RDEIR 4.12-71).

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contamination to migrate vertically downward as well as laterally to the west (down gradient). Therefore, construction activities, such as grading and excavation of utility trenches, are not likely to encounter highly contaminated groundwater. However, if shallow groundwater is impacted and if migration of contamination along a utility alignment occurs, a contamination migration barrier may be installed as part of the excavation bottom to prevent the ability of the utility trench to serve as a migration pathway. The Final EIR has been revised to incorporate this description (see **Mitigation Measure 4.12-1**).

Deep footings that could extend into contaminated groundwater zones will be installed using methods (auger displacement/auger cast or driven piles) to avoid the potential for creating conduits for migration of contaminants. Additionally, pile spacing will be at least four times the maximum dimension of the pile; therefore, they are less likely to have an effect on lateral groundwater flow and contaminant transport (*Appendix 4.15-2*).

As with soil, construction activities shall be performed in accordance with an SWMP that provides guidance on assessment and handling of water that is encountered during construction. **Mitigation Measures 4.12-1** and **4.5-2** describe procedures that will be followed, if dewatering is required in an area, and the water that is generated will need to be contained and characterized to determine treatment and disposal options. In addition, any potential dewatering activities must be noticed to and approved by the RWQCB and local stormwater management agencies prior to the discharge of non-stormwater. The Proposed Project will be required, as described in **Mitigation Measures 4.12-1** and **4.5-2**, to comply with all applicable dewatering permit conditions and regulations, which may include a separate National Pollutant Discharge Elimination System (NPDES) dewatering permit if required. Please also see the response to comment R-4.

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If, in fact, the RDEIR is contemplating that development will occur prior to or during remediation, it must analyze the potential impacts of that development on the ongoing and future remediation efforts, as well as other impacts that may occur as a result of the substantial grading, excavation, trenching, backfilling, dewatering and other activities associated with the Project in areas with contaminated soil or groundwater. The installation of underground utilities throughout this area, together with other proposed subterranean or semi-subterranean facilities, may impede or alter the direction of groundwater flow, create preferential pathways and entrain or sever contamination plumes. The RDEIR has not addressed these or a range of other issues associated with development impacts.

In determining whether significant environmental effects may result from a project, the EIR must focus on the "physical conditions existing within the area which will be affected by a proposed project, including land, air, [and] water . . . ." Pub. Res. Code § 21060.5. The RDEIR fails to adhere to this requirement. Instead, it avoids analysis of the impact of the Project in the context of the existing physical conditions by positing entirely different conditions based on a putative pre-development clean-up.

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development parcel has been cleaned up *or is in process to the satisfaction of the regulatory agency.*" (Emphasis added) (See also, RDEIR 4.12-71).

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**R-7** The Revised DEIR provides detail regarding the physical conditions existing within the areas that will be affected by the Proposed Project. Geocon evaluated all available environmental documents, including environmental assessments; investigations of soil, sediment, soil gas/vapor, and groundwater; health risk assessments; and remedial actions specifically so the potential needs of specific parcels slated for development could be summarized. Preliminary project designs were available for H-13/H-14 Pacifica and infrastructure, which allowed comment on the specifics of future groundwater remediation efforts that will need to be undertaken and how individual projects will potentially affect those efforts. In other cases, proposed land use for a parcel is known, but a conceptual design will not be available until a future phase. In those cases, the Revised DEIR discusses if it is likely that remediation of soil or groundwater will be required or not and, if so, how a potential project will impact the parcel and vice-versa. Please also see the response to comment R-4.

**R-8** It is correct that groundwater is as shallow as 4 to 6 feet below the ground surface in some areas; however, as previously described, the contaminants in groundwater that are most prevalent and of greatest concern with respect to human health are the dense chlorinated solvents (or volatile organic compounds, VOCs), which have been demonstrated to have migrated vertically downward via naturally occurring preferential pathways as they have migrated laterally to the west. It is therefore unlikely that shallow construction (e.g., utility trenches, semi-subterranean garages, shallow foundations for ancillary structures, roads, parking) will extend into VOC-impacted groundwater. Deep footings for larger project structures may extend into impacted groundwater, but should have little, if any, effect on groundwater flow due to their narrow diameter versus depth and the wide spacing between footings (i.e., four times the maximum dimension of the pile).



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groundwater flow direction, create vertical flow paths or cause water to accumulate in one place or migrate in directions perpendicular to the natural gradient. The RDEIR does not assess the extent to which the impeding effect could retard the natural dilution of contaminants that would otherwise occur. If the Project alters existing groundwater flow, the site investigations conducted to date pursuant to the pending Cleanup and Abatement Order may be rendered moot, thereby causing a substantial setback in compliance efforts. The RDEIR contains no proposed mitigation measures capable of avoiding or minimizing the impacts of these potential changes in the groundwater flow regime.

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The RDEIR also fails adequately to assess the potential impacts of changes in groundwater flow from creation of preferential pathways for movement of groundwater. The movement of groundwater is a function of numerous hydrogeological factors (e.g. soil characteristics, soil moisture content, soil permeability and groundwater levels). Development of the Project will include installation of plastic liners, perforated pipes, water lines, sanitary sewer, storm drains, gas lines, cable access, telephone lines, electrical lines and the like to meet the needs of the Project. Permeable backfill, sand or gravel bedding or other features of utility lines can act as preferential pathways or conduits for migration of contaminated water, permanently altering groundwater flow and causing movement of contaminants into previously uncontaminated areas.

R-9

The utility trenching and installation of large underground structures will also necessarily involve significant dewatering. Extensive dewatering may alter groundwater flow and result in concentration and migration of contaminants, potentially exacerbating the effects of creation of preferential pathways. Excavation dewatering could also entrain groundwater plumes or result in contaminants entering the storm water system. The result may be significant modifications to the migration pathways for contaminant plumes in the Project area.

R-10

All of these potentially significant impacts must be analyzed and mitigation measures developed if the Project is to proceed prior to or during remediation.

3. Potential Land Use Conflicts

With respect to potential land use conflicts that could arise by siting residential and other uses near the Goodrich facility, the RDEIR contains the same basic analysis as the previous 2006 Draft EIR. It states: "The development of the Proposed Project would place non-industrial uses adjacent to the Goodrich facility; however, no land use conflicts are expected." (RDEIR at 4.1-119). This conclusion is based on the assumptions that the proposed residential uses on H-13 and H-14 would be approximately 1,265 feet away from this facility and would be separated from Goodrich by a resort hotel and cultural/retail use located on H-23. It also claims that the Project actually improves compatibility by eliminating the more intensive development from the Sweetwater District and placing it in the Harbor District. (RDEIR at 4.1-119).

R-11

The RDEIR concludes that there are "currently recreational and commercial uses near the Goodrich facility that are operating in a compatible manner and, while there is the potential

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**R-9** As described in the response to comment R-8, construction methods for utility trenches can accommodate shallow groundwater conditions. Furthermore, as described, shallow groundwater in the project areas is generally not impacted or impacted to a much lesser degree than deeper groundwater due to the tendency for the contaminants of concern to have migrated vertically as well as laterally. Pacifica has agreed to the use of driven piles, a technique that is designed to avoid the creation of preferential pathways. Please also see the response to comment R-6.

**R-10** As provided in **Mitigation Measures 4.5-2** and **4.12-1**, should dewatering for construction be required, the location of the dewatering and its duration will be evaluated to determine the potential effects on the local groundwater flow and contaminant transport. Dewatering will be temporary and is unlikely to affect the deeper water bearing zones where most of the contamination has already migrated. Dewatering is unlikely to "entrain" groundwater plumes as it will not be deep enough or aggressive enough to capture or split plumes or cause large-scale reversals in groundwater flow. Dewatering also will not result in contaminants entering the stormwater system because water generated by dewatering will be managed in accordance with an SWMP. Water generated by dewatering will be stored and tested to determine discharge options and will be discharged in accordance with regulatory permits or approvals.

**R-11** As indicated in the comment, the Revised DEIR does indeed show the precise distance of 1,265 feet between the project and Goodrich facility from boundary to boundary. *Section 4.6, Air Quality*, and *Section 4.7, Noise*, of the Revised DEIR provide clear evaluation of the potential impacts regarding the potential interaction between the existing Goodrich facility and proposed residences. In addition,

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for limited nuisance effects, such as noise, to result from activities at the facility, the Proposed Project does not represent a substantial land use incompatibility." (RDEIR at 4.1-119). Except for the elimination of the term "extreme" from the impact conclusion, the text remains unchanged.

The RDEIR thus contains the same circular reasoning (the distance and buffering will mitigate all impacts because it will mitigate all impacts) and does not include any of the mitigation measures recommended in Goodrich's comments on the 2006 Draft EIR (e.g., requiring specific minimum distances, prescribing the design and orientation of the buffering structure and requiring completion of the structure before occupancy). Nor does it address the schedule and timing of the development on H-23 (which is scheduled to commence in Phase II, after the residential uses are in place) or the screening/buffering capability of the proposed uses on H-23. These deficiencies should be addressed in a revised document.

### 4. Noise and Vibration Impacts

Goodrich's prior comment letter pointed out that the 2006 Draft EIR failed to analyze the potential noise and vibration impacts from the Goodrich facility on the proposed residential uses. The RDEIR contains a discussion of the noise analysis prepared by CH2M HILL, which examined the noise generated by Goodrich's current operations (CH2M HILL 2005a), and includes this study as an appendix. It also includes a discussion of the findings of RECON, which measured noise in this area as well. (RDEIR at 4.7-48). The RDEIR's analysis assumes that "residential and other noise sensitive uses are not proposed in areas adjoining the southern or western Goodrich property line" (RDEIR at 4.7-21), and that such uses would be located approximately 1,265 feet south of the southern existing Goodrich boundary.

Based on these assumptions, the RDEIR concludes that the noise levels would be below the applicable standard and therefore the impact would not be significant. (RDEIR at 4.7-48). However, no mitigation measure requiring a specific distance from the facility is included in the RDEIR, although there are several mitigation measures that require the applicant to demonstrate to the City/Port (through acoustical studies with the possible requirement of installing noise barriers, etc.) that certain acceptable standards for the outdoor usable residential areas and sensitive receptors were met. (See RDEIR at 4.7-56-57, 65).

The RDEIR also fails to discuss the "potential for limited nuisance effects" from the Goodrich activities that it previously identified in the Land Use chapter.

Goodrich's prior comment letter noted that the 2006 Draft EIR improperly analyzed the impacts of Goodrich's operations on the Project by failing to analyze these operations at peak capacity, as opposed to current operations (which are at a relatively low level relative to prior years). The RDEIR acknowledges that "Goodrich's business operations are cyclical, depending on large manufacturing orders, and activities may increase commensurately. Therefore, noise levels would fluctuate." (RDEIR at 4.7-21). However, it includes no analysis as to how these increased operations with a concomitant increase in impacts would affect the Project. The RDEIR also does not acknowledge that it must analyze the most

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R-12

R-13

R-14

proposed development on H-23, which is the parcel situated between the Goodrich facility and proposed residential uses, would eventually further reduce interaction between the industrial and residential uses. For this reason, the Port has determined that location of residential land uses would not be incompatible with the existing industrial land uses on the Goodrich property. Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

**R-12** As described in the comment, there is no significant impact in regard to noise, and therefore, no mitigation is required. In addition, the distance from boundary to boundary is 1,265 feet and no residential development is proposed outside of Parcels H-13 and H-14. Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

**R-13** The reference to "limited nuisance effects" from Goodrich activities on Page 4.1-119 of the Revised DEIR refers to the potential interference with adjoining property owners' or occupiers' use and enjoyment of their property, which might result from noise from the Goodrich activities. However, the analysis presented in *Section 4.1, Land/Water Use Compatibility*, of the Revised DEIR, indicates that the impacts are less than significant. This conclusion is based on the analysis in *Section 4.7, Noise*, of the Revised DEIR, which states that the highest noise measurements taken at the Goodrich facility were 71.6 and 70.8 decibels (dB(A)), respectively, at the southern and western property boundaries. On the basis of this finding, the conclusion presented is that residential and other noise-sensitive uses shall not be permitted in areas adjoining the southern or western Goodrich property line. The Revised DEIR already presents the determination that all noise-sensitive uses, not just residences, should

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for limited nuisance effects, such as noise, to result from activities at the facility, the Proposed Project does not represent a substantial land use incompatibility." (RDEIR at 4.1-119). Except for the elimination of the term "extreme" from the impact conclusion, the text remains unchanged.

The RDEIR thus contains the same circular reasoning (the distance and buffering will mitigate all impacts because it will mitigate all impacts) and does not include any of the mitigation measures recommended in Goodrich's comments on the 2006 Draft EIR (e.g., requiring specific minimum distances, prescribing the design and orientation of the buffering structure and requiring completion of the structure before occupancy). Nor does it address the schedule and timing of the development on H-23 (which is scheduled to commence in Phase II, after the residential uses are in place) or the screening/buffering capability of the proposed uses on H-23. These deficiencies should be addressed in a revised document.

4. Noise and Vibration Impacts

Goodrich's prior comment letter pointed out that the 2006 Draft EIR failed to analyze the potential noise and vibration impacts from the Goodrich facility on the proposed residential uses. The RDEIR contains a discussion of the noise analysis prepared by CH2M HILL, which examined the noise generated by Goodrich's current operations (CH2M HILL 2005a), and includes this study as an appendix. It also includes a discussion of the findings of RECON, which measured noise in this area as well. (RDEIR at 4.7-48). The RDEIR's analysis assumes that "residential and other noise sensitive uses are not proposed in areas adjoining the southern or western Goodrich property line" (RDEIR at 4.7-21), and that such uses would be located approximately 1,265 feet south of the southern existing Goodrich boundary.

Based on these assumptions, the RDEIR concludes that the noise levels would be below the applicable standard and therefore the impact would not be significant. (RDEIR at 4.7-48). However, no mitigation measure requiring a specific distance from the facility is included in the RDEIR, although there are several mitigation measures that require the applicant to demonstrate to the City/Port (through acoustical studies with the possible requirement of installing noise barriers, etc.) that certain acceptable standards for the outdoor usable residential areas and sensitive receptors were met. (See RDEIR at 4.7-56-57, 65).

The RDEIR also fails to discuss the "potential for limited nuisance effects" from the Goodrich activities that it previously identified in the Land Use chapter.

Goodrich's prior comment letter noted that the 2006 Draft EIR improperly analyzed the impacts of Goodrich's operations on the Project by failing to analyze these operations at peak capacity, as opposed to current operations (which are at a relatively low level relative to prior years). The RDEIR acknowledges that "Goodrich's business operations are cyclical, depending on large manufacturing orders, and activities may increase commensurately. Therefore, noise levels would fluctuate." (RDEIR at 4.7-21). However, it includes no analysis as to how these increased operations with a concomitant increase in impacts would affect the Project. The RDEIR also does not acknowledge that it must analyze the most

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not be constructed at the southern or western boundaries of the Goodrich facility; therefore, the limitation of residential uses in close proximity to Goodrich operations would minimize noise effects and therefore not result in land use nuisance effects. Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

This comment states that the Revised DEIR analyzed the impacts of Goodrich's existing operations on the Proposed Project, but should have analyzed these operations at peak capacity. CEQA does not require an EIR to speculate about the potential impacts on the project from the operations of an existing business in the area, as though that business were operating at peak capacity. Instead, CEQA requires an EIR to analyze the potential impacts of a Proposed Project on the environment. In doing so, the EIR must consider a project's effects on the existing physical environment, not the environment that might exist if it were developed or used to the maximum extent allowed under applicable regulations. (See, e.g., *Woodward Park Homeowners Assn. v. City of Fresno* (2007) 150 Cal.App.4<sup>th</sup> 683). Rather than considering the potential effects of an adjacent business' operations at some hypothetical peak capacity, CEQA requires an EIR to consider the potential effects of the Proposed Project when it is operating at peak capacity. (See e.g., *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645.) Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

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intensive uses at the facility that are allowed by current land use designations, zoning and other regulations and standards in order to make determinations regarding the compatibility of future development with the continued operations at Goodrich.

The RDEIR contains no analysis at all of the potential vibration impacts of the Goodrich facility on the Project. (See RDEIR at 4.7-54; references only potential vibration impacts from the Project).

The RDEIR does not include any discussion of potential noise impacts at various elevations of the proposed residential structures, as was recommended in Goodrich's prior comments. Such an analysis is necessary to support the conclusion that no significant impacts will occur.

5. Air Quality/Odors

Goodrich's prior comments pointed out that the 2006 Draft EIR had failed to analyze the potential air quality/dust/odor impacts from the Goodrich facility on the proposed residential uses. The RDEIR characterizes Goodrich as one of two major sources of pollution, and discusses its health risk potential. (RDEIR at 4.6-30, 45-46). However, it concludes -- as the 2006 Draft EIR did previously -- that because proposed residential uses would be located more than 1,000 feet from the existing Goodrich facility, there would be no significant impact. (RDEIR at 4.6-47). This conclusion is unsupported by any analysis.

Goodrich also commented that the 2006 Draft EIR improperly analyzed the impacts of emissions from its facility on the Project because it did not assess operations at peak capacity, as opposed to current operations. However, the RDEIR does not acknowledge this issue nor does it acknowledge that it must analyze the most intensive uses at the facility that are allowed by current land use designations, zoning and other regulations and standards in order to make determinations regarding the compatibility of future development with the continued operations at Goodrich.

The RDEIR contains no analysis of the potential odor impacts of the Goodrich facility on the Project. (See RDEIR at 4.6-47; references only potential odor impacts from the Project).

The RDEIR does not include any discussion of potential air quality impacts at various elevations of the proposed residential structures. As with noise impacts, the EIR must assess these impacts on *all* portions of the residential structures, not just those at ground level.

D. Public Trust Issues

1. The Port's Public Trust Responsibilities.

Under Appendix G of the CEQA Guidelines, as the RDEIR notes, the Project will have a significant impact on land/water use if it "conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project." (RDEIR at 4.1-33). The

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(Cont.)

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**R-15** The attenuation of ground vibration over distance is variable and depends on factors such as the intervening geology and the source level. However, using very conservative assumptions, it can be stated that operational vibration at the Goodrich facility located over 1,000 feet away from residential uses would be less than significant as the vibration levels would be below levels that result in either structural impacts or annoyance to people.

**R-16** Please see the response to comment R-15. Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

**R-17** The analysis that supports the conclusion that there would not be a significant impact related to public health from the Goodrich facility as a source of pollution, is set forth in *Section 4.6, Air Quality* (Page s 4.6-45 through 4.6-47), of the Revised DEIR. *Section 4.6, Air Quality*, of the Revised DEIR, does indicate the distance between residential uses and the Goodrich facility. This measurement is based on the recommendations as defined in the California Air Resources Board's *Air Quality and Land Use Handbook: A Community Health Perspective*, which contains recommendations regarding distances between sources of toxic air contaminants (TACs) and sensitive receptors, such as residences (CARB 2005). While the Air Quality and Land Use Handbook does not include recommendation for all sources of TACs, it does recommend a buffer zone of 1,000 feet (or in some cases less than 1,000 feet) from sources such as heavily traveled roadways, distribution centers (diesel trucks), rail yards (diesel locomotives), chrome plating shops, dry cleaning facilities, and large gasoline dispersing facilities. Many of these facilities are sources of potent cancer-causing TACs. Thus, as a general guideline, a buffer zone of 1,000 feet is considered sufficient to avoid a significant health

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intensive uses at the facility that are allowed by current land use designations, zoning and other regulations and standards in order to make determinations regarding the compatibility of future development with the continued operations at Goodrich.

↑ R-14  
(Cont.)

The RDEIR contains no analysis at all of the potential vibration impacts of the Goodrich facility on the Project. (See RDEIR at 4.7-54; references only potential vibration impacts from the Project).

↑ R-15

The RDEIR does not include any discussion of potential noise impacts at various elevations of the proposed residential structures, as was recommended in Goodrich's prior comments. Such an analysis is necessary to support the conclusion that no significant impacts will occur.

↑ R-16

**5. Air Quality/Odors**

Goodrich's prior comments pointed out that the 2006 Draft EIR had failed to analyze the potential air quality/dust/odor impacts from the Goodrich facility on the proposed residential uses. The RDEIR characterizes Goodrich as one of two major sources of pollution, and discusses its health risk potential. (RDEIR at 4.6-30, 45-46). However, it concludes -- as the 2006 Draft EIR did previously -- that because proposed residential uses would be located more than 1,000 feet from the existing Goodrich facility, there would be no significant impact. (RDEIR at 4.6-47). This conclusion is unsupported by any analysis.

↑ R-17

Goodrich also commented that the 2006 Draft EIR improperly analyzed the impacts of emissions from its facility on the Project because it did not assess operations at peak capacity, as opposed to current operations. However, the RDEIR does not acknowledge this issue nor does it acknowledge that it must analyze the most intensive uses at the facility that are allowed by current land use designations, zoning and other regulations and standards in order to make determinations regarding the compatibility of future development with the continued operations at Goodrich.

↑ R-18

The RDEIR contains no analysis of the potential odor impacts of the Goodrich facility on the Project. (See RDEIR at 4.6-47; references only potential odor impacts from the Project).

↑ R-19

The RDEIR does not include any discussion of potential air quality impacts at various elevations of the proposed residential structures. As with noise impacts, the EIR must assess these impacts on *all* portions of the residential structures, not just those at ground level.

↑ R-20

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Under Appendix G of the CEQA Guidelines, as the RDEIR notes, the Project will have a significant impact on land/water use if it "conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project." (RDEIR at 4.1-33). The

↓ R-21

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impact for residential receptors in a vicinity of a manufacturing facility, such as Goodrich Aerostructures. In addition, a health risk assessment for the 1993 reporting period for the Goodrich Aerostructures facility (formerly BF Goodrich/Rohr Industries) indicated a maximum cancer risk of 7.7 in one million and acute and chronic hazard indices of less than 0.1 due to that facility's TAC emissions (San Diego Air Pollution Control District 2007, Page 9). These values are within the acceptable levels generally considered as thresholds of significance for health impacts (i.e., cancer risk of 10 in one million and acute and chronic hazard indices of 1.0). Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

**R-18** The discussion of risks is based on public information prepared and submitted by the Goodrich facility itself. The facility's Assembly Bill (AB) 2588 Health Risk Assessment does include a calculation of acute risks and concludes that the acute hazard index is less than 0.1. The methodology used by Goodrich should therefore have taken into account peak operations that could occur at the facility. The analysis summarized in the Revised DEIR is based on the best available information provided by Goodrich to the public and it would be speculative to estimate what differences in the facility's emissions would occur over time. Please see the response to comment R-14. Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

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intensive uses at the facility that are allowed by current land use designations, zoning and other regulations and standards in order to make determinations regarding the compatibility of future development with the continued operations at Goodrich.

The RDEIR contains no analysis at all of the potential vibration impacts of the Goodrich facility on the Project. (See RDEIR at 4.7-54; references only potential vibration impacts from the Project).

The RDEIR does not include any discussion of potential noise impacts at various elevations of the proposed residential structures, as was recommended in Goodrich's prior comments. Such an analysis is necessary to support the conclusion that no significant impacts will occur.

**5. Air Quality/Odors**

Goodrich's prior comments pointed out that the 2006 Draft EIR had failed to analyze the potential air quality/dust/odor impacts from the Goodrich facility on the proposed residential uses. The RDEIR characterizes Goodrich as one of two major sources of pollution, and discusses its health risk potential. (RDEIR at 4.6-30, 45-46). However, it concludes -- as the 2006 Draft EIR did previously -- that because proposed residential uses would be located more than 1,000 feet from the existing Goodrich facility, there would be no significant impact. (RDEIR at 4.6-47). This conclusion is unsupported by any analysis.

Goodrich also commented that the 2006 Draft EIR improperly analyzed the impacts of emissions from its facility on the Project because it did not assess operations at peak capacity, as opposed to current operations. However, the RDEIR does not acknowledge this issue nor does it acknowledge that it must analyze the most intensive uses at the facility that are allowed by current land use designations, zoning and other regulations and standards in order to make determinations regarding the compatibility of future development with the continued operations at Goodrich.

The RDEIR contains no analysis of the potential odor impacts of the Goodrich facility on the Project. (See RDEIR at 4.6-47; references only potential odor impacts from the Project).

The RDEIR does not include any discussion of potential air quality impacts at various elevations of the proposed residential structures. As with noise impacts, the EIR must assess these impacts on *all* portions of the residential structures, not just those at ground level.

**D. Public Trust Issues**

**1. The Port's Public Trust Responsibilities.**

Under Appendix G of the CEQA Guidelines, as the RDEIR notes, the Project will have a significant impact on land/water use if it "conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project." (RDEIR at 4.1-33). The

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R-14  
(Cont.)

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**R-19** This comment states that there was no analysis of potential odor impacts from existing facilities. Under CEQA, the analysis must assess whether the project would create objectionable odors affecting a substantial number of people. The Proposed Project is not expected to create new objectionable odors affecting a substantial number of people. Please see the response to comment R-15.

**R-20** This comment discusses the need for air quality analysis at various elevations of the proposed residential structures. The analysis that was conducted for the Proposed Project is consistent with Office of Environmental Health Hazard Assessment (OEHHA) and San Diego Air Pollution Control District (SDAPCD) guidance. Please also refer to the response to comment R-3 regarding the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement.

**R-21** This comment quotes a portion of the significant threshold regarding potential impacts on land/water use, acknowledges that the project proposes to site residential development on Parcels H-13 and H-14, and states those parcels are public trust lands that must serve statewide, not merely local, purposes. The comment does not cite the entire significance threshold in the Revised DEIR, which states that a land use impact would occur if "[i]t conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, master plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect" (Page 4.1-33). Because this comment does not raise any significant environmental issues concerning the Revised DEIR, no further response is warranted.

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parcels on which the residential development is proposed to be sited (Parcels H-13 and H-14) are public trust lands. As such, they are held in trust for all citizens of California and must be used to serve statewide, as opposed to purely local, purposes. *See* Civil Code § 670 (state is the owner of "all land below tidewater, and below ordinary highwater mark, bordering upon tide-water within the state . . .").

Under the San Diego Unified Port District Act ("Port District Act"), the purpose of the Port is to coordinate:

. . . the development, operation, maintenance, control, regulation and management of the Harbor of San Diego upon the tideland and lands lying under the inland navigable waters of San Diego Bay, and the promotion of commerce, navigation, fisheries, and recreation thereon." Harb. & Nav. Code App. 1 § 4.

The lands under the Port's jurisdiction and control are subject both to the public trust and the Port District Act. Section 14 of the Port District Act provides that after tidelands are conveyed to the Port, "the title to such lands shall reside in the district, and the district shall hold such lands in trust for the uses and purposes and upon the conditions which are declared in this act." These include "the promotion of commerce, navigation, fisheries, and recreation" in San Diego Harbor. Harb. & Nav. Code App. 1 § 4.2.

Hotel, entertainment, and recreation uses, such as those proposed in many areas of the CVBMP, are generally permitted under the tidelands trust and the Port District Act. On the other hand, residential and non-trust-related office – the uses proposed for Parcels H-13 and H-14 (residential) and H-15 (mixed-use office/commercial) – are not permitted uses of tidelands trust property and are inconsistent with the Port's purposes under the Port District Act. For this reason, the Port proposes to exchange the above parcels for non-tidelands property owned or optioned by Pacifica Companies in the Sweetwater area.

Public Resources Code section 6307 allows the State Lands Commission to approve and enter into a land exchange involving trust property for any of the following purposes:

- To improve navigation or waterways.
- To aid in reclamation or flood control.
- To enhance the physical configuration of the shoreline or trust land ownership.
- To enhance public access to or along the water.
- To enhance waterfront and nearshore development or redevelopment for public trust purposes.
- To preserve, enhance, or create wetlands, riparian or littoral habitat, or open space.

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R-21  
(Cont.)

R-22

**R-22** This comment describes some of the purposes of the Port and the lands it holds in trust under the Port Act (Harb. & Nav. Code App. 1 Section 4), which states that the proposed use of Parcels H-13 and H-14 for residential and non-trust-related office use are not permitted uses, and acknowledges the project proposes to exchange those parcels for non-tidelands property in the Sweetwater District. This comment also summarizes the purposes and requirements of a land exchange set forth in Public Resources Code Section 6307, and the additional requirements identified by California courts. Finally, this comment states that a proposed land exchange that does not meet these requirements would result in a conflict with an applicable land use plan under CEQA. Because this comment does not raise any significant environmental issues regarding the Revised DEIR, no further response is warranted.

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- To resolve boundary or title disputes.

(Pub. Res. Code § 6037(c)). In addition to furthering these purposes, the exchange must satisfy all of the following additional conditions:

- The lands or interests in lands to be acquired in the exchange will provide a significant benefit to the public trust.
- The exchange does not substantially interfere with public rights of navigation and fishing.
- The monetary value of the lands or interests in lands received by the trust in exchange is equal to or greater than that of the lands or interests in lands given by the trust in exchange.
- The lands or interest in lands given in exchange have been cut off from water access and no longer are in fact tidelands or submerged lands or navigable waterways, by virtue of having been filled or reclaimed, and are relatively useless for public trust purposes.
- The exchange is in the best interests of the state.

(Pub. Res. Code § 6037(a)). The California courts have identified three other elements, in addition to the statutory requirements, that must be present in order to justify an exchange of trust property: (1) The trust lands must be relatively small in area and valueless or useless for trust purposes; (2) The trust lands must have been filled pursuant to a highly beneficial program of harbor or port development; and (3) The acquired lands must be of such configuration that they can be used more effectively by the trustee in furtherance of public trust purposes than the filled tidelands to be conveyed.

Only if *all* of the above requirements are met can the State Lands Commission find that the transaction is in the best interests of the state, that the exchange of lands will promote the public trust, and that the exchange will not result in any substantial interference with the public interest in the lands and waters remaining. Upon approval of an exchange agreement, the State Lands Commission may free the lands given in exchange from the public trust and must impose the public trust on the lands received in exchange. (Pub. Res. Code § 6037(b))

If the proposed land exchange does not satisfy the requirements of Pub. Res. Code § 6037 and the common law prerequisites set forth above, it conflicts with an applicable land use plan, policy or regulation under CEQA. (Guidelines, App. D). This conflict is significant as a matter of law, since it is with constitutional and statutory as well as common law principles.

The RDEIR was thus required to analyze the proposed exchange to determine whether a conflict, and hence a significant impact, exists. The 2006 Draft EIR purported to do that, albeit with analysis that was cursory and conclusory and, in some instances, simply incorrect. The 2006 Draft EIR purported to find that several of the requirements of Section 6307(c)

R-22  
(Cont.)

R-23

**R-23** As discussed in *Section 4.1.1* and *Section 4.1.3* of the Revised DEIR, and in the response to comment H-4, it has become evident that the piecemeal development of the Bayfront in prior years has lead to diminishing public use values of the parcels in the area, including the trust lands acquired by the Port in 1999. The Public Trust Doctrine is sufficiently flexible to accommodate changing public needs (*Marks v. Whitney* (1971) 6 Cal.3d 251, 259). To avoid further diminishing public use values, the CVBMP effort was initiated. The Proposed Project, including the land exchange, constitutes a coordinated and integrated development plan that would enhance the public use values of all trust parcels. The successful completion of the land exchange as proposed would maximize the project's potential. This is consistent with many of the goals of Pub. Res. Code Section 6307(c), including the goal of enhancing the waterfront and nearshore development and redevelopment for public trust purposes. Additionally, the land exchange would allow for the preservation and enhancement of wetlands in Parcel SP-2. Please also see the responses to comments R-21, R-22, and H-4.



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would be met by the exchange, but misinterpreted the requirements of Section 6037 and relied on elements of the Project that would exist or occur regardless of whether the land exchange occurred.

For example, the 2006 Draft EIR claimed that the exchange would improve navigation or waterways because it included "rerouting the harbor's approach channels to improve boat navigation" and would enhance the physical configuration of the shoreline or trust land ownership by the creation of buffers between development and the Sweetwater Marsh NWR. However, all of this could readily be accomplished independently of the land exchange. The 2006 Draft EIR also claimed that land exchange would enhance public access to or along the water by "providing an extension of H Street to the waterfront and a Promenade along the shoreline." However, the H Street extension has been planned for at least ten years independently of the CVBMP is in no way dependent upon the land exchange. Nor, contrary to 2006 Draft EIR's contention, would the land exchange enhance waterfront and nearshore development or redevelopment for trust purposes by "replacing abandoned industrial areas and creating commercial recreation opportunities and providing additional park land." Again, none of this depended in any way on the land exchange. Further, as discussed below, the land exchange will impair rather than enhance the physical configuration of the current trust holdings by breaking up trust property. The placement of 19-story residential structures with 1,500 units in the middle of the Port's trust holdings will retard waterfront development by creating land use conflicts that will limit future uses of adjacent trust properties for purposes consistent with the trust.

The RDEIR does not attempt to address the problems with its earlier analysis. Rather, its solution to these problems is simply to *eliminate* all analysis of the consistency of the proposed land exchange with the public trust and the Port's governing statutes.<sup>3</sup> It removes all references to the improvement of channels, creation of buffers, extension of H Street, etc. In keeping with its tautological approach to other environmental issues, it states:

"The land exchange component of the Proposed Project would enhance the physical configuration of trust land ownership, enhance public access to or along the water, enhance waterfront and nearshore development or redevelopment for public trust purposes, and preserve or

<sup>3</sup> By contrast, the RDEIR's consistency analysis with respect to the City's General Plan, the California Coastal Act, and the Chula Vista MSCP Subarea Plan contains pages of tables evaluating each plan's requirements with components of the Project. Its treatment of public trust issues consists of just over one page of discussion, much of which simply recites the legal requirements.

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**R-24** Please see the responses to comments R-21, R-22, R-23, and H-4.

**R-23  
(Cont.)**

**R-24**

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enhance wetlands, riparian or littoral habitat, or open space by moving proposed residential uses away from sensitive resources in the Sweetwater District and by relocating them to the Harbor District where they would enhance the synergy of other proposed uses." (RDEIR at 4.1-37).

The RDEIR does not explain how moving proposed residential uses out of the Sweetwater District (which is not part of the Port's public trust holdings) will enhance the physical configuration of trust land ownership, enhance public access to or along the water, or enhance waterfront and nearshore development for public trust purposes. Nor does it explain how putting residential development in the middle of other trust holdings will "enhance the synergy of other proposed uses." It simply asserts that it will.

However, the opposite is more likely to occur. The net effect of the proposed exchange will be to break up trust holdings. It will take what is currently trust property located in the center of the Harbor District of the public trust, which will allow it to be used for any purpose, regardless of its consistency with the objectives of the trust. The currently proposed purpose is residential development, a use wholly inconsistent with the public trust. Additionally, there is no assurance that the proposed use will actually occur (the developer could decide not to proceed with the project or the Coastal Commission could deny the project), or that all or portions of that property will not be used in the future for purposes even less consistent with the trust.

Taking the property out of the trust, in addition to conflicting with trust purposes generally, would be in direct conflict with the legal and factual basis for the 1999 land exchange between the Port and Goodrich. The Port's chief justification for that land exchange was that it realigned the ownership interests in a north/south configuration (instead of the existing east/west configuration) and thereby consolidated the Port's land holdings between the waterfront facilities and Interstate 5. The Port's express intent in entering into the transaction, as reflected in the State Lands Commission staff report recommending the exchange, was to create "[c]onsolidated parcels that would provide an attractive 83.12-acre contiguous highly marketable Port property with major freeway visibility and access."

On that basis, the Commission approved the proposed land exchange, finding that "the lands to be acquired from [Goodrich] are of such a configuration that they can be used more efficiently by the Port in furtherance of public trust purposes than the filled tide and submerged lands to be conveyed."

In light of this background, the RDEIR's conclusion that the proposed land exchange is consistent with applicable land use policies and regulations is indefensible. Not only does the proposed exchange fail to satisfy any of the elements of Section 6037(c), it conflicts with the legal justification for the prior land exchange and fails to comport with at least two of the requirements of Section 6037(a), namely (1) that the lands to be acquired will provide a significant benefit to the public trust; and (2) that the exchange is in the best interests of the state.

R-24  
(Cont.)

R-25

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**R-25** In response to this comment, the Port takes this opportunity to clarify that by moving entitled residential development away from the SDBNWR and enhancing public access to the shoreline and refuge proximity, access (physically, and to a greater extent, visually) to Bay and refuge coastal resources would clearly be improved. The existence of residential uses adjacent to trust holdings would provide access to a stable consumer base for commercial facilities proposed within the Harbor District in addition to the more fluctuating marine and hotel tourism consumer bases. Please also see the responses to comments R-21, R-22, and H-4.

**R-26** The Proposed Project, including the land exchange, constitutes a coordinated and integrated development plan that would enhance the public use values of all trust parcels. Trust holding would not be "fractured" and a contiguous shoreline the entire length of the CVBMP area would be held in trust by the Port as described throughout the *Chapter 3.0, Project Description*, of the Revised DEIR. Furthermore, the entire planning area is interconnected in terms of function and use under the CVBMP. The successful completion of the land exchange, as proposed, would maximize the project's potential. Trust parcels would not be isolated. All of the parcels (private as well as public trust) are integrated into a coordinated land use and development plan. That plan would enable the Port to manage trust properties more efficiently and in a collaborative manner under the Joint Powers Authority (JPA). The JPA is to be established between the Port and the City for implementation of the CVBMP.

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enhance wetlands, riparian or littoral habitat, or open space by moving proposed residential uses away from sensitive resources in the Sweetwater District and by relocating them to the Harbor District where they would enhance the synergy of other proposed uses." (RDEIR at 4.1-37).

The RDEIR does not explain how moving proposed residential uses out of the Sweetwater District (which is not part of the Port's public trust holdings) will enhance the physical configuration of trust land ownership, enhance public access to or along the water, or enhance waterfront and nearshore development for public trust purposes. Nor does it explain how putting residential development in the middle of other trust holdings will "enhance the synergy of other proposed uses." It simply asserts that it will.

However, the opposite is more likely to occur. The net effect of the proposed exchange will be to break up trust holdings. It will take what is currently trust property located in the center of the Harbor District of the public trust, which will allow it to be used for any purpose, regardless of its consistency with the objectives of the trust. The currently proposed purpose is residential development, a use wholly inconsistent with the public trust. Additionally, there is no assurance that the proposed use will actually occur (the developer could decide not to proceed with the project or the Coastal Commission could deny the project), or that all or portions of that property will not be used in the future for purposes even less consistent with the trust.

Taking the property out of the trust, in addition to conflicting with trust purposes generally, would be in direct conflict with the legal and factual basis for the 1999 land exchange between the Port and Goodrich. The Port's chief justification for that land exchange was that it realigned the ownership interests in a north/south configuration (instead of the existing east/west configuration) and thereby consolidated the Port's land holdings between the waterfront facilities and Interstate 5. The Port's express intent in entering into the transaction, as reflected in the State Lands Commission staff report recommending the exchange, was to create "[c]onsolidated parcels that would provide an attractive 83.12-acre contiguous highly marketable Port property with major freeway visibility and access."

On that basis, the Commission approved the proposed land exchange, finding that "the lands to be acquired from [Goodrich] are of such a configuration that they can be used more efficiently by the Port in furtherance of public trust purposes than the filled tide and submerged lands to be conveyed."

In light of this background, the RDEIR's conclusion that the proposed land exchange is consistent with applicable land use policies and regulations is indefensible. Not only does the proposed exchange fail to satisfy any of the elements of Section 6037(c), it conflicts with the legal justification for the prior land exchange and fails to comport with at least two of the requirements of Section 6037(a), namely (1) that the lands to be acquired will provide a significant benefit to the public trust; and (2) that the exchange is in the best interests of the state.

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R-24  
(Cont.)

R-25

R-26

R-27

R-28

R-29

**R-27** This comment states that the land exchange conflicts with trust purposes and would be in direct conflict with legal basis for the 1999 land exchange with Goodrich. As with the 1999 land exchange, the exchange contemplated in the current project is designed to enhance the public use value of the tidelands within the Port's jurisdiction. While it is true that the proposed land exchange would cause the Port to relinquish to private interests lands it acquired from Goodrich in 1999, this does not mean that the proposed exchange works contrary to public trust purposes. The public trust is sufficiently flexible to accommodate changing public needs (*Marks v. Whitney* (1971) 6 Cal.3d 251, 259). The two exchanges are viewed within their respective contexts to make a meaningful determination on this point.

The logic and chronology that identifies the changes in the project area and reasoning for the Proposed Project are set forth in the Revised DEIR, *Chapter 2.0, Introduction, Section 2.1.2 Project Site History* (Page s 2-11 through 2-13). At the time of the prior land exchange (1999), there was no proposal for master planning the Chula Vista Bayfront. At that time, it made sense from a public trust perspective to consolidate disconnected tidelands property by exchanging certain Port lands for parcels owned by Goodrich. By 2005, however, it became evident that piecemeal development of the Bayfront was diminishing the public use value of parcels in the area, including the trust lands acquired by the Port in 1999. To avoid further diminishing public use values, the CVBMP effort was initiated. The Proposed Project, including the land exchange, constitutes a coordinated and integrated development plan that would enhance the public use values of all trust parcels. As stated in the Revised DEIR, *Chapter 1.0, Executive Summary, Section 1.3, Project Objectives* (Page s 1-5 through 1-6), the plan is intended to protect and enhance environmental resources; eliminate or reduce barriers to linking the Bayfront to the rest of western Chula Vista; include

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enhance wetlands, riparian or littoral habitat, or open space by moving proposed residential uses away from sensitive resources in the Sweetwater District and by relocating them to the Harbor District where they would enhance the synergy of other proposed uses." (RDEIR at 4.1-37).

R-24  
(Cont.)

The RDEIR does not explain how moving proposed residential uses out of the Sweetwater District (which is not part of the Port's public trust holdings) will enhance the physical configuration of trust land ownership, enhance public access to or along the water, or enhance waterfront and nearshore development for public trust purposes. Nor does it explain how putting residential development in the middle of other trust holdings will "enhance the synergy of other proposed uses." It simply asserts that it will.

R-25

However, the opposite is more likely to occur. The net effect of the proposed exchange will be to break up trust holdings. It will take what is currently trust property located in the center of the Harbor District of the public trust, which will allow it to be used for any purpose, regardless of its consistency with the objectives of the trust. The currently proposed purpose is residential development, a use wholly inconsistent with the public trust. Additionally, there is no assurance that the proposed use will actually occur (the developer could decide not to proceed with the project or the Coastal Commission could deny the project), or that all or portions of that property will not be used in the future for purposes even less consistent with the trust.

R-26

Taking the property out of the trust, in addition to conflicting with trust purposes generally, would be in direct conflict with the legal and factual basis for the 1999 land exchange between the Port and Goodrich. The Port's chief justification for that land exchange was that it realigned the ownership interests in a north/south configuration (instead of the existing east/west configuration) and thereby consolidated the Port's land holdings between the waterfront facilities and Interstate 5. The Port's express intent in entering into the transaction, as reflected in the State Lands Commission staff report recommending the exchange, was to create "[c]onsolidated parcels that would provide an attractive 83.12-acre contiguous highly marketable Port property with major freeway visibility and access."

R-27

On that basis, the Commission approved the proposed land exchange, finding that "the lands to be acquired from [Goodrich] are of such a configuration that they can be used more efficiently by the Port in furtherance of public trust purposes than the filled tide and submerged lands to be conveyed."

R-28

In light of this background, the RDEIR's conclusion that the proposed land exchange is consistent with applicable land use policies and regulations is indefensible. Not only does the proposed exchange fail to satisfy any of the elements of Section 6037(c), it conflicts with the legal justification for the prior land exchange and fails to comport with at least two of the requirements of Section 6037(a), namely (1) that the lands to be acquired will provide a significant benefit to the public trust; and (2) that the exchange is in the best interests of the state.

R-29

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recreational, public art, and open space opportunities as significant components; take advantage of the deep water at the harbor to create an active boating environment; and create a Bayfront park system that marries ecological habitats and the recreational needs of the community. This section of the Revised DEIR also highlights that the land exchange is an integral and important part of achieving these goals because it enables the land uses to be optimized in relation to the Bayfront. The successful completion of the land exchange as proposed would maximize the project's potential.

The Revised DEIR repeatedly discloses, though initially on Page 1-8, that the project includes an approximately 18-acre park in Phase I, which would include passive uses with pedestrian and bicycle trails, tot lots, picnic areas, benches, interpretive signage, restrooms, and landscaping. Overall implementation of the plan would result in 40 acres of continuous park through the Sweetwater and Harbor districts and 12,000 linear feet of continuous shoreline promenade providing visitors with visual and physical access to the water (*Chapter 1.0, Executive Summary*, Page 1-13). In addition, the Final EIR has been revised to clarify that buffers between proposed park and the existing SDBNWR (to protect the wetlands and resources within the refuge) would be established in Phase I. The project includes realignment of the existing navigation channel to make it easier and safer for boat navigation and move it further from the sensitive resources within the refuge (*Chapter 1.0, Executive Summary*, Page 1-16). The Revised DEIR also discloses other enhancements to facilitate water use, such as inclusion of a ferry terminal and water taxis to promote alternative transport for commuters and visitors (*Chapter 1.0, Executive Summary*, Page 1-16). Please also see the response to comment H-4.

**R-28** Please see the response to comment R-27.

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enhance wetlands, riparian or littoral habitat, or open space by moving proposed residential uses away from sensitive resources in the Sweetwater District and by relocating them to the Harbor District where they would enhance the synergy of other proposed uses." (RDEIR at 4.1-37).

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However, the opposite is more likely to occur. The net effect of the proposed exchange will be to break up trust holdings. It will take what is currently trust property located in the center of the Harbor District of the public trust, which will allow it to be used for any purpose, regardless of its consistency with the objectives of the trust. The currently proposed purpose is residential development, a use wholly inconsistent with the public trust. Additionally, there is no assurance that the proposed use will actually occur (the developer could decide not to proceed with the project or the Coastal Commission could deny the project), or that all or portions of that property will not be used in the future for purposes even less consistent with the trust.

Taking the property out of the trust, in addition to conflicting with trust purposes generally, would be in direct conflict with the legal and factual basis for the 1999 land exchange between the Port and Goodrich. The Port's chief justification for that land exchange was that it realigned the ownership interests in a north/south configuration (instead of the existing east/west configuration) and thereby consolidated the Port's land holdings between the waterfront facilities and Interstate 5. The Port's express intent in entering into the transaction, as reflected in the State Lands Commission staff report recommending the exchange, was to create "[c]onsolidated parcels that would provide an attractive 83.12-acre contiguous highly marketable Port property with major freeway visibility and access."

On that basis, the Commission approved the proposed land exchange, finding that "the lands to be acquired from [Goodrich] are of such a configuration that they can be used more efficiently by the Port in furtherance of public trust purposes than the filled tide and submerged lands to be conveyed."

In light of this background, the RDEIR's conclusion that the proposed land exchange is consistent with applicable land use policies and regulations is indefensible. Not only does the proposed exchange fail to satisfy any of the elements of Section 6037(c), it conflicts with the legal justification for the prior land exchange and fails to comport with at least two of the requirements of Section 6037(a), namely (1) that the lands to be acquired will provide a significant benefit to the public trust; and (2) that the exchange is in the best interests of the state.

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R-24  
(Cont.)

R-25

R-26

R-27

R-28

R-29

R-29

As stated in the response to comment R-27, California courts have made clear that the public trust must be sufficiently flexible to accommodate changing public needs. Moreover, in terms of utilization of tidelands, the question of what is or what is not beneficial to the public will frequently involve the preference of one trust use over another (*County of Orange v. Heim* (1973) 30 Cal.App.3d 694, 715). The logic and chronology that identifies the changes in the project area and reasoning for the Proposed Project are set forth in the Revised DEIR. At the time of the prior land exchange (1999), there was no proposal for master planning the Chula Vista Bayfront. At that time, it made sense from a public trust perspective to consolidate disconnected tidelands property by exchanging certain Port lands for parcels owned by Goodrich. By 2005, however, it became evident that piecemeal development of the Bayfront was diminishing the public use value of parcels in the area, including the trust lands acquired by the Port in 1999. To avoid further diminishing public use values, the CVBMP effort was initiated.

The Proposed Project, including the land exchange, constitutes a coordinated and integrated development plan that would enhance the public use values of all trust parcels. Trust holding would not be "fractured" and a contiguous shoreline the entire length of the CVBMP area would be held in trust by the Port, as described in *Chapter 3.0, Project Description*, of the Revised DEIR. Furthermore, the entire planning area is interconnected in terms of function and use under the CVBMP. The successful completion of the land exchange, as proposed, would maximize the project's potential. Trust parcels would not be isolated. All of the parcels ( private as well as public trust) are integrated into a coordinated land use and development plan. That plan would enable the Port to manage trust properties more efficiently and in a collaborative manner under the JPA. The JPA is to be established between the Port and the City for implementation of the CVBMP. The land exchange would also allow the protection of wetlands on Parcel SP-2 and increased public access to the shoreline along Parcel SP-1 and to the SDBNWR.

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If the exchange were to proceed as proposed, the majority of the property received by the State of California would be left undeveloped (used as buffer property or for park or wetlands purposes). While this might result in some benefit to the trust, there is no reason to believe that most of this land would not be used for those purposes regardless of whether the exchange occurs, given the ecology of the area. In return, the State will be giving up land in the center of an area being rapidly developed for trust purposes, some of which was acquired expressly for the purpose of consolidating trust holdings. The loss of ownership and jurisdiction over this land will not only fragment the trust holdings that were intended to be consolidated by the 1999 exchange (actually resulting in holdings that are less cohesive than they were before that exchange), but will introduce residential uses and/or other uses that are inconsistent with, and may impede, trust purposes.

R-29  
(Cont.)

The best interests of the state, as the Commission found in 1999, favor consolidation of trust lands, including the land now proposed to be conveyed, in order to maximize their benefit for trust purposes. The proposed exchange will have precisely the opposite effect, resulting in fractured trust holdings and introduction of inconsistent uses in the very center of the trust property. The result is unquestionably a net loss for the trust.

R-30

For the same reasons, the proposed exchange fails to satisfy the common law requirement that the "acquired lands are of such configuration that they can be used more effectively by the trustee in furtherance of public trust purposes that the filled tidelands to be conveyed." The lands to be acquired are isolated to the north; the lands to be conveyed are in the center of the Port's Bayfront holdings and were acquired expressly in order to enhance the configuration of Port lands in furtherance of trust purposes.

R-31

These issues are not new to the Port. In November 2005, the Commission sent a letter to the Port expressing concerns about the proposed land exchange, and requesting information demonstrating that the legal prerequisites for the proposed exchange would be met. The letter noted that "when contemplating the proposed land exchange, the Port should ensure that such an exchange does not result in a patchwork of Port controlled trust lands." (Letter of November 28, 2005, p.2). The letter further observed:

"One rationale supporting the 1999 land exchange with BF Goodrich/Rohr was the reconfiguration and consolidation of trust property to enhance the property's utility to the trust. As we understand it, the current proposal will substantially modify that consolidation. The outcome of the proposed exchange should result in a configuration of trust lands that will not isolate trust holdings, but rather enhance the utility of the property for trust purposes and thereby best serve public trust needs."

R-32

The letter also requested an explanation from the Port as to (1) "how the proposed land exchange will provide a significant benefit to the public trust, and how the land exchange will fit in with overall plans for the granted lands;" (2) "how the proposed exchange will allow development consistent with the Port's legislative granting statutes and why it considers the proposed land exchange to be in the best interest of the state;" and (3) "why

As stated in the Revised DEIR in *Chapter 1.0 Executive Summary*, Section 1.3, Project Objectives (Page s 1-5 and 1-6), the plan is intended to protect and enhance environmental resources; eliminate or reduce barriers to linking the Bayfront to the rest of western Chula Vista; include recreational, public art, and open space opportunities as significant components; take advantage of the deep water at the harbor to create an active boating environment; and create a Bayfront park system that marries ecological habitats and the recreational needs of the community. This section of the Revised DEIR also highlights that the land exchange is an integral and important part of achieving these goals because it enables the land uses to be optimized in relation to the Bayfront. The successful completion of the land exchange as proposed would maximize the project's potential.

The Revised DEIR repeatedly discloses, though initially on Page 1-8, that the project includes an approximately 18-acre park in Phase I, which would include passive uses with pedestrian and bicycle trails, tot lots, picnic areas, benches, interpretive signage, restrooms, and landscaping. Overall implementation of the plan would result in 40 acres of continuous park through the Sweetwater and Harbor districts and 12,000 linear feet of continuous shoreline promenade providing visitors with visual and physical access to the water (Chapter 1.0, Executive Summary, Page 1-13). In addition, the Final EIR has been revised to clarify that buffers between proposed park and the existing SDBNWR (to protect the wetlands and resources within the refuge) would be established in Phase I. The project includes realignment of the existing navigation channel to make it easier and safer for boat navigation and move it further from the sensitive resources within the refuge (Chapter 1.0, Executive Summary, Page 1-16). The Revised DEIR also discloses other enhancements to facilitate water use, such as inclusion of a ferry terminal and water taxis to promote alternative transport for commuters and visitors (Chapter 1.0, Executive Summary, Page 1-16 of the Revised DEIR).

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The best interests of the state, as the Commission found in 1999, favor consolidation of trust lands, including the land now proposed to be conveyed, in order to maximize their benefit for trust purposes. The proposed exchange will have precisely the opposite effect, resulting in fractured trust holdings and introduction of inconsistent uses in the very center of the trust property. The result is unquestionably a net loss for the trust.

For the same reasons, the proposed exchange fails to satisfy the common law requirement that the "acquired lands are of such configuration that they can be used more effectively by the trustee in furtherance of public trust purposes than the filled tidelands to be conveyed." The lands to be acquired are isolated to the north; the lands to be conveyed are in the center of the Port's Bayfront holdings and were acquired expressly in order to enhance the configuration of Port lands in furtherance of trust purposes.

These issues are not new to the Port. In November 2005, the Commission sent a letter to the Port expressing concerns about the proposed land exchange, and requesting information demonstrating that the legal prerequisites for the proposed exchange would be met. The letter noted that "when contemplating the proposed land exchange, the Port should ensure that such an exchange does not result in a patchwork of Port controlled trust lands." (Letter of November 28, 2005, p.2). The letter further observed:

"One rationale supporting the 1999 land exchange with BF Goodrich/Rohr was the reconfiguration and consolidation of trust property to enhance the property's utility to the trust. As we understand it, the current proposal will substantially modify that consolidation. The outcome of the proposed exchange should result in a configuration of trust lands that will not isolate trust holdings, but rather enhance the utility of the property for trust purposes and thereby best serve public trust needs."

The letter also requested an explanation from the Port as to (1) "how the proposed land exchange will provide a significant benefit to the public trust, and how the land exchange will fit in with overall plans for the granted lands;" (2) "how the proposed exchange will allow development consistent with the Port's legislative granting statutes and why it considers the proposed land exchange to be in the best interest of the state;" and (3) "why

R-29  
(Cont.)

R-30

R-31

R-32

**R-30** As stated in the responses to comments R-27 and R-29, trust holding would not be "fractured" and a contiguous shoreline the entire length of the CVBMP area would be held in trust by the Port as described in *Chapter 3.0, Project Description*, of the Revised DEIR. Furthermore, the entire planning area is interconnected in terms of function and use under the CVBMP. The successful completion of the land exchange, as proposed, would maximize the project's potential. Trust parcels would not be isolated. All of the parcels (private as well as public trust) are integrated into a coordinated land use and development plan. That plan would enable the Port to manage trust properties more efficiently and in a collaborative manner under the JPA. The JPA is to be established between the Port and the City for implementation of the CVBMP.

**R-31** This comment expands upon the previous two comments (comments R-29 and R-30) and asserts that the proposed land exchange "fails to satisfy the common law requirement that the acquired lands are of such configuration that they can be used more effectively by the trustee in furtherance of public trust purposes than the filled tidelands to be conveyed." As provided in the responses to comments R-22, R-27, R-29, and H-4, the proposed exchange does not conflict with the public trust land exchange requirements because it would provide a significant benefit to the public trust, would not interfere with navigation or fishing rights, the land value would be equal or greater than the exchanged lands, the land is filled, and it is in the best interest of the state. Furthermore, trust holding would not be "fractured" and a contiguous shoreline the entire length of the CVBMP area would be held in trust by the Port, as described in *Chapter 3.0, Project Description*, of the Revised DEIR. The land exchange would also facilitate and provide improved public access, enhance the waterfront and near-shore development for public trust purposes, and allow for the preservation of wetlands in Parcel SP-2.

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[the Port's] preferred configuration will provide a significant benefit to the trust." *Id.*, pp. 2-3. The Port has not responded to this letter.

The RDEIR fails to demonstrate how the proposed exchange is consistent with the public trust and hence not in conflict with applicable land use policies and regulations under CEQA. Despite the clear signal from the Commission over a year ago that it was skeptical that the exchange met the applicable requirements and that the Port would need to clearly demonstrate why this was not the case, the RDEIR has wholly failed to accomplish this. The DEIR contains no analysis of the statutory requirements or the reasons why the Project purportedly meets them (or does not undermine them); it merely states, in conclusory fashion, that several of the requirements of Section 6037(c) are satisfied. It does not explain how the proposed land exchange will provide a significant benefit to the public trust, or how the land exchange will fit in with overall plans for the trust lands. Nor does it show either how the proposed exchange will allow development consistent with the Port's legislative granting statutes or why the proposed land exchange, and the Port's proposed configuration of trust lands, are in the best interest of the state. Nor has it demonstrated that the exchange will "not result in a patchwork of Port controlled trust lands."

**E. The Revised Draft EIR Should Be Recirculated**

CEQA requires recirculation of a Draft EIR, or in this case the RDEIR, "[w]hen significant new information is added to an environmental impact report" after public review and comment on the earlier draft EIR. Pub. Res. Code § 21092.1. This includes the situation in which, as here, the 2006 Draft EIR and the RDEIR are deficient such that "meaningful public review and comment were precluded." CEQA Guidelines § 15088.5(b)(4). The opportunity for meaningful public review of significant new information is essential "to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." *Sutter Sensible Planning, Inc. v. Sutter County Board of Supervisors*, 122 Cal. App. 3d 813, 822 (1981).

The RDEIR must undertake the additional analysis described above, and in the attached memorandum, in order to (i) allow the public to understand the full ramifications of the land exchange and the proposed project and their potential long term impacts; and (ii) enable the decision makers to make informed decisions about whether to approve the project as proposed or to select other alternatives under consideration. To that end, the Port will need to obtain and consider substantial new information to adequately assess the proposed project's environmental impacts, to identify effective mitigation capable of alleviating the Project's significant impacts, and to fully and fairly evaluate available alternatives. CEQA requires that the public and other agencies have a meaningful opportunity to review and comment upon this significant new information and analysis. Therefore, the RDEIR should be recirculated upon completion of this analysis.

We look forward to your consideration of these comments and would be glad to provide any additional information that may assist in your review.

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R-32  
(Cont.)

R-33

**R-32** The letter referenced from the California State Lands Commission (CSLC) sent to the Port regarding the "legal prerequisites" for the proposed land exchange dated November 28, 2005, prior to the preparation of either Draft EIR, has no bearing on the adequacy of the Revised DEIR or significant environmental points discussed therein.

As provided in the response to comment R-22, Page s 3-15 through 3-17 in *Chapter 3.0, Project Description*, of the Revised DEIR, describes the proposed land exchange in the context of Public Resources Code Section 6307. The Revised DEIR includes specific reference to the jurisdiction and intent of CSLC and Public Resources Code 6307 (*Section 4.1, Land/Water Use Compatibility*, Page s 4.1-1 through 4.1-3). The Revised DEIR provides discussion of the merits of the Proposed Project and the land exchange in the context of the parameters set out in Public Resources Code 6307 (Page s 4.1-37 and 4.1-38). Public Resources Code 6307 was not adopted for the purpose of avoiding or mitigating an environmental effect. The evaluation in the Revised DEIR provides information that supports the conclusion that the project does not conflict with Public Resources Code Section 6307 and why the Port considers the exchange viable. Please also see the responses to comments R-22 through R-32 and H-4.

**R-33** For the reasons described in the responses to comments R-21 through R-32, the Port does not consider that any significant, new information is required or warranted in the Revised DEIR as a result of comments in this letter. Therefore, recirculation of the Revised DEIR is not warranted in response.

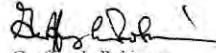


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We look forward to your consideration of these comments and would be glad to provide any additional information that may assist in your review.

Sincerely yours,

  
Geoffrey L. Robinson

Enclosures

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STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

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November 28, 2005

File Ref: G10-08.16

Ms. Randa Coniglio  
Area Real Estate Manager  
San Diego Unified Port District  
P.O. Box 120488  
San Diego, CA 92112-0488

RE: Chula Vista Bayfront Master Plan

Dear Ms. Coniglio:

This letter outlines the information required in conjunction with the Port District's request for the California State Lands Commission formal consideration and approval of a land exchange pursuant to Public Resources Code §6307 (as reenacted by Chapter 585, Statutes of 2005).

It is our understanding that all three concepts of the Chula Vista Bayfront Master Plan contemplate a land exchange between the Port District and Pacifica Companies, a private firm having an option to purchase land located in the northern portion of the bayfront planning area. As you are aware, Public Resources Code §6307 sets forth the conditions under which the Commission may approve the exchange of trust lands for other lands to become subject to the trust. In addition to the statutory required findings, the California courts have identified several other legal requirements necessary for a conveyance of trust lands and a termination of the public trust interest in order to comply with Article X, §3 of the California Constitution. In particular, the lands must be: (1) reclaimed as the result of a highly beneficial program of harbor development; (2) relatively small in area; (3) useless for purposes of navigation, commerce and fisheries or the acquired lands are of such configuration that they can be used more effectively by the trustee in furtherance of public trust purposes than the filled tidelands to be conveyed.

Specifically, the following information must be submitted by the Port District:

- A. A statement of the present and proposed use of the lands affected by the land exchange that includes:
  1. A description of existing structures or land improvements and current use.
  2. Proposed structures, land improvements or alterations to existing uses – together with a statement of estimated costs.

**R-34** This comment describes the statutory requirements for the exchange of public trust lands and the information the Port must submit to the CSLC to facilitate its review of the proposed land exchange. This comment does not address the adequacy of the Revised DEIR and requires no further response.

R-34

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3. A timeline for proposed development.
4. Plans showing location of existing uses, proposed construction and uses.  
Detailed working drawings are not required.
- B. Show the location and boundaries of the lands involved on an 8 1/2" x 11" portion of a U.S.G.S. topographic quadrangle map, county assessor's map, or equivalent map and other map or plans showing sufficient detail to determine the locations of the properties subject to the proposed land exchange.
- C. A copy of any land appraisals or other reports used as a basis for establishing the value or consideration for the proposed land exchange.
- D. Certified and complete environmental documentation pursuant to the California Environmental Quality Act and its implementing guidelines.
- E. A copy of any feasibility study, cost/benefit analysis or other report detailing the feasibility, financibility or economic success of the proposal.
- F. A statement by the Port District as to the purpose of the proposed land exchange, how the proposed land exchange will provide a significant benefit to the public trust, and how the land exchange will fit in with overall plans for the granted lands.
- G. A detailed statement by the Port District as to how the proposed exchange will allow development consistent with the Port's legislative granting statutes and why it considers the proposed land exchange to be in the best interest of the State.

R-34  
(Cont.)

The materials as described above shall be deemed complete if the information is sufficient to allow staff of the Commission to begin an analysis of the material in order to determine if the proposed exchange is:

- 1) consistent with State Lands Commission policies, practices and procedures used in administering lands under its jurisdiction;
- 2) economically viable, necessary and desirable;
- 3) appropriate for developmental mix;
- 4) conducive to public access;
- 5) consistent with environmental protection;
- 6) otherwise in the best interests of the State.

In addition, as stated in previous meetings and correspondence, when contemplating the proposed land exchange the Port should ensure that such an exchange does not result in a patchwork of Port controlled trust lands. One rationale supporting the 1999 land exchange with BF Goodrich/Rohr was the reconfiguration and consolidation of trust property to enhance the property's utility to the trust. As we understand it, the current proposal will substantially modify that consolidation. The outcome of the proposed exchange should result in a configuration of

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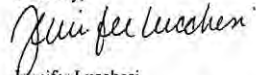
November 28, 2005  
Page 3

trust lands that will not isolate trust holdings, but rather enhance the utility of the property for trust purposes and thereby best serve public trust needs. However, if the Port determines that a land exchange resulting in a configuration of trust lands that does not result in a consolidated holding of Port controlled trust lands is appropriate, the Port must also provide a detailed statement explaining why its preferred configuration will provide a significant benefit to the public trust and why such a configuration is in the best interest of the State.

↑  
R-34  
(Cont.)

If you have any questions please do not hesitate to contact me at (916) 574-0234.

Sincerely,



Jennifer Lucchesi  
Public Land Management Specialist

cc: Curtis Fossum, Senior Staff Counsel  
Alan Hager, Deputy Attorney General

Comment Letter R (Page 20)

TECHNICAL MEMORANDUM

CH2MHILL

**Comments on Revised Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan for Goodrich Aerostructures Group: Chula Vista Facility**

SUBMITTED TO: San Diego Unified Port District

PREPARED BY: Robert Mason, CH2M HILL

DATE: August 6, 2008

On behalf of the Goodrich Chula Vista facility (Goodrich), CH2M HILL, Inc. (CH2M HILL) has prepared this Technical Memorandum that provides specific technical comments on the May 2008 Revised Draft Environmental Impact Report (RDEIR) for the Chula Vista Bayfront Master Plan (CVBMP) prepared by the Unified Port of San Diego (Port) and released on May 23, 2008. Additionally, CH2M HILL reviewed the previous comments submitted by Goodrich to the Port on the previous CVBMP 2006 Draft EIR. The previous comments were included in a January 11, 2007 technical memorandum prepared by CH2M Hill for Goodrich.

The following comments are organized beginning with a summary of the original comments on the 2006 DEIR followed by a discussion of how these comments were addressed (if at all) in the RDEIR. If the original comments were not addressed and are still valid, they have been revised and resubmitted based on a technical review of the RDEIR. In some instances, certain resource issues resulted in new or different impacts not previously addressed in the 2006 Draft EIR and comments on these new or different impacts are included herein.

**General Comment**

A review of Section 1.0 of the Executive Summary and Section 3.0 Project Description of the RDEIR was completed to evaluate the proposed changes from the original Bayfront Master Plan. The major changes consisted of the following:

- Additional design information for Phase 1 elements (resort hotel and convention center, residential buildout and ancillary facilities)
- Master Plan buildout was expanded from three (3) phases to four (4) phases
- Master Plan buildout was expanded from three (3) phases to four (4) phases
- No residential development in the Otay District
- No new power plant in the Otay District
- First 200 feet of the buffer zone in Sweetwater District designated as No Touch Zone
- Global Climate Change analysis was provided

The overall schematics of the Bayfront Master Plan do not appear to have changed substantially from the original plan except at one location -- the proposed residential development in the Otay District was removed and zoning was changed from

R-35

R-35 This comment summarizes the changes of the project description but does not address the adequacy of the Revised DEIR and requires no further response.

Comment Letter R (Page 21)

Energy/Utility to Industrial Business Park. Future land use buildout in the Otay District does not include buildout of a new power plant, which is a separate project that has been withdrawn by the applicant for the power plant.

A significant change from the 2006 Draft EIR is the shifting of proposed buildout or phasing of the various land use elements. In contrast to the 2006 Draft EIR, the elements to be developed in Phase 1 were evaluated in the RDEIR at a project level rather than a program level of detail. These elements include the resort hotel and convention center in parcel H-3 and the residential and ancillary facilities in Parcels H-13 and H-14. Later phases (Phase 2-4) are evaluated at a programmatic-level which will require additional CEQA analysis and review as those plans are developed and carried forward.

Section 4.1 Land/Water Use Compatibility

Goodrich Comments on the 2006 Draft EIR

- Section 4.1.3 Impact Analysis (p. 4.1-77) of the 2006 Draft EIR states the following:

*"The Proposed Project would place non-industrial uses adjacent to the Goodrich facility; however, no land use conflicts are expected. The proposed residential uses in the Harbor District (Parcels H-13 and H-14) are 1,000 feet away from this facility and separated from it by hotel and cultural/retail use located on H-23. There are currently recreational and commercial uses near the Goodrich facility which are operating in a compatible manner; and while there is the potential for limited nuisance effects, such as noise (see Section 4.7, Noise) to result from activities at the Goodrich facility, the proposed Project does not represent a substantial or extreme land use incompatibility."*

To support the finding that the proposed Project does not represent a "substantial or extreme land use incompatibility" related to the proposed residential development in the Harbor District in the vicinity of the existing Goodrich facility, the previous DEIR relied upon two key factors: 1) the proposed residential uses on Parcels H-13 and H-14 are 1,000 feet away from the Goodrich facility (the actual distance is a minimum of 1,250 feet; and 2) the residential development will be separated from the Goodrich facility by the hotel and cultural/retail uses located on H-23. Goodrich's comments on the 2006 Draft EIR indicated that for this finding to be supported, the following two additional factors would have to be taken into account in the analysis:

First, the schedule/timing of development of Parcel H-23 would have to be timed in relationship to the development of Parcels H-13 and H-14. Unless the hotel/cultural/retail uses on H-23 are completed prior to or at the same time as the residential development on H-13 and H-14, the DEIR finding concerning the buffering effect could not be supported.

Second, the capability of the hotel/cultural/retail development on H-23 to screen or buffer the residential development on H-13 and H-14 from noise, lighting and visual appearance from the industrial uses at the Goodrich facility would need to be analyzed. As proposed in the 2006 Draft EIR, the residential development on H-13 and H-14 would range from 50 feet to 300 feet in height. Since there were no heights provided for the development on H-23 in the 2006 Draft EIR, unless these developments were of sufficient height to screen/buffer the noise, light and visual appearance of the Goodrich facility, our comments indicated that the 2006 Draft EIR

R-35  
(Cont.)

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R-36 Please see the response to comment R-11.

R-37 The Revised DEIR determined that the project would not have a significant land use compatibility impact. Additionally, due to distance of the residential development on Parcels H-13 and H-14 from the Goodrich facility (1,265 feet), and further described in the response to comment R-11, *Sections 4.6, Air Quality*, and *4.7, Noise*, analyze potential impacts to air quality and noise in Phase I prior to any development on Parcel H-23 as a result of interaction between the existing Goodrich facility and proposed residences. The ultimate development of H-23 would eventually further reduce interactions between the industrial and residential uses; however, is not required as mitigation for any potential land use conflicts. Please also see the response to comment R-11.

R-38 The impacts referred to in this comment are not impacts that would result from the project, but rather impacts that potential residents of a component of the project would be exposed to. While CEQA requires analysis of potential exposure to people from specific issues, including noise, impacts to possible residents of a Proposed Project related to exposure to lighting and visual conditions are not required. Furthermore, because the residential units in question do not exist currently, there is no baseline from which to determine an impact to residents' visual experience. The same is true regarding their exposure to lighting. While *Section 4.7, Noise*, of the Revised DEIR provides analysis and mitigation regarding noise levels that possible residents of the proposed units may be exposed to. The analysis and conclusions presented in *Section 4.7, Noise*, of the Revised DEIR, do not incorporate any consideration for buffering effects from development of Parcel H-23. This is because that development would occur after the development of residential units on Parcels H-13 and H-14. Please also see the response to comment R-11.

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finding could not be supported. To support the 2006 Draft EIR finding, the previous comments suggested that a specific analysis of the screening/buffering capability of the hotel/cultural/retail development on H-23 be included in the EIR based upon the anticipated height, massing and orientation of the development on H-23 to demonstrate that such development will provide sufficient and appropriate screening for the residential development on Parcels H-13 and H-14.

Based on the above, the previous comments on the 2006 Draft EIR indicated that the following new mitigation measures must be included in the EIR to support the above findings:

- "The residential development in Parcels H-13 and H-14 shall be located a minimum of 1,000 feet from the southern most Goodrich property line."
- "The hotel/cultural/retail uses on Parcel H-23 shall be completed prior to or at the same time as the residential development on Parcels H-13 and H-14."
- "The design and orientation of the residential development on Parcels H-13 and H-14 shall limit/minimize direct line of sight views of the Goodrich facility and shall minimize noise levels at the residential development from the operations at the Goodrich facility."
- "Installation of visual, lighting and noise buffers/barriers between the residential development on Parcels H-13 and H-14 and the Goodrich facility."

Without these mitigation measures, or other mitigation measures that resulted in the same less than significant level of impact, the current finding in the 2006 Draft EIR could not be supported.

Comments on the RDEIR

- Section 4.1.3 Impact Analysis (p. 4.1-119) of the RDEIR states the following:

*"The development of the Proposed Project would place non-industrial uses adjacent to the Goodrich facility; however, no land use conflicts are expected. The proposed residential uses in the Harbor District (Parcels H-13 and H-14) are approximately 1,265 feet away from this facility and separated from it by a resort hotel and cultural/retail use located on H-23. There are currently recreational and commercial uses near the Goodrich facility that are operating in a compatible manner and, while there is the potential for limited nuisance effects, such as noise (see Section 4.7, Noise), to result from activities at the Goodrich facility, the Proposed Project does not represent a substantial land use incompatibility."*

This revised paragraph in the RDEIR reflects the revised distance between the Goodrich facility and proposed residential uses (1,265 feet vs. 1,000 feet). However, it does not address or resolve either the issue of the schedule of development of Parcel H-23 being timed in relationship to the development of Parcels H-13 and H-14, or contain any analysis of the capability of the hotel/cultural/retail development on H-23 to screen or buffer the residential development on H-13 and H-14 from noise, lighting and visual appearance from the industrial uses at the Goodrich facility. Nor does the RDEIR contain any of the mitigation measures described above in our comments on the 2006 Draft EIR that would be necessary to reduce potential impacts to a less-than-significant level. Therefore, with the

R-38  
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R-39

R-40

**R-39** This comment identifies the mitigation measures proposed in the author's prior comment on the 2006 Draft EIR and states that these measures should be adopted. The proposed mitigation measures are unnecessary for two reasons. First, the Revised DEIR determined that the Proposed Project would not result in a significant impact with respect to land use compatibility between the Pacifica project and the Goodrich facility (Page 4.1-119). Second, the proposed mitigation measures are either already incorporated as features of the Proposed Project or are unnecessary. For example, the residential development on Parcels H-13 and H-14 will be located a minimum of 1,000 feet from the southern-most Goodrich property lien (those parcels are located approximately 1,265 feet from the Goodrich facility). In addition, the Pacifica project will design and orient residential uses on Parcels H-13 and H-14 to limit/minimize direct line-of-sight views of the Goodrich facility and to maximize line-of-sight views in the opposite direction towards the Bay. Please also see the response to comment R-11.

**R-40** Please see the responses to comments R-37 and R-38. Please also see the response to comment R-11.

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single exception of the revision in the assumed distance, the RDEIR is subject to the same deficiencies identified in our previous comments on the 2006 Draft EIR, and those comments are therefore incorporated by reference into these comments as though fully set forth herein.

- Land use incompatibilities associated noise impacts from the proximity of the Goodrich facility to proposed residential areas are addressed on page 4.7-48 in Section 4.7.3. (Noise), 1 (c) (v).

*"The closest proposed residential units are approximately 1,265 feet south of the southern existing Goodrich boundary. Noise from a point source is reduced by 6 dB per doubling of distance. Using this fall-off rate, noise levels at 1,265 feet from the existing Goodrich facility, the projected CNEL at the residential properties would be 44 dB. This would be below the 65 dB standard for residential development as specified by the Chula Vista General Plan. The standard at the property line, as set by the City's noise ordinance, between two light industrial zones is an hourly Leq of 70 dB and between two heavy industrial zones is 80 dB. The measured hourly Leq at the Goodrich facility is below 65 dB. The impact would not be significant."*

This analysis relies on field noise measurements that were obtained over a limited period of Goodrich's operations in 2006. The field measurements did not record an hourly Leq from the Goodrich property in excess of 65 dB; however, the Heavy Industrial zoning for the Goodrich property allows noise emissions up to 80dB. Therefore, the RDEIR analysis fails to contemplate the potential impact to the project from noise levels that may be generated from the Goodrich property currently or in the future within the limits allowed by the current zoning code and consist with the current permits and land use entitlements that Goodrich operates under, and for which Goodrich has a vested right into the future; therefore, a land use compatibility impact is still possible. The noise analysis in the RDEIR should be revised using the maximum allowable noise generation from the Goodrich property i.e., 80dBA.

- Section 4.7.3.2 of the RDEIR attempts to address the CEQA checklist criteria related to exposure of persons to significant noise levels with the following statement:

*"The Proposed Project would have a significant impact if it exposes persons to or generates excessive groundborne or waterborne vibrations, or noise levels."*

*"The Proposed Project does not propose uses that generate groundborne vibration or noise levels. Therefore, the Proposed Project would not generate or expose persons to excessive groundborne vibration or groundborne noise levels at build-out."*

This analysis fails to consider noise emissions from existing sources in the project vicinity, such as from the Goodrich facility, by focusing solely on those emissions from proposed uses as part of the CVBMP. Therefore, the potential land use compatibility issues of the project, as they relate to noise, have not been addressed. The RDEIR should be revised and a Recirculated RDEIR should be prepared to address the question of whether or not persons will be exposed to excessive noise levels from the Goodrich property, and other existing areas, at build out.

Mitigation provided in the noise section of the RDEIR does not fully address potential land use compatibility issues that may result when residential uses are placed in relatively close proximity to noise-generating industrial uses, such as the Goodrich facility. Mitigation Measure 4.7-3 on page 4.7-57 should be revised to include the underlined text below.

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R-40  
(Cont.)

R-41

R-42

**R-41** Section 4.7, Noise, of the Revised DEIR states that the highest noise measurements taken at the Goodrich facility were 71.6 and 70.8 dB(A), at the southern and western property boundaries, respectively. On the basis of this finding, the conclusion presented in the Revised DEIR is that "residential and other noise-sensitive uses shall not be permitted in areas adjoining the southern or western Goodrich property line." This includes Parcels H-3, H-9, and H-23. Therefore, the Revised DEIR already presents the determination that all noise-sensitive uses, not just residences, should not be constructed at the southern or western boundaries of the Goodrich facility. Also, future noise generation is considered speculative and cannot be considered without data to support these assumptions. Please see the responses to comments R-14 and R-11.

**R-42** Please see the comment and response to comment R-41. The Revised DEIR analyzes the exposure of the proposed Pacifica project and its occupants to noise generated by the Goodrich facility in Section 4.7, Noise (Page s 4.7-15 through 4.7-21 and 4.7-48). Based on this acoustical analysis, which specifically examined the extent to which noise from the Goodrich facility diminishes over the 1,265-foot distance between the Goodrich facility and the Pacifica project site, the Revised DEIR determined that the potential impact would be less than significant and therefore did not require mitigation. Please also see the response to comment R-11.



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Prior to the issuance of building permits for residential units adjacent to circulation element roadways and heavy industrial uses (including the Goodrich property), in and adjacent to the Harbor District, the applicant shall perform and submit an acoustical analysis to the City, demonstrating that the proposed building plans ensure that interior noise levels due to exterior sources are 45 dB(A) CNEL or less in any habitable room. The analysis must also identify Sound Transmission Loss (STL) rates of each window.

R-43

Section 4.5 Hydrology/Water Quality

- Page 4.5-13, first three paragraphs of the RDEIR state,

*"According to the Hazardous Materials Technical Study...groundwater has been encountered at a depth of approximately 4 feet below ground surface (bgs) at the Goodrich facility,....."*

*"As discussed in Section 4.12. Hazards.....limited groundwater sampling for hazardous substances was performed on and in the vicinity of the former Goodrich South Campus.....revealed chlorinated hydrocarbons, volatile organic compounds, and trichloroethene (TCE) in groundwater monitoring wells."*

*"Groundwater encountered during the construction of the Proposed Project would be required to be tested prior to disposal. The groundwater can be pumped..... If contaminants are found, a pretreatment system will be required to remove these contaminants..... A permit will be required....prior to discharging to the sewer system."*

In Goodrich's comments on the 2006 Draft EIR the following specific comment regarding was included related to the proposed Project's potential impact on existing soil and ground water contamination:

- *"Subsurface construction activities that would be required for the planned development needs to be addressed in the DEIR to determine the potential impacts on existing soil and ground water contaminants. For example, such activities as dewatering and storm drain construction have the potential of creating preferential pathways for the migration of contaminated groundwater. The DEIR not only needs to address these areas, but any other activity that has the potential to create preferential pathways also needs to be addressed in the DEIR."*

R-44

The RDEIR did not include any analysis of the potential proposed Project impacts from subsurface construction, such as dewatering and storm drain construction, on the potential for creating preferential pathways for the migration of contaminated groundwater. It is known that soil and groundwater on the North and South Campuses of the Goodrich facility have been affected by various chemicals and the depth to groundwater is very shallow, ranging at depths below ground surface of 4 to 8 feet. Despite the Port being aware of this information and despite Goodrich's previous comments on the 2006 Draft EIR, neither the 2006 Draft EIR or the RDEIR analyze the impact of subsurface construction such as underground utilities, underground parking structures, storm drain construction, and dewatering during construction that has the potential to alter the direction of groundwater flow and/or result in creating preferential pathways for the migration of contaminated groundwater. If the proposed Project alters existing groundwater flow, the previous site investigations at the Goodrich facility conducted in accordance with a Cleanup and Abatement Order from the California Regional Water Quality Control Board - San Diego

R-43 The comment suggests language to be incorporated in the Final EIR regarding noise mitigation. For the reasons set forth in the response to comment R-42, the mitigation measure proposed in this comment is unnecessary. Please also see the response to comment R-11.

R-44 Please see the responses to comments R-6, R-8, R-9, and R-10.

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Region (RWQCB) maybe rendered moot, thereby requiring additional investigation and analysis that would delay compliance efforts. By not analyzing and addressing the Project's potential to alter the direction of groundwater flow and/or creating new preferential pathways for the migration of contaminated groundwater, the analysis in the 2006 Draft EIR and the RDEIR does not address the potential impacts associated with groundwater flow and migration of contaminated groundwater and appropriate mitigation measures are not included in the EIR. Therefore, such an analysis needs to be conducted and the RDEIR recirculated for additional public review and comment.

R-44  
(Cont.)

In addition, the RDEIR did not analysis and address the potential impacts that could occur from the change in groundwater flow direction and from dewatering that has the potential to result in soil compaction and subsidence in the Project area and under Goodrich's north campus. Subsidence and/or ground settlement can occur either uniformly or differentially. Differential settlement of a structure can damage foundations and result in mechanical and structural problems within a building. The soils in the vicinity of the Goodrich north and south campuses consist of clays with some interbedded sand, and in some areas the Goodrich facility is located of fill material. Dewatering or change in groundwater flow direction of native soil and fill under the Goodrich facility could result in compaction and subsidence that could result in differential settlement of foundations and structures on the Goodrich north campus. Therefore, subsidence and differential settlement must be specifically analyzed in the EIR and appropriate mitigation measures included in the EIR and the RDEIR recirculated to provide the public an opportunity to comment on this new analysis.

R-45

- Page 4.5-23, last paragraph of the RDEIR states,

*"Development of the overall project (Sweetwater, Harbor, and Otay Districts) would increase the amount of impervious surfaces. Perforated pipes would be placed underneath permeable surfaces to collect runoff to a cistern or storm drain. Plastic liners would be included below base where infiltration is not desirable due to high groundwater depth. As a result, the Proposed Project would not substantially deplete groundwater or interfere with groundwater recharge, and impacts would be less than significant."*

R-46

The plastic liners that have been proposed in the RDEIR to prevent infiltration in areas with high groundwater depth could also potentially alter subsurface flow after infiltration and above the plastic surface. This raises the same concerns discussed above about impacts on the groundwater flow regime in areas of contamination and the potential for creating preferential pathways for the migration of contaminated groundwater.

- Page 4.5-54, 4<sup>th</sup> paragraph of the Revised DEIR states,

*"Phase I also includes the Gaylord development in the Harbor District on Parcel H-3. The parcel will be developed into a Resort Conference Center (RCC) with the main entrance fronting H Street. The majority of the parking for the RCC will be underground."*

R-47

Underground parking in Parcel H-3 would be a potential area of concern for Goodrich. Uncertainties exist about how dewatering of the soils for the proposed parking structure will occur, or how this would impact groundwater flow regimes in areas of contamination and the potential for creating preferential pathways for the migration of contaminated groundwater. These uncertainties are not adequately addressed in the RDEIR. Furthermore,

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R-45 This comment expresses concern that dewatering or change in groundwater flow may result in differential settlement of foundations and structures on the Goodrich facility's North Campus. The planned grading and building construction operations will not encounter groundwater. The Revised DEIR specifically considered the potential impact of the construction of deep foundations, subterranean structures and utilities relationship in areas of shallow groundwater, and the resulting potential impact on soils and geology in the project area. The Revised DEIR determined that the potential impact may be significant and recommended mitigation measures, which include the requirement for site-specific geotechnical evaluations that consider groundwater and dewatering (see Pages 4.15-21 and 4.15-31 of the Revised DEIR.) In addition, Pacifica has agreed to the use of driven piles, a technique that is designed to avoid the potential for impacting groundwater flow (**Mitigation Measure 4.15-2**). Pacifica has also accepted constraints on the location and volume of dewatering activities at the site.

R-46 The total area where infiltration will be possible (i.e., permeable surfaces) but determined to be undesirable because of high groundwater, will likely be very limited (e.g., landscaped areas) as most of the project area will be covered with structures and pavement for roads and parking. Infiltration in these limited areas would not cause a significant subsurface flow above plastic liners as this water would be collected by the perforated pipes for discharge to cisterns or storm drains as stated. This limited infiltration would not have a significant effect on groundwater flow or create preferential pathways for migration of contaminated groundwater. This is supported by observation of current groundwater depths and flow directions. Greater infiltration of stormwater is currently possible across the project area as the area of permeable surfaces is greater now than it will be once the project is built. However, seasonal fluctuation in groundwater levels as a result of stormwater infiltration is less than

Comment Letter R (Page 25)

Region (RWQCB) maybe rendered moot, thereby requiring additional investigation and analysis that would delay compliance efforts. By not analyzing and addressing the Project's potential to alter the direction of groundwater flow and/or creating new preferential pathways for the migration of contaminated groundwater, the analysis in the 2006 Draft EIR and the RDEIR does not address the potential impacts associated with groundwater flow and migration of contaminated groundwater and appropriate mitigation measures are not included in the EIR. Therefore, such an analysis needs to be conducted and the RDEIR recirculated for additional public review and comment.

R-44  
(Cont.)

In addition, the RDEIR did not analysis and address the potential impacts that could occur from the change in groundwater flow direction and from dewatering that has the potential to result in soil compaction and subsidence in the Project area and under Goodrich's north campus. Subsidence and/or ground settlement can occur either uniformly or differentially. Differential settlement of a structure can damage foundations and result in mechanical and structural problems within a building. The soils in the vicinity of the Goodrich north and south campuses consist of clays with some interbedded sand, and in some areas the Goodrich facility is located of fill material. Dewatering or change in groundwater flow direction of native soil and fill under the Goodrich facility could result in compaction and subsidence that could result in differential settlement of foundations and structures on the Goodrich north campus. Therefore, subsidence and differential settlement must be specifically analyzed in the EIR and appropriate mitigation measures included in the EIR and the RDEIR recirculated to provide the public an opportunity to comment on this new analysis.

R-45

- Page 4.5-23, last paragraph of the RDEIR states,

*"Development of the overall project (Sweetwater, Harbor, and Otay Districts) would increase the amount of impervious surfaces. Perforated pipes would be placed underneath permeable surfaces to collect runoff to a cistern or storm drain. Plastic liners would be included below base where infiltration is not desirable due to high groundwater depth. As a result, the Proposed Project would not substantially deplete groundwater or interfere with groundwater recharge, and impacts would be less than significant."*

R-46

The plastic liners that have been proposed in the RDEIR to prevent infiltration in areas with high groundwater depth could also potentially alter subsurface flow after infiltration and above the plastic surface. This raises the same concerns discussed above about impacts on the groundwater flow regime in areas of contamination and the potential for creating preferential pathways for the migration of contaminated groundwater.

- Page 4.5-54, 4<sup>th</sup> paragraph of the Revised DEIR states,

*"Phase I also includes the Gaylord development in the Harbor District on Parcel H-3. The parcel will be developed into a Resort Conference Center (RCC) with the main entrance fronting H Street. The majority of the parking for the RCC will be underground."*

R-47

Underground parking in Parcel H-3 would be a potential area of concern for Goodrich. Uncertainties exist about how dewatering of the soils for the proposed parking structure will occur, or how this would impact groundwater flow regimes in areas of contamination and the potential for creating preferential pathways for the migration of contaminated groundwater. These uncertainties are not adequately addressed in the RDEIR. Furthermore,

significant (on the order of 0.5 foot or less) and groundwater flow direction has remained consistent. Most of the groundwater recharge for the basin occurs in the upper portions of the watershed from reservoirs and rivers and slight decreases in recharge in the project area should not have a significant effect on overall groundwater levels or flow directions.

R-47 Please see the response to comment R-45. **Mitigation Measure 4.15-4** (Page 4.15-31) specifically requires the preparation of a site-specific geotechnical report for Parcel H-3 when a specific project is proposed, which will address groundwater and dewatering. In addition, dewatering for construction purposes will be temporary and water generated by dewatering will be handled, characterized, treated (if necessary), and discharged in accordance with an SWMP and regulatory agency permits and approvals. Dewatering on Parcel H-3 in the shallow zone A groundwater would be downgradient of the Goodrich north campus where groundwater impacts appear to be concentrated in deeper waterbearing zones. After dewatering is complete, groundwater flow regimes would return to steady state conditions. If necessary, further detailed assessment of groundwater conditions in the areas where dewatering would be proposed could be performed and the data used in a groundwater flow model to assess the potential, temporary affects on the contamination in groundwater. With respect to stormwater runoff, diversion of runoff to the north of Parcel H-3 would not be onto Goodrich property, but rather to approved stormwater discharge points that would flow to the Bay.

Comment Letter R (Page 26)

the hydrologic regime of the site will also change from pre-project runoff flows to the north, west and east of Parcel H-3, to the north and south of parcel H-3 under post-project conditions. Parts of the Goodrich facility lie to the north of Parcel H-3 and could be impacted by these diverted runoff flows

4.6 Air Quality

Comments on the 2006 Draft EIR

Section 4.6.3 (also see Table 1-7 p. 26 and Section 4.6 – Air Quality) of the 2006 Draft EIR states that “The Proposed Project would have a significant impact if residential housing is located within 1,000 feet of a plant or any other toxic air emitting facility.” To support this finding related to the proposed residential development in the Harbor District in the vicinity of the existing Goodrich facility, the 2006 Draft EIR relied upon the factor that the proposed residential uses on Parcels H-13 and H-14 are 1,000 feet away from the Goodrich facility (the actual distance is approximately 1,250 feet). Goodrich’s previous comments indicated that the following new mitigation measure should be included in the 2006 Draft EIR:

“The residential development in Parcels H-13 and H-14 shall be located a minimum of 1,000 feet from the southern most Goodrich property line.”

The previous comment noted that the 2006 Draft EIR air quality finding and the inclusion of the new air quality mitigation measure above, as an existing industrial use adjacent to the CVBMP, Goodrich has vested property rights and air permits to allow it to continue to operate into the foreseeable future. Based on these vested property and permit rights, the comments suggested that the following new mitigation measure be included in the 2006 Draft EIR:

“The Port shall pay up to \$2 million for modifying or upgrading equipment at the Goodrich facility to reduce air emissions that may be required by state and federal regulations to ensure that the facility continues to maintain air emissions below regulatory thresholds due to the introduction of residential uses on Parcels H-13 and H-14, or may be required to maintain emissions below regulatory thresholds that would require regulatory action such as, but not limited to, Assembly Bill (AB) 2588.

Comments on RDEIR

The Air Quality comments provided below were also provided in the 2006 DEIR and no other analysis or mitigation was provided in the Revised DEIR. Accordingly, the comments are reiterated and are hereby incorporated into the comments on the RDEIR.

Section 4.6-18 of the Air Quality Section states.

“The Chula Vista Bayfront Proposed Project site has been utilized by the Goodrich South Campus, which included 63 industrial buildings totaling approximately 870,000 square feet of industrial space. The facility was involved in the manufacture of aviation and aerospace components and has historically been a source of GHG emissions. No GHG emissions inventory is currently available for the site.”

R-47  
(Cont.)

R-48

R-49

**R-48** This comment requests the addition of new mitigation measures that would require residential development on Parcels H-13 and H-14 to be located a minimum of 1,000 feet from the southern-most Goodrich property line, and would require the Port to pay up to \$2 million for modifications or upgrades to emission-control systems at the Goodrich facility, which may be required by regulatory agencies in the future. The proposed mitigation measure concerning a minimum 1,000-foot distance from the Goodrich property line is unnecessary because the distance between the property lines of the Goodrich facility and Parcel H-13 is 1,265 feet and Parcel H-13 is the parcel closest to the Goodrich facility on which residential development is proposed to occur. The proposed mitigation measure requiring the Port to pay up to \$2 million for future modification or upgrading of the Goodrich facility’s emission control system is also unnecessary and speculative because there is no evidence that regulatory agencies will require any such modifications or upgrades solely due to the proposal to locate residential structures on Parcels H-13 and H-14. In addition, Goodrich has agreed that its concern is addressed by the City’s provision of resources to address the potential increased costs of Goodrich air emission upgrades. Please also see the response to comment R-11.

**R-49** In response to this comment, *Section 4.16* of the Final EIR has been revised to clarify the nature and extent of the existing structures and activities at the former Goodrich South Campus.

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While this statement is historically correct there has been no manufacturing activity in more than five years and the buildings are no longer present. None of these activities were curtailed because of GHG considerations therefore the inclusion of this statement might lead the reader to believe the appropriate baseline would be when the aerospace manufacturing operation was ongoing at this location. This would not be the case and should be clarified in the RDEIR.

Section 4.6-47 of the RDEIR states,

*"Because proposed residential uses for the Proposed Project are further than 1,000 feet from the existing Goodrich facility, there would not be a significant effect caused by permitting sensitive receivers within 1,000 feet of a toxic emitter. Because there are no residential receivers proposed within 1,000 feet of the existing Goodrich facility, no significant air quality impacts would occur in accordance with Significance Criterion No. 5..."*

Notwithstanding Goodrich's comments on the 2006 Draft EIR regarding the sensitive receptors, to support the finding of no significant air quality impacts would occur related to the proposed residential development in the Harbor District in the vicinity of the existing Goodrich facility, the RDEIR relies upon the fact that the proposed residential uses on Parcels H-13 and H-14 are more than a thousand feet away from the Goodrich facility. For the RDEIR to support this finding, the following mitigation measure would need to be included in the RDEIR:

*"The residential development in Parcels H-13 and H-14 shall be located a minimum of 1,265 feet from the southern most Goodrich property line"*

Furthermore, in addition to the inclusion of the new air quality mitigation measure above, as an existing industrial use adjacent to CVBMP, Goodrich has vested property rights and air permits to allow it to continue to operate into the foreseeable future. Based on these vested property rights, and as stated in the previous comments, the following new mitigation measure must be included in the RDEIR:

*"The Port shall pay up to \$2 million for modifying or upgrading equipment at the Goodrich facility to reduce air emissions that may be required by local, state and federal rules and regulations to ensure the facility continues to maintain air emissions below regulatory thresholds due to the introduction of residential uses on Parcels H-13 and H-14, or may be required to maintain emissions below regulatory thresholds that would require a regulatory action such as, but not limited to, Assembly Bill (AB) 2588 notification"*

4.7 Noise

Comments on 2006 Draft EIR

Previous comments regarding noise and land use compatibility issues are addressed under the Land/Water Use comment section above.

R-49  
(Cont.)

R-50

R-51

R-52

R-50 Please also see the responses to comments R-11 and R-48.

R-51 The Port does not concur with the nexus for the mitigation measures suggested and does not consider the suggested measures appropriate mitigation. Please also see the response to comment R-11.

R-52 Please see the response to comment R-13. The commenter is correct in that Parcel H-23 would be commercial and that noise standards for industrial and commercial uses should be considered. In order to avoid any potential impact related to commercial land uses affected by operational noises at the Goodrich facility, commercial land uses should remain a minimum of 100 feet from the source of the 60 dB. Since H-23 is a program-level use, at such time that a land use is proposed, a project-level acoustical analysis should be prepared to ensure avoidance of all potential noise impacts associated with adjacent land uses, including Goodrich. Please also see the response to comment R-11.

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Comments on RDEIR

The following comments are specific areas of concern noted as a result of the review of Section 4.7 Noise Impact Section of the RDEIR. Some of these comments were also provided on the 2006 Draft EIR and no other analysis or mitigation was provided in the RDEIR.

- Section 4.7.3, 1, b (pp. 4.7-32 to 4.7-43): This section does not address the potential noise effects of the Goodrich facility and other existing stationary sources on the eastern portion of the proposed Gaylord Resort and Convention Center. For the RDEIR to comprehensively address the CEQA requirements, exposure of persons in these areas should be evaluated using the City of Chula Vista General Plan and noise ordinance standards with existing noise sources in mind.
- Section 4.7.3, 1, c, v – first paragraph (Page 4.7-48): The RDEIR states that noise sources in the adjoining area south of the Goodrich facility “...are dominated by traffic on I-5 and other area roads.” While traffic noise is a contributor to overall noise levels at such locations, operations at the Goodrich facility are often the dominant sources of noise at these areas. The noise analysis in the RDEIR needs to be revised to reflect all major existing noise contributors, including the Goodrich facility.
- Section 4.7.3, 1, c, v – third paragraph (Page 4.7-48) states that  
*“...The standard at the property line, as set by the City’s noise ordinance, between two light industrial zones is an hourly Leq of 70 dB and between two heavy industrial zones is 80 dB. The measured hourly Leq at the Goodrich facility is below 65 dB. The impact would not be significant.”*

This section fails to indicate that the noise standard for commercial uses is a daytime standard of 65 dB Leq and a nighttime standard of 60 dBA. Therefore, a significant noise impact could occur if the land adjoining the south side of Goodrich is developed to include commercial uses (which appears to be the case). The RDEIR should address this issue and identify associated potential mitigation measures to ensure that noise from operations at Goodrich would not exceed the City’s General Plan and noise ordinance standards.

- The following statement in the Noise section (Page 4.7-54) does not address the issue of exposure of residents to excessive noise from existing adjacent uses. This brief justification only focuses on noise generation from proposed uses:

*“The Proposed Project would have a significant impact if it exposes persons to or generates excessive groundborne or waterborne vibrations, or noise levels.”*

*The Proposed Project does not propose uses that generate groundborne vibration or noise levels. Therefore, the Proposed Project would not generate or expose persons to excessive groundborne vibration or groundborne noise levels at build-out.*

- Section 4.7.4, Mitigation Measures: This section of the RDEIR should outline in detail mitigation measures that would ensure that proposed future land uses in proximity to the Goodrich facility, particularly on the south and west sides of the facility, are not exposed to noise levels in excess of the City of Chula Vista General Plan standards and Noise

R-52  
(Cont.)

R-53

R-54

**R-53** This comment states that the analysis of potential impacts on Page 4.7-54 of the Revised DEIR does not address the issue of exposure of residents to excessive noise from existing adjacent uses. This comment is correct. The exposure of residents to excessive noise from existing adjacent uses instead is addressed under Significance Criteria No. 1, which analyzes whether the Proposed Project exposes persons to noise levels in excess of applicable standards (Page s 4.7-21 through 4.7-54 of the Revised DEIR). This section of the Revised DEIR specifically analyzed whether the Proposed Project would expose residents of the proposed Pacifica project on Parcels H-13 and H-14 to excessive noise from existing operations of the Goodrich facility (see Page s 4.7-15 and 4.7-48). Please also see the response to comment R-11.

**R-54** Please also see the responses to comments R-11, R-12 through R-14, R-39, R-48, and R-53.



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Ordinance criteria. Such measures must consider the existing noise levels from Goodrich operations, as well as potential increases in noise levels within permissible levels from expanded operations, and may include creation of buffer zones, building noise barriers or walls, placement of compatible uses in the adjoining areas, or a combination of these measures.

R-54  
(Cont.)

The following concerns were raised previously with the 2006 Draft EIR but have not been adequately addressed in the RDEIR.

- Pages 4.8-69 to 4.8-99, Section 4.8.3 of RDEIR includes a discussion of wetland delineation results and jurisdictional wetlands on the Proposed Project site.

The RWQCB has identified a number of areas on or near the former Goodrich South Campus that are contaminated with hazardous materials. Pursuant to a Clean-Up and Abatement Order Issued by the RWQCB, Goodrich, and the Port, in coordination with regulatory agencies are currently working to remediate these contamination sites. This work could potentially affect the wetland marsh habitat delineated in Parcel HP-5, which is immediately adjacent to, and south of the former Goodrich South Campus site (H-23). The wetlands in this parcel are classified as coastal salt marsh and are both USACE and California Coastal Commission (CCC) jurisdictional wetlands as identified in Figure 4.8-8 and 4.8-16, respectively, in the RDEIR. Potential impacts to these wetlands from remediation activities in the South Campus could likely create additional regulatory burdens for Goodrich, especially in the event of unanticipated problems or contaminants encountered during remediation.

R-55

Furthermore, conceptual mitigation opportunities suggested in the RDEIR include enhancing the coastal brackish marsh and riparian habitat in Parcel SP-2, and restoring coastal sage scrub and native grassland habitat around this enhance marsh/riparian habitat (see Figure 4.8-23). Mitigation plans that include such enhanced/restored habitat need to take into account Goodrich's current and future plans for their operational activities with respect to potential impacts of these activities to the enhanced/restored habitat and its wildlife.

R-56

- Page 4.8-116, Table 4.8-3B includes a description of Phase I Project-Level Impacts by Parcel

The proposed project will have significant impacts to parcels adjacent to the Goodrich property. Goodrich needs to be kept informed of mitigation measures required to compensate for these impacts and its involvement, if any, in the implementation of these mitigation measures.

R-57

- Mitigation Measure 4.8-1: "Mitigation measure 4.8-1 shall be implemented to reduce the direct impact to nesting raptors (associated with Significant Impact 4.8-1) to a level of less than significant."

Disturbance caused by the proposed development can potentially cause sensitive species such as raptors (e.g., osprey) to relocate to the Goodrich property, thus potentially encumbering Goodrich with regulatory measures to protect the species. Raptors, if displaced from the proposed project site, could readily use tall structures such as trees,

R-58

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**R-55** This comment states that the ongoing activities with respect to the clean-up and remediation of Parcel HP-5 may be impacted by the presence of wetlands and may subject Goodrich to additional regulatory burdens. As discussed in *Section 3.4.9.2* of the Revised DEIR (Pages 3-156 through 3-161), the clean-up and remediation of existing soil and groundwater contamination on Parcel HP-5 is a separate project that is proceeding subject to the jurisdiction and regulatory oversight of the RWQCB and the provisions of CAO 98-08. Any additional regulatory burdens that may be imposed on Goodrich pursuant to CAO 98-08 are matters within the jurisdiction of the RWQCB and are not part of the Proposed Project. As noted in *Chapter 3.0, Project Description*, the Proposed Project does not include development within the jurisdictional wetlands within Parcel HP-5 (L-Ditch); therefore, although the concerns regarding potential regulatory actions, clean-up, and/or permitting requirements associated with non-project related actions within the L-Ditch are noted, they do not raise issues related to the adequacy of the Revised DEIR; therefore, no further response is provided.

**R-56** It is not clear what the relationship is between "Goodrich's current and future plans for their operational activities" and proposed restoration within Parcel SP-2. Goodrich does not own or otherwise control the land within the SP-2 parcel and any "potential impacts of these activities," which are not known to the Port at this time, would need to be addressed and mitigated, if necessary, by the entity responsible for those activities.

**R-57** The referenced statement from the Revised DEIR is related to indirect impacts on adjacent biological resources. There are no sensitive biological resources on the adjacent Goodrich-owned properties; therefore, no indirect effects on biological resources would occur and mitigation for indirect effects would not apply to those properties.

**R-58** No facts or other evidence is offered or known to the Port that would suggest that development of Proposed Project features would "displace" raptors to adjacent areas. On the contrary, development of

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utility poles and other structures on the Goodrich property for nesting. An active osprey nest was in fact observed in 2006 in the southwest corner of the Goodrich property (see Figure 4.8-4). Nesting by raptors on Goodrich property can likely interfere with Goodrich's operations and encumber Goodrich with additional measures to protect the species. The RDEIR should therefore include mitigation measures that address the prospect of sensitive species relocating to Goodrich property, and do not put the burden on Goodrich to provide or fund ameliorative or protective measures.

- Figure 4.8-23: Conceptual Mitigation Opportunities in the Sweetwater District

Conceptual mitigation plans for impacts to existing habitat due to the proposed project include the creation/restoration of coastal salt marsh and sage scrub/native grassland habitat which would bring higher quality habitat in closer proximity to the Goodrich facilities. This raises issues concerning disturbance/impacts to these proposed mitigation habitats from ongoing and future Goodrich activities and operations. For example, one such impact would be the effects of noise from Goodrich's normal operations on sensitive bird species that are expected to use such created/restored habitats. The RDEIR needs to contain mitigation measures that acknowledge and address the possibility of sensitive species being brought into closer proximity to Goodrich operations and hence subjected to noise, light, vibration odor and other impacts from those operations to ensure that those impacts will be less than significant. If no such mitigation measures are available, alternate sites should be employed for creation or restoration of such habitats.

**Section 4.12 – Hazards and Hazardous Materials**

Comments on the 2006 Draft EIR

In January 2007, Goodrich submitted specific comments on the 2006 Draft EIR related to Section 4.12 of the Draft EIR. The following were Goodrich's comments on the 2006 Draft EIR.

Section 4.12.3 (p. 4.12-40) (also see Table 1-7 p. 64 of 98 – Significant Impact 4.12-1) of the 2006 Draft EIR states that cleanup of the existing and former Goodrich facilities is underway and will be completed as a separate action and that "No development is planned to occur on contaminated parcels until remediation is completed and approval is received from the responsible regulatory agencies. No impact is identified." In order to support this finding, site remediation at the existing and former Goodrich facilities would have to be completed and approved by the RWQCB prior to development.

Goodrich's previous comments requested that the Draft EIR acknowledge that both soil and groundwater remediation for the existing and former Goodrich facilities must be completed before construction of affected Project components, as groundwater contamination may take 10 to 15 years to complete. This was deemed as particularly critical for the residential elements of the proposed Project on Parcels H-13 and H-14, which are located immediately adjacent to the former Goodrich South Campus. Parcels H-13 and H-14 are known to have contaminated groundwater that is subject to a Cleanup and Abatement Order for the existing and former Goodrich facility. Therefore, Goodrich's comments asserted that the proposed Project schedule for residential development on Parcels H-13 and H-14 take into account the likelihood that some development would be delayed until such time that the

R-58  
(Cont.)

R-59

R-60

the Proposed Project would place building and structures between the Goodrich facilities and sensitive habitat areas, which would, in most cases, interfere with the line of sight between the Goodrich facilities and sensitive habitat areas. This would have the opposite effect from what is described in this comment; raptors would be less likely to perch and nest in areas where intervening development is placed adjacent to foraging areas. Therefore, the Proposed Project would not result in increased likelihood of raptors nesting or perching on Goodrich facilities, and no additional requirements or burdens related to raptors will be placed on Goodrich as a result of the Proposed Project.

**R-59** Any mitigation that would occur within the F&G Street Marsh (the potential mitigation area adjacent to the existing Goodrich facilities) would be coordinated with the USFWS. If these areas are determined to be unsuitable for habitat creation, restoration, or enhancement, then alternative locations identified in the Revised DEIR will be pursued.

**R-60** This comment suggests that additional analysis is needed of the potential impacts and risks to occupants if development of Parcels H-13 and H-14 is allowed to occur before completion of the clean-up and remediation required under CAO 98-08. The Revised DEIR adequately addresses the potential impacts and risks of clean-up and remediation of existing contamination in *Sections 4.12.5 and 4.12.6* (Page s 4.12-58 through 4.12-77). Please also see the responses to comments R-4 and R-5.

The comment also states that excavation, construction, and dewatering may create preferential pathways for contaminated groundwater. Please see the responses to comments R-6, R-8, R-9, R-10, and R-45.



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regulatory agencies determine that the groundwater remediation activity had successfully reduced contaminants of concern to acceptable levels for the proposed development.

Based on the above comment on the Draft EIR, it was recommended that the Draft EIR include a stipulation that development on Parcels H-13 and H-14 not occur until soil and groundwater remediation had been completed and approved by the appropriate regulatory agencies. Such a limitation was not incorporated into the Draft EIR nor in the RDEIR therefore, the EIR can not support a finding of "No Impact", and the Draft EIR must include an additional analysis of the potential significant impacts and risks to occupants that could occur if residential development is allowed to proceed on Parcels H-13 and H-14 prior to the completion and approval of soil and groundwater remedial actions on the existing and former Goodrich facility.

Comments were also provided by Goodrich on the 2006 Draft EIR on subsurface excavation and construction activity that would be required for the planned development. The RDEIR must address the potential impacts to existing soil and ground water contaminants that may result from construction of underground utilities and other facilities such as building foundations. Activities such as dewatering and storm drain construction have the potential to create preferential pathways for the migration of contaminated groundwater. Based on Goodrich's comments, the RDEIR should have included an analysis to address these issues, but also any other Project construction activity that have the potential to create preferential pathways.

Goodrich noted in its comments on the Draft EIR that additional analyses that may be required to address these issues could represent new substantial information and, in accordance with CEQA Guidelines (Section 15088.5[a]), may require recirculation of the Draft EIR for an additional public review and comment period. Since the RDEIR did not include the additional analysis, the analysis should be accomplished and the RDEIR recirculated.

Previous comments also indicated that the Draft EIR must acknowledge that Mitigation Measures 4.12-2A through D in the Draft EIR also apply to the development of Parcels H-13 and H-14, as well as the other parcels on and adjacent to the former Goodrich South Campus.

Comments on the RDEIR

The RDEIR addresses some, but by no means all, of the issues raised by Goodrich related to potential impacts associated with exposure to site contamination during construction of various project elements and potential long-term exposure impacts. The RDEIR provides a description of contamination issues associated with the various development areas and phases of the project.

Site contamination within the Harbor District, associated with the former Goodrich South Campus, is discussed in the RDEIR beginning on page 4.12-29 in Section 4.12.3.2 "Harbor District." The program level analysis of potential impacts relevant to Goodrich begins on page 4.12-58 under the heading "Excavation Demolition and Construction." This section of the analysis acknowledges the potential for exposure of construction workers to site contamination during site preparation activities and excavation and indicates that, "mitigation measures would be required in order to reduce these impacts." These potential impacts

R-60  
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R-61

This comment also states that Goodrich requested in its comments on the Draft EIR that the Draft EIR be recirculated. The Draft EIR was revised and recirculated as requested.

This comment also states that **Mitigation Measures 4.12-2A** through **4.12-2D** [sic] should apply to Parcels H-13, H-14, and other parcels on or adjacent to the former Goodrich South Campus. The Revised DEIR provides that **Mitigation Measures 4.12-1A** through **4.12-1D** and **4.12-2** apply to all parcels on which there is existing contamination, including Parcels H-13 and H-14 (Page s 4.12-58 through 4.12-65).

**R-61** This comment states that the Revised DEIR addresses some, but not all, of the issues raised by Goodrich in its comments on the prior Draft EIR. Although this comment describes portions of the analysis in the Revised DEIR, it does not identify any specific issue from Goodrich's comments on the Draft EIR that was not addressed in the Revised DEIR. Accordingly, no further response is necessary.

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are identified as "Significant Impact 4.12-1"; on page 4.12.59 and "Significant Impact 4.12.3"; on page 4.12-60.

On page 4.12-64, the RDEIR incorporates information from a Human Health Risk Assessment (HHRA) that was conducted in July 2007 (subsequent to public circulation of the 2006 DEIR). Although the potential for impacts associated with site contamination in HP-5 are considered significant (Significant Impact 4.12-16), the HHRA predicts no long-term exposure impacts within the proposed residential sites (H13 and H-14). The more specific "project level" analysis for this Phase I element of the project is provided on page 4.12-65 and states:

"CVOCs [chlorinated volatile organic compounds] and PCBs [polychlorinated biphenyls] were not detected in soil samples from Parcels H-13 or H-14 and no exposure areas are known to exist on H-13 or H-14. Groundwater impacted with CVOCs beneath Parcels H-13 and H-14 did not exceed health-based remediation criteria. Although excavation, demolition, and construction activities would be short-term, the potential to encounter contamination during such activities associated with development of Parcels H-13 or H-14 would be considered a significant impact (Significant Impact 4.12-17). In addition, the potential for exposure to contaminated soils during dewatering activities would be considered a significant impact (Significant Impact 4.12-18). Implementation of specific design measures will be required to avoid potential impacts from cross contamination of groundwater during dewatering activities."

The RDEIR analysis indicates that the risks associated with exposure to site contamination in the proposed residential areas (H-13 and H-14) of the site are short-term (limited to site preparation and grading activities), while other areas of the site (HP-5) have longer term risks related to vapor intrusion and indoor air quality.

The potential impacts of the proposed project resulting from exposure of construction workers to contaminated soil and groundwater in HP-5, H-13 and H-14 are addressed in the RDEIR analysis in two ways. First, the potential for exposure during site preparation and grading is anticipated to be minimized by the placement of impacted fill materials in these areas prior to excavation. The discussion provided on page 4.12-69 states, "Kimley-Horn's Earthwork Plan depicts placement of fill over all H-13 and H-14, and portions of HP-5. Therefore, excavation for construction purposes will likely be limited to temporary excavation for reworking of undocumented fill, excavation for utility trenches, and drilling of foundation pilings."

This discussion does not appear to be consistent with the concept of constructing 19-story residential structure(s) on the site. No specific details are provided regarding the amount of fill that will be placed on H-13 and H-14, however it seems feasible, if not likely, that excavation required to construct the building foundations will encounter native soil and groundwater. In addition, while specifics regarding the 19-story residential structure(s) on H-13 and H-14 are not provided, the RDEIR indicates that the structures will include "semi-subterranean parking." The discussion of fill is not adequate to support the conclusion that earthwork will be limited to undocumented fill because there is no specific information on the depth of fill or depth of excavation that will be required for building foundations, subgrade parking, and/or utilities.

Secondly, the RDEIR offers a lengthy but overly generic mitigation measure, Mitigation Measure 4.12-1, (beginning on page 4.12-70) that broadly addresses potential contamination

R-61  
(Cont.)

R-62

R-63

R-64

R-65

**R-62** This comment summarizes the analysis of potential impacts concerning site contamination from Page 4.12-64 of the Revised DEIR and quotes a portion of the analysis from Page 4.12-65. The comment does not, however, raise any issue concerning the adequacy of the analysis in the Revised DEIR; therefore, no further response is warranted.

**R-63** This comment summarizes the approach of the Revised DEIR in analyzing the potential impacts of the project, which may result from exposure of construction workers to contaminated soils and groundwater. However, this comment does not address the accuracy or adequacy of the Revised DEIR. No further response is warranted.

**R-64** The commenter does not believe that adequate detail is provided regarding the amount of fill that will be placed on Parcels H-13 and H-14 for the Pacifica Residential and Retail Project. As a result, the commenter does not believe that enough support exists to conclude that earthwork will be limited to undocumented fill and the commenter is concerned that excavation required to construct building foundations will encounter native soil and groundwater.

The discussion and conclusions provided in *Section 4.15, Seismic/Geologic Hazards*, of the Revised DEIR are based, in part, on the Preliminary Geotechnical Investigation for the Pacifica Companies (February 2008) prepared by Geocon Consultants, Inc. (see *Appendix 4.15-4* of the Revised DEIR). Page 2, Section 2 of the report states that remedial grading will consist of removal and re-compaction of 2 to 8 feet of the surficial soil (undocumented fill and native bay deposits) and placing minor fill generally less than 5 feet to create the building pads and accommodate site drainage. Page 18, Section 8.3 states that undocumented fill and bay deposits within areas to receive structural fill or structures supported on shallow foundations should be removed to a depth of approximately 2 to 3 feet

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are identified as "Significant Impact 4.12-1"; on page 4.12.59 and "Significant Impact 4.12.3."; on page 4.12-60.

On page 4.12-64, the RDEIR incorporates information from a Human Health Risk Assessment (HHRA) that was conducted in July 2007 (subsequent to public circulation of the 2006 DEIR). Although the potential for impacts associated with site contamination in HP-5 are considered significant (Significant Impact 4.12-16), the HHRA predicts no long-term exposure impacts within the proposed residential sites (H13 and H-14). The more specific "project level" analysis for this Phase I element of the project is provided on page 4.12-65 and states:

*"CVOCs [chlorinated volatile organic compounds] and PCBs [polychlorinated biphenyls] were not detected in soil samples from Parcels H-13 or H-14 and no exposure areas are known to exist on H-13 or H-14. Groundwater impacted with CVOCs beneath Parcels H-13 and H-14 did not exceed health-based remediation criteria. Although excavation, demolition, and construction activities would be short-term, the potential to encounter contamination during such activities associated with development of Parcels H-13 or H-14 would be considered a significant impact (Significant Impact 4.12-17). In addition, the potential for exposure to contaminated soils during dewatering activities would be considered a significant impact (Significant Impact 4.12-18). Implementation of specific design measures will be required to avoid potential impacts from cross contamination of groundwater during dewatering activities."*

The RDEIR analysis indicates that the risks associated with exposure to site contamination in the proposed residential areas (H-13 and H-14) of the site are short-term (limited to site preparation and grading activities), while other areas of the site (HP-5) have longer term risks related to vapor intrusion and indoor air quality.

The potential impacts of the proposed project resulting from exposure of construction workers to contaminated soil and groundwater in HP-5, H-13 and H-14 are addressed in the RDEIR analysis in two ways. First, the potential for exposure during site preparation and grading is anticipated to be minimized by the placement of impacted fill materials in these areas prior to excavation. The discussion provided on page 4.12-69 states, "Kimley-Horn's Earthwork Plan depicts placement of fill over all H-13 and H-14, and portions of HP-5. Therefore, excavation for construction purposes will likely be limited to temporary excavation for reworking of undocumented fill, excavation for utility trenches, and drilling of foundation pilings."

This discussion does not appear to be consistent with the concept of constructing 19-story residential structure(s) on the site. No specific details are provided regarding the amount of fill that will be placed on H-13 and H-14, however it seems feasible, if not likely, that excavation required to construct the building foundations will encounter native soil and groundwater. In addition, while specifics regarding the 19-story residential structure(s) on H-13 and H-14 are not provided, the RDEIR indicates that the structures will include "semi-subterranean parking." The discussion of fill is not adequate to support the conclusion that earthwork will be limited to undocumented fill because there is no specific information on the depth of fill or depth of excavation that will be required for building foundations, subgrade parking, and/or utilities.

Secondly, the RDEIR offers a lengthy but overly generic mitigation measure, Mitigation Measure 4.12-1, (beginning on page 4.12-70) that broadly addresses potential contamination

R-61  
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R-62

R-63

R-64

R-65

above the groundwater (elevation of approximately 8 feet above mean lower low water (MLLW)). Therefore, grading below the elevation of the groundwater table is not expected.

Page 24, Section 8.10 of the Geocon report provides recommendations for deep foundations to be used for the support of the planned highly loaded structures on Parcels H-13 and H-14. In addition, Section 8.9 provides shallow mat foundation recommendations for lightly loaded and ancillary structures. As discussed in the Revised DEIR (Page 4.15-28), groundwater will be an important factor during the design and construction of the deep foundation systems. This is identified as **Significant Impact 4.15-3**. The project is not expected to encounter groundwater during the installation of the planned structures supported on the shallow foundations.

Page 2, Section 2 of the Geocon report states: "We understand the below grade garages will be constructed near existing grade and fill will be placed subsequent to the construction of the retaining walls. Fill slopes up to 6 feet high are proposed along the margins of the building pads." Therefore, the fill thickness (after removal and replacement and placing additional fill) is expected to be approximately 6 to 8 feet. However, the potential for exposure to contaminants beneath Parcels H-13 and H-14 is low based on the results of previous site investigation and the HHRA. The potential for short-term exposure of construction workers to contaminants in soil and groundwater is greatest beneath portions of Parcel HP-5, but can be addressed by implementation of a construction Health and Safety Plan (HSP) and the SWMP.

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issues on the site. Mitigation Measure 4.12-1 in the RDEIR offers essentially the same conclusion as the 2006 Draft EIR analysis in that the contaminated areas of the site must be brought into compliance with applicable state and local cleanup standards before construction can take place.

As indicated in the beginning paragraphs of Mitigation Measure 4.12-1:

*"Prior to the issuance of any permit for excavation, demolition, grading, or construction activities in the area described in the relevant permit based on the planned future use, the following shall occur:*

*A. The applicant shall contact the lead regulatory agency (RWQCB/DEH/DTSC) to discuss the appropriate course of action for the area of concern described in the permit based on the planned future site use. Remediation of contaminated soil and/or groundwater in these areas shall meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and shall be protective of human health with regard to future occupants of these areas. The applicant shall submit documentation showing that contaminated soil and/or groundwater in the area covered by the permit shall have been avoided or remediated to meet cleanup requirements established by the local regulatory agencies (RWQCB/DEH/DTSC)."*

The RDEIR does not comment on the schedule for implementation of remedial actions to address site contamination. This was commented on in the review of the 2006 Draft EIR and has not been addressed by the RDEIR. Given the considerable amount of time it may take to complete site remediation activities, the RDEIR should discuss the impact of these activities on the overall schedule for development of the project.

The RDEIR also does not adequately address how the Proposed Project will affect pathways for contaminated groundwater. For example, the construction of residential structures on parcels H-13 and H-14 could likely disrupt groundwater flow patterns, especially if these structures were to presumably include below grade parking (not specifically described or analyzed in the RDEIR). Regional groundwater flow in the vicinity of the Proposed Project is generally to the west, toward the Bay (see section 4.5.1.4, page 4.5-10 of the RDEIR). Uncertainties exist about how such development would alter the preferential pathways for contaminated groundwater on this site and these uncertainties are not adequately addressed in the RDEIR, even in the Hydrology/Water Quality section (Section 4.5).

R-65  
(Cont.)

R-66

R-67

**R-65** This comment states that **Mitigation Measure 4.12-1** is lengthy and overly generic and offers essentially the same conclusion as the 2006 Draft EIR regarding site contamination. Because this comment does not raise any environmental issue concerning the adequacy of **Mitigation Measure 4.12-1**, no further response is warranted.

**R-66** This comment quotes **Mitigation Measure 4.12-1A** and states that, given the considerable amount of time it may take to complete site remediation activities, the Revised DEIR should discuss the impacts of these activities on the overall schedule for development of the project. The exact remedial action that may be required for a Proposed Project on a given parcel will need to be determined based on the type of development and the nature and extent of contamination on the parcel and cannot be detailed in the Revised DEIR. Applicants will be required to prepare a Corrective Action Plan (CAP), Removal Action Workplan (RAW), Remedial Action Plan (RAP), or other similar remedial action decision document that details site development plans, the nature and extent of impacts on that parcel, an HHRA, an evaluation of remedial options and selection of the most appropriate one, and a plan and schedule for implementation of the selected option. This type of detail is not appropriate for an EIR nor is it possible to provide until the future applicants have project designs in place. In light of these requirements and the many other factors that affect development schedules, it would be improper for the Revised DEIR to speculate on the impact of remediation activities on the overall schedule for development of the Proposed Project, except to note that the Revised DEIR fully discloses and presumes in its impact analysis that the clean-up and remediation of soil and groundwater contamination must occur.

Comment Letter R (Page 33)

issues on the site. Mitigation Measure 4.12-1 in the RDEIR offers essentially the same conclusion as the 2006 Draft EIR analysis in that the contaminated areas of the site must be brought into compliance with applicable state and local cleanup standards before construction can take place.

As indicated in the beginning paragraphs of Mitigation Measure 4.12-1:

*"Prior to the issuance of any permit for excavation, demolition, grading, or construction activities in the area described in the relevant permit based on the planned future use, the following shall occur:*

*A. The applicant shall contact the lead regulatory agency (RWQCB/DEH/DTSC) to discuss the appropriate course of action for the area of concern described in the permit based on the planned future site use. Remediation of contaminated soil and/or groundwater in these areas shall meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and shall be protective of human health with regard to future occupants of these areas. The applicant shall submit documentation showing that contaminated soil and/or groundwater in the area covered by the permit shall have been avoided or remediated to meet cleanup requirements established by the local regulatory agencies (RWQCB/DEH/DTSC)."*

The RDEIR does not comment on the schedule for implementation of remedial actions to address site contamination. This was commented on in the review of the 2006 Draft EIR and has not been addressed by the RDEIR. Given the considerable amount of time it may take to complete site remediation activities, the RDEIR should discuss the impact of these activities on the overall schedule for development of the project.

The RDEIR also does not adequately address how the Proposed Project will affect pathways for contaminated groundwater. For example, the construction of residential structures on parcels H-13 and H-14 could likely disrupt groundwater flow patterns, especially if these structures were to presumably include below grade parking (not specifically described or analyzed in the RDEIR). Regional groundwater flow in the vicinity of the Proposed Project is generally to the west, toward the Bay (see section 4.5.1.4, page 4.5-10 of the RDEIR). Uncertainties exist about how such development would alter the preferential pathways for contaminated groundwater on this site and these uncertainties are not adequately addressed in the RDEIR, even in the Hydrology/Water Quality section (Section 4.5).

R-65  
(Cont.)

R-66

R-67

**R-67** The construction of residential structures per se will not likely affect pathways for contaminated groundwater. Groundwater investigation data for Parcels H-13 and H-14 and groundwater monitoring results for wells in H-13 show that chlorinated volatile organic compound (CVOC) concentrations are greatest in the upper zone B groundwater at depths of 25 to 35 feet below ground surface. At these depths, it is unlikely that foundations for ancillary structures will extend to those depths. Deep footings (pilings) for larger structures (residential or commercial) will likely extend into the upper zone B but will not prevent groundwater from following its natural flowpaths. The footings will be installed using methods intended to minimize the creation of preferential pathways for groundwater flow, which already exist naturally due to the interbedded nature of the alluvial sediments. The uncertainties that are the focus of the comment will be addressed by designs for each project on each parcel. Please also see the responses to comments R-6, R-8, R-9, R-10, and R-45.

Comment Letter R (Page 34)



Goodrich Aerostructures Group  
850 Lagoon Drive  
Chula Vista, California 91910-2098  
Tel: 619 691 2469  
Fax: 619 691 2222  
[www.aerostructures.goodrich.com](http://www.aerostructures.goodrich.com)

Curtis Reusser  
President,  
Aerostructures  
[curtis.reusser@goodrich.com](mailto:curtis.reusser@goodrich.com)

June 17, 2005

Chairman William A. Hall  
Board of Port Commissioners  
Port of San Diego  
P.O. Box 120488  
San Diego, CA 92112-0488

Mayor Stephen C. Padilla  
City of Chula Vista  
Chula Vista Mayor & Council Office  
276 Fourth Avenue  
Chula Vista, CA 91910

Dear Mr. Chairman and Mr. Mayor,

In May 2004, the Port Board of Commissioners and the Chula Vista City Council gave preliminary approval for the preferred "Option C" of the Chula Vista Bayfront Master Plan (the "Project") to move forward and directed staff to identify a specific development program, conduct a financial feasibility analysis and commence the environmental review process.

Since the "move forward" direction was given, the proposed design of the project and its potential impact on Goodrich's business has come into sharper focus. During this design and analysis phase, Goodrich has met with Port and City staff several times to highlight concerns and requests in a timely manner so as to prevent disruption to the master plan development schedule and avoid surprise.

Goodrich and our stakeholders, most notably our 2,000 working men and women, appreciate the time and consideration that the City and Port have afforded us during the past couple of years regarding this project. As you know, Goodrich remains opposed in principle to the Project because your desired results conflict with the spirit, if not the letter, of the Relocation Agreement in that the Project proposes residential uses adjacent to our property that are inconsistent with Port property ownership and were therefore not envisioned upon the signing of the Relocation Agreement.

However, in the spirit of cooperation and for the sake of clarity, Goodrich wishes to reaffirm its position relative to the Project with the following summary of its concerns and desired mitigations:

Rohr, Inc., a subsidiary of Goodrich Corporation, operating as Goodrich Aerostructures Group

**R-68** This comment consists of a letter to the Port and the City in which the author states Goodrich's "position relative to the Project" and "desired mitigation measures." The comment raises a number of issues that relate to Goodrich's desire to prevent any future interference with its operations and its demand for financial compensation from the Port if any such interference were to occur. These issues do not address environmental concerns; therefore, no response is warranted. The comment does raise some environmental issues, such as those concerning site remediation, air quality, visual quality, light and noise impacts, and land uses. These comments are addressed in the responses to comments R-1 through R-67 and also have been addressed in the Port's outreach efforts with Goodrich that resulted in the Second Amendment to Relocation Agreement discussed in the response to comment R-3.

R-68

## Comment Letter R (Page 35)

### A. Environment, Remediation

#### Concern:

Placement of residential and other non-industrial uses on or adjacent to South Campus could trigger clean-up measures that were previously unnecessary, resulting in increased clean-up costs and potential liability.

#### Desired Mitigation:

1. Port to agree to assume and bear all costs to attain remediation standards in excess of risk-based, industrial use standards irrespective of source of contamination.<sup>1</sup> (Relocation Agreement provides that "Port shall bear and be responsible for the incremental South Campus Environmental Costs of [remediation activities] in excess of Industrial Use Standards." (§ 7.2.8)). Please note that Goodrich and the Port have jointly developed an estimated cost for remediation to a risk-based industrial use standard.
2. Goodrich to be indemnified and held harmless from liabilities, costs or expenses resulting from (a) claims for personal injury or property damage (including diminution in value) arising out of or relating to proximity of residential dwellings to contaminated soils or groundwater; and/or (b) from regulatory actions or orders regarding clean-up in excess of risk-based, industrial use standards.

### B. Air Quality Impacts

#### Concern:

Placement of residential development on or adjacent to the South Campus may increase Goodrich's costs or liability relating to air emissions from current or future operations.

#### Desired Mitigation:

1. Port to pay all costs, up to \$2 million, of modifying or upgrading equipment in order to reduce air emissions to remain compliant with more stringent standards that are imposed due to the introduction of residential uses on or adjacent to the South Campus property.
2. Goodrich to be indemnified and held harmless from costs or liabilities associated with air quality impacts on sensitive receptors located on former Port land.

### C. Community Legal Challenges to Goodrich Operations

#### Concern:

Future residents may challenge ongoing operations (on environmental, air quality, nuisance or other grounds) and/or may oppose (before the City or regulatory agencies) any permits or approvals required for future projects or operations.

<sup>1</sup> The Relocation Agreement provides that environmental remediation activities "will be designed to facilitate development consistent with the Port's Master Plan utilizing risk-based standards." (§ 7.1.4) The Port Master Plan does not permit, and cannot legally permit, residential development.

Roehr, Inc., a subsidiary of Goodrich Corporation, operating as Goodrich Aerostructures Group

R-68  
(Cont.)

**Comment Letter R (Page 36)**

**Desired Mitigation:**

1. Deeds and/or other closing documents in connection with sale of lots or residences shall include:
  - (a) Disclosures regarding potential impacts of current and reasonably foreseeable future Goodrich operations ("**Disclosures**").
  - (b) Perpetual, non-exclusive easements granted to Goodrich for noise, light, odor, vibration, viewshed and other impacts arising from current or reasonably foreseeable future operations ("**Easements**").
  - (c) Waivers of claims or complaints (for damages, equitable or injunctive relief) arising out of or relating to impacts for which easements have been granted ("**Waivers**").
2. Development Agreement amended to extend current term and to strengthen provisions guaranteeing Goodrich's right to continue existing operations (manufacturing and related operations and ancillary uses) and reasonable right to obtain future approvals consistent with existing uses ("**Development Agreement/Vested Rights**").

**D. Visual, Light and Noise Impacts**

**Concern:**

Goodrich operations may have visual, light, odor, vibration and/or noise impacts on residential development.

**Desired Mitigation:**

1. Visual buffers (including walls or trees).
2. Disclosures, Easements and Waivers (ref. C., above)
3. Double-paned windows and other noise-attenuating measures.
4. Configuration (including height limitations, discussed below) and orientation of Project buildings to minimize visual impacts.

**E. Future Changes in Land Use**

**Concern:**

1. Residential uses may become more intensive.
2. Other adjacent or nearby Port land sold for development or leased for uses inconsistent with Goodrich operations ("*domino effect*").

**Desired Mitigation:**

1. Agreement prohibiting Port from allowing or facilitating specified inconsistent uses on adjacent or nearby property.
2. Restrictive covenants in deeds prohibiting specified inconsistent uses for so long as Goodrich operations continue.
3. Development Agreement/Vested Rights.
4. Disclosures, Easements and Waivers.

R-68  
(Cont.)

Rohr, Inc., a subsidiary of Goodrich Corporation, operating as Goodrich Aerostructures Group



**Comment Letter R (Page 37)**

**F. Buffer Issues**

**Concern:**

Current Bayfront Master Plan (Option C) calls for buffering use ("Event Center" or other facility) between current Goodrich Campus and proposed residential development. However, proposed development may be of limited or no value unless implemented before or contemporaneously with residential development.

**Desired Mitigation:**

1. Requirement that buffering use be installed before or contemporaneously with residential development.
2. Installation of adequate visual, light and noise barriers (walls, trees) to mitigate adverse impacts.
3. Residential project designed so as to limit/minimize direct views of Goodrich facilities [see "Height Issues" below].

**G. Height Issues**

**Concern:**

Thirty-story building results in direct view of Goodrich operations, exacerbating inconsistent use issues (light, views) and rendering standard mitigation measures (walls, trees) inadequate.

**Desired Mitigation:**

1. Limit height or configure/orient buildings to minimize direct views of Goodrich operations.

Please know that Goodrich shares the City's and Port's vision for a vibrant waterfront that will serve the best interests of the City and region, but also recognize the obligation to our stakeholders to minimize negative impacts to our business. That obligation prevents us from moving forward in support of the Project knowing that there are unmitigated threats to our business as noted above.

Thank you in advance for your prompt review and response to our proposals.

Yours truly,

Curtis Reusser

CC: L. Madigan, R. Hicks

Rohr, Inc., a subsidiary of Goodrich Corporation, operating as Goodrich Aerostructures Group

R-68  
(Cont.)

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**Comment Letter S**

**San Diego & Midwestern Railway Partners LLC**

**11 Bender Drive**

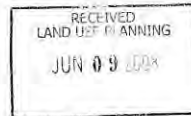
**Park Forest, IL 60466**

San Diego Unified Port District

Land Use & Planning Department

P.O. Box 120488

San Diego, CA 92112-0488.



June 5, 2008

**Re: Comments on the Revised Draft EIR**

These comments are directed towards the Revised Draft EIR for the Chula Vista Bay Front and for the proposed Salt Works development projects. Both of these parcel areas are bisected by the Coronado Belt Line of the SDA&E Railway. While many politicians and developers have viewed the Coronado Belt Line Railroad as an obstacle for development, several opportunities for use of this valuable linear resource continue to be overlooked.

San Diego & Midwestern Railway Partners is the only organization that has ever submitted a business plan for potential use of the Bayshore Railway or Coronado Belt Line. In 1999 we did a revised study of the 1996 SANDAG Tourist Railroad Study called "The Imperial Express Study". In 2000 we presented the "Eco-Trolley" business plan for the Bayshore Railway to Camp Surf and Imperial Beach. In 2004 we presented a "Static Train" catering, food, beverage and retail service on stored railcars to the SDA&E Railway Board. A full copy of that business plan is available from MTS/SANDAG from Mr. Tim Allison or Tiffany Lorenzen.

S-1

**Response to Comment Letter S**

**San Diego AND Midwestern Railway Partners, LLC**

**June 5, 2008**

- S-1** This comment describes the commenter's plans to create a tourist rail line along the Coronado Belt Line. This comment does not address the adequacy of the Revised DEIR and no further response is warranted.

**Comment Letter S (Page 2)**

The proposed static train proposal was originally planned for the Salt Works location as a "place marker" to prevent the premature removal of rail by overzealous politicians and developers. The project was pitched as "Railcar Storage" for private luxury railcar owners in a mild climate. Once the facilities had been developed to the 3<sup>rd</sup> level, an opportunity would exist to commence commercial food, beverage and retail use of these static railcars, without the liability of an operational railroad. In the event that that project were to become financially successful, private funds could be used to restore the rails and continue the rail line to the beach near Camp Surf.

Both the J Street location and Salt Works location are desirable locations for such an operation as shown by our business plan and our many contacts in the tourist railroad industry. Think of it as a marina for "land yachts".

While there may still be some political opposition to having railcars on the beltline, the economic potential of such a "rail themed" attraction should not be overlooked. Not only can a train be moved to both sites quickly, but they can be removed just as fast. We have discussed leasing the belt line right of way as well as asked consideration for the construction of a parallel siding to the beltline. This parallel trackage is still partially existent at the salt works location.

If you would give me an e-mail address I would be happy to send you copies of both the Eco-Trolley (Bayshore Railway Proposal) and the Static Railcar Storage (catering, food, beverage, retail) projects. I would like to have both of these proposals added to the EIR input on both bayfront and salt works project.

Best Regards,



**Ed Kravitz** [charter@rent-a-train.com](mailto:charter@rent-a-train.com)

**San Diego & Midwestern Railway Partners LLC**

**619-890-8894**

(2)

S-1  
(Cont.)

S-2

S-2 This comment does not address the adequacy of the Revised DEIR; therefore, no further response is required.

## Comment Letter T



Via Email: Inishihira@portofsandiego.org

August 7, 2008

Leslie Nishihira  
Associate Redevelopment Planner  
Unified Port of San Diego  
3165 Pacific Highway  
San Diego, CA 92101-1128

Re: Revised Draft Environmental Impact Report Chula Vista Bayfront Master Plan  
#83356-EIR-658; SCH #2005081077

Dear Ms. Nishihira:

South Bay Forum (SBF) has been a long-standing participant in the planning of the bayfront redevelopment project so important to our city. While the new DEIR is improved in some areas, we respectfully offer the following comments and suggestions so that the final DEIR and project can be supported by our membership.

1. SBF urges the Port and City to reconvene the Citizens Advisory Committee

Public participation has been the hallmark of how this project has been planned and forwarded. We request that the Port and City reconvene the Bayfront Citizen's Advisory Committee in a timely manner so that we can continue the public participation process and resolve many of the remaining issues related to acceptable development of our bayfront.

T-1

2. Public Amenities and Environmental Project must be included and funded in Phase 1

One of our core issues is that the Bayfront Plan must work and be available to existing residents in the city. This is a 24 year planning document with the bulk of the dense development being built in Phase 1 and in the first five years. The number of new residents and visitors will create the pressure on, and the need for, the extensive public amenities and environmental protection that we all discussed and planned for in the CAC adopted plan. All of the public amenities, parks, trails, promenades bike paths, and including the environmental protection elements must be included, funded and executed in Phase 1. It is of deep concern that key aspects of the project that were promised are not included until Phase's 2, 3, and 4. Further, the only cultural use, a key priority for

T-2

## Response to Letter T

South Bay Forum  
August 7, 2008

- T-1** This comment recommends reconvening the Citizens Advisory Committee; however, does not address the adequacy of the Revised DEIR and no further response is warranted.
- T-2** This comment expresses disagreement with the proposed phasing of amenities and cultural land uses. Please see the response to comment C-2. As the comment does not specifically address the adequacy of the Revised DEIR, no further response is warranted.

Comment Letter T (Page 2)



SBF, is not listed until Phase 2. This is a key deficiency in the plan and the DEIR and we strongly urge you to rectify it in the Final EIR.

We are also concerned about the total of 2,000 parking spaces recommended for the Sweetwater District alone even though this plan is touted as 'transit oriented'. We urge the Port to re-evaluate this total and make sure that it does not cause the loss of valuable park lands.

3. Final Project must Harmonize with and Enhance western Chula Vista

The Bayfront Plan must harmonize with the existing residents and western Chula Vista. We strongly support a plan based on the land trade and the location of no more than 1500 residential units in the Harbor District where planned. We also support the inclusionary housing requirements be directed to areas off-site and for families having the greatest needs. We urge the city to work with Pacifica to find an affordable housing project that provides maximum benefits to lowest income and most at-risk families.

SBF is also in strong support of the elements of the agreement Pacifica made with local organizations, especially the creation of an independent Foundation that would ensure long-term funding for our westside communities and the bayfront environment in perpetuity. We request that all developers on the bayfront, likewise, support and contribute to this foundation concept.

If we can be of further assistance, do not hesitate to contact Jose Preciado at [admin@southbayforum.com](mailto:admin@southbayforum.com) or Norma Cazares at [nacazares@aol.com](mailto:nacazares@aol.com).

Sincerely,

Jose R. Preciado, President  
South Bay Forum

Norma A. Cazares, Member, CAC  
South Bay Forum

**T-3** The parking study was prepared to ensure an adequate supply of parking was proposed (1,906 spaces) in the Sweetwater District. No existing parklands will be lost as a result of the parking. As part of the Proposed Project, parklands will be increased in the Bayfront area.

**T-4** This comment expresses support for limiting the Pacifica Residential and Retail Project to no more than 1,500 units and encourages the City's coordination with Pacifica on an affordable housing project with maximum benefits. This comment will be included in the Final EIR and will be taken into consideration by the City when it makes its decision as a responsible agency whether or not to approve the Proposed Project.

As provided in the response to comment I-13, the residential developer is working within existing City affordable housing parameters to offset potential impacts regarding affordable housing. The residential development is planned in a Redevelopment Project Area and as such, 20 percent of the property tax increment (the increase in property taxes generated as a result of the construction of the projects) will be committed to the development of affordable housing. These tax increment revenues will be used in several ways to increase the supply of affordable housing in western Chula Vista, including partnerships with non-profit developers to provide gap financing for affordable housing development. In addition to the use of the tax increment, the City's Inclusionary Housing Policy requires that 10 percent of the residential units development in a Redevelopment Project Area is set aside as affordable housing. The affordability of these units is ensured through recorded covenants that limit prices for the units, income limitations for owners/renters, and deed restrictions governing the terms of re-sale of the units.

Comment Letter T (Page 2)



SBF, is not listed until Phase 2. This is a key deficiency in the plan and the DEIR and we strongly urge you to rectify it in the Final EIR.

T-2  
(Cont.)

We are also concerned about the total of 2,000 parking spaces recommended for the Sweetwater District alone even though this plan is touted as 'transit oriented'. We urge the Port to re-evaluate this total and make sure that it does not cause the loss of valuable park lands.

T-3

3. Final Project must Harmonize with and Enhance western Chula Vista

The Bayfront Plan must harmonize with the existing residents and western Chula Vista. We strongly support a plan based on the land trade and the location of no more than 1500 residential units in the Harbor District where planned. We also support the inclusionary housing requirements be directed to areas off-site and for families having the greatest needs. We urge the city to work with Pacifica to find an affordable housing project that provides maximum benefits to lowest income and most at-risk families.

T-4

SBF is also in strong support of the elements of the agreement Pacifica made with local organizations, especially the creation of an independent Foundation that would ensure long-term funding for our westside communities and the bayfront environment in perpetuity. We request that all developers on the bayfront, likewise, support and contribute to this foundation concept.

T-5

If we can be of further assistance, do not hesitate to contact Jose Preciado at [admin@southbayforum.com](mailto:admin@southbayforum.com) or Norma Cazares at [nacazares@aol.com](mailto:nacazares@aol.com).

Sincerely,

Jose R. Preciado, President  
South Bay Forum

Norma A. Cazares, Member, CAC  
South Bay Forum

T-5 This comment expresses support for participation by all Bayfront developers in an independent foundation to ensure long-term funding for westside communities and the Bayfront environment. Because this comment does not address the adequacy of the Revised DEIR, no further response is warranted.

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## Comment Letter U

Board of Directors

Allied Waste

AT&T

Brown Marketing Strategies

City of Chula Vista

City of Coronado

City of Imperial Beach

City of National City

City of San Diego

County of San Diego

Cox Communications

Designed Internet Solutions

First National Bank

GEOCON Incorporated

Highland Partnership

J. Summa Agency

McCann Chrysler/Jeep

O.A.P. Packaging

Parsons

Port of San Diego

Project Design Consultants

PSAR

SANDAG

San Diego Gas & Electric

San Diego National Bank

San Diego Regional Chamber of Commerce

Scripta Mercy Hospital

Security Business Bank

Sharp Hospital

Solidus Property

Southbay Expressway

Southwestern Community College

Sweetwater Union High School District

The Corby McMillin Companies

The Eastlake Development Company

The Paul Company

Tyname CDT

Tyname DBITAC

Union Bank



San Diego's Voice for  
Binational Business

**South County Economic Development Council**



July 7, 2008

Lesley Nishihira, Associate Planner  
Port of San Diego, Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Dear Lesley,

RE: Chula Vista Bayfront Plan

The South County Economic Development Council Board of Directors unanimously supports the Chula Vista Bayfront Development as an opportunity for vital business investments and job creation in an economically challenged area of South County. The Chula Vista Bayfront, one of South County's most underutilized resources, has the opportunity to become accessible and enjoyed by many with its development. Development of the bayfront lends itself to becoming a destination for out of town travelers bringing additional tax revenue into the South County.

The bay front is located in an area that is economically challenged. Development of the bay front will bring much needed jobs to the area. In particular the Gaylord Project will lend itself to thousands of jobs. It will also act as a catalyst for further investment on the bay front.

For the overall economic opportunity the development of the Chula Vista Bay front brings South County Economic Development Council supports the proposed Chula Vista Bay front Development plan including the hotel and convention center.

If I may provide additional information please do not hesitate to contact me at 619-424-5143.

Sincerely,

Cindy Gempfer Graves  
Chief Executive Officer

1111 Bay Blvd, Suite E • Chula Vista, CA 91911  
(619) 424-5143 • Fax (619) 424-5738  
[www.sandiegosouth.com](http://www.sandiegosouth.com)

## Response to Comment Letter U

### South County Economic Development Council

July 7, 2008

**U-1** This comment will be included in the Final EIR and will be taken into consideration by the Board of Port Commissioners when it makes its decision whether or not to approve the Proposed Project.

U-1

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**Comment Letter V**

Lesley Nishihira - comments on bayfront DEIR

**From:** THERESA ACERRO <thacero@yahoo.com>  
**To:** Leslie Nishihira <lnishihira@portofsandiego.org>  
**Date:** 8/4/2008 8:28 PM  
**Subject:** comments on bayfront DEIR  
**Attachments:** comment1DEIR.pdf

Leslie,  
I am sending an electronic copy because I have a lot of references to websites and I think that would be easier to access. I will also mail or bring by a hard copy.  
Theresa

**Response to Comment Letter V**

**Southwest Chula Vista Civic Association**  
**August 4, 2008**

**Comment Letter V (Page 2)**

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Comment Letter V (Page 3)



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

San Diego Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

RE: DEIR for Bayfront Master Plan

To Whom it May Concern:

The Southwest Chula Vista Civic Association (SWCVCA) was formed to provide a structured association for the residents, property owners, and business owners of the underrepresented Southwestern region of Chula Vista, to participate in the preservation, planning, development and protection of the unique character of the area through community education and group action. We believe the Bayfront Project will have many profound effects upon our community.

After reviewing the document and its Appendices the SWCVCA feels that CEQA demands that the DEIR issued in May 2008 be reissued as a program EIR after certain changes have been made to it.<sup>1</sup> "It is the state policy in California that 'long-term protection of the environment ... shall be the guiding criterion in public decisions.'"<sup>2</sup> There is very little in this document that promotes the long-term or the short-term protection of the environment or gives sufficient detail to allow decision makers and the public to be assured that anything is being protected. The exception would be the land trade, which would guarantee a lot of protection for the NWR, if more precise information about more sensitive development in the Sweetwater District were included in the FEIR. There are some good ideas mentioned that would be positive for the environment, but a gross lack of detail and very little firm commitment on positive things coupled with many things that would likely have a negative impact upon the environment make the document inadequate at the project level as now written.

The purpose of CEQA is full disclosure of environmental impacts. This requires a detailed and specific project description. The project description still fails to provide a full and detailed description of the project, including planning, construction and operation, each of which will cause its own<sup>3</sup>

<sup>1</sup> **15088.5. Recirculation of an EIR Prior to Certification** (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

<sup>2</sup> *Davidon Homes versus the City of San Jose* (1997)

<sup>3</sup> **15124. Project Description Discussion:** This section requires the EIR to describe the proposed project in a way that will be meaningful to the public, to the other reviewing agencies, and to the decision-makers. Although the statute contains no express requirement for an EIR to contain a project description, the statutory points of analysis need to be supplemented with a project description for the analysis to make sense. This section is a codification of the ruling in *County of Inyo v. City of Los Angeles*, cited in the note. There the court noted that an accurate description of the project has been required by case law interpreting the National Environmental Policy Act. The state court of appeal declared that an accurate, stable, finite project description is an essential element of an informative and legally sufficient EIR under CEQA.

**V-1** This comment is introductory in nature, stating the commenter's overall opinion of the Revised DEIR. Detailed responses to the commenter's concerns will be provided in the following text as specific issues are raised.

The commenter also requests that the EIR be reissued as a program EIR. In response, the Revised DEIR is intended as a program-level EIR for Phases II, III, and IV development, as well as certain Phase I components. The Revised DEIR is intended as a project-level EIR for Phase I development on Parcels H-13, H-14, HP-5, and H-17. The Revised DEIR was prepared specifically to address concerns from the previously circulated Draft EIR relative to the level of detail. The Revised DEIR provides a thorough and specific project description of the project components that are occurring in Phase I and analyzed at a project-level, namely the Pacifica project (H-13 and H-14), HP-5, and the H-17 fire station. All other proposed Phase I components, as well as all Phases II through IV development, are intended to occur in the future, and at such time, will conduct subsequent environmental review consistent with CEQA Guidelines Section 15168.

**V-2** The CEQA Guidelines (14 CCR 15000 et seq.) specifically state that the project description should contain enough information needed for evaluation and review of the environmental impacts, but should not supply extensive detail beyond that needed. Specifically, Guidelines Section 15124(c) states it should include, "A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities." *Chapter 3.0, Project Description*, of the Revised DEIR is over 160 Pages and contains substantial information including land uses, infrastructure, and public facilities for the Proposed Project. No further description is needed.

Comment Letter V (Page 3)



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

San Diego Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

RE: DEIR for Bayfront Master Plan

To Whom it May Concern:

The Southwest Chula Vista Civic Association (SWCVCA) was formed to provide a structured association for the residents, property owners, and business owners of the underrepresented Southwestern region of Chula Vista, to participate in the preservation, planning, development and protection of the unique character of the area through community education and group action. We believe the Bayfront Project will have many profound effects upon our community.

After reviewing the document and its Appendices the SWCVCA feels that CEQA demands that the DEIR issued in May 2008 be reissued as a program EIR after certain changes have been made to it.<sup>1</sup> "It is the state policy in California that 'long-term protection of the environment ... shall be the guiding criterion in public decisions.'"<sup>2</sup> There is very little in this document that promotes the long-term or the short-term protection of the environment or gives sufficient detail to allow decision makers and the public to be assured that anything is being protected. The exception would be the land trade, which would guarantee a lot of protection for the NWR, if more precise information about more sensitive development in the Sweetwater District were included in the FEIR. There are some good ideas mentioned that would be positive for the environment, but a gross lack of detail and very little firm commitment on positive things coupled with many things that would likely have a negative impact upon the environment make the document inadequate at the project level as now written.

The purpose of CEQA is full disclosure of environmental impacts. This requires a detailed and specific project description. The project description still fails to provide a full and detailed description of the project, including planning, construction and operation, each of which will cause its own<sup>3</sup>

V-1

V-2

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The commenter expresses a perception that the realignment of Marina Parkway would result in a loss of parking and businesses. In response to the specific comment regarding loss of parking, please refer to Pages 4.3-1 through 4.3-7 of the Revised DEIR, which summarize the parking rates and requirements for the Port and the City. *Section 4.3, Parking*, includes an analysis of how the Proposed Project will meet these guidelines.

Comment Letter V (Page 4)

environmental impacts requiring mitigation.<sup>4</sup> In fact there is some doubt that at this stage it is even possible to give such a description, since no one has had an architect draw detailed plans yet for any of the three Phase One projects and some critical decisions have not been made. Several roads are in Phase One and there is inadequate analysis as to their long-term impact upon the environment. Moving Marina Parkway further west will eliminate several thriving businesses and the Yacht Club as well as reducing or eliminating parking for the 700 boat slips. Where is the analysis of the effects of this?

Another glaring omission is the lack of identification of staging areas for the Pacifica Project and the Gaylord Project. Two projects of the size proposed for these certainly require staging areas. Where are they and what are the environmental effects of using these pieces of land for staging? (All that is said about staging areas is that heavy equipment will be kept at the center of staging area to lessen noise effects on habitat.) Commonly Environmental Impact Reports at the project level also analyze the effects upon the chosen staging area and its surroundings.

Due to the size and complexity of the DEIR we reserve the right to submit further comments in the future.

DEIRs are customarily written when detailed architectural designs and site maps, etc. are available for review and study simultaneously with the environmental document. The DEIR does not contain references to or representations of these. What it has are some conceptual architectural sketches. This DEIR has marginally more details than the one in 2006, but no more certainty. It is apparent that the Signature Park, Gaylord and Pacifica Residential are still at the program stage and not ready for project level CEQA review. Why doesn't the Port just acknowledge the whole DEIR is a programmatic, phased EIR and get the amendments to the LCP and PMP and the land swap out of the way? When an architect has been hired and has prepared a detailed plan and funding has been lined up the Port can do a separate EIR for the Signature Park, roads (At the project level a precise drawing to scale of road locations, ROWs and how expansions will be handled should be available.) and buffer zone. Gaylord can be responsible for a project level EIR for their RCC when they have an architect and specific plans ready. Pacifica can start the entitlement process with the city, which normally would include an EIR after they have an architect, specific plans and a decision about the L Ditch. To try to throw all these things together now without any certainty as to exactly what is being proposed is a foolish waste of all of our time.

Even at the programmatic level some things need changing:

1. The ecological buffer has to be Phase I and has to have a sturdy fence for the entire west and north sides of Sweetwater. It is described as a design feature, but there is an implication of a mitigation bank. This is not acceptable. The buffer, including the restored habitat in the no-touch 200 feet clearly is mitigation for this project, some of the adjacency issues created by the park and the over-all intensity and mass of the total master plan.
2. The seasonal wetland has to be reunited with the F&G Street marsh (a bridge could replace Lagoon Road for pedestrians and bicycles) by improving the tidal channel to both areas. This could be mitigation for some of the adjacency issues of the Gaylord project as well as the removal of the illegal fill from the F/G Street Marsh.
3. Telegraph Canyon needs to be naturalized, no concrete. Considering the price of concrete this option would probably have a comparable cost. The channel needs to be enlarged because it is inadequate to handle future run-off from the city and the site.

<sup>4</sup> 15161. Project EIR The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation. **Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code.

**V-3** The construction staging area for Phase I will be located within the footprint of the CVBMP area. Staging area locations during Phase I would include parcels that are vacant during this phase, such as Parcels H-23 and H-15.

**V-4** Please refer to the responses to comments V-1 and V-2. Further, the Revised DEIR was prepared to act as a project-level EIR for the Phase I components, as well as a program-level EIR for Phases II through IV and certain Phase I components. CEQA (California Public Resources Code, Section 21000 et seq.) recommends use of a program EIR when there are a series of actions that can be characterized as one large project. Some advantages include allowing the lead agency to consider broad policy alternatives and program-wide mitigation measures at an earlier time. Impacts were wholly quantified where project-level detail was available; however, in future phases and consistent with CEQA Guidelines Section 15168(c), subsequent activities will be examined with additional environmental review at the time of approving those future phased components. In addition, Pages 3-39 through 3-103 contain significant specific detail regarding all Phase I components of the project, as well as many figures demonstrating the site plans and elevations of the Pacifica project.

As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

Comment Letter V (Page 4)

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Due to the size and complexity of the DEIR we reserve the right to submit further comments in the future.

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V-5 Please see the responses to comments B-13, B-14, C-3, C-4, C-5, and Q-14.

V-6 Please see the response to comment Q-10.

V-7 This comment expresses an opinion that Telegraph Canyon Creek be fully naturalized and enlarged to convey future runoff from the City. As stated on Page 4.5-26 of the Revised DEIR in *Section 4.5, Hydrology and Water Quality*, Phase III development in the Otay District includes widening Telegraph Canyon Channel and connecting new storm drain lines from the project site to the channel. In order to increase the channel's capacity, the bottom width of the channel will be increased to 110 feet, to include the construction of a 20-foot-wide, low-flow vegetated channel. The remaining 90 feet of the channel would be concrete. A detailed hydrologic and hydraulic analysis will be required prior to beginning development of Phase III to confirm that the channel's future capacity would be sufficient. All development contemplated for the Otay District is proposed to occur in Phase III and has been assessed at a program-level in the Revised Draft EIR. All project-specific proposals, including improvements to Telegraph Creek Channel (OP-2B), must undergo subsequent environmental review. The feasibility of widening Telegraph Canyon Channel will be considered and analyzed as part of that review process. Please also refer to the response to comment Q-14.



**Comment Letter V (Page 5)**

4. The height and size of the hotel in the Sweetwater District have to be reduced to at least what they are in the Harbor Park Alternative. The office building needs to be moved away from the refuge and its height reduced to below 100 feet. The buffer needs to continue all the way to the freeway.
5. All the Roads, bike paths and promenades need to be shielded in some way to prevent the flushing of birds and noise and/or light penetration to the bay or other sensitive habitats.
6. A better shading study (after the actual buildings to be built and their exact locations are known) needs to be done to insure that buildings do not shade habitat. There also needs to be a temperature/wind study of the effects of the increased paving and building masses on the microclimates of the habitats, particularly wetlands S-2A and the F&G Marsh. These are potentially very negative impacts, not dealt with at all in this DEIR.
7. Funding has to be identified for Predator Management Program, Natural Resources Management Plan and Implementation, Ranger Services for enforcement and education of the public, and a training program for construction workers and operational employees about the sensitivity of surrounding habitats.
8. The Green Car line must be funded. This is crucial to a major goal of the project-linking the bay front with the CV downtown area. Without it the goal is not met by this project. There also needs to be a shuttle linking the southwestern area of the city to the bay front. Environmental Justice requires providing this access to all classes and racial/ethnic groups in the city not just an envisioned future elite group living around north Third Avenue. No area of the city is entitled to preferential treatment by the government. A much greater emphasis in general must be given to cheap, efficient transit options for tourists and residents. (Having policies simply is not sufficient. Plans and financing are needed.)
9. Impacts to habitat from Global Warming and Sea Level Rise must also be evaluated and dealt with.
10. An Integrated Pest Management Program needs to be committed to to eliminate toxic pesticides. The PMP has this, but it is not guaranteed within the EIR for Pacifica and city property or Gaylord for that matter, just for the parks. Fireworks, jet-skis, laser and other light shows must be prohibited or allowed only by permit at rare times during the year and with careful restrictions.
11. There must be mitigation for the loss of the actively used raptor foraging in non-native grasslands in Sweetwater and Otay Districts. The buffer zone in Otay also must be described as a design feature with mitigation only being for project components.
12. There has to be active protection of the important mud flats in the Sweetwater District.
13. There needs to be secure fencing to prevent entry to the J Street marsh.
14. There needs to be clarification that the six foot fence will go all the way around the Otay District to keep people and animals out of the J street marsh, the bay, and the NWR to the south.

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**Sweetwater District**

**Park**

The current DEIR still lacks sufficient detail for a project level analysis of the Signature Park. This park is clearly a development project. Just the amount of cut and fill would verify that, but the

V-19

**TABLE 3-6**  
**Proposed Project Grading Quantities**  
(cubic yards)

District	Cut	Fill	Import/Export
Sweetwater	203,000	115,000	88,000 export

4

**V-8** This comment expresses an opinion regarding the height and size of the hotel in the Sweetwater District and the proximity of office buildings to the SDBNWR. Please see the response to comment V-81. The commenter also recommends that the buffer on Parcel S-4 be extended to the freeway. As discussed on Page 3-116 of the Revised DEIR, the 100-foot-wide habitat buffer will be included on the north end of Parcel S-4 to buffer the sensitive habitat to the north from development. The 100-foot buffer on S-4 described in *Chapter 3.0, Project Description*, of the Revised Draft EIR (Page 3-116) is consistent with CCC buffer requirements.

As described in *Chapter 2.0, Introduction*, and *Chapter 3.0, Project Description*, of the Revised DEIR, program-level components of the Proposed Project would be subject to subsequent environmental review as “subsequent activities” pursuant to CEQA Guidelines Section 15168. Once detailed project-level plans are proposed for Parcel S-4, subsequent environmental review will consider potential impacts from the proposed development project pursuant to CEQA Guidelines Section 15168. Nonetheless, in response to this comment and other comments on the Revised DEIR regarding the buffer on S-4, *Chapter 3.0, Project Description*, of the Final EIR has been revised for Parcel S-4 to clarify that at the time project specific development is proposed, shading impacts, as well as appropriate setbacks, step backs, and/or height reductions, will be analyzed as part of the necessary subsequent environmental review for this parcel.

Comment Letter V (Page 5)

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(cubic yards)

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V-9

The comment states that all roads, bike paths, and promenades should be shielded in some way to prevent the flushing of birds resulting from noise and light impacts. *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR evaluates impacts to bird species pursuant to thresholds identified on Page 4.8-100. Flushing is considered a component of indirect impacts to sensitive birds that was addressed in this section consistent with MSCP standards, which were approved by the Resource Agencies (Page 4.8-106). As discussed in *Section 4.8*, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological monitoring, raptor management, and consultation with the USFWS and the CDFG (See **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6**). Furthermore, the comment's request for shielding of all roads, bike paths, and promenades to prevent noise and/or light penetration to the Bay or other sensitive habitats is inconsistent with coastal access values. Nonetheless, in response to this and other comments received by the Port, **Mitigation Measures 4.8-6.D and 4.8-6.E** have been revised in the Final EIR to include additional measures intended to minimize noise and light penetration into the Bay and sensitive habitats.

**Comment Letter V (Page 5)**

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7. Funding has to be identified for Predator Management Program, Natural Resources Management Plan and Implementation, Ranger Services for enforcement and education of the public, and a training program for construction workers and operational employees about the sensitivity of surrounding habitats.
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**V-10** The shading study that was conducted for the Revised DEIR included specific design of the Phase I project components, specifically, the dimensions of the building proposed for the Pacifica development project, based on actual building design. Graphics depicting the shading analysis that was performed to determine project impacts have been included as *Appendix 4.4-4* to the Final EIR. Rather than providing a speculative analysis of theoretical development that might occur in future phases of the proposed master plan project, the Revised DEIR provides that shading analysis of future development in Phases I through IV will be conducted pursuant to CEQA Guidelines Section 15168 when specific building designs and subsequent projects are proposed. As noted in the Preface to the Final EIR, development on Parcel H-3 is no longer analyzed at a project level as there is currently no active developer pursuing development of this parcel. At the time a project-specific development application is submitted for Parcel H-3, a site-specific shading analysis will be conducted to evaluate impacts to sensitive habitats. Please also see the responses to comments B-30, C-29, and V-128.

Adequate buffering of sensitive habitat areas has been provided to ensure that indirect effects resulting from shading, increased paving, or wind deflection are minimized; therefore, it is not anticipated that buildings and paving would result in substantial indirect thermal effects. No additional analysis is required or warranted.

**V-11** Please see the response to comment Q-22.

Comment Letter V (Page 5)

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6. A better shading study (after the actual buildings to be built and their exact locations are known) needs to be done to insure that buildings do not shade habitat. There also needs to be a temperature/wind study of the effects of the increased paving and building masses on the microclimates of the habitats, particularly wetlands S-2A and the F&G Marsh. These are potentially very negative impacts, not dealt with at all in this DEIR. V-10
7. Funding has to be identified for Predator Management Program, Natural Resources Management Plan and Implementation, Ranger Services for enforcement and education of the public, and a training program for construction workers and operational employees about the sensitivity of surrounding habitats. V-11
8. The Green Car line must be funded. This is crucial to a major goal of the project-linking the bay front with the CV downtown area. Without it the goal is not met by this project. There also needs to be a shuttle linking the southwestern area of the city to the bay front. Environmental Justice requires providing this access to all classes and racial/ethnic groups in the city not just an envisioned future elite group living around north Third Avenue. No area of the city is entitled to preferential treatment by the government. A much greater emphasis in general must be given to cheap, efficient transit options for tourists and residents. (Having policies simply is not sufficient. Plans and financing are needed.) V-12
9. Impacts to habitat from Global Warming and Sea Level Rise must also be evaluated and dealt with. V-13
10. An Integrated Pest Management Program needs to be committed to to eliminate toxic pesticides. The PMP has this, but it is not guaranteed within the EIR for Pacifica and city property or Gaylord for that matter, just for the parks. Fireworks, jet-skis, laser and other light shows must be prohibited or allowed only by permit at rare times during the year and with careful restrictions. V-14
11. There must be mitigation for the loss of the actively used raptor foraging in non-native grasslands in Sweetwater and Otay Districts. The buffer zone in Otay also must be described as a design feature with mitigation only being for project components. V-15
12. There has to be active protection of the important mud flats in the Sweetwater District. V-16
13. There needs to be secure fencing to prevent entry to the J Street marsh. V-17
14. There needs to be clarification that the six foot fence will go all the way around the Otay District to keep people and animals out of the J street marsh, the bay, and the NWR to the south. V-18

**Sweetwater District**

**Park**

The current DEIR still lacks sufficient detail for a project level analysis of the Signature Park. This park is clearly a development project. Just the amount of cut and fill would verify that, but the

TABLE 3-6  
Proposed Project Grading Quantities  
(cubic yards)

District	Cut	Fill	Import/Export
Sweetwater	203,000	115,000	88,000 export

4

V-19

**V-12** The Green Car Line is not a component of this project. *Chapter 3.0, Project Description*, of the Revised DEIR makes reference to the City's adopted Urban Core Specific Plan, which identifies the potential for this shuttle service. The implementation of this shuttle is not part of the Proposed Project, however. In response to this comment, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. Please also see the responses to comments K-12 and P-2.

**V-13** Both the Revised DEIR and the Air Quality Technical Reports address global climate change, including quantification of greenhouse gases and policies designed to reduce greenhouse gas emission levels based on the requirements of AB 32. *Section 4.6.3.2* of the Revised DEIR presents the global climate change analysis. *Table 4.6-32* presents the measures that will be adopted to reduce greenhouse gas emissions (see Page s 4.6-17, -18, -19, -26, -27, and -47 through -61.) The analysis in the Revised DEIR includes an assessment of sea level rise and its potential effects on the project. *Section 6.8.1* of the Revised DEIR analyzes potential cumulative impacts concerning global climate change (Page s 6-26 through 6-32).

**V-14** Please see the responses to comments B-26, C-13, and Q-20.

**V-15** Mitigation for impacts to non-native grassland is included in the Revised DEIR, in **Mitigation Measure 4.8-9**. Ratios for mitigation of non-native grassland project wide are consistent with the City's MSCP Subarea Plan requirements. The buffer proposed within the OP-2A parcel is described as a project feature, as discussed in *Section 3.4.4.3* of the Revised DEIR. The proposed creation of salt marsh and restoration of coastal sage scrub and native grasslands within OP-2A is intended to be used for mitigation of project impacts.

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4. The height and size of the hotel in the Sweetwater District have to be reduced to at least what they are in the Harbor Park Alternative. The office building needs to be moved away from the refuge and its height reduced to below 100 feet. The buffer needs to continue all the way to the freeway.
5. All the Roads, bike paths and promenades need to be shielded in some way to prevent the flushing of birds and noise and/or light penetration to the bay or other sensitive habitats.
6. A better shading study (after the actual buildings to be built and their exact locations are known) needs to be done to insure that buildings do not shade habitat. There also needs to be a temperature/wind study of the effects of the increased paving and building masses on the microclimates of the habitats, particularly wetlands S-2A and the F&G Marsh. These are potentially very negative impacts, not dealt with at all in this DEIR.
7. Funding has to be identified for Predator Management Program, Natural Resources Management Plan and Implementation, Ranger Services for enforcement and education of the public, and a training program for construction workers and operational employees about the sensitivity of surrounding habitats.
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9. Impacts to habitat from Global Warming and Sea Level Rise must also be evaluated and dealt with.
10. An Integrated Pest Management Program needs to be committed to to eliminate toxic pesticides. The PMP has this, but it is not guaranteed within the EIR for Pacifica and city property or Gaylord for that matter, just for the parks. Fireworks, jet-skis, laser and other light shows must be prohibited or allowed only by permit at rare times during the year and with careful restrictions.
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V-8

V-9

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V-12

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V-18

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**Proposed Project Grading Quantities**  
(cubic yards)

District	Cut	Fill	Import/Export
Sweetwater	203,000	115,000	88,000 export

4

**V-16** Please see the response to comment Q-9. It appears that this comment refers to the mudflats that are outside of the boundaries of the project. Direct and indirect impacts on these areas are avoided through measures incorporated into the project design, and/or project mitigation, as described in *Sections 4.8, Terrestrial Biological Resources*, and *4.9, Marine Biological Resources*, of the Revised DEIR. Therefore the project does not impact or require any additional mitigation for these areas under CEQA.

**V-17** Please see the responses to comment C-6 and D-39.

**V-18** Please see the responses to comment C-6 and D-39.

**V-19** *Chapter 3.0, Project Description*, (Page 3-40 of the Revised DEIR), specifically defines the S-2 Signature Park as follows, "It is envisioned as a passive use, meadow-type park with amenities such as landscaping, lighting, restrooms, drinking fountains, bicycle racks, tot lots, picnic areas, benches, trash bins, interpretive signage, landscape berms, public art, and decomposed granite paving." The timing of inclusion of program components of the S-2 Signature Park are dependent upon funding; however, the site will be graded and dedicated as a park from the outset to provide meaningful recreation opportunities for the region. Please see the response to comment B-76 regarding park amenities as described in the Final EIR. Please also see the responses to comments B-23 and Q-16 regarding trash management. In response to the commenter's concern regarding the amount of parking provided, the Proposed Project includes an 18-acre park, which requires parking. The parking provided is consistent with Port parking requirements. The project description does not include retail within the Signature Park.

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description is clearly of a developed park-tot lots, picnic areas, parking lot etc., not passive open space. 3-40: *The park could also include cultural uses; small food and beverage vending; specialty retail involving gifts, novelties, clothing, and jewelry; group activities of nearby businesses; and other minor park-activating uses.* The key word here is “could,” which deprives the public of the clarity needed to judge impacts. It is imperative that the exact number and size as well as specific location of these cultural, food and beverage, and other commercial uses be specified as well as rules established for what types of business group activities will be allowed. Each one of these uses has potential negative impacts that have not been analyzed. This is totally unacceptable for project level review. There also needs to be a trash management plan, since these uses will increase the amount of trash. The parking lot and all these stores will take up a fair amount of the 18 acres of this park. Just how much picnic and free play area will be left, if any? There needs to be more specificity about this park or it is impossible for the public to judge the amount of mitigation required. “Park-activating uses” is the opposite of a “passive park.”

3-40: *The aforementioned park improvements will be phased in as funding becomes available.* Why is the park Phase I if nothing is to be built until later? Exactly what part of the park besides the grading will be available to the public in Phase I? This park supposedly is compensation to the public for unmitigatable negative traffic, air quality, visual/aesthetic and energy impacts, but the Port isn’t going to build it until “funding becomes available?” Isn’t that likely to be never, considering that the Port will make nothing off of Gaylord for the 20 years it takes to pay off bonds?

The location of this park between two parts of a Wildlife Refuge makes very significant negative impacts to that refuge a great likelihood. These issues are not dealt with at all. Indeed the 400- foot buffer zone with 200 feet of no touch habitat is not planned until Phase two! By Phase II “as funding becomes available (from where? There is no income from Gaylord for 20 years)” the refuge could well be highly degraded by the impacts from this park. The funding for this buffer needs to be part of the infrastructure bond because it needs to be in place **before** construction starts. A park of this size will attract many people and their pets. The buffer is a design feature meant to minimize negative impacts, but without clarity it is impossible to judge how much additional mitigation is needed in the form of ranger time, etc.

The Port says the trash cans will be emptied every day. This does not happen now at the existing parks. Exactly how much extra staff is the port committing to this park? The park needs to be described in detail with detailed drawings in order for there to be a project level analysis and the signature park needs to be part of the bond.

Clearly this park must be closed at night, lighting must be close to the ground and limited, and there need to be posted and enforced rules about treatment of wildlife, plants, trash, habitat areas, pets, etc. This needs to be an organic low-water use park (a model) without fertilizers and pesticides. There is a DVD available on how to do this:

<http://www.ctclimatechange.com/documents/InterestinOrganicLandCarcisGrowing.pdf>. The City and Port’s IPM policies are not nearly strict enough for this site and focus entirely on run-off. There must also be a predator control program and a ranger who patrols regularly and educates the public about proper behavior to insure that the rules are enforced. A list of rules as well as a specific design for the park needs to be part of the project description. These details need to be in the DEIR as assurance that they will be enforced.

The vague 18- acre park makes it impossible to determine all the impacts. USFW and the CAC preferred the Harbor Park alternative because of the greater impacts to be expected from a public park in this area. If, to please Gaylord, the port refuses to use common sense then this park must be fully mitigated as well as exceptionally well designed with the protection of the surroundings the key feature.

The buffer needs to be in place before construction even starts in order to protect against intrusion by the 9,000 estimated (by Gaylord) construction crew. As it is now described this buffer is totally inadequate to protect the refuge against negative impacts from the park and intrusion. There has

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V-20 Please see the response to comment V-19.

V-21 The buffer proposed within Parcel SP-1 will be established in Phase I and will therefore serve the function of a buffer for purposes of avoiding and reducing indirect effects from Phase I development. Please also see the responses to comments B-10 and B-14 regarding the installation of 6-foot-high, vinyl-coated chain-link fencing.

V-22 As described in *Chapter 3.0, Project Description*, the Signature Park proposed on Parcel S-2 is a program-level component of the Proposed Project. The project description provides adequate information in order to analyze potential impacts of the park at a program level, and no further analysis is required. Please see the responses to comments B-23, B-70, and Q-16 regarding trash management and receptacles.

V-23 This comment expresses an opinion regarding the hours, lighting, and rules of use of the proposed park. As provided in the response to comment B-76, pursuant to *Section 8.02, Park Areas Regulated*, of the San Diego Unified Port District Code, operational hours for all proposed park areas shall be limited to the hours between 6:00 a.m. and 10:30 p.m. Lighting impacts are addressed in *Section 4.8-5* of the Revised DEIR (Page 4.8-108) and in **Mitigation Measure 4.8-6D** (Page 4.8-146 of the Revised DEIR). Please also see the responses to comments B-31 and B-32.

V-24 Please see the responses to comments B-6, B-23, and Q-14 regarding educational programs and predator management. Please also refer to the response to comment Q-22 in regard to funding mechanisms for the implementation of the provisions of **Mitigation Measure 4.8-6** and **Mitigation Measure 4.8-7** (in the Final EIR) related to indirect impacts to biological resources and predator management.

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description is clearly of a developed park-tot lots, picnic areas, parking lot etc., not passive open space. 3-40: *The park could also include cultural uses; small food and beverage vending; specialty retail involving gifts, novelties, clothing, and jewelry; group activities of nearby businesses; and other minor park-activating uses.* The key word here is “could,” which deprives the public of the clarity needed to judge impacts. It is imperative that the exact number and size as well as specific location of these cultural, food and beverage, and other commercial uses be specified as well as rules established for what types of business group activities will be allowed. Each one of these uses has potential negative impacts that have not been analyzed. This is totally unacceptable for project level review. There also needs to be a trash management plan, since these uses will increase the amount of trash. The parking lot and all these stores will take up a fair amount of the 18 acres of this park. Just how much picnic and free play area will be left, if any? There needs to be more specificity about this park or it is impossible for the public to judge the amount of mitigation required. “Park-activating uses” is the opposite of a “passive park.”

3-40: *The aforementioned park improvements will be phased in as funding becomes available.* Why is the park Phase I if nothing is to be built until later? Exactly what part of the park besides the grading will be available to the public in Phase I? This park supposedly is compensation to the public for unmitigatable negative traffic, air quality, visual/aesthetic and energy impacts, but the Port isn't going to build it until “funding becomes available?” Isn't that likely to be never, considering that the Port will make nothing off of Gaylord for the 20 years it takes to pay off bonds?

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V-25 Please see the response to comment C-2. All direct and indirect effects on biological resources resulting from implementation of the project, including the Signature Park, have been avoided or reduced to less-than-significant levels through project design features and mitigation measures. Please see **Mitigation Measure 4.8-6** on Page s 4.8-145 through 4.8-160 of the Revised DEIR.

V-26 The buffer proposed on Parcel SP-1 will remain undeveloped in Phase I and will therefore serve the function of a buffer for purposes of avoiding and reducing indirect effects from Phase I development.

Please also refer to the responses to comments Q-14 and V-64 in regard to the materials used for fencing. As described in the responses to comments C-4, B-10, and B-14, the Final EIR has been revised to include 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement.

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to be a real fence (wood and cable is useless, as is cactus and signs) the entire length of the buffer on all sides, including the mud flats in the bay.

As grading is being done the buffer needs to be created and in place before the other components of Phase I are constructed. It is a design feature, which along with the predator control, educational ranger and rules for water, fertilizer and pesticide use could HELP mitigate for the impacts of the park, unless it is low-water use and organic and all the uses mentioned after "could" were banned. Since this is supposed to be project level either design guidelines and numbers, locations and sizes of buildings need to be included for all these other uses that "could" be included or they all need to be banned.

National Parks and this National Wildlife Refuge are already being threatened by climate change impacts. Nowhere in the DEIR are these impacts for habitats and open space areas acknowledged. The added stress of this park and the other development planned for Sweetwater MUST be mitigated completely. There has to be an analysis of the effects of sea level rise upon habitats and parks as well as businesses and homes.

<http://www.epa.gov/climatechange/effects/publiclands.html>: The National wildlife Refuge is already threatened by climate change. National parks and other protected areas are currently susceptible to events influenced by climatic variability, such as drought, wild fires, impaired air quality, and severe storms. Climate change may change the frequency and severity of these kinds of events. In some regions, the risk for drought and wildfire, for example, may increase with climate change (IPCC, 2007). Along coastal regions, sea level rise could erode and inundate the beaches of the National Seashores and the wetlands of various National Wildlife Refuges and National Parks, precipitating loss of beaches, loss of habitat in estuarine ecosystems, and damage to property and natural resources from storm surges (IPCC, 2007).

In 2001 the National Park Service (NPS), the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency (EPA) formed a partnership to create the Climate Change, Wildlife and Wildlands Toolkit for Teachers and Interpreters to help educators teach their students about the potential effects of climate change in parks, refuges and other protected areas. In 2003, the NPS and the EPA created a new program called Climate Friendly Parks (CFP). Through the CFP program, the two partner agencies are finding ways to reduce emissions from park activities. They are also educating the public about potential impacts in the parks and what the agencies are doing to address them.

**Nature Center Parking Lot**

The Nature Center Parking lot needs to have a much better and more secure fence than exists now at the isolated site where it now is. This will be a much more active area and a substantial fence needs to be across the road, activated as now by the driver of the shuttle. Again this is project level so this fence should be described in detail as well as any amenities or educational kiosks in the parking area. A 100- car lot is substantial. The DEIR is vague as to the exact location or is it the circle on the

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V-26  
(Cont.)

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V-29

**V-27** The comment appears to assert that without more detail in terms of placement of improvements within the Signature Park, that all uses should be "banned." Adequate detail on proposed uses within the Signature Park have been provided in *Chapter 3.0, Project Description*, and analyzed throughout the Revised DEIR.

The Signature Park proposed for the S-2 parcel is described in *Section 3.4.4.1* of the Revised DEIR, which includes substantial detail on the components of the proposed park, not just grading of the site, as the comment suggests. Specifically, *Section 3.4.4.1* states that the park is designed as a passive use, meadow-type park with amenities such as landscaping, lighting, restrooms, drinking fountains, parking, bicycle racks, tot lots, picnic areas, benches, trash bins, interpretive signage, landscaped berms, public art, and decomposed granite paving. An approximately 12-foot-wide meandering pedestrian trail constructed of natural material that is easily maintained would be interwoven throughout the park. In response to this comment and other comments, *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that the proposed Signature Park is planned as a passive use park, and those in the Harbor District (HP-1 and H-8) are planned to accommodate flexible spaces for more active uses or events. Additionally, in response to this and other comments, *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that Phase I park amenities within the S-2 parcel will meet certain minimum standards, as described in the response to comment B-76. Please also see the response to comment V-19.

**V-28** The fact that the commenter acknowledges that "National Parks and Wildlife Refuges are already being threatened by climate change" indicates that whatever effects may be occurring would exist with or without the project, and are therefore not project-related impacts. Please see the response to comment V-13.



Comment Letter V (Page 7)

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In response to the commenter's statement regarding potential impacts from sea level rise, the Revised DEIR includes a discussion and analysis of sea level rise in *Section 4.5, Hydrology and Water Quality*, specifically Page s 4.5-24 and 4.5-25. As stated in this section, given the sea level rise assumptions for the Chula Vista Bayfront, as well as the road and pad elevations designed for the project, the Proposed Project does not anticipate a substantial increase in exposure to the project from the potential adverse impact of mean sea level rise. Accordingly, impacts from this potential adverse effect of global warming would be less than significant.

**V-29** This comment expresses concern regarding the fencing around the Nature Center Parking lot and the permeability of the pavement. Please see the responses to comments C-4, B-6, B-10, B-14, and V-26, which describes the construction of a 6-foot-high, vinyl-coated chain-link fence around sensitive areas. In addition, fencing for the parking lot on Parcel SP-3 will be retained or enhanced, similar to existing conditions.

The commenter also expresses concern regarding the use of permeable materials in parking areas within the Sweetwater District. As provided in the response to comment V-84, the number of parking spaces provided in the Sweetwater District is actually 1,906 spaces (not 2,196 spaces), and this includes all phases of development (See *Table 4.3-2* and *Table 4.3-5*). As discussed in *Section 4.5, Hydrology and Water Quality*, beginning on Page 4.5-43 of the Revised DEIR, site design measures are required to reduce or avoid potential impacts to water quality related to parking lots. Specifically, site design best management practices (BMPs) and Low Impact Development (LID) measures will be required and will include minimizing impervious areas, increasing rainfall infiltration, maximizing rainfall interception, and minimizing directly connected impervious areas. Impervious

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drawing? This should be paved with permeable materials, as should the other parking lots in this District, since 2,196 spaces are planned all together. Permeable surface for parking lots is mentioned in the DEIR, but nowhere is it guaranteed for all the lots in Sweetwater and/or the other two Districts.

V-29  
(Cont.)

E Street Extension

In the existing LCP there are lengthy requirements to insure that car headlights will not intrude upon the Refuge or the mud flats. Vegetation along the road is required to block the light from headlights. This DEIR needs to deal with this issue. Lighting of the road needs to be low (below vegetation and focused on road). There needs to be vegetation high enough to block the light of headlights along both sides of the road. The parking lots need to be physically closed at night or they need to be designed in such a way as to contain all light from car headlights to within the parking lot. These are important details that are missing from the DEIR, as are the exact locations of the parking lots. As we said previously we need this information to be able to evaluate if more mitigation is needed for this increased use and exactly what kind would be appropriate. The DEIR seems to have E Street only go to the Nature Center Parking lot in Phase I and extend it to H-3 in a latter stage. This makes the park which is Phase One fairly isolated and hard to get to. In one place it is stated that even though it is not needed for mitigation all of E would be built in Phase One, but the diagram for streets does not show this. Please clarify this point.

V-30

Harbor District

Signature Park

Again HP-8 and H-8 sections of the Signature Park have the same vague description as S-2 and are also not acceptable as a Project Level analysis. There simply has to be an actual design for this park with specifications as to size and appearance of buildings and activities to be allowed. There need to be rules for use such as a prohibition of fireworks, light shows, laser shows, rental of motorized watercraft or jet skies, etc. It again is not acceptable that nothing will be built or provided but the existing park will be destroyed until "*funds become available*." The entire park needs to be part of the infrastructure paid for by the initial bonds in order to compensate the residents for the loss of their existing amenities and views. The existing BayView Park is used by thousands during festivals and on the Fourth of July. People love the sandy beach. SWCVCA does not think the paved promenade should be along the edge of the water. The sandy beach should be maintained.

V-31

V-32

V-33

There is also the issue of the RV Park. This is a very important lower cost visitor serving use that will be lost for a minimum of 10-15 years, if not forever. Low cost visitor uses are very important according to the Coastal Act. There are unresolved wetlands issues with the site that is being promised for future relocation of this park and a power plant whose future fate is far from decided. The park also has a long-term lease. There are negative environmental effects of closing this park that have been completely ignored. Minimally there needs to be an analysis of the effects of the park closure upon use of the area, including the financial costs of breaking the lease, the financial costs to the lessee, and more importantly the loss to the users of the RV Park of this very special visitor serving use. Has there been a survey of who uses this park? There are Chula Vistans who like to spend weekends there, boaters stay there and there are many people who regularly spend vacations there. What do these people add to our economy, and how do they help the Port provide the required coastal access at low cost? Replacing the RV Park with a park and a super expensive hotel has negative consequences that need to be analyzed and mitigated for.

V-34

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areas will be minimized by using minimum sidewalk widths, placing pervious material for sidewalks, and not including any impervious decorative concrete. Permeable materials for parking lots will be included as a BMP and LID, as listed on Page 4.5-67. *Section 3.4.4.1(a) in Chapter 3.0, Project Description*, has been revised in the Final EIR to remove the word "asphalt" in the description of the Nature Center parking lot.

**V-30** The first part of the comment expresses a concern regarding intrusion of headlights on the SDBNWR or the mudflats and closure of parking lots in the parks at night to prevent light from spilling into sensitive habitat areas. In response to this and other comments received by the Port, **Mitigation Measures 4.8-6D** has been revised in the Final EIR to include additional measures intended to minimize light penetration into the Bay and sensitive habitats. Please see the responses to comments B-31, B-32, and V-9 regarding light intrusion. Please see the responses to comments B-76 and V-23 regarding park hours.

The second part of the comment requests clarification regarding the construction of E Street. As provided on Page 3-135 of the Revised DEIR, as well as in *Section 4.2, Traffic and Circulation*, E Street is proposed to be extended in Phase I from the Sweetwater District to the newly extended H Street in the Harbor District. However, as discussed in the Traffic Impact Analysis in *Appendix 4.2-I*, completion of the E Street extension would not be required until Phase III.

Comment Letter V (Page 8)

drawing? This should be paved with permeable materials, as should the other parking lots in this District, since 2,196 spaces are planned all together. Permeable surface for parking lots is mentioned in the DEIR, but nowhere is it guaranteed for all the lots in Sweetwater and/or the other two Districts.

E. Street Extension

In the existing LCP there are lengthy requirements to insure that car headlights will not intrude upon the Refuge or the mud flats. Vegetation along the road is required to block the light from headlights. This DEIR needs to deal with this issue. Lighting of the road needs to be low (below vegetation and focused on road). There needs to be vegetation high enough to block the light of headlights along both sides of the road. The parking lots need to be physically closed at night or they need to be designed in such a way as to contain all light from car headlights to within the parking lot. These are important details that are missing from the DEIR, as are the exact locations of the parking lots. As we said previously we need this information to be able to evaluate if more mitigation is needed for this increased use and exactly what kind would be appropriate. The DEIR seems to have E Street only go to the Nature Center Parking lot in Phase I and extend it to H-3 in a latter stage. This makes the park which is Phase One fairly isolated and hard to get to. In one place it is stated that even though it is not needed for mitigation all of E would be built in Phase One, but the diagram for streets does not show this. Please clarify this point.

Harbor District

Signature Park

Again HP-8 and H-8 sections of the Signature Park have the same vague description as S-2 and are also not acceptable as a Project Level analysis. There simply has to be an actual design for this park with specifications as to size and appearance of buildings and activities to be allowed. There need to be rules for use such as a prohibition of fireworks, light shows, laser shows, rental of motorized watercraft or jet skies, etc. It again is not acceptable that nothing will be built or provided but the existing park will be destroyed until "*funds become available*." The entire park needs to be part of the infrastructure paid for by the initial bonds in order to compensate the residents for the loss of their existing amenities and views. The existing BayView Park is used by thousands during festivals and on the Fourth of July. People love the sandy beach. SWCVCA does not think the paved promenade should be along the edge of the water. The sandy beach should be maintained.

There is also the issue of the RV Park. This is a very important lower cost visitor serving use that will be lost for a minimum of 10-15 years, if not forever. Low cost visitor uses are very important according to the Coastal Act. There are unresolved wetlands issues with the site that is being promised for future relocation of this park and a power plant whose future fate is far from decided. The park also has a long-term lease. There are negative environmental effects of closing this park that have been completely ignored. Minimally there needs to be an analysis of the effects of the park closure upon use of the area, including the financial costs of breaking the lease, the financial costs to the lessee, and more importantly the loss to the users of the RV Park of this very special visitor serving use. Has there been a survey of who uses this park? There are Chula Vistans who like to spend weekends there, boaters stay there and there are many people who regularly spend vacations there. What do these people add to our economy, and how do they help the Port provide the required coastal access at low cost? Replacing the RV Park with a park and a super expensive hotel has negative consequences that need to be analyzed and mitigated for.

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V-29  
(Cont.)

V-30

V-31

V-32

V-33

V-34

**V-31** This comment expresses the author's concern regarding the perceived lack of detail for the HP-8 and H-8 extension of the Sweetwater Signature Park on Parcel S-2. Please see the response to comment V-1 concerning the use of a program-level EIR for Phases II through IV and certain Phase I components (other than development on Parcels H-13, H-14, HP-5, and H-17). The Revised DEIR is intended as a project-level EIR for Phase I development on Parcels H-13, H-14, HP-5, and H-17. As described in *Chapter 2.0, Introduction*, and *Chapter 3.0, Project Description*, of the Revised DEIR, once detailed project level plans are proposed for program-level Phase I components and development in Phases II through IV, subsequent environmental review will be performed pursuant to CEQA Guidelines Section 15168.

A detailed description of the extension of the Sweetwater Signature Park on Parcels HP-1 and H-8 is provided on Pages 3-41 through 3-45 of the Revised DEIR. This discussion includes a description of the acreage, dimensions, park amenities, and connections to other recreational opportunities proposed for this approximately 17-acre park that is currently an extension of the existing Chula Vista Bayside Park. Please also refer to the response to comment V-19 in regard to the proposed amenities. No further description is necessary. Parcel HP-8, referenced by the commenter, is proposed as a park in Phase II. Once project-level plans are proposed for this park, additional project details will be available, and subsequent environmental review will consider potential impacts.

Comment Letter V (Page 8)

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V-29  
(Cont.)

E Street Extension

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V-30

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V-31

V-32

V-33

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V-34

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**V-32** As provided in the responses to comments B-26 and V-9, fireworks "within the limits of a Public Park of the District" are prohibited under Section 8.02(b)12 of the San Diego Unified Port District Code. In addition, fireworks are not proposed as a part of the project and would need to be permitted separately, as they would be without the project. Currently, all proposed firework shows in the City of Chula Vista must be permitted by the U.S. Coast Guard. Please also see the response to comment Q-20 regarding fireworks.

Please see the responses to comments V-87, V-90, and V-181 regarding jet skis. In response to this and other comments, the Final EIR has been revised to include the prohibition of jet ski rentals within the CVBMP area.

**V-33** This comment expresses the commenter's opinion that the promenade should not be along the edge of the water. In response, the paved promenade that is proposed along the shoreline will be upland of the existing sandy beach.

**V-34** The SBPP is projected to be demolished by 2015. As a result of the withdrawal of the Gaylord project, Parcel H-3 is not expected to be developed before that time. As a result, Parcels O-3A and O-3B will be available for relocation of the Recreational Vehicle (RV) Park by the time Parcel H-3 is needed for development.

The comment also expresses a concern about the financial impacts of breaking leasehold. This does not address the adequacy or accuracy of the Revised DEIR; therefore, no further response is warranted.

Comment Letter V (Page 9)

In summary it is a probable violation of the Coastal Act that the RV Park will be destroyed during Phase I. It makes no sense to destroy the current businesses. The Galley and the Fish and Grill are favorite restaurants for many. It does not make sense to eliminate them. Is Gaylord afraid of the competition? Couldn't the businesses stay instead of having interim landscaping on H-9? The demolition of all the existing uses is rather extensive. There needs to be an analysis of the negative impacts this will cause. Some that come to mind are the lack of public access for an extended period of time and the financial costs of buying out existing leases as well as the impacts of noise and loss of feeding opportunities at Bay View park for the wildlife.

V-35

Project Design Features Have To Be Part Of The Project Description

Gaylord

Since neither Gaylord or Pacifica have been planned at the design level neither description is adequate for project level review. The DEIR does not contain sufficient detail about either of these projects to resolve uncertainties about some very important potential negative impacts. Frequently PDFs are supposed to avoid negative impacts. If this is so, it is critical that these Project Design Features be part of the EIR. The public has no way of judging the adequacy of this document without this information. The entire DEIR should be program level and each individual project should be required to do a project level EIR when there is a specific architectural design and detailed landscape, recycling, trash management, lighting, etc. plans. At the program level a fully funded Natural Resources Management Plan with adequate funding to carry it out needs to be added. The Southern area of the San Diego Bay is the most sensitive and contains the last remnants of the valuable environmental resources of the bay. The intensity of development being suggested herein demands much more attention to resource management as well as sustainable building design  
<http://www.nps.gov/dsc/dsgncnstr/gpsd/ch6.html>,  
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V-36

3-45: Subject to pertinent leases and other agreements, the existing uses and streets (Sandpiper Way, Bayside Parkway, Quay Avenue, and G Street) and infrastructure within the H-3 footprint would be demolished in Phase I prior to construction of the RCC. Bayside Parkway is not in H-3. Should this read Marina Parkway? This statement adds even more uncertainty to the project description. It would seem that before a project level EIR was attempted these issues should have been resolved. The public is now left wondering what exactly will actually take place. It is also unclear how many hotel rooms there will be since the text says 1500, but the table says 2,000 and parking is to be provided for 1500.

V-37

This comment on 3-69 again increases the uncertainty about the project and makes it difficult for the public to evaluate the impacts: *Ultimately depending on the configuration of the site, this zone would attempt to be a visual extension of the marsh and refuge by using noninvasive and/or native species. This buffer zone would bring the local character of the wetlands onto the RCC property, integrating the site into the surrounding landscape.* If the configuration of the site still is not known how can this be a project level analysis? Remarks such as this really cast doubt on whether there is even a basic understanding about the importance of using native species and drought tolerant plants. The writer also seems confused about the concept of invasive.

V-38

Figure 3-9j is totally inadequate as a landscape plan. There are no species of plants shown just various shades of green. This is meaningless and where landscaping is so important to project impacts totally unacceptable at a project level. The species of plants for each area need to be known at the project level or at the very least a collection of acceptable plant species. 3-73 *zone may include and may also be used for sustainability and conservation education* is another example of the lack of specificity that is expected at the project level. Although it is stated that Goodrich **will** be screened from view.

V-39

V-40

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V-35 Please see the response to comment V-34 regarding the RV Park.

The Galley and the Fish and Grill restaurants will not be eliminated by Phase I development. The development of Parcel H-9, on which these restaurants are currently located, is proposed to occur in Phase II. Such development could include retention of these existing businesses, which are consistent with the proposed uses for this parcel.

V-36 Please see the responses to comments V-1 and V-31 concerning the use of the Revised DEIR as a program-level EIR for Phases II through IV, and certain Phase I components (other than development on Parcels H-13, H-14, HP-5, and H-17). The Revised DEIR is intended as a project-level EIR for Phase I development on Parcels H-13, H-14, HP-5, and H-17. As described in *Chapter 2.0, Introduction*, and *Chapter 3.0, Project Description*, of the Revised DEIR, once detailed project level plans are proposed for program-level Phase I components and development in Phases II through IV, subsequent environmental review will be performed pursuant to CEQA Guidelines Section 15168.

As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

Comment Letter V (Page 9)

In summary it is a probable violation of the Coastal Act that the RV Park will be destroyed during Phase I. It makes no sense to destroy the current businesses. The Galley and the Fish and Grill are favorite restaurants for many. It does not make sense to eliminate them. Is Gaylord afraid of the competition? Couldn't the businesses stay instead of having interim landscaping on H-9? The demolition of all the existing uses is rather extensive. There needs to be an analysis of the negative impacts this will cause. Some that come to mind are the lack of public access for an extended period of time and the financial costs of buying out existing leases as well as the impacts of noise and loss of feeding opportunities at Bay View park for the wildlife.

V-35

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**Gaylord**

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V-40

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Please also see the response to comment Q-22 regarding the natural resources management plan. As provided in the response to comment V-4, Pages 3-39 through 3-103 contain significant specific detail regarding all Phase I components of the project, as well as many figures demonstrating the site plans and elevations of the Pacifica project. In response to this comment, *Chapter 3.0, Project Description*, of the Final EIR has been revised to include a reference to *Section 4.5, Hydrology and Water Quality*; *Section 4.6, Air Quality*; and *Section 4.16, Energy*, related to the specific design features of the Pacifica project that address water and energy conservation.

V-37 The comment expresses confusion as to the streets that are currently within the footprint of Parcel H-3. Contrary to the commenter's assertion, Bayside Parkway is currently within the footprint of Parcel H-3. In response to this comment, *Figure 3-2* has been revised in the Final EIR to clearly identify the location of existing roads, including Bayside Parkway.

V-38 The comment requests clarification regarding the number of hotel rooms proposed as part of the RCC on Parcel H-3. As described in *Chapter 3.0, Project Description*, of the Revised DEIR, the RCC on Parcel H-3 would include between 1,500 and 2,000 hotel rooms at build-out. As described in the Revised DEIR, development of H-3 is proposed in Phase I; however, construction of 1,500 rooms is anticipated in the first phase and ultimate improvement of 500 additional hotel rooms upon market demand. Pursuant to CEQA, the Revised DEIR analyzes the worst-case scenarios and mitigates for the ultimate build-out in Phase I. *Table 4.3-2, Phase I Parking Summary*, describes the parking demand for all components of H-3, assuming that the development will meet all required demand for up to 2,000 hotel rooms, a restaurant, and a conference center and will provide a total of 2,900 spaces, which exceeds the demand for the project.

## Comment Letter V (Page 9)

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As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

V-39 Please see the responses to comments V-2 and V-4 in regard to the detail provided within *Chapter 3.0, Project Description*, for the Pacifica site and design plans. In response to the commenter's concern regarding native, invasive, and drought-tolerant plants, please refer to *Section 4.8, Terrestrial Biological Resources*, for a discussion of mitigation proposed to ensure that invasive species are not planted (**Mitigation Measure 4.8-6F**). As discussed in *Chapter 3.0, Project Description*; and *Section 4.5, Hydrology and Water Quality*; and *Section 4.6, Air Quality*, incorporation of native and drought-tolerant species are included as project design features. Please refer to Page 3-101 for a discussion of project design features for the Pacifica project.

V-40 As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.



Comment Letter V (Page 10)

Other things only may happen. (At least one thing is certain. Gaylord doesn't want guests to see Goodrich.) There should have been decisions made before the DEIR was circulated allowing for a specific description. Now the public is left to wonder what is going to happen when an architect actually draws plans and someone decides upon a mode of operation.

Integrated Pest Management is only mentioned in the DEIR as a requirement for Parks. Gaylord must also eliminate pesticides and fertilizers.

The incredible mass of the buildings are so totally out of scale with the surroundings that it is hard to see how the RCC has made any real attempt to meet its architectural goal of 3-57: "Embrace the project context in order to infuse the project with Southern California culture resulting in a site-specific solution. These features include street retail, dining terraces, accessible restaurants, nature trails, water features, and bird-friendly transparent facades. Exactly what is a bird friendly transparent facade? Anything transparent, especially if there is vegetation near it is the opposite of bird friendly. The street features described hardly seem inviting to pedestrians who will have 120 feet or more of building towering over them. There does not appear to be any step-backs at all.

The 300-foot tower, 140-foot atrium and 120-foot wings are directly in the flight path of birds, which go back and forth from the salt ponds to the Sweetwater Refuge. No matter what kind of glass is used it has to be non-reflective and or marked clearly in some way. (Making an exception for e-glass 4.4-85 is eliminating a number one-way to reduce bird strikes, especially since e-glass is required elsewhere in the DEIR.) The balconies and using small panes of framed glass, if such things were guaranteed anywhere in the description, would help, but something the birds can see needs to be in place in front of every window. Saying the building will use measures to prevent bird strikes is not adequate, there have to be specific measures and specific design features committed to in advance.

The atrium is another problem. Plants cannot be within 10 feet of the glass. The glass has to be glazed to be seen as an obstacle; instead it is stated: *Special attention to the exterior glazing of the atrium during the design period.* This does not guarantee that anything will actually be part of the design to help minimize the potential for bird strikes. This goal is actually inadequate. The design must prevent bird strikes to the highest degree possible, not just minimize them. In fact there needs to be a monitoring program keeping track of bird strikes and if there is a problem a commitment to design changes must be in the document. This monitoring program and specific design features need to be in the DEIR as guaranteed design features and mitigation. This is supposed to be the project level. It does not appear that there is a specific project yet. This is confusing to the public and deprives us of the opportunity to evaluate the impacts. Exactly what is to be done needs to be clearly stated and illustrated.

If the atrium will sometimes be open to the outdoors, as we have been told informally, it is critical that no invasive non-natives be in the atrium. The DEIR now only excludes them from exterior landscape "plans," but the atrium, as we understand it, is an enclosed garden. At various meetings Gaylord employees have indicated, because of the weather conditions here, this atrium would be open to the outside many days. This is another critical design feature that must be clarified. If people will be moving in and out of the atrium precautions must be taken to prevent the contamination of the adjoining habitats with non-native plant material.

The mass and height of the buildings is not only a visual and aesthetic negative impact but a biological one as well. These buildings could shade the F&G Street marsh at various times of the day and year as well as alter the microclimate somewhat. (The exact design and location of the buildings has to be known before a shading study has any validity.) This requires mitigation. The logical mitigation is the removal of Lagoon Road, replacing it with a bridge for bikes, pedestrians and, if necessary, emergency vehicles, and the restoration of the degraded marsh to the north. Improving the tidal inlet is only the start of the project, extending the tidal inlet to the historical marsh (seasonal wetlands) is needed. Making the marsh larger would probably lessen the impact of the shading and altering the breezes, because it would allow the animals other areas to forage. This mitigation should precede the

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The species of plants for each zone of the RCC on Parcel H-3 will be consistent with **Mitigation Measure 4.8-6**, which prohibits certain plant species. In addition, all exterior landscaping plans shall be submitted to the Port for review and approval. These landscape plans will identify the plant species proposed for the project and must be reviewed and accepted as part of the Port's tenant working drawing approval process.

**V-41** Please see the response to comment V-40. The nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168 once a project-specific development proposal is submitted to the Port for review and consideration.

Additionally, as stated in policy E 2.2 of the Chula Vista General Plan (Page 4.1-72), Integrated Pest Management is only recommended for large open uses of land. As such, the project is required to use Integrated Pest Management for park lands, consistent with the City's policy. In addition to what is required under policy E.2, the Final EIR has been revised to require that all development within the Port's jurisdiction be consistent with the Port's Integrated Pest Management Policy in response to this comment and other related comments (see **Mitigation Measure 4.8-6G** in the Final EIR).

**V-42** Please see the response to comment V-40. The commenter expresses concern over a perceived inconsistency between the height and massing of the proposed RCC and one of the project's architectural goals to "embrace the project context." As discussed in the Revised DEIR, measures are provided to mitigate for the impact to visual character associated with the height and massing of the RCC (**Significant Impact 4.4-8**). **Mitigation Measure 4.4-1** requires the design of buildings for large scale projects (greater than two stories in



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Other things only may happen. (At least one thing is certain. Gaylord doesn't want guests to see Goodrich.) There should have been decisions made before the DEIR was circulated allowing for a specific description. Now the public is left to wonder what is going to happen when an architect actually draws plans and someone decides upon a mode of operation.

Integrated Pest Management is only mentioned in the DEIR as a requirement for Parks. Gaylord must also eliminate pesticides and fertilizers.

The incredible mass of the buildings are so totally out of scale with the surroundings that it is hard to see how the RCC has made any real attempt to meet its architectural goal of 3-57: "Embrace the project context in order to infuse the project with Southern California culture resulting in a site-specific solution. These features include street retail, dining terraces, accessible restaurants, nature trails, water features, and bird-friendly transparent facades. Exactly what is a bird friendly transparent facade? Anything transparent, especially if there is vegetation near it is the opposite of bird friendly. The street features described hardly seem inviting to pedestrians who will have 120 feet or more of building towering over them. There does not appear to be any step-backs at all.

The 300-foot tower, 140-foot atrium and 120-foot wings are directly in the flight path of birds, which go back and forth from the salt ponds to the Sweetwater Refuge. No matter what kind of glass is used it has to be non-reflective and or marked clearly in some way. (Making an exception for e-glass 4.4-85 is eliminating a number one-way to reduce bird strikes, especially since e-glass is required elsewhere in the DEIR.) The balconies and using small panes of framed glass, if such things were guaranteed anywhere in the description, would help, but something the birds can see needs to be in place in front of every window. Saying the building will use measures to prevent bird strikes is not adequate, there have to be specific measures and specific design features committed to in advance.

The atrium is another problem. Plants cannot be within 10 feet of the glass. The glass has to be glazed to be seen as an obstacle; instead it is stated: *Special attention to the exterior glazing of the atrium during the design period.* This does not guarantee that anything will actually be part of the design to help minimize the potential for bird strikes. This goal is actually inadequate. The design must prevent bird strikes to the highest degree possible, not just minimize them. In fact there needs to be a monitoring program keeping track of bird strikes and if there is a problem a commitment to design changes must be in the document. This monitoring program and specific design features need to be in the DEIR as guaranteed design features and mitigation. This is supposed to be the project level. It does not appear that there is a specific project yet. This is confusing to the public and deprives us of the opportunity to evaluate the impacts. Exactly what is to be done needs to be clearly stated and illustrated.

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The mass and height of the buildings is not only a visual and aesthetic negative impact but a biological one as well. These buildings could shade the F&G Street marsh at various times of the day and year as well as alter the microclimate somewhat. (The exact design and location of the buildings has to be known before a shading study has any validity.) This requires mitigation. The logical mitigation is the removal of Lagoon Road, replacing it with a bridge for bikes, pedestrians and, if necessary, emergency vehicles, and the restoration of the degraded marsh to the north. Improving the tidal inlet is only the start of the project, extending the tidal inlet to the historical marsh (seasonal wetlands) is needed. Making the marsh larger would probably lessen the impact of the shading and altering the breezes, because it would allow the animals other areas to forage. This mitigation should precede the

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height) to incorporate design techniques that will distribute building massing, separate the building base from its upper elevation, interrupt vertical elements, and reduce the appearance of scale issues for the RCC. These plans will be implemented to diminish building edges, monotonous facades, and straight-edge building rooflines and profiles.

**Mitigation Measure 4.4-1** requires the use of step backs, landscaping considerations, and gateway plans to protect open views, widen the view corridors, and enhance the visual quality of the viewing scene.

The second part of the comment questions what features of the RCC project would make the project more bird friendly. As discussed in *Section 4.8, Terrestrial Biological Resources*, measures are required to reduce or avoid the Proposed Project's potential significant impacts on bird strikes and will vary depending on a proposed building's nature, size, location, and design. These measures include specific design features related to building lighting, glass and reflection, building articulation, and landscaping. In response to the commenter's concern regarding landscaping, for example, exterior trees and landscaping must be located and glass material selected so that exterior landscaping is not reflected on building surfaces. In addition, interior plants must be located a minimum of 10 feet away from glass surfaces to avoid or reduce the potential for attracting birds (see **Mitigation Measure 4.8-22** of the Revised DEIR). Please note that **Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts relate to bird strikes and bird disorientation. **Mitigation Measure 4.4-2** and **Mitigation Measure 4.8-23** in the Final EIR have been revised to remove the exception for low-emittance (low-e) glass.

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**V-43** Please see the response to comment V-40. The Port considers mitigation measures provided in the Revised DEIR for impacts related to bird strikes as adequate. **Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts related to bird strikes and bird disorientation. **Mitigation Measure 4.8-23** addresses a number of criteria to be applied to building design, including lighting, glass and reflective materials, building articulation, landscaping, public education, and monitoring. These criteria are to be applied, as appropriate, to all buildings within the project based on the specific circumstances, location, and design requirements of each building. Therefore, specific measures are required for development of all buildings associated with the Proposed Project. Please also see the response to comment B-28. In addition, **Mitigation Measure 4.4-2** and **Mitigation Measure 4.8-23** in the Final EIR have been revised to remove the exception for low-e glass.

**V-44** Please see the response to comment V-43. The comprehensive criteria provided in **Mitigation Measure 4.8-23** in the Final EIR will ensure that building design, including specific building materials will be incorporated to minimize impacts on bird strikes to less-than-significant levels. In addition, monitoring is required as part of the mitigation program.

**V-45** Please see the response to comment V-40.

**V-46** Please see the responses for comments B-30, C-29, V-10, and V-128 regarding shading impacts and the response to comment Q-10 regarding the removal of Lagoon Drive.

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negative impacts. It would also allow some species of birds to forage further away from the construction noise.

Exterior lighting is mentioned in the summary of Impacts and Mitigation, but **interior** lighting is also a significant problem. Light and glare from this 24- hour facility is another huge problem requiring additional mitigation. Providing drapes is not going to insure that people use them or turn off the lights. Will all the nightclubs be required to pull the drapes at night? If birds cannot sleep at night they will die. <http://www.learner.org/jnorth/tm/NightLights.html>, [http://www.nationalwind.org/events/wildlife/2004-2/presentations/Kerlinger\\_Migration.pdf](http://www.nationalwind.org/events/wildlife/2004-2/presentations/Kerlinger_Migration.pdf). This is part of the Pacific Flyway and an extremely important stop over point for thousands of birds each year. 4.4-6 needs to specify specific design features that **will** be required or it is inadequate as a mitigation measure. The added light will not only be a disturbance to the wildlife, but to the many residents who have bay views and cherish the quiet and natural light at night.

Page 3-69 states that Gaylord will not use invasive non-natives "where adjacent to sensitive areas." This is totally inadequate. No invasive non-native plants should be used **anywhere** on the bayfront. These plants are invasive because their seeds spread easily by wind and or animal (human) transport. There can be **NO** invasive plants anywhere on the Bayfront, and this would include palm trees unless they are regularly trimmed of seeds before they ripen, and this can not be guaranteed into the future. Evaluating landscape plans may be a good first step, but someone has to actually verify which plants are planted and make sure that plants that die are not replaced with invasive non-natives. Also the landscaping plans should be available at the project level for public review. There has to be some ongoing landscape monitoring program as well as the predator control program and a program to insure integrated pest control. There also needs to be an education program for construction and operational workers to ensure that they are aware of the sensitivity of the area and their responsibility to protect the natural resources near by and educate the public. All of these need to be a part of a Natural Resources Management Plan, which must be funded and started before construction on any of this project starts. There must also be an identification of ongoing funding for carrying out the management program.

This is a very special place and just saying this often does not protect it from harm. This huge building and all its activity should be back where the CAC said it should be, not here. If it is going to be here then a **whole** lot more must be done to protect the sensitive habitats in the area.

15% over Title 24 is inadequate. 20% is a minimum. There needs to be a stronger commitment to producing most, if not all, of the buildings' needed energy. The state says a goal of 40% is more appropriate: <http://www.ciwm.ca.gov/GreenBuilding/Basics.htm>. Gaylord needs to actually commit to doing more in way of sustainable green building. 50% construction debris recycling is inadequate. "City of CV : Construction and Demolition Ordinance is now in effect. Developers **are** required to **divert 90% of inerts and 50% of all other debris with in their** recycling plan and to place a deposit (percentage of project cost)." This should be required by the Port on the bayfront as well. Actually the use of recycled materials in the buildings whenever possible needs to be a commitment in order to help close the loop. If Gaylord really wants to build in this very sensitive area they should build a model green sustainable building. Anything less is an affront to the community and does not fully mitigate there huge negative impacts to the environment.

The Green line shuttle is not funded so likely it will not be built. This is not acceptable since again this was to be an amenity for the residents by providing free access without driving. This would also help the traffic situation. Supposedly a goal of this project is to connect Chula Vista with its Bayfront. Without this shuttle the project traffic will likely keep people away from the bayfront more than attract them. This is something else that should be funded with the initial infrastructure bonds.

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**V-47 Mitigation Measure 4.8-22** in the Revised DEIR includes measures that address interior lighting. Specifically, the mitigation measure requires that office space, residential units, and hotel rooms shall be equipped with motion sensors, timers, or other lighting control systems to ensure that lighting is extinguished when the space is unoccupied, and they shall be equipped with blinds, drapes, or other window coverings that may be closed to minimize the effects of interior night lighting. Please note that **Mitigation Measure 4.8-22** has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR.

**V-48** The comment incorrectly states requirements of the Revised DEIR. In fact, use of non-native, invasive plant species are prohibited in exterior areas throughout the project. **Mitigation Measure 4.8-6** states that "all exterior landscaping plans shall be submitted to the Port or City, as appropriate, for review and approval to ensure that no plants listed on the California Invasive Plant Council (Cal-IPC) List of Exotic Pest Plants of Greatest Ecological Concern in California or the list included in Appendix N of the City's MSCP Subarea Plan shall be planted throughout the plan area during project construction and operation." Verification of compliance with the landscaping plan will be addressed through implementation of the MMRP for the Proposed Project. Please also refer to the response to comment V-39.

**V-49** This comment suggests there should be an educational program for construction and operational workers regarding the sensitivity of the area as part of an NRMP, which should be funded and started before construction begins. Permits that are issued by the wildlife agencies require pre-construction meetings with all personnel involved with the project, which will include training about the sensitive resources in the area. In response to this and other comments, **Mitigation Measure 4.8-7** has been added to the Final EIR, which provides for creation of an NRMP.

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In addition, **Mitigation Measure 4.8-6** in the Final EIR has been revised to include the recommended requirement regarding pre-construction meetings and training about sensitive resources in the area. Please also see the responses to comment N-4 and Q-22 regarding monitoring and management of a natural resource management plan.

**V-50** The comment expresses a concern regarding energy efficiency, construction debris recycling, and the use of recycled building materials. The thresholds of significance and analysis of potential impacts relating to energy efficiency are discussed in *Section 4.6.3*, criterion number 7, and *Section 4.16, Energy*, of the Revised DEIR. The provisions of the City's Construction and Demolition Ordinance shall apply to all development throughout the project area. The use of recycled building materials is one technique that the Pacifica project will consider as part of its planned Leadership in Energy and Environmental Design (LEED) certification process. In response to this and other comments, the Final EIR has been revised to include **Mitigation Measure 4.16-2**, which addresses energy conservation and efficiency.

**V-51** The Green Car Line is not a component of this project. *Chapter 3.0, Project Description*, of the Revised DEIR makes reference to the City's adopted Urban Core Specific Plan, which identifies the potential for this shuttle service. The implementation of this shuttle is not part of the Proposed Project, however. In response to this comment, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. Please also see the responses to comments P-2, Q-27, and V-12.

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H-17 Bayfront Fire Station

Pacifica will pay the normal PFDIF but it is likely this will not be enough to pay for the station and the equipment by itself. The city has a yearly obligation of the PFDIF (equivalent to around 500 developments) to pay debt service on the civic center and police station bonds. Considering the economy it is likely the city will not have all the funds needed to pay for this station. There is also doubt considering the city's financial difficulties that they will be able to pay the salaries of these new firepersons. (The General Fund will receive no money from the Pacifica project except maybe some sales tax from the retail. Firemen are a General Fund expense that cannot be paid with Tax Increment.) There is also the question of how the city will afford to acquire the land. If it is a land trade, it is not clear from the LCP or the PMP what was traded for this site? Does the CIP fund have money for curbs, gutters and sidewalks here? It certainly does not have for the Southwestern part of the city. This will be a very expensive station with 7 crew 24/7 and equipment for fighting high-rise fires. This will require around 20 new firepersons. How much will the Port pay? This will be a large impact on the city's shaky finances. The funding needs to be clarified or the station cannot be project level.

V-52

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There are many commitments to sustainable building practices, and it is clear that the buildings would incorporate design concepts and/or fenestration designs to eliminate bird strikes from the J Street marsh, although the exact ones are not yet known. Why birds flying to the marsh from the north are not included in the consideration is unclear? The amount of detail on the project other than maximum heights and many detailed artist conceptions does seem sparse for a project level EIR. The two alternatives for the L Ditch still have not been decided upon. Again it seems a project level DEIR is, perhaps, premature. This should be program level. Once a decision on the L ditch has been made Pacifica as part of the normal permit application procedure should submit a project level EIR to the city. We have been told that a program level EIR would be adequate for the land trade and the LCP and General Plan amendments.

V-53

The massing and height of the buildings even though the setbacks will make it more acceptable to pedestrians is totally out of scale with the location and the rest of the city and will likely always be. This violates the goal of making the bayfront part of the city, since it sets it apart. It is really not acceptable to have unmitigatable impacts such as visual/aesthetics, air quality and traffic.

V-54

The residential is not analyzed to the level of a project EIR. There are no architectural, landscape, storm water, energy conservation, water conservation, trash management, fire evacuation, etc. plans for any of these buildings nor are there CCR's requiring residents to control night lights and have only one pet which never leaves the confines of their unit unless leashed or under the complete control of the owner. Without plans there is insufficient detail to evaluate the potential negative environmental effects of the project and to suggest specific ways in which these effects can be mitigated or avoided.

V-55

The noise analysis is completely inadequate since it only deals with traffic noise. There is a freight train that comes through Chula Vista around 3AM daily on the near-by trolley tracks. The engineer blows his horn as he approaches and passes E, F, and H Streets. This is a significant noise well above the noise threshold. Particularly on nights when the east wind blows this has the potential to interrupt people's sleep and violate Chula Vista's nuisance noise ordinance. This would make noise a significant unmitigated impact.

**V-52** The comment expresses concern regarding the funding needed for acquisition and operation of the fire station proposed on Parcel H-17. As discussed in *Section 4.13, Public Services*, the Bayfront Fire Station will be constructed as a Phase I project-level component on Parcel H-17 in the Harbor District. The fire station is part of the Proposed Project, and its construction was relied upon for the environmental impact analysis in regard to public services. Funding for the proposed fire station is included in the cost estimate of infrastructure improvements for the Proposed Project. The Final EIR has been revised to state that an interim facility may be utilized until final construction is completed (see *Section 3.4.4.1* in the Final EIR).

**V-53** The first part of the comment questions why birds flying to the marsh from the north are not included in the discussion of potential bird strikes resulting from the Pacifica project. To clarify, although the project description for the Pacifica project specifically references building design features to avoid bird strikes from the south of the project site, which faces the J Street Marsh, *Section 4.8, Terrestrial Biological Resources*, includes consideration of potential bird strikes for any building on Parcels H-13 and H-14 that has an unobstructed line of site to nearby open water or large areas of open space. As provided in the response above to comments V-42 and V-43, **Mitigation Measure 4.8-22** in the Revised DEIR includes specific measures required to reduce or avoid the Proposed Project's potential significant impacts on bird strikes. Please note that **Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts relate to bird strikes and bird disorientation. Please see the response to comment B-28.

Comment Letter V (Page 12)

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V-52

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There are many commitments to sustainable building practices, and it is clear that the buildings would incorporate design concepts and/or fenestration designs to eliminate bird strikes from the J Street marsh, although the exact ones are not yet known. Why birds flying to the marsh from the north are not included in the consideration is unclear? The amount of detail on the project other than maximum heights and many detailed artist conceptions does seem sparse for a project level EIR. The two alternatives for the L Ditch still have not been decided upon. Again it seems a project level DEIR is, perhaps, premature. This should be program level. Once a decision on the L ditch has been made Pacifica as part of the normal permit application procedure should submit a project level EIR to the city. We have been told that a program level EIR would be adequate for the land trade and the LCP and General Plan amendments.

V-53

The massing and height of the buildings even though the setbacks will make it more acceptable to pedestrians is totally out of scale with the location and the rest of the city and will likely always be. This violates the goal of making the bayfront part of the city, since it sets it apart. It is really not acceptable to have unmitigatable impacts such as visual/aesthetics, air quality and traffic.

The residential is not analyzed to the level of a project EIR. There are no architectural, landscape, storm water, energy conservation, water conservation, trash management, fire evacuation, etc. plans for any of these buildings nor are there CCR's requiring residents to control night lights and have only one pet which never leaves the confines of their unit unless leashed or under the complete control of the owner. Without plans there is insufficient detail to evaluate the potential negative environmental effects of the project and to suggest specific ways in which these effects can be mitigated or avoided.

V-54

The noise analysis is completely inadequate since it only deals with traffic noise. There is a freight train that comes through Chula Vista around 3AM daily on the near-by trolley tracks. The engineer blows his horn as he approaches and passes E, F, and H Streets. This is a significant noise well above the noise threshold. Particularly on nights when the east wind blows this has the potential to interrupt people's sleep and violate Chula Vista's nuisance noise ordinance. This would make noise a significant unmitigated impact.

V-55

The second part of the comment expresses concern over a perceived lack of detail in the project description for the Pacifica project. CEQA Guidelines require that the project description contain enough information needed for evaluation and review of the environmental impacts. Specifically, the CEQA Guidelines state that a project description should include, "A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities" (14 CCR 15124(c)). *Chapter 3.0, Project Description*, of the Revised DEIR is over 160 Pages and contains substantial information including land uses, infrastructure, and public facilities for the Proposed Project. No further description is necessary.

The third part of the comment questions whether a project-level environmental review is appropriate for the Pacifica project considering the alternative development options for Parcel HP-5. As discussed in the project description for the Pacifica project in Phase I, the existing L-ditch, to the north and east of Parcels H-13 and H-14, would not be developed in the Proposed Project and would contain an average 50-foot-wide buffer from the delineated wetland edge on either side. Project-level detail in accordance with CEQA is provided in the Revised DEIR for the Pacifica project, with the L-Ditch in place. On March 2, 2010, the Port adopted a Work Plan that provides for cleanup of existing contamination and filling the L-Ditch in a manner consistent with the Alternate L-Ditch Remediation Alternative described in *Section 5.7* of the Revised DEIR. The Work Plan is subject to review and approval by the RWQCB, which has jurisdiction over cleanup and remediation of the L-Ditch.

Due to remediation efforts outside of this environmental process, a project alternative was created in the event that remediation of the L-Ditch occurs and causes a change to the existing circumstances. The

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H-17 Bayfront Fire Station

Pacifica will pay the normal PFDIF but it is likely this will not be enough to pay for the station and the equipment by itself. The city has a yearly obligation of the PFDIF (equivalent to around 500 developments) to pay debt service on the civic center and police station bonds. Considering the economy it is likely the city will not have all the funds needed to pay for this station. There is also doubt considering the city's financial difficulties that they will be able to pay the salaries of these new firepersons. (The General Fund will receive no money from the Pacifica project except maybe some sales tax from the retail. Firemen are a General Fund expense that cannot be paid with Tax Increment.) There is also the question of how the city will afford to acquire the land. If it is a land trade, it is not clear from the LCP or the PMP what was traded for this site? Does the CIP fund have money for curbs, gutters and sidewalks here? It certainly does not have for the Southwestern part of the city. This will be a very expensive station with 7 crew 24/7 and equipment for fighting high-rise fires. This will require around 20 new firepersons. How much will the Port pay? This will be a large impact on the city's shaky finances. The funding needs to be clarified or the station cannot be project level.

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V-55

alternative option for development of Parcel HP-5 is not part of the proposed Pacifica project, but instead a project alternative discussed in *Chapter 5.0, Alternatives*, as the Remediated L-Ditch Alternative. Although CEQA (California Public Resources Code, Section 21000 et seq.) does not require the same level of detail for alternatives, a significant amount of detail is available for the Remediated L-Ditch Alternative in *Chapter 5.0, Alternatives*.

V-54 The first part of the comment expresses the commenter's concern with the massing and height of the Pacifica residential buildings and the unmitigated impacts to aesthetics, air quality, and traffic that exist in the Proposed Project. These issues are discussed in *Sections 4.2, 4.4., and 4.6* of the Revised DEIR. Please also see the response to comment V-374.

The second part of the comment expresses concern over a perceived lack of detail in the project description for the residential component of the Pacifica project. As provided in the response to comment V-53, CEQA Guidelines specifically state that the project description should contain "a general description of the project's technical, economic, and environmental characteristics..." (14 CCR Section 15124(c)) and should contain enough information needed for evaluation and review of the environmental impacts. Environmental impacts are addressed and evaluated in *Chapter 4.0, Environmental Analysis*, including *Section 4.4, Aesthetics/Visual Quality*; *Section 4.5, Hydrology and Water Quality*; *4.6, Air Quality*; *Section 4.8, Terrestrial Biological Resources*; *Section 4.13, Public Services*; *Section 4.14, Public Utilities*; and *Section 4.16, Energy*. No further description of the Pacifica project is necessary.



Comment Letter V (Page 12)

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V-55

V-55 The commenter expresses a concern regarding the adequacy of the noise analysis in the Revised DEIR as it relates to the freight train that passes through Chula Vista at night and whether the noise from the train horn will exceed the City's Noise Ordinance. The noise analysis provided in *Section 4.7, Noise*, of the Revised DEIR addresses noise impacts related to traffic, construction, and operation of the Proposed Project. The freight train tracks referred to in the comment are located on the east side of I-5; therefore, it is anticipated that noise from the train would be attenuated by noise from I-5 and would not be significant. Furthermore, as provided for in City Municipal Code Section 19.68.060.A, noise from the train horn is exempt because it is necessary for the protection of public safety.



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access to the marina and completely hiding it from the view of residents of Chula Vista. Many homes in Chula Vista now have views of the marina and the bay from their second floors or their yards. There are also pleasing views from a number of roads and 805. All these views will be hidden by excessively tall buildings. The diagram in Appendix G makes it clear that these buildings will replace the views of a significant number of Chula Vistas. The document acknowledges that this is a Significant Unmitigatable Negative Impact. One of the main purposes of the Coastal Act is to maintain public access to the coast. Robbing the citizens of Chula Vista of their precious views is a denial of the most basic access. It also will most likely affect property values negatively. It is not acceptable to the SWCVCA that this negative effect is not significantly lessened or completely avoided.

Integrated Pest Management is mentioned in the DEIR only for parks. Pacifica must eliminate pesticides and fertilizers as well.

It is unfortunate that affordable housing will only be for low/moderate and low. In this economy many of these people, if they are still employed, can actually afford homes. The real need is for housing for the very low income, which could be provided off site. 235 "affordable" homes here would not remain affordable. Considering the yearly HOA and the assessment district fees on these condominiums it would be difficult for low and low/moderate income people to afford to live here for the long term, when all of these fees are added to mortgage, insurance and taxes.

**Bridge Over Inlet and Promenade**

It is unclear if the pedestrian and vehicle bridge is program or project level, because it is unclear whether it is Phase I or Phase II, but if it is Phase I there needs to be a great deal more detail. Mitigation for shading was mentioned, but nothing is mentioned about how flushing will be prevented. Will the 72-foot ROW be adequate to protect bicyclists and pedestrians from cars? (Actually the text says 72 feet but the diagram says it is 100 feet.) The 16-foot multi-purpose lane probably needs to be divided physically between bicycles and pedestrians for safety reasons. The diagram has one hand rail but actually there needs to be a barrier between pedestrians and cars and between pedestrians and bicycles.

Another concern again is headlights and bicycle lights if this bridge is to be open at night. What will prevent the spilling of headlight light into the water areas below? This is an area now heavily used by birds.

There is a great danger of flushing. Flushing is a huge negative that can result in the death of birds. ("Avoid flushing birds or disturbing animals. Expenditure of energy can be critical to their health." [http://seattlepi.nwsource.com/getaways/141096\\_urbanwildlife25.html](http://seattlepi.nwsource.com/getaways/141096_urbanwildlife25.html)) There has to be adequate means along these trails to keep people out of sight of the birds. The bridge will be a mere 10 feet above the water, even the noise of the cars going over will likely disturb the birds. Another negative impact will be excessive noise (cars, pedestrians, bicycles, talking, shouting, screaming, music, etc.). There also has to be some means of preventing trash from entering habitats and water. Some of these (trash) could be prevented by exceptional bridge design. All of these are educational in nature, which comes to the

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**V-56** The commenter expresses dissatisfaction with the unmitigated impact to view quality associated with the Pacifica project. The comment suggests that this significant impact be avoided or reduced to below a level of significance. In response, no feasible mitigation is available. Redesign of the project is identified as a project alternative (Reduced Overall Density Alternative), which would reduce the impacts to view quality associated with the Pacifica Residential and Retail Project (**Significant Impacts 4.4-1 and 4.4-2**). See *Chapter 5.0, Alternatives*, for a discussion of design options that would allow for an overall reduction in height and bulk of the proposed Pacifica towers. Potential impacts of the project on coastal access and public views are analyzed in *Section 4.4, Aesthetics/Visual Quality*. Impacts on private views and property values are not subject to environmental review pursuant to CEQA.

**V-57** As provided in the response to comment V-41, the Final EIR has been revised to require that all development within the Port's jurisdiction be consistent with the Port's Integrated Pest Management Policy (see **Mitigation Measure 4.8-6G** in the Final EIR).

**V-58** This comment expresses concern with negative effects of the Proposed Project on housing in Chula Vista. The CEQA Guidelines (14 CCR 15000 et seq.) limit the analysis of the effects on social and economic factors to the extent that they can result in a significant adverse physical effect. As stated in the description for Parcels H-13 and H-14 in *Chapter 3.0, Project Description*, 150 units of the proposed residential development on Parcels H-13 and H-14 will be set aside for affordable housing. The Final EIR has been revised to clarify that 150 affordable restricted units will be provided by the residential developer, half for low-income households, and half for moderate-income households. As the statutory requirement for new affordable housing production (15 percent) will result in a

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Redevelopment Agency requirement for 225 affordable units, the Redevelopment Agency will need to cause the production of the net 75 units. As the 15 percent requirement is not site specific, the Redevelopment Agency may meet the net requirement in another location. The residential developer is working within existing City of Chula Vista Affordable Housing parameters to offset potential impacts regarding affordable housing. Both the RCC and the residential development are planned in a Redevelopment Project Area, and as such, 20 percent of the property tax increment (the increase in property taxes generated as a result of the construction of the project) will be committed to the development of affordable housing. These tax increment revenues will be used in several ways to increase the supply of affordable housing in western Chula Vista, including partnerships with nonprofit developers to provide gap financing for affordable housing development.

In addition to the use of tax increment, the City's Inclusionary Housing Policy requires that 10 percent of the residential units development in a Redevelopment Project Area is set aside as affordable housing. The affordability of these units is ensured through recorded covenants that limit prices for the units, income limitations for owners/renters, and deed restrictions governing the terms of resale of the units.

The City's Housing Element (the City's 5-year affordable housing policy document) identifies a goal of 260 affordable rental units and 30 to 50 affordable for sale units for lower-income households in western Chula Vista. These targets have been established anticipating the tax increment revenues generated by the RCC and residential projects, as well as the inclusionary housing obligations of the residential development planned at the Bayfront. The location and actual quantity and configuration of affordable units built and/or

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V-59

purchased will be determined by a number of factors including the number of market rate residential units developed, the sales prices of the market rate residential units, the assessed valuation of the RCC, and the availability of land and/or properties for affordable housing development or conversion available in western Chula Vista.

The first part of the comment questions whether the pedestrian and vehicle bridge crossing over F & G Street Marsh inlet is a project- or program-level component and whether it is proposed in Phase I or Phase II. As discussed in *Chapter 3.0, Project Description*, the pedestrian pathway/bridge (E Street Bridge) will be constructed to allow vehicular, bicycle, and pedestrian traffic to cross over the inlet feeding the F & G Street Marsh along the E Street extension. The bridge will provide a safe route for pedestrians to walk and to transition from the Sweetwater District to the HP-3 Shoreline Promenade and H-1A park in the Harbor District. As stated in *Chapter 3.0, Project Description*, on Page 3-40 and 3-135, the E Street Bridge is proposed as part of the E Street extension, which is proposed in Phase I. Please refer to *Figure 3-14* for an illustration of the proposed bridge over the F & G Street Marsh.

The second part of the comment expresses concern that the Revised DEIR does not contain a discussion of how bird flushing will be prevented. Flushing is considered a component of indirect impacts to sensitive birds that were addressed in *Section 4.8, Terrestrial Biological Resources*, beginning on Page 4.8-106. As discussed in *Section 4.8, Terrestrial Biological Resources*, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological monitoring, raptor management, and consultation with the USFWS and the CDFG (**Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6**). Please also see the response to comment V-9.

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**V-60** As noted in *Section 3.4.5.1*, on Page 3-135, the proposed E Street Bridge includes a 16-foot-wide multipurpose lane that would allow pedestrians and bicyclists adequate and safe passage across the bridge. It should be noted that the referenced 100-foot dimension refers to the length of the bridge, not the width. The width of the bridge is proposed to be a 74-foot right-of-way, not 72 feet as noted in the comment.

**V-61** As provided in the response to comment V-60, a 16-foot lane will provide adequate safety for bicyclists and pedestrians. Please refer to *Figure 3-13a*, Cross Section C2, which illustrates the E Street Bridge.

**V-62** As noted in **Mitigation Measure 4.7-7**, a 3-foot-high noise barrier is required along the portions of E Street adjacent to the F&G Street Marsh. The barrier would also serve to prevent headlights from cars travelling over the bridge extending into the F&G Street Marsh. Please also see response to comment V-9.

**V-63** The comment expresses concern regarding the negative impacts related to noise that may result in flushing of birds. Flushing is considered a component of indirect impacts to sensitive birds that were addressed in *Section 4.8, Terrestrial Biological Resources*, beginning on Page 4.8-106. As provided in the response above to comment V-62, project mitigation will ensure that noise impacts from traffic on the proposed extension of E Street will not adversely affect sensitive habitat areas within the F & G Street Marsh. Please also see the response to comment V-9.

In addition, as provided above in the response to comment V-59, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological

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logical mitigation measure of providing funding for staff to provide the education and protection needed to make this work. These are pictures from 2004 of the tidal flats north of boatyard with feeding birds on the left and what happened when walkers passed by on the right. These



kinds of occurrences must be minimized. This has to be part of any future project level EIR for a promenade and/or trails in areas near habitats and should be mentioned in the program EIR. (Also if this bridge is to be shared with bicyclists there has to be some evaluation of safety issues.)

**Phase II**

**Buffer Zone**

It is great that the port finally gets the no use zone, but there has to be a fence in a ditch to keep people and animals out. Signs, wood and cable fence and cactus do not work. If there was a guard on duty 24/7 there might be effective enforcement without a fence, but otherwise there must be a fence or the buffer is useless. The entire buffer is a project feature. The entire buffer is needed because of development in the Sweetwater area, which will bring more people and pets close to the Wildlife Refuge. The buffer is to prevent the intrusion of humans and their pets into the wildlife refuge. The berms help keep down the noise. The additional habitat replaces the open land the animals were using before. The development being planned for Phase I requires this buffer as a design feature to prevent negative impacts from human and pet incursion, trash, predators, light, and noise. (All of which will be increased by the Phase I projects tremendously.) There also has to be a guaranteed ongoing funding source for the maintenance of these buffer lands.

Phase II is too late for a buffer. This buffer MUST be built in Phase I simultaneous with the start of construction. When the land is being graded is the logical time to build the berms, water quality swale and restore the habitat. The funds need to be provided in the bond. This is too important to wait "until funds (magically) become available."

A major goal of the PMP is: *IV. The Port will protect, preserve, and enhance natural resources, including natural plant and animal life in the Bay as a desirable amenity, an ecological necessity, and a valuable and usable resource.* The buffer zone, phase I, with a fence is necessary, if the port is serious about this goal.

**Seasonal Wetland**

Lagoon Road should not remain in place. The marsh must be restored and its tidal connection through F/G Street Marsh must be restored at the same time. This should be mitigation assigned to Gaylord because of its excessive mass and height and its shading/climate and other impacts upon the F&G Street Marsh.

**Bay Front and Marina View Parks**

It is unclear exactly what is planned and when with these parks, but there is mention of an "interpretive railing" to deter human and animal entry to the J Street marsh. This "railing" needs to be constructed in such a way that animals and people cannot fit through its vertical parts, and it is high enough to deter jumping over. Again it is not acceptable to install in park improvements "as funding becomes available." The fence along the marsh needs to be more certain. There is no fence now and the

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monitoring, raptor management, and consultation with the USFWS and the CDFG (See **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6**). Please also see the response to comment Q-22.

**V-64** In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, the Final EIR has been revised to include 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement. Please also see the response to comment Q-22.

**V-65** Please see the responses to comments B-6, B-10, and B-14.

**V-66** Please see the response to comment Q-10.

**V-67** Please see the response to comment D-39.

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rocks are somewhat of a deterrent, but if there will be increased use there needs to be a fence of some kind along this north edge of the J Street Marsh.

**HP-11 Existing Wetlands**

This wetlands appears to be just north of Gaylord's truck driveway and adjacent to the secondary entrance of Gaylord. It is also next to the E Street extension. It is connected to the F&G Street marsh so it needs protection of its water quality and to be guarded from human and animal intrusion in some way.

**HP-28 H Street Pier—First Half**

Does the statement "as funding becomes available" apply to the first half of this pier as well or will it be part of the bond?

**Phase III**

**H-21 Retail/Commercial Recreation and Marina Support**

Again the railing needs to be at the top of an adequate fence to protect the marsh. Will the Chula Vista Marina and California Yacht Marina leaseholds (with leases that expire in 2021 and 2029, respectively) be allowed to remain until the end of their leases?

**HP-14 and HP-15 Boat Launch/Bayfront Park/Harbor Police Building/Parking**

It is good that Bay Front Park and the Boat Launch Ramp will remain mostly the same, but the reduction in trailer parking from 125 to 100 could be a problem. If the goal is to have a busier, more active harbor why would the trailer spaces be cut? People who launch boats on a daily basis are an important part of a busy harbor. This is also a way to meet the Coastal Act requirement to provide low cost access. Is it not? People who use this launch ramp regularly say the existing 125- space parking lot is inadequate on the weekends. A study needs to be done on the impacts of reducing this parking at the project level.

**Otay District**

The port could help with the removal of the RMR from the SBPP by requiring its lessees to improve their energy efficiency and produce a portion of their own energy. If all of the port's lessees cycled their air conditioning a substantial amount of energy could be saved. If all of them serviced their AC units more could be saved. Distributed generation would also produce more energy. These are all easy and very cost effective means of replacing the energy generated by the SBPP. This is a link to a [letter written by the ISO to Mayor Cox](#). They are already building Otay Mesa. The Port and its lessees could help produce the 250 additional megawatts needed to remove the RMR from the SBPP fairly easily and inexpensively.

This graph shows three alternative ways of replacing the 250MW, in addition to Otay Mesa, needed to remove the RMR from SBPP. PV is photovoltaic collectors. AC is an air conditioning program involving installing high efficiency air conditioners in new buildings, repairing mal-functioning air conditioners, and retrofitting older air conditioners to increase their efficiency. Cycling is cycling the use of air conditioners among near-by users. All the air conditioner options reduce the load considerably. DG (CHP) is new Distributed Generation.

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V-67  
(Cont.)

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V-70

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**V-68** This comment suggests that Parcel HP-11 requires protection for water quality and to prevent human and animal intrusion in some way. Drainage from proposed development areas would be directed away from Parcel HP-11, and in fact, the project would result in removal of the existing pavement and culvert crossing of the inlet channel to the F&G Street Marsh within HP-11. In addition, the channel will be widened at the former culvert crossing location, as described on Page 4.8-129. Therefore, the Proposed Project will result in substantial enhancements to the HP-11 parcel.

As provided in the response to comment B-40 and in *Section 4.5, Hydrology and Water Quality*, environmentally sensitive areas such as the F & G Street Marsh will incorporate secondary treatment BMPs. Discharge from F & G Street will first be treated with a bio-retention filtration system and then a sand filter prior to discharging into the marsh. The sand filter will not contain standing water to avoid vector issues. The project proposes protection of the sensitive resources in the F & G Street Marsh from urban runoff by the design and implementation of permanent BMP facilities on parcels adjacent to these sensitive areas.

While exact locations for source BMPs cannot be identified, as site plans have not yet been developed (except for the Pacifica project), *Figure 4.5-5* in the Revised DEIR illustrates the anticipated locations for BMPs in the developed areas of the Sweetwater and Harbor districts. LID techniques are required in the MS4 permit and will be incorporated into project design to reduce the generation of runoff and to further reduce pollution from entering the Bay. *Figure 4.5-6* in the Revised DEIR illustrates a site design concept for LID techniques.

With regard to protection of Parcel HP-11 from intrusion of humans and animals, the Port will construct fencing as described in the

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rocks are somewhat of a deterrent, but if there will be increased use there needs to be a fence of some kind along this north edge of the J Street Marsh.

**HP-11 Existing Wetlands**

This wetlands appears to be just north of Gaylord's truck driveway and adjacent to the secondary entrance of Gaylord. It is also next to the E Street extension. It is connected to the F&G Street marsh so it needs protection of its water quality and to be guarded from human and animal intrusion in some way.

**HP-28 H Street Pier—First Half**

Does the statement "as funding becomes available" apply to the first half of this pier as well or will it be part of the bond?

**Phase III**

**H-21 Retail/Commercial Recreation and Marina Support**

Again the railing needs to be at the top of an adequate fence to protect the marsh. Will the Chula Vista Marina and California Yacht Marina leaseholds (with leases that expire in 2021 and 2029, respectively) be allowed to remain until the end of their leases?

**HP-14 and HP-15 Boat Launch/Bayfront Park/Harbor Police Building/Parking**

It is good that Bay Front Park and the Boat Launch Ramp will remain mostly the same, but the reduction in trailer parking from 125 to 100 could be a problem. If the goal is to have a busier, more active harbor why would the trailer spaces be cut? People who launch boats on a daily basis are an important part of a busy harbor. This is also a way to meet the Coastal Act requirement to provide low cost access. Is it not? People who use this launch ramp regularly say the existing 125- space parking lot is inadequate on the weekends. A study needs to be done on the impacts of reducing this parking at the project level.

**Otay District**

The port could help with the removal of the RMR from the SBPP by requiring its lessees to improve their energy efficiency and produce a portion of their own energy. If all of the port's lessees cycled their air conditioning a substantial amount of energy could be saved. If all of them serviced their AC units more could be saved. Distributed generation would also produce more energy. These are all easy and very cost effective means of replacing the energy generated by the SBPP. This is a link to a [letter written by the ISO to Mayor Cox](#). They are already building Otay Mesa. The Port and its lessees could help produce the 250 additional megawatts needed to remove the RMR from the SBPP fairly easily and inexpensively.

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V-67  
(Cont.)

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response to comment C-4. In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, the Final EIR has been revised to include 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent any human or pet encroachment, as well as blowing trash and construction debris, from the proposed Signature Park into the adjacent wetland habitat. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement.

**V-69** The commenter requests clarification regarding the phasing of improvements for the first half of the HP-28 H Street Pier. As stated in *Chapter 3.0, Project Description*, all improvements associated with the first half of the H Street Pier on HP-28, including parking, would be phased in as funding becomes available.

**V-70** This comment suggests that the railing proposed along the promenade north of the J Street Marsh include a fence, in addition to a railing, to protect the marsh from intrusion. As provided in the response to comment D-39, the description of the fencing provided for Parcels HP-3, HP-6, and HP-7 in *Chapter 3.0, Project Description*, has been revised in the Final EIR to include approximately 4-foot-high mesh fencing along the shoreline promenades to prevent encroachment to adjacent sensitive resources instead of a 4-foot-high railing.

This comment also inquires as to whether the Chula Vista Marina and California Yacht Marina leaseholds will be terminated before the end of their lease terms. The Port does not anticipate developing those parcels before the end of the current leaseholds. This portion of the comment does not address the accuracy or adequacy of the Revised DEIR; therefore, no further response is warranted.

**V-71** The commenter expresses concern regarding the reduction of boat trailer spaces from 125 to 100 spaces on Parcels HP-14 and HP-15 in Phase III. In response to this and other comments, *Chapter 3.0*,



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rocks are somewhat of a deterrent, but if there will be increased use there needs to be a fence of some kind along this north edge of the J Street Marsh.

**HP-11 Existing Wetlands**

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**Phase III**

**H-21 Retail/Commercial Recreation and Marina Support**

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**Otay District**

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(Cont.)

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V-72

*Project Description*, of the Final EIR has been revised to preserve the existing number of boat trailer spaces on Parcels HP-14 and HP-15.

This comment suggests that in order to help remove the Reliability Must-Run (RMR) status on the SBPP, the Port should require all lessees to improve energy efficiency and produce their own energy. As discussed in *Section 4.16, Energy*, project-level components proposed for Phase I incorporate project features to ensure efficient use of energy and program-level components for all phases will be required to reduce energy consumption by 30 percent, pursuant to **Mitigation Measure 4.16-2** in the Final EIR. As discussed in the Revised DEIR, it appears unlikely that the California Independent Systems Operator (Cal-ISO) would approve decommissioning, demolition, and removal of the existing SBPP without a replacement plant(s) within the region with equal or greater generating capacity. None of the options presented by the commenter would result in identification of a replacement plant with equal or greater generating capacity that would provide power to the region.

V-73

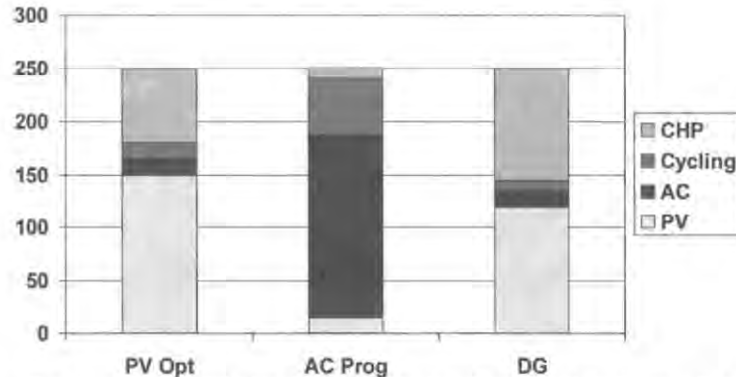
This comment consists of a chart illustrating options that may be considered for replacing the power generated by the SBPP, to include photovoltaic collectors, installation of high-efficiency air conditioners in new buildings, repair of mal-functioning air conditioners, and retrofitting older air conditioners. As an RMR facility, the SBPP is considered essential to the supply of adequate power to the region and must continue in operation until Cal-ISO removes the RMR status. As provided in the response to comment V-72, it is unlikely that Cal-ISO would approve removal of the SBPP without a replacement plant(s) within the region with equal or greater generating capacity. None of the options presented by the commenter would result in identification of a replacement plant within the region with equal or greater generating capacity. In addition, removal of the RMR status and termination of the SBPP operations is not within the jurisdiction of the Port and depends on factors beyond the Port's control. Please also see the response to comment V-72.



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Green Energy Hybrid Options to replace 250 MW

Rooftop PV, air conditioning upgrade and cycling program, and new distributed generation easily replaces 250MW of peaker plant generation.



There are a number of wetlands and potential wetlands on this property that will require detailed environmental analysis in the future. The current intake and output channels are adjacent to the Outhbay National Wildlife Refuge as is a large portion of the west shore of this area. Great care will have to be taken to protect this refuge from human and animal intrusion. No public access to the bay in this area should ever be allowed.

The ecological buffer and six-foot fence are great but it is not clear if they extend the entire length of the Otay District as they must do. Since it is not only the J Street Marsh that must be protected but also the Wildlife Island and the Wildlife Refuge. To prevent people from going around the fence the south end needs to be fenced as well. It has to be insured that humans and Animals will never be able to access the Chula Vista Wildlife Preserve island (except for authorized maintenance), which was created as mitigation for the marina and must be protected, if and when, the public is able to access the Otay area.

There has to be secure fencing all along the edge to keep people and animals out of the J Street Marsh. Again it is imperative that there be a buffer with berms along the western edge with vegetation to prevent bird flushing and to keep lights, noise, trash out of the marsh, the wildlife refuge in the salt ponds and from the wildlife island. The management and protection of the J Street Marsh should be turned over to USFWS. The Port needs a Resource Management Plan with funded enforcement and maintenance or does the Port intend to hire its own rangers to protect all this irreplaceable habitat?

The RV Park and camping uses need to be supervised. Now a large number of dogs are walked at Bay View Park. The dogs must be leashed and under the control of the owners at all times. An alternative would be a fenced dog park, but under no circumstances should dogs or other pets be allowed in the water here. All lighting will need to be subdued and close to the ground. The road must have vegetation along the sides in order to keep headlights from shining on the bay and disturbing birds that may be spending the night. The RV Park and campgrounds must also have a means of shielding all

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**V-74** Parcel OP-2A is proposed as a buffer separating development within the Otay District from the J Street Marsh. It is acknowledged that additional environmental review will be required for program-level components, including analysis of wetlands and potential wetlands, as future project-level development is proposed.

**V-75** This comment suggests that fencing must extend the entire length of the Otay District. Please see the response to comment C-6 regarding fencing around the Otay District.

**V-76** This comment requests secure fencing along the marsh, protection and management, and funding. Please see the responses to comments D-39 regarding fencing along the marsh, Q-9 regarding management, and Q-22 regarding funding.

**V-77** The proposed relocation of the RV Park is part of program-level development. Sufficient details on uses and project design are not available to address the specific concerns identified in this comment. However, future project-level approvals will require additional environmental review, which will be based on more detailed, project-level information. Please also see the response to comment V-34 regarding the RV Park.

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lighting from the bay and sensitive habitat areas. There will probably need to be rules about noise as well, if there aren't already. The Industrial Parks to the south and north also need an opaque fence or fence with vegetation to shield the adjoining area from light.

It is disgraceful that it is being suggested that more concrete be put in the Telegraph Canyon Channel. This channel needs to be naturalized (as the PMP amendment suggests). The bay suffers now from too much pollution. Naturalized channels are an important way to help improve the quality of the water, especially in an area as sensitive as the south part of the bay. There needs to be a riparian corridor with a naturalized River flowing into the J Street Marsh. This would be a huge amenity for the community and wildlife as well as an important water quality feature.

[https://www.airquality.nh.gov/Rivers/guidelines\\_naturaldesign.htm](https://www.airquality.nh.gov/Rivers/guidelines_naturaldesign.htm) The walk along the San Diego River is attractive and wildlife friendly. This same feeling could be created along the shore of Telegraph Canyon Creek, if it was made wider, deeper and appropriately vegetated to prevent erosion with a fenced bridge for Road A cars, bicycles and pedestrians. Riparian plants should be planted along both sides. When we had a tour of the area back in 2006 the channel was full of ducks.

The Port has a trust obligation that should inspire it to be part of the solution instead of the problem. It is irrelevant whether naturalizing is required or not. Considering the huge amount of mitigation that should be required for the cumulative negative impacts of this project upon the flora and fauna and ambience of the area this should be required, but required or not, the right thing to do is to naturalize the channel. This is also the only option consistent with the Port's trust goal to *protect, preserve, and enhance natural resources*.

**Litter:**

There is also the significant issue of litter that is now quite evident in Telegraph Canyon Creek and the J Street channel. There must be a specific plan for preventing this litter from entering the Bay. Whatever the city and port are now doing is clearly inadequate, and the Bayfront project will only increase the amount of litter that must be dealt with. There have to be specific plans for trash traps, solar operated compactors, employees to regularly inspect and empty trash cans and traps (and clear funding to pay them), specific designs on pier and bridges to prevent trash from entering the water, and fences or other obstructions to capture wind-blown trash before it enters habitats or water- at a minimum.

**Phase IV**

**Sweetwater**

Sweetwater is supposed to be less impacted by this alternative than by the Harbor Park alternative, but the resort hotel is actually more of an impact than the same hotel in the Harbor Park alternative because it is taller and more massive with more rooms. The signature park included in the Sweetwater Park Alternative adds a whole other set of impacts.

The hotel in S-1 at 100 feet high is also too high and too close to the Refuge. The hotel discussed by the CAC was compatible with "low- density" development and the near-by Wildlife Refuge. Previous discussions were about an Asilimar like complex of three stories or less

([http://www.visitasilomar.com/Activities\\_OnProperty.aspx](http://www.visitasilomar.com/Activities_OnProperty.aspx)). Asilimar is located at a State Park and very successfully integrates the natural beauty of the site into its marketing plan. The current description casts doubt on the statement: "*Port development seeks to minimize substantial adverse environmental impacts.*" (In the Harbor Alternative a maximum 400-room conference hotel with a maximum height of 60 feet would be constructed on S-2 in Phase II, instead of a Signature Park in the Sweetwater District in Phase I. Mixed-use office/commercial/recreation/cultural uses with a maximum height of 60 feet would replace the 750-room resort hotel with a maximum height of 100 feet on S-1 in the Sweetwater District. Specifically, up to 300,000 square feet of mixed-use office/commercial recreation and 50,000 square feet of cultural would be built on S-1. These uses would likely have a

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**V-78** This comment expresses the commenter's opinion regarding project features and design. Please see the responses to comments B-38, Q-14, and V-7.

**V-79** This comment states the commenter's opinion regarding project features and design and does not raise issues relevant to the adequacy of the environmental analysis. Therefore, no additional response is required.

**V-80** Please see the responses to comments B-23, B-70, C-20, and Q-16.

**V-81** The first part of this comment disagrees with the Revised DEIR's conclusion that the Sweetwater District would be less impacted in the Proposed Project than under the Harbor Park Alternative due to the higher building height for the hotel proposed in the Sweetwater District. In response, land uses within the Sweetwater District under the Harbor Park Alternative involve development on both Parcel S-2 (conference hotel) and Parcel S-1 (mixed/cultural uses), which would be a higher intensity as compared to the Proposed Project, which involves development of a Signature Park on S-2 and a resort hotel on S-1. The commenter is correct that the maximum building height for the resort hotel on Parcel S-1 in the Proposed Project (100 feet) would be greater than the maximum building height of the conference hotel on Parcel S-2 (60 feet) under the Harbor Park Alternative. The combined development on Parcels S-1 and S-2 under the Harbor Park Alternative, however, would result in a higher intensity of development in the Sweetwater District than what is included in the Proposed Project for this district.

The second part of this comment opines that the height of the resort hotel proposed for Parcel S-1 is too high and too close to the Sweetwater Marsh Unit of the SDBNWR. The commenter suggests

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much lower impact upon the Wildlife Refuge, because the people would be contained within the buildings and not likely to bring pets. 300,000 square feet according to the document would cause unmitigable problems, so it should be cut in half. Why were these same heights and descriptions not kept for the hotel and commercial in the Sweetwater District when the Sweetwater Park alternative became the preferred alternative?

This hotel will need its own EIR when and if someone comes forward wanting to build it, in which the specific building can be evaluated from its plans and adequate mitigations can be required or better yet negative effects can be avoided. Low Impact Development (<http://www.lowimpactdevelopment.org/>) Design Techniques must be required in all the Bayfront Districts, but most especially in the Sweetwater and Otay Districts due to the sensitive biological resources adjacent to the planned developments. The height of the buildings and the number of rooms need to be reduced even at the programmatic level, because they will be part of the amended PMP and the LCP.

S-4 adjoins the refuge. Why does the 400- foot ecological buffer not extend onto this parcel as well? 100 feet is not adequate since people will be walking the entire length one would assume. The buffer fence needs to go right to the freeway fence. The building is way too close to the refuge. At 125 feet it is over the height that encourages bird strikes. The building needs to be lowered and moved to the southern part of the lot. Since it is landlocked when getting permission to cross the tracks for a driveway the entire parking lot should be fenced including the northern part which should abut the buffer fence and keep people and animals from entering the refuge in this way. Vegetation and/or a solid fence at the north end of the lot must ensure no light or persons will enter the refuge from the parking lot.

When all of the parking in the Sweetwater District is added up it comes to 2,196 spaces. This is an awful lot of asphalt in an area that is, supposedly, meant to be kept as natural as possible (750 for the resort hotel, 480 for the commercial/recreation, 350 office, 216 park, 100 Nature Center).

**Coronado Railroad ROW**

This 40 foot ROW is mentioned in every phase as a greenbelt. In discussions about the future of the Salt Works the running of a train of some sort from National City to the Salt Works along this ROW has frequently been brought up. **It needs to be clarified that the tracks will not be disturbed.** The tracks will need to be fixed in some places in order to allow the train to start up again but the ones that are there need to be left alone. This could be a good mode of alternative transportation to the bayfront as well if a stop was allowed on E or H.

**H-1 Community Boating Center**

The Southbay Boat Yard is a source of good paying jobs and a profitable maritime industry, which is supposed to be a focus of the tidelands. If no suitable relocation site is found, will they be allowed to extend their lease here? Hopefully, by 2020 when their lease expires the port has found an alternative location for them, but if not will they be allowed to stay or will the Port totally ignore its trust obligation to maritime industry? Is the expense of moving them worthwhile? The area adjacent to their current in water facility is a sensitive habitat and great care would need to be taken in opening this area to the public as an aquatic center. Only supervised activities could be allowed, strict rules would need to be enforced and no motorized boats or jet skis could be available for rent. There needs to be an educational program for and/or clear contract with people leasing slips here to guarantee the protection of the near by areas.

**H-1A Signature Park**

This is very close to the inlet for the F/G Street Marsh. Great care has to be taken to prevent flushing of birds such as a bird blind of some kind along the entire shoreline. The 70 parking spaces

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that a complex similar to Asilimar be considered instead. The comment will be included in the Final EIR, and decision makers will be made aware of the commenter's suggestions prior to making a final decision on the project.

The third part of the comment suggests that development in the Sweetwater District under the Harbor Park Alternative would result in fewer impacts than the Proposed Project because people would be contained in buildings and not likely bring pets. The comment suggests that the 300,000 square feet of mixed-use/commercial and recreation under the Harbor Park Alternative be cut in half and that the building heights for the hotel and commercial uses proposed in the Sweetwater District for the Proposed Project be the same as proposed under the Harbor Park Alternative. In response, the Harbor Park Alternative is not intended to contain all of the components of the Proposed Project, and vice versa, but instead is intended to offer an alternate option for development that was developed in conjunction with the community as one of three design options (including the Proposed Project) that is discussed in greater detail in this report. Decision makers will be made aware of the commenter's preference prior to making a final decision on the project.

V-82 This comment suggests that the height of the proposed resort hotel on Parcel S-1 be reduced. The comment suggests that further environmental review will need to be conducted to evaluate the potential impacts from the hotel building. Development on Parcel S-1 is a program-level component. Once project-level plans are proposed for Parcel S-1, subsequent environmental review will consider potential impacts from the development proposed, including mitigation if necessary pursuant to CEQA Guidelines Section 15168.

V-83 Please see the responses to comments C-5 and Q-12.

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much lower impact upon the Wildlife Refuge, because the people would be contained within the buildings and not likely to bring pets. 300,000 square feet according to the document would cause unmitigable problems, so it should be cut in half. Why were these same heights and descriptions not kept for the hotel and commercial in the Sweetwater District when the Sweetwater Park alternative became the preferred alternative?

This hotel will need its own EIR when and if someone comes forward wanting to build it, in which the specific building can be evaluated from its plans and adequate mitigations can be required or better yet negative effects can be avoided. Low Impact Development (<http://www.lowimpactdevelopment.org/>) Design Techniques must be required in all the Bayfront Districts, but most especially in the Sweetwater and Otay Districts due to the sensitive biological resources adjacent to the planned developments. The height of the buildings and the number of rooms need to be reduced even at the programmatic level, because they will be part of the amended PMP and the LCP.

S-4 adjoins the refuge. Why does the 400- foot ecological buffer not extend onto this parcel as well? 100 feet is not adequate since people will be walking the entire length one would assume. The buffer fence needs to go right to the freeway fence. The building is way too close to the refuge. At 125 feet it is over the height that encourages bird strikes. The building needs to be lowered and moved to the southern part of the lot. Since it is landlocked when getting permission to cross the tracks for a driveway the entire parking lot should be fenced including the northern part which should abut the buffer fence and keep people and animals from entering the refuge in this way. Vegetation and/or a solid fence at the north end of the lot must ensure no light or persons will enter the refuge from the parking lot.

When all of the parking in the Sweetwater District is added up it comes to 2,196 spaces. This is an awful lot of asphalt in an area that is, supposedly, meant to be kept as natural as possible (750 for the resort hotel, 480 for the commercial/recreation, 350 office, 216 park, 100 Nature Center).

**Coronado Railroad ROW**

This 40 foot ROW is mentioned in every phase as a greenbelt. In discussions about the future of the Salt Works the running of a train of some sort from National City to the Salt Works along this ROW has frequently been brought up. **It needs to be clarified that the tracks will not be disturbed.** The tracks will need to be fixed in some places in order to allow the train to start up again but the ones that are there need to be left alone. This could be a good mode of alternative transportation to the bayfront as well if a stop was allowed on E or H.

**H-1 Community Boating Center**

The Southbay Boat Yard is a source of good paying jobs and a profitable maritime industry, which is supposed to be a focus of the tidelands. If no suitable relocation site is found, will they be allowed to extend their lease here? Hopefully, by 2020 when their lease expires the port has found an alternative location for them, but if not will they be allowed to stay or will the Port totally ignore its trust obligation to maritime industry? Is the expense of moving them worthwhile? The area adjacent to their current in water facility is a sensitive habitat and great care would need to be taken in opening this area to the public as an aquatic center. Only supervised activities could be allowed, strict rules would need to be enforced and no motorized boats or jet skis could be available for rent. There needs to be an educational program for and/or clear contract with people leasing slips here to guarantee the protection of the near by areas.

**H-1A Signature Park**

This is very close to the inlet for the F/G Street Marsh. Great care has to be taken to prevent flushing of birds such as a bird blind of some kind along the entire shoreline. The 70 parking spaces

V-81  
(Cont.)

V-82

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**V-84** The commenter expresses concern over the provision of 2,196 parking spaces in the Sweetwater District because of the amount of asphalt that would be used. In response, the number of parking spaces provided in the Sweetwater District is actually 1,906 spaces (not 2,196 spaces) and this includes all phases of development (see *Table 4.3-2* and *Table 4.3-5*). As discussed in *Section 4.5, Hydrology and Water Quality*, beginning on Page 4.5-43, site design measures are required to reduce or avoid potential impacts to water quality related to parking lots. Specifically, site design BMPs and LID measures will be required and will include minimizing impervious areas, increasing rainfall infiltration, maximizing rainfall interception, and minimizing directly connected impervious areas. Impervious areas will be minimized by using minimum sidewalk widths, placing pervious material for sidewalks, and not including any impervious decorative concrete.

Additionally, buildings on Parcels S-1, S-3, and S-4 will be placed in clusters. Rainfall infiltration will be increased by directing rooftop runoff to vegetated swales, using green roofs where practical, building permeable sidewalks, and including permeable parking areas. Rainfall interception will be achieved by preserving and planting native trees and shrubs. The Proposed Project site will disconnect impervious areas with permeable surfaces. Where permeable surfaces cannot be incorporated, parking lots, sidewalks, and patio runoff will be directed toward landscaped areas, which will be located on the downstream side of each parcel. Wherever possible, engineered swales will be used in place of curbs and gutters. Maintenance yards and outdoor work areas must be covered to limit pollutants contacting stormwater. The development of the Sweetwater District will conserve natural areas. The natural habitat buffer on the north side of Parcel S-4 will remain. The rest of the parcels in the Sweetwater District are designated for open space. Native plants or drought-tolerant

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much lower impact upon the Wildlife Refuge, because the people would be contained within the buildings and not likely to bring pets. 300,000 square feet according to the document would cause unmitigable problems, so it should be cut in half. Why were these same heights and descriptions not kept for the hotel and commercial in the Sweetwater District when the Sweetwater Park alternative became the preferred alternative?

This hotel will need its own EIR when and if someone comes forward wanting to build it, in which the specific building can be evaluated from its plans and adequate mitigations can be required or better yet negative effects can be avoided. Low Impact Development (<http://www.lowimpactdevelopment.org/>) Design Techniques must be required in all the Bayfront Districts, but most especially in the Sweetwater and Otay Districts due to the sensitive biological resources adjacent to the planned developments. The height of the buildings and the number of rooms need to be reduced even at the programmatic level, because they will be part of the amended PMP and the LCP.

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(Cont.)

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vegetation will be placed on slopes, and riprap will be required for storm drains discharging into the vegetated channel to minimize erosion at the outfall.

**V-85** The Proposed Project will not disturb the existing railroad tracks. As discussed on Page 3-110 of the Revised DEIR, the existing 40-foot-wide, approximately 2-acre Coronado Railroad ROW located parallel to the I-5 freeway is proposed in Phase III as a linear greenbelt strip.

**V-86** The commenter expresses concern regarding the relocation of the South Bay Boatyard when Parcel H-1 is developed in Phase IV of the Proposed Project. As stated in the Revised DEIR, redevelopment of Parcel H-1 is subject to relocation of the boatyard or termination of the existing lease, which expires in 2020. Once project-level plans are proposed for Parcel H-1, subsequent environmental review will consider potential impacts from the development proposed, including mitigation if necessary pursuant to CEQA Guidelines Section 15168.

**V-87** This comment includes suggestions to prevent impacts to sensitive habitat adjacent to the proposed community boating center on Parcel H-1, including restricted activities such as motorized boats and jet skis. The commenter suggests that an educational program be provided or contract with lessees of boating slips to guarantee protection of sensitive habitat. In response to this and other comments, additional mitigation (see **Mitigation Measure 4.8-6I** in the Final EIR) has been incorporated into the Final EIR to reduce impacts associated with boating activities. In response to this and other comments, the Final EIR has been revised to include the prohibition of jet ski rentals within the CVBMP area. Please also see the responses to comments V-87, V-90, and V-181 regarding jet skis. Not only will the rental of jet skis/PWCs and other motorized personal watercraft be prohibited in the project area, but the use of jet

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skis/PWCs will also be prohibited in wildlife habitat areas. Watercraft outside of the navigation channel are restricted to a 5-mile-per-hour speed limit. Further, Port Code Section 4.3 includes regulations related to anchoring, mooring, towing, and docking of vessels for purposes of controlling navigable waters. The Port will continue to cooperate with the wildlife agencies for enforcement of existing regulations.

This comment will be included in the Final EIR, and decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project.

**V-88** The commenter expresses concern regarding the potential for development on Parcel H-1A to cause birds flushing within the F&G Street Marsh and adjacent to the shoreline of Parcel H-1A. Flushing is considered a component of indirect impacts to sensitive birds that were addressed in *Section 4.8, Terrestrial Biological Resources*, beginning on Page 4.8-106. As discussed in *Section 4.8*, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological monitoring, raptor management, and consultation with the USFWS and the CDFG (See **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6**).

The commenter also strongly supports that the buffer be installed as proposed in the Revised DEIR. As discussed in the Revised DEIR, an approximately 100-foot-wide buffer will be designated "Open Space" to serve as a buffer between development and the adjacent sensitive shoreline to the north (Page s 3-117 and 3-118). The promenade would be placed south of the 100-foot-wide buffer. In addition, the Port will enter into a cooperative agreement with the appropriate agencies for the protection and/or enhancement, where appropriate, of the sensitive

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really will not leave much space for a park, but the buffer must be installed as mentioned in the DEIR, and the promenade must be designed to prevent bird flushing along the area adjoining the tidal inlet.

V-88  
(Cont.)

**H-18 Mixed Use Office/Commercial Recreation and Collector Parking Garage**

In one place it is 5-7 stories and in another 6-10 stories, which is the case? It will be interesting to see how the Port can provide free parking for visitors and marina use and assess fees for use by other businesses. This obviously is a good location for a parking garage. There already is a huge amount of surface parking in the bayfront plan, which is a poor use of the land.

V-89

**Reconfiguration of the Existing Harbor**

Boat Rentals are again mentioned. These boats must not be motorized, and jet skis must not be allowed, since the 5- mile per hour speed limit to the south precludes their use as well as the abundance of sensitive habitat. Will the new business Chula Vista Kayak be included in this plan, since kayaks and small sailboats are a natural? The space at HW3 would pretty much be filled with rental boats one would think. There would also need to be room for a ferry to park and the other uses mentioned. Will this space be adequate? Is there a possibility that to accommodate all this there may be fewer than 700 slips for rent? Wouldn't there be more room for a restaurant and ferry, etc. at HW6? Wouldn't it be cheaper and more user friendly to leave the existing marina alone and focus all active uses (ferry, rental, dining) within HW6, if a new home can be found for the Southbay Boatyard? Alternatives to the marina reconfiguration must be analyzed.

V-90

V-91

**HW-7 Navigation Channel**

It is important that this new channel not be any deeper than 12 feet to help keep speeds down and to insure that it will not be used for mega-Yachts.

V-92

**HW-2 Marina, Boat Navigation/Open Water Area**

How will decreasing the amount of open water make the harbor more active? One would think it would have to decrease activity since there will simply not be enough room for as many boats to move around at the same time?

V-93

**Roadway System and Infrastructure**

This piece-mealing of the needed infrastructure is not good policy and will end up costing considerably more since improvements-landscaping- in previous stages will need to be eliminated before succeeding ones can be built. 3-121: *Roadway demolition, road improvements, roadway realignments, and construction of new roads, as well as utility infrastructure improvements, transit, as well as pedestrian walkways, and bike paths, would be implemented throughout the Proposed Project area over the course of approximately 24 years to support the intensity of Proposed Project development and to connect the uses within the Bayfront, as well as to connect the City to the Bayfront.*

V-94

3-125: *For purposes of this Draft EIR, all of the roadway improvements are evaluated at a project level, and subsequent phase roadway improvements are analyzed at a program level.* This statement does not make any sense. Are they analyzed at project or program level? Was Phase I left out of the sentence? Actually there is mention of roads but very little actual analysis of impacts. What is missing is a drawing showing all the phase One roads exactly where they will be to scale and an evaluation of possible impacts of the chosen alignment and size.

V-95

3-125 *all proposed on-site roadways within the Proposed Project area are proposed to be within the Port's ownership and jurisdiction* Does this mean that the Port will be responsible for building and maintaining ALL the roads including those around the residential development and the Gaylord Truck road?

V-96

18

biological habitat (i.e., mudflats) running north from the South Bay Boatyard to the Sweetwater River Channel (known as the Sweetwater Tidal Flats). The establishment of such an agreement would not be necessary until the South Bay Boatyard site (Parcel H-1) is redeveloped under the "Commercial Recreation" land use designation. It is important to note that the establishment of such an agreement is contingent upon the cooperation of the appropriate agencies (e.g., USFWS).

**V-89** This comment requests clarification regarding the height ranges for development on Parcel H-18. As provided in the Revised DEIR, Parcel H-18 is proposed in Phase IV for mixed-use office and commercial recreation uses wrapped around a collector parking garage (Page s 3-118 and 4.3-7). The 1,100 to 3,000 collector parking garage will include between five and seven stories; however, the maximum building heights on Parcel H-18 would be between 85 and 155 feet (6 to 10 stories), which takes into consideration the combined building heights of the mixed-use office and commercial uses and the collector parking garages. Parking provided by the Port would be provided in accordance with appropriate parking rates, fees, or other considerations. The comment is concluded by expressing the commenter's supports for the proposed parking structure on Parcel H-18 as the commenter believes this is an appropriate location for a parking garage and a preferred alternative to surface parking in this area.

**V-90** The commenter expresses concern regarding the use of motorized boats and jet skis, as they impact sensitive habitat. Please see the response to comment V-87. In response to this and other comments, the Final EIR has been revised to include the prohibition of jet ski rentals within the CVBMP area. Not only will the rental of jet skis/PWCs and other motorized personal watercraft be prohibited in the project area, but the use of jet skis/PWCs will also be prohibited in wildlife habitat areas.



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<p>really will not leave much space for a park, but the buffer must be installed as mentioned in the DEIR, and the promenade must be designed to prevent bird flushing along the area adjoining the tidal inlet.</p> <p><b><u>H-18 Mixed Use Office/Commercial Recreation and Collector Parking Garage</u></b>  In one place it is 5-7 stories and in another 6-10 stories, which is the case? It will be interesting to see how the Port can provide free parking for visitors and marina use and assess fees for use by other businesses. This obviously is a good location for a parking garage. There already is a huge amount of surface parking in the bayfront plan, which is a poor use of the land.</p> <p><b><u>Reconfiguration of the Existing Harbor</u></b>  Boat Rentals are again mentioned. These boats must not be motorized, and jet skis must not be allowed, since the 5- mile per hour speed limit to the south precludes their use as well as the abundance of sensitive habitat. Will the new business Chula Vista Kayak be included in this plan, since kayaks and small sailboats are a natural? The space at HW3 would pretty much be filled with rental boats one would think. There would also need to be room for a ferry to park and the other uses mentioned. Will this space be adequate? Is there a possibility that to accommodate all this there may be fewer than 700 slips for rent? Wouldn't there be more room for a restaurant and ferry, etc. at HW6? Wouldn't it be cheaper and more user friendly to leave the existing marina alone and focus all active uses (ferry, rental, dining) within HW6, if a new home can be found for the Southbay Boatyard? Alternatives to the marina reconfiguration must be analyzed.</p> <p><b><u>HW-7 Navigation Channel</u></b>  It is important that this new channel not be any deeper than 12 feet to help keep speeds down and to insure that it will not be used for mega-Yachts.</p> <p><b><u>HW-2 Marina, Boat Navigation/Open Water Area</u></b>  How will decreasing the amount of open water make the harbor more active? One would think it would have to decrease activity since there will simply not be enough room for as many boats to move around at the same time?</p> <p><b><u>Roadway System and Infrastructure</u></b>  This piece-mealing of the needed infrastructure is not good policy and will end up costing considerably more since improvements-landscaping- in previous stages will need to be eliminated before succeeding ones can be built. 3-121: <i>Roadway demolition, road improvements, roadway realignments, and construction of new roads, as well as utility infrastructure improvements, transit, as well as pedestrian walkways, and bike paths, would be implemented throughout the Proposed Project area over the course of approximately 24 years to support the intensity of Proposed Project development and to connect the uses within the Bayfront, as well as to connect the City to the Bayfront.</i>  3-125: <i>For purposes of this Draft EIR, all of the roadway improvements are evaluated at a project level, and subsequent phase roadway improvements are analyzed at a program level.</i> This statement does not make any sense. 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Decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project</p> <p><b>V-91</b> This comment expresses the commenter's opinion regarding project features and design and does not raise issues relevant to the adequacy of the environmental analysis. Therefore, no additional response is required. Moreover, the proposed facilities referenced in this comment are in the final phases of development for the project, and they are analyzed at a program-level in the Revised DEIR. The level of detail requested in this comment is currently not available.</p> <p><b>V-92</b> This comment expresses the commenter's opinion regarding project features and design, which is not supported by any fact concerning the need to limit the channel depth to 12 feet. No further response is necessary.</p> <p><b>V-93</b> The commenter questions how the modification of the existing HW-2 boat navigation/open water area from 17 acres to 14 acres would contribute to a more active harbor. As discussed in <i>Chapter 3.0, Project Description</i>, on Page 3-120, the reconfiguration of the existing harbor (HW-1, HW-2, HW-3, HW-4, HW-5, HW-6, HW-7, H-12, and HP-28) includes an approximately 4-acre new commercial harbor at HW-3 in Phase IV and an increased water lease area of approximately 22 acres. To accommodate this addition of active commercial harbor area, the harbor basin would be reconfigured during Phase IV to include the reconfiguration and relocation of marina boat slips. Specifically, the number of slips in the harbor basin within the two marinas would be decreased from 900 to 700; however, the remaining 200 slips would be moved to HW-6 to free up water area for the new commercial area. The total open water area within the existing harbor would be increased (not decreased) as part of the reconfiguration.</p>



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V-88  
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V-96

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**V-94** The commenter disagrees with the approach of providing roadway and utility system infrastructure over a 24-year period concurrent with need. The commenter believes that this approach will result in increased infrastructure costs. In response, building an entire roadway and utility system before it is necessary to connect proposed development components would not necessarily decrease costs. *Section 4.2, Traffic and Circulation*, specifically analyzes the timing of the construction of the roadway improvements based on access and frontage of proposed adjacent development, and it identifies all roadway improvements as mitigation measures. The traffic analysis identifies which roadways are required for each phase based on proposed adjacent development. The Revised DEIR analysis has been structured to provide flexibility to construct identified roadway improvements sooner than mandated in the traffic analysis by assuming in the impact evaluation for all other sections of the Revised DEIR that all of the roadway improvements would be constructed in Phase I, with the exception of F Street in the Sweetwater District and all roads in the Otay District. The Revised DEIR analyzes the potential impacts related to construction of the utility system in *Section 4.14, Public Utilities*.

**V-95** The commenter expresses confusion as to whether the Revised DEIR evaluates roadway improvements at a project or program level. To clarify, the Revised DEIR analyzes Phase I roadway improvements at a project level and subsequent phases at a program level. All roads are proposed to be constructed in Phase I, with the exception of F Street in the Sweetwater District and all roads in the Otay District (see Page 3-140).

The commenter also observes that limited analysis of roadway improvement impacts is included in *Chapter 3.0, Project Description*. A detailed analysis of roadway improvements, including traffic and

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V-89

**Reconfiguration of the Existing Harbor**

Boat Rentals are again mentioned. These boats must not be motorized, and jet skis must not be allowed, since the 5- mile per hour speed limit to the south precludes their use as well as the abundance of sensitive habitat. Will the new business Chula Vista Kayak be included in this plan, since kayaks and small sailboats are a natural? The space at HW3 would pretty much be filled with rental boats one would think. There would also need to be room for a ferry to park and the other uses mentioned. Will this space be adequate? Is there a possibility that to accommodate all this there may be fewer than 700 slips for rent? Wouldn't there be more room for a restaurant and ferry, etc. at HW6? Wouldn't it be cheaper and more user friendly to leave the existing marina alone and focus all active uses (ferry, rental, dining) within HW6, if a new home can be found for the Southbay Boatyard? Alternatives to the marina reconfiguration must be analyzed.

V-90

V-91

**HW-7 Navigation Channel**

It is important that this new channel not be any deeper than 12 feet to help keep speeds down and to insure that it will not be used for mega-Yachts.

V-92

**HW-2 Marina, Boat Navigation/Open Water Area**

How will decreasing the amount of open water make the harbor more active? One would think it would have to decrease activity since there will simply not be enough room for as many boats to move around at the same time?

V-93

**Roadway System and Infrastructure**

This piece-mealing of the needed infrastructure is not good policy and will end up costing considerably more since improvements-landscaping- in previous stages will need to be eliminated before succeeding ones can be built. 3-121: *Roadway demolition, road improvements, roadway realignments, and construction of new roads, as well as utility infrastructure improvements, transit, as well as pedestrian walkways, and bike paths, would be implemented throughout the Proposed Project area over the course of approximately 24 years to support the intensity of Proposed Project development and to connect the uses within the Bayfront, as well as to connect the City to the Bayfront.*

V-94

3-125: *For purposes of this Draft EIR, all of the roadway improvements are evaluated at a project level, and subsequent phase roadway improvements are analyzed at a program level.* This statement does not make any sense. Are they analyzed at project or program level? Was Phase I left out of the sentence? Actually there is mention of roads but very little actual analysis of impacts. What is missing is a drawing showing all the phase One roads exactly where they will be to scale and an evaluation of possible impacts of the chosen alignment and size.

V-95

3-125 *all proposed on-site roadways within the Proposed Project area are proposed to be within the Port's ownership and jurisdiction* Does this mean that the Port will be responsible for building and maintaining ALL the roads including those around the residential development and the Gaylord Truck road?

V-96

18

circulation impacts, for all phases is included in *Section 4.2, Traffic and Circulation*. In addition, figures are provided to illustrate the trip assignment, ADT volumes, and peak hour traffic volumes for each phase.

V-96 The commenter questions whether the Port will be responsible for building and maintaining all roads in the CVBMP area considering that all proposed on-site roadways within the Proposed Project area are proposed to be within the Port's ownership and jurisdiction. In response, please refer to the mitigation measures provided in *Section 4.2, Traffic and Circulation*, where the responsibility for each of the required roadway improvements is provided in detail.

Comment Letter V (Page 20)	
<p>The design for E Street is rather amazing going from 5 lanes, to 4, to 3, to two. What is going to prevent a huge traffic tie up if most of the traffic is actually going through Sweetwater to the Harbor District and not to the Nature Center Parking Lot?</p> <p>What is the purpose of the 4-foot high berm on H-1A? If it is to keep people out then it is inadequate.</p> <p><b>Figure 3-13b</b></p> <p>Apparently, J Street will retain its name until Marina Way. This is extremely confusing since all the diagrams have the street called Marina Parkway, but all the text call it J Street. It makes it difficult for the public to understand exactly what is being suggested. The traffic east of the freeway is already extremely congested and bumper to bumper most of the day. The underpass is dangerous for bicycles and pedestrians now. 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It is also the only way to insure a connection between the bayfront and downtown Chula Vista. It should be extended to include southwest Chula Vista or an environmental justice issue is created by unequal treatment.</p> <p>3-155 &amp; 3-156 &amp; 3-161 It is RWQRB not C as written.</p>	<p><b>V-97</b> The commenter expresses concern regarding the design for E Street and the potential impacts that would result from traffic moving from the Sweetwater District to the Harbor District. The commenter's concern is based upon a misperception of E Street as a roadway that goes from five travel lanes, to four travel lanes, to three travel lanes, and finally to two travel lanes. As described below and in detail in <i>Section 4.2, Traffic and Circulation</i>, the E Street roadway is designed with four through-travel lanes between Bay Boulevard and the new F Street segment within the Sweetwater District to maintain adequate traffic flow at the major project entry. After E Street crosses the new F Street segment, however, the roadway will narrow to two through-travel lanes for the remainder of E Street until it terminates at H Street. In addition to through-travel lanes, on-street parking and two-way left turn lanes are provided at certain sections of E Street to accommodate anticipated traffic flows. For illustrative purposes, please refer to <i>Figures 3-13A and 3-13B</i> in the Revised DEIR (which have been renumbered to <i>Figures 3-12A and 3-12B</i> in the Final EIR), which contain the cross-sections for the proposed E Street as it travels from the Sweetwater District to the Harbor District.</p> <p><b>V-98</b> The commenter questions the purpose of the 4-foot berm on Parcel H-1A, which is referenced on Page 3-135 of the Revised DEIR. In response, the berm is provided to compensate for a topographical adjustment to support the bridge.</p> <p><b>V-99</b> The comment is correct that J Street will retain its name until Marina Way. <i>Figures 3-5 and 3-8A</i> in the Final EIR have been revised to reflect this.</p>

Comment Letter V (Page 20)	
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The proposed 12,000 trips can be accommodated at a level of LOS C or better.</p> <p><b>V-101</b> The reconfiguration of the intersection of Marina Way and Marina Parkway will result in the loss of approximately 0.5 acre of existing parkland in Phase I; however, this will not result in a significant impact because the Proposed Project will increase parkland in the Bayfront area from 26.8 acres to 35.1 acres in Phase I. In addition, the existing Marina View Park (5.7 acres) will increase to 7.7 acres in Phase II.</p> <p><b>V-102</b> The commenter expresses concern regarding protection of mudflats adjacent to the proposed pedestrian pathways, inquiring as to what protection measures will be incorporated and how the pathways will be constructed. As discussed on Page 3-143 of the Revised DEIR, the pedestrian pathways would be constructed concurrently with adjoining or adjacent development within the districts, with the ultimate goal of continuous pedestrian access and linkages within the Proposed Project area. Pedestrian access would be limited or prohibited where public safety issues and proximity to sensitive resource issues may arise. The pedestrian access plan includes an approximately 8-acre shoreline promenade or baywalk, trails, and sidewalks with appropriate pedestrian-scale landscaping, lighting, and furniture. The specific design of the pedestrian pathways would depend on public safety issues, land use adjacency issues, and other factors. These factors, in turn, would determine the appropriate materials (e.g., pavement, decomposed granite). In addition, <b>Mitigation Measure 4.8-6</b> includes measures to reduce indirect impacts, including impacts associated with lighting, noise, and public access.</p>

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V-97

V-98

V-99

V-100

V-101

V-102

V103

V-104

V-105

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The 200-foot “no-touch” portion of the buffer in Parcel SP-1 provides protection for the mudflats, which are located west of the buffer, away from proposed development and pedestrian paths. In addition, the Port will enter into a cooperative agreement with the appropriate agencies for the protection and/or enhancement, where appropriate, of the sensitive biological habitat (i.e., mudflats) running north from the South Bay Boatyard to the Sweetwater River Channel (known as the Sweetwater Tidal Flats). The establishment of such an agreement would not be necessary until the South Bay Boatyard site (Parcel H-1) is redeveloped under the Commercial Recreation land use designation. It is important to note that the establishment of such an agreement is contingent upon the cooperation of the appropriate agencies (e.g., USFWS).

**V-103** The comment expresses a repeated concern with the indirect impacts to the F&G Street Marsh, the Sweetwater Marsh NWR, and the mudflats. As provided in the response to comment V-102, **Mitigation Measure 4.8-6** includes measures to reduce indirect impacts to these sensitive habitats, including impacts associated with lighting, noise, and public access. **Mitigation Measure 4.8-6** also includes measures to reduce indirect impacts, including restrictions on uses and requirements to enforce leash laws. As provided in the response to comment B-31, **Mitigation Measure 4.8-6**, including the lighting requirements, was prepared in accordance with the City’s MSCP Subarea Plan, which has been approved by the Agencies, and is considered sufficient to mitigate for the potential impacts as a result of lighting. Please see the responses to comments B-31 and V-9 regarding shielding. Please see the response to comments B-26, Q-22, V-9, and V-32 regarding fireworks.

Comment Letter V (Page 20)

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V-97

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V-101

V-102

V103

V-104

V-105

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As provided in the responses to comments V-9, V-59, and V-63 regarding bird flushing, flushing is considered a component of indirect impacts to sensitive birds that were addressed in *Section 4.8, Terrestrial Biological Resources*, consistent with MSCP standards, which were approved by the Resource Agencies (Page 4.8-106). As discussed in *Section 4.8*, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological monitoring, raptor management, and consultation with the USFWS and the CDFG (See **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6**).

**V-104** The traffic analysis in *Section 4.2, Traffic and Circulation*, of the Revised DEIR does not consider the Green Car Line as mitigation for traffic impacts. As provided in the response to comments P-2, Q-27, and V-51, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. Please also see comment K-12.

**V-105** The comment consists of an intended correction for the RWQCB acronym found on Page s 3-155, 3-156, and 3-161. The acronym RWQCB in the Revised DEIR on the aforementioned Page s is the correct acronym for the Regional Water Quality Control Board.

Comment Letter V (Page 21)

Water Quality

The water quality analysis has some very good suggestions, but because of the lack of specific detail for Gaylord, Pacifica and the Park it lacks the specificity required for the public to be able to ascertain if adequate measures are being taken to protect the quality of the water. The same can be said for drainage, which is inconsistent about using street gutters, water quality treatment basins or swales and under ground pipes. It is confusing to have it stated that all the run-off from the bayfront will be in the bay before the runoff from the city reaches the Bayfront in one place, and in another place stating that all run-off will be treated before it enters the bay. Both scenarios cannot occur at the same time.

Land/Water Use Compatibility

Under existing Public access there should be mention of the many opportunities that the community now has, treasures and values. The Public has access to the Marina, walking along the marina and the parks, the Galley, Southbay Fish Grill, BayView Park, Bayside Park, Marina View Park, the park on Bay and F, the boat launching facility, and The Chula Vista Nature Center and trails. The midbayfront is not fenced and many people access this property as well. The BoatYard and Goodrich are major employers and hopefully always will be unless the port is able to relocate the Boat Yard, which does not seem likely. CVRV Park also has access for the public if they have RV's and wish to camp as many people regularly do.

Many of the 900 boat slips have residents who live on board their boats. They are a close-knit community that needs to be considered in this plan.

This significance Criteria should be of great concern to the Port and the city:

**3. It creates a substantial land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.**

There are many instances in this poorly written DEIR where the lack of specificity makes vague projects potentially significantly incompatible with the Sweetwater National Wildlife Refuge, the F&G Street Marsh, the J Street Marsh and/or the mud flats along the shore. The potential for severe nuisance impacts by Gaylord, the Signature Park, roads and pedestrian trails is huge and there are no specific design guidelines guaranteed and adequately described to prevent them.

The guidelines for allowing a private entity such as Gaylord to lease 39 acres of public trust lands are:

1. The structure must directly promote uses authorized by the statutory trust grant and trust law generally.
2. The structure must be incidental to the promotion of such uses.
3. The structure must accommodate or enhance the public's enjoyment of the trust lands.

The Gaylord RCC will cause the destruction of the CVRV Park, which is a source of relatively low cost enjoyment of the tidal lands for many residents and visitors in Chula Vista. The structure of Gaylord's RCC is not incidental to the promotion of the RCC uses, just the opposite it is the source of all the uses. The structure may enhance the enjoyment of the people who can afford to stay at the resort, but it definitely degrades and inhibits the enjoyment of the many people whose views will be marred by the massive size of the buildings. It also negatively impacts the numerous people who will be stuck in traffic jams on I-5 due to the construction and operation of the buildings. The operation will also result in negative air quality impacts which will cause an increase in diseases in a large number of people, which will inhibit greatly their enjoyment in the future of the state tidelands.

Actually if number of people are counted, most likely more people over greater periods of time will be negatively affected by the Gaylord structures than will have their enjoyment enhanced. The DEIR says Visual, Air Quality and Traffic are unmitigatable negative impacts of the phase I projects. These projects need to be redesigned to reduce the impacts in all these areas. It is a violation of the public trust doctrine for the port to take over-riding considerations for impacts as severe as those mentioned in the DEIR.

V-106

V-107

V-108

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V110

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**V-106** The commenter believes that the water quality analysis in the Revised DEIR lacks the detail needed for the Gaylord RCC, the Pacifica Residential and Retail Project, and the Signature Park to ensure that adequate measures are taken to protect the quality of the water.

The Port believes that adequate analysis is provided in *Section 4.5, Hydrology and Water Quality*, and *Appendices 4.5-1 through 4.5-12*, to adequately evaluate impacts to water quality associated with the Pacifica Residential and Retail Project. In addition, mitigation measures are provided to reduce or avoid any significant impacts to water quality that would result from the Pacifica project, as provided in *Section 4.5, Hydrology and Water Quality*, of the Revised DEIR.

The commenter expresses confusion regarding a perceived inconsistency in the water quality analysis regarding the use of gutters, water quality treatment basins, swales, or storm drain pipes. As discussed throughout *Section 4.5* of the Revised DEIR, the drainage system for the Proposed Project includes storm drain pipes and drainage improvements. Water quality inlets are one of the treatment control BMPs proposed to treat potential pollutants. The discussion of gutters and swales in the Revised DEIR is as part of the rain collection system for the RCC (page 4.5-59), Pacifica project (page 4.5-53), and the Signature Park (page 4.5-47). Specifically, "wherever possible, engineered swales will be used in place of curbs and gutters" (page 4.5-47 of the Revised DEIR). As described in the *Preface to the Final EIR*, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 and the Signature Park on Parcel S-2 are Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

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V-107

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V-108

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V-109

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V110

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3. The structure must accommodate or enhance the public's enjoyment of the trust lands.

V-111

The Gaylord RCC will cause the destruction of the CVRV Park, which is a source of relatively low cost enjoyment of the tidal lands for many residents and visitors in Chula Vista. The structure of Gaylord's RCC is not incidental to the promotion of the RCC uses, just the opposite it is the source of all the uses. The structure may enhance the enjoyment of the people who can afford to stay at the resort, but it definitely degrades and inhibits the enjoyment of the many people whose views will be marred by the massive size of the buildings. It also negatively impacts the numerous people who will be stuck in traffic jams on I-5 due to the construction and operation of the buildings. The operation will also result in negative air quality impacts which will cause an increase in diseases in a large number of people, which will inhibit greatly their enjoyment in the future of the state tidelands.

Actually if number of people are counted, most likely more people over greater periods of time will be negatively affected by the Gaylord structures than will have their enjoyment enhanced. The DEIR says Visual, Air Quality and Traffic are unmitigatable negative impacts of the phase I projects. These projects need to be redesigned to reduce the impacts in all these areas. It is a violation of the public trust doctrine for the port to take over-riding considerations for impacts as severe as those mentioned in the DEIR.

V-112

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The commenter also expresses confusion regarding when and how runoff from the Bayfront and the City will reach the Bay. As stated on page 4.5-26, in a description of drainage improvements in the Harbor District as part of the Proposed Project, Phase I development in the Harbor District proposes to add new storm drain lines to the J Street Channel. The new storm drain lines would connect close to the J Street Channel/Bay interface such that the peak flow from these storm drains will reach the channel and dissipate into the Bay before the peak flows from the City reach the channel. As a result, there will be no significant impact to the capacity of the J Street Channel from the Bayfront storm drain connections. Prior to runoff entering the Bay, however, the Proposed Project will incorporate both source control and treatment control measures to avoid or reduce impacts to water quality in compliance with existing regulations and specific Port and City Standard Urban Stormwater Mitigation Plan (SUSMP) requirements. Treatment control BMPs are designed to filter or treat runoff prior to discharging into an on-site or off-site storm drain system. As discussed throughout *Section 4.5, Hydrology and Water Quality*, of the Revised DEIR, the Proposed Project will include the installation of single and combined stormwater BMPs to remove anticipated pollutants of concern in site runoff to the maximum extent practicable. Treatment control BMPs include, but are not limited to, vegetated swales, water quality inlets, high-rate filtering, rain collection systems, and vegetative roof systems.

**V-107** This comment provides a description of existing employment, public access, and recreational opportunities along the Bayfront. This comment does not address the accuracy or adequacy of the Revised DEIR. No further response is warranted.



Comment Letter V (Page 21)

Water Quality

The water quality analysis has some very good suggestions, but because of the lack of specific detail for Gaylord, Pacifica and the Park it lacks the specificity required for the public to be able to ascertain if adequate measures are being taken to protect the quality of the water. The same can be said for drainage, which is inconsistent about using street gutters, water quality treatment basins or swales and under ground pipes. It is confusing to have it stated that all the run-off from the bayfront will be in the bay before the runoff from the city reaches the Bayfront in one place, and in another place stating that all run-off will be treated before it enters the bay. Both scenarios cannot occur at the same time.

V-106

Land/Water Use Compatibility

Under existing Public access there should be mention of the many opportunities that the community now has, treasures and values. The Public has access to the Marina, walking along the marina and the parks, the Galley, Southbay Fish Grill, BayView Park, Bayside Park, Marina View Park, the park on Bay and F, the boat launching facility, and The Chula Vista Nature Center and trails. The midbayfront is not fenced and many people access this property as well. The BoatYard and Goodrich are major employers and hopefully always will be unless the port is able to relocate the Boat Yard, which does not seem likely. CVRV Park also has access for the public if they have RV's and wish to camp as many people regularly do.

V-107

Many of the 900 boat slips have residents who live on board their boats. They are a close-knit community that needs to be considered in this plan.

V-108

This significance Criteria should be of great concern to the Port and the city:

**3. It creates a substantial land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.**

V-109

There are many instances in this poorly written DEIR where the lack of specificity makes vague projects potentially significantly incompatible with the Sweetwater National Wildlife Refuge, the F&G Street Marsh, the J Street Marsh and/or the mud flats along the shore. The potential for severe nuisance impacts by Gaylord, the Signature Park, roads and pedestrian trails is huge and there are no specific design guidelines guaranteed and adequately described to prevent them.

V-110

The guidelines for allowing a private entity such as Gaylord to lease 39 acres of public trust lands are:

1. The structure must directly promote uses authorized by the statutory trust grant and trust law generally.
2. The structure must be incidental to the promotion of such uses.
3. The structure must accommodate or enhance the public's enjoyment of the trust lands.

V-111

The Gaylord RCC will cause the destruction of the CVRV Park, which is a source of relatively low cost enjoyment of the tidal lands for many residents and visitors in Chula Vista. The structure of Gaylord's RCC is not incidental to the promotion of the RCC uses, just the opposite it is the source of all the uses. The structure may enhance the enjoyment of the people who can afford to stay at the resort, but it definitely degrades and inhibits the enjoyment of the many people whose views will be marred by the massive size of the buildings. It also negatively impacts the numerous people who will be stuck in traffic jams on I-5 due to the construction and operation of the buildings. The operation will also result in negative air quality impacts which will cause an increase in diseases in a large number of people, which will inhibit greatly their enjoyment in the future of the state tidelands.

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V-112

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**V-108** The comment requests that the CVBMP take into consideration the residents living aboard boats within the existing 900 boat slips. The Proposed Project will not result in any change in the total number of slips available at the Chula Vista Marina. The number of slips in the harbor basin within the two marinas would be decreased from 900 to 700; however, the remaining 200 slips would be moved to HW-6 to free up water area for the new commercial area.

**V-109** The comment quotes the Significance Criteria No. 1 from *Section 4.1, Land/Water Use Compatibility*, in the Revised DEIR, and it recommends that the criteria be of great concern to the Port and City. This comment is noted; however, it does not address the accuracy or adequacy of the Revised DEIR. No further response is warranted.

**V-110** The comment expresses a concern regarding nuisance impacts to the Sweetwater Marsh NWR, the F&G Street Marsh, the J Street Marsh, and the mudflats. As discussed in *Section 4.8, Terrestrial Biological Resources*, mitigation measures are proposed to reduce the indirect impacts such as lighting, noise, use of invasives, flushing, toxic substances, and public access (**Mitigation Measure 4.8-6**). In addition, fencing and buffers are proposed to prevent human or animal intrusion into sensitive habitat areas. The comment does not identify any specific nuisance that may occur; therefore, no further response is possible.

**V-111** The commenter expresses disagreement with the ability of the RCC to satisfy the guidelines for appropriate use of public trust lands, as summarized on page 4.1-37 of the Revised DEIR. The commenter believes that the significant visual and air quality impacts associated with development of the RCC will inhibit the enjoyment of the trust lands and will outweigh the project's contributions to enhancing the public's enjoyment of the trust lands.

Comment Letter V (Page 21)

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V-112

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As discussed on page 4.1-37 of the Revised DEIR, the Public Trust Doctrine permits a private party to acquire the right to use trust property only when the grant serves the purpose of the trust. The Public Trust Doctrine allows for the leasing of tidelands for visitor-serving uses, such as hotels. Such uses encourage broad public access to the tidelands and therefore enhance the public's enjoyment of these lands historically set aside for their benefit. The proposed development of an RCC on Parcel H-3 is therefore consistent with the purpose of the Public Trust Doctrine. Additionally, as described in the Final EIR, Gaylord has withdrawn its proposal to develop Parcel H-3 and is no longer a participant in the project. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

**V-112** *Section 4.1, Land/Water Use Compatibility*, of the Revised DEIR analyzes the potential inconsistency with the Public Trust Doctrine in relation to the land exchange. In addition, pages 3-15 through 3-17 in *Chapter 3.0, Project Description*, of the Revised DEIR, describe the proposed land exchange in the context of Section 6307. The Revised DEIR includes specific reference to the jurisdiction and intent of CSLC and Public Resources Code 6307 (*Section 4.1, Land/Water Use Compatibility*, pages 4.1-1 through 4.1-3). The Revised DEIR provides discussion of the merits of the Proposed Project in the context of the parameters set out in Public Resources Code 6307 (pages 4.1-37 and 4.1-38). The evaluation in the Revised DEIR provides information that supports the conclusion that the project does not conflict with the Section 6307 and why the Port considers the exchange viable.

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There are other impacts as well that may possibly be mitigatable but the lack of detailed description for these projects leaves the matter in grave doubt.

The land trade does meet the conditions of the public trust described on page 4.1-37, but the statement: *the transfer of up to 97 acres of land (Parcels S-1, S-3, SP-2, SP-3, and most of SP-1 and S-2) in the Sweetwater District from a private developer to the Port, in exchange for up to 33 acres of land (Parcels H-13, H-14, H-15, and HP-5) in the Harbor from the Port to a private developer.* leaves the reader wondering just how much land is involved in this trade. Shouldn't this have been agreed upon by now? How can the Port expect a decision from SLC when the language in the DEIR is so vague?

**1. The Proposed Project would have a significant impact if it conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, master plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.**

There are a number of Coastal Act Sections and Chula Vista General Plan Sections that the project as described in the DEIR does not appear to conform with. The lack of specific detail in the DEIR could be part of the problem, but at the project level there needs to be sufficient detail to resolve these issues, and there clearly is not.

The Coastal Act

The Coastal Act clearly requires: 30213 *Lower-cost visitor and recreational facilities shall be protected, encouraged, and provided where feasible, and public recreational opportunities are proposed. And Sections 30210-30212 of the Coastal Act require that public and recreational opportunities be provided for all the people, that development not interfere with the public's right of access, and that new development provide public access to the shoreline.*

There is no question that more park and open space land is being *proposed* (without any means identified for paying for their construction, much less maintenance) but existing low-cost visitor and recreational facilities have not been protected and will be destroyed or at the very least modified.

There is no guarantee or set timeline for the elimination of the SBPP, but it is proposed that the CVRV Park be destroyed upon approval of the project. This means all the people who would have used this park will not be able to for many years, if ever again.

Also 200 slips will be eliminated to provide a tiny space that likely will be inadequate for the number of uses proposed in the marina and many boaters will have to find other places for their boats for long periods of time during construction and redesigning of the marina. Many of these people live on their boats. Others park their boats here so that they can participate in low cost marine recreational activities. They will be displaced for an uncertain amount of time. The Southbay Boat Yard is a maritime use that has the highest priority for preservation. A replacement location has not yet been found and may never be (or does the Port plan on kicking them out at the end of their lease?).

Unspecified changes are proposed for the existing heavily used parks on the bayfront. There are unspecified impacts to them that will prevent their use for various periods of time.

The DEIR makes clear that the new park facilities will only be provided "as funds become available," which could easily be never. Low cost recreational and visitor facilities will be lost definitely but will be replaced "as funds become available." This is not the intention of the Coastal Act. The two existing restaurants will be demolished, but other than the very expensive restaurants within Gaylord's RCC it will be some time before new lower cost restaurants for visitors and residents will be available, if ever.

Gaylord will be on 39 acres. While they certainly will allow the public to walk through their plazas and spend money at their nightclubs, restaurants and stores, it is doubtful the public will get to use the pools and fitness club and spa. Most likely, if they have a full house, priority for seating in all

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**V-113** The commenter believes that the land trade meets the guidelines of public trust lands described on page 4.1-37 of the Revised DEIR; however, the commenter questions why the Revised DEIR describes the land trade as a "transfer of *up to 97 acres of land . . . in exchange for up to 33 acres of land*" (emphasis added). To clarify, the Port is proposing the land trade to consist of a transfer of 97 acres of land in the Sweetwater District from a private developer to the Port, in exchange for 33 acres of land in the Harbor District from the Port to a private developer. The CSLC, however, has the authority to approve or disapprove the proposed land trade and nonconformity trust uses on Port property and is required to do so for this Proposed Project. The CSLC could approve a land trade of less than what is proposed by the Port; therefore, the Revised DEIR includes language describing the land trade in terms of the maximum acreages potentially exchanged.

**V-114** This comment expresses the opinion that the Proposed Project does not conform with several sections of the California Coastal Act and Chula Vista General Plan. As provided in *Section 4.1, Land/Water Use Compatibility*, a thorough analysis and impact evaluation is presented to determine the Proposed Project's consistency with both the California Coastal Act and the current City of Chula Vista General Plan.

Chapter 8 of the California Coastal Act (California Public Resources Code, Section 30000 et seq.) identifies the Port's responsibilities to the public, and Chapter 3 of the California Coastal Act provides the basis for analyzing the Proposed Project's consistency to the California Coastal Act. As thoroughly demonstrated in *Table 4.1-7*, the Proposed Project meets the goals and intent of the California Coastal Act. *Table 4.1-7* demonstrates that the Proposed Project achieves the goals of the current Local Coastal Plan (LCP), and because the adoption of the proposed LCP amendment is a proposed action covered by this EIR, the Proposed Project would be consistent with the LCP if it is adopted.

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There are other impacts as well that may possibly be mitigatable but the lack of detailed description for these projects leaves the matter in grave doubt.

The land trade does meet the conditions of the public trust described on page 4.1-37, but the statement: *the transfer of up to 97 acres of land (Parcels S-1, S-3, SP-2, SP-3, and most of SP-1 and S-2) in the Sweetwater District from a private developer to the Port, in exchange for up to 33 acres of land (Parcels H-13, H-14, H-15, and HP-5) in the Harbor from the Port to a private developer.* leaves the reader wondering just how much land is involved in this trade. Shouldn't this have been agreed upon by now? How can the Port expect a decision from SLC when the language in the DEIR is so vague?

**1. The Proposed Project would have a significant impact if it conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, master plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.**

There are a number of Coastal Act Sections and Chula Vista General Plan Sections that the project as described in the DEIR does not appear to conform with. The lack of specific detail in the DEIR could be part of the problem, but at the project level there needs to be sufficient detail to resolve these issues, and there clearly is not.

The Coastal Act

The Coastal Act clearly requires: 30213 *Lower-cost visitor and recreational facilities shall be protected, encouraged, and provided where feasible, and public recreational opportunities are proposed. And Sections 30210-30212 of the Coastal Act require that public and recreational opportunities be provided for all the people, that development not interfere with the public's right of access, and that new development provide public access to the shoreline.*

There is no question that more park and open space land is being *proposed* (without any means identified for paying for their construction, much less maintenance) but existing low-cost visitor and recreational facilities have not been protected and will be destroyed or at the very least modified.

There is no guarantee or set timeline for the elimination of the SBPP, but it is proposed that the CVRV Park be destroyed upon approval of the project. This means all the people who would have used this park will not be able to for many years, if ever again.

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Unspecified changes are proposed for the existing heavily used parks on the bayfront. There are unspecified impacts to them that will prevent their use for various periods of time.

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In regard to the Chula Vista General Plan, the impact analysis in *Section 4.1* of the Revised DEIR includes an evaluation of the Proposed Project's consistency with the objectives in the adopted General Plan. *Table 4.1-9* presents the results of this analysis and demonstrates that the Proposed Project is consistent with all but two objectives. The Proposed Project would be inconsistent with Land Use and Transportation objective LUT 11 in regard to aesthetics and visual resources (**Significant Impact 4.1-4**) and Public Facilities and Services objective PFS 11 in regard to library services and facilities (**Significant Impact 4.1-5**). Because the comment does not identify which sections of the California Coastal Act and Chula Vista General Plan to which it refers, no additional response is possible.

**V-115** The commenter questions how the Proposed Project is consistent with California Coastal Act Section 30213, which calls for the protection of low-cost visitor and recreation facilities and public recreation opportunities. The Revised DEIR addresses the Proposed Project's consistency with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, beginning on page 4.1-38. In addition, *Table 4.1-7* (pages 4.1-39 and 4.1-40) specifically addresses the California Coastal Act Sections 30210, 30212, and 30213 referenced by the commenter. As summarized in this table, the Proposed Project designates new low-cost visitor and recreational facilities in all three districts (Sweetwater, Harbor, and Otay), in addition to existing facilities provided within the Bayfront. A summary of the type of low-cost visitor and recreational facilities provided is provided in *Table 4.1-7* and summarized below. In addition, a description of these low-cost visitor and recreational facilities can be found in *Chapter 3.0, Project Description*, on pages 3-40 through 3-121.

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For example, the Signature Park, totaling approximately 40 acres, is proposed within both the Sweetwater District and Harbor District. A pedestrian trail would be interwoven throughout the park, and a promenade would be constructed along the shoreline to complement the park. This promenade would replace the existing shoreline promenade and would be part of a larger pedestrian circulation system within the Sweetwater, Harbor, and Otay districts. A community boating center or recreational marina is proposed on Parcel H-1 in Phase IV. The boating center building could include an aquatic center, low-cost visitor-serving boating opportunities, and dock and dine facilities. The facility would have approximately 200 boat slips and possible water transportation dock and boat launch as more fully described under Parcel HW-6. Additional visitor-serving and recreation facilities within in the Harbor District include approximately 25,000 to 50,000 square feet of retail/commercial and recreation space on Parcels H-8 and H-9.

In addition, the project has been designed to include many features to encourage pedestrian, bicycle, and transit use within the Bayfront area, including a pedestrian circulation plan of approximately 54,000 linear feet comprised of shoreline promenade, trails, and sidewalks. Specific areas would also allow for bicycles as further described in *Section 3.4.7.2, Bayfront Bikeway Loop Alignment*, on page 3-151 and throughout *Chapter 3.0, Project Description*. Further, the project accounts for shuttle stops in the project area to accommodate a Bayfront Shuttle once funding is established.

Within the Otay District, an RV Park containing between 175 and 236 RV parking spaces is proposed in Phase III on an approximately 14-acre parcel. This low-cost, visitor- and recreational-use RV Park would contain ancillary facilities such as offices, pool/spa, snack bar, general store, meeting space, game room, laundry room,

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Unspecified changes are proposed for the existing heavily used parks on the bayfront. There are unspecified impacts to them that will prevent their use for various periods of time.

The DEIR makes clear that the new park facilities will only be provided "as funds become available," which could easily be never. Low cost recreational and visitor facilities will be lost definitely but will be replaced "as funds become available." This is not the intention of the Coastal Act. The two existing restaurants will be demolished, but other than the very expensive restaurants within Gaylord's RCC it will be some time before new lower cost restaurants for visitors and residents will be available, if ever.

Gaylord will be on 39 acres. While they certainly will allow the public to walk through their plazas and spend money at their nightclubs, restaurants and stores, it is doubtful the public will get to use the pools and fitness club and spa. Most likely, if they have a full house, priority for seating in all

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approximately 20 visitor parking spaces, and playground equipment. The SBPP is projected to be demolished by 2015. As a result of the withdrawal of the Gaylord project, Parcel H-3 is not expected to be developed before that time. As a result, Parcels O-3A and O-3B will be available for relocation of the RV Park by the time Parcel H-3 is needed for development.

In addition to the above-referenced facilities in the Sweetwater, Harbor, and Otay districts, new facilities in the Proposed Project include ancillary retail establishments, such as restaurants, shops, and shared public plazas.

**V-116** The comment requests that the CVBMP take into consideration the residents living aboard boats within the existing 900 boat slips and the impacts associated with the loss of boat slips. As provided in the response to comment V-108, the Proposed Project will not necessarily result in any change in the total number of slips available at the Chula Vista Marina for any period of time. The number of slips in the harbor basin within the two marinas would be decreased from 900 to 700; however, the remaining 200 slips would be moved to HW-6 to free up water area for the new commercial area. Specific plans for implementation of the marina reconfiguration have not yet been developed, but they will include a construction phasing plan to address the ultimate relocation of 200 slips to the boatyard site. In response to this comment, the Final EIR has been revised to clarify that construction phasing will require that the 200 slips at HW-6 are constructed prior to the removal of the 200 slips from the marina. The plan for implementation of the marina reconfiguration will be subject to additional environmental review pursuant to CEQA Guidelines Section 15168. Decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project. Please see response to comments V-93 and V-108.

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There are other impacts as well that may possibly be mitigatable but the lack of detailed description for these projects leaves the matter in grave doubt.

The land trade does meet the conditions of the public trust described on page 4.1-37, but the statement: *the transfer of up to 97 acres of land (Parcels S-1, S-3, SP-2, SP-3, and most of SP-1 and S-2) in the Sweetwater District from a private developer to the Port, in exchange for up to 33 acres of land (Parcels H-13, H-14, H-15, and HP-5) in the Harbor from the Port to a private developer.* leaves the reader wondering just how much land is involved in this trade. Shouldn't this have been agreed upon by now? How can the Port expect a decision from SLC when the language in the DEIR is so vague?

**1. The Proposed Project would have a significant impact if it conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, master plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.**

There are a number of Coastal Act Sections and Chula Vista General Plan Sections that the project as described in the DEIR does not appear to conform with. The lack of specific detail in the DEIR could be part of the problem, but at the project level there needs to be sufficient detail to resolve these issues, and there clearly is not.

The Coastal Act

The Coastal Act clearly requires: 30213 *Lower-cost visitor and recreational facilities shall be protected, encouraged, and provided where feasible, and public recreational opportunities are proposed. And Sections 30210-30212 of the Coastal Act require that public and recreational opportunities be provided for all the people, that development not interfere with the public's right of access, and that new development provide public access to the shoreline.*

There is no question that more park and open space land is being *proposed* (without any means identified for paying for their construction, much less maintenance) but existing low-cost visitor and recreational facilities have not been protected and will be destroyed or at the very least modified.

There is no guarantee or set timeline for the elimination of the SBPP, but it is proposed that the CVRV Park be destroyed upon approval of the project. This means all the people who would have used this park will not be able to for many years, if ever again.

Also 200 slips will be eliminated to provide a tiny space that likely will be inadequate for the number of uses proposed in the marina and many boaters will have to find other places for their boats for long periods of time during construction and redesigning of the marina. Many of these people live on their boats. Others park their boats here so that they can participate in low cost marine recreational activities. They will be displaced for an uncertain amount of time. The Southbay Boat Yard is a maritime use that has the highest priority for preservation. A replacement location has not yet been found and may never be (or does the Port plan on kicking them out at the end of their lease?).

Unspecified changes are proposed for the existing heavily used parks on the bayfront. There are unspecified impacts to them that will prevent their use for various periods of time.

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In response to the commenter's concern regarding relocation of the South Bay Boatyard, please see the response to comment V-86.

**V-117** The proposed master plan includes the creation of new park lands and enhancement of existing parks within the Bayfront area. This comment expresses concern with unspecified impacts; however, no significant impacts are anticipated, and in fact, the Bayfront will be the home to new and improved parks. Impacts associated with the construction and maintenance of the proposed parkland are addressed in *Section 4.13.3* in the Revised DEIR, including a discussion of temporary impacts on page 4.13-16

Construction activity related to implementation of the Proposed Project's Phase I development includes the reconfiguration and reconstruction of the existing Bayside Park. The reconstruction would result in the temporary closure of the park and therefore would result in a temporary short-term impact to the delivery of park and recreation levels of service. At the completion of Phase I, development of the reconstructed Bayside Park would be complete, resulting in the provision of reconstructed and expanded parkland acreage and thereby mitigating the temporary and short-term impacts to park and recreation levels of service. Development of the project would result in temporary, short-term significant impacts to park and recreation levels of service due to temporary closure of existing area parks during project construction (**Significant Impact 4.13.3-1**). Mitigation is provided to reduce this impact to below a level of significance (**Mitigation Measure 4.13.3-1**).

**V-118** This comment expresses concern regarding the funding for new park facilities. Please see the response to comment B-76 in regard to proposed park amenities.



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**V-119** The comment expresses concern with the public's access to Gaylord amenities. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

The commenter also expresses concern regarding the loss of low-cost visitor and recreational facilities, including restaurants. Please refer to the response to comment V-35 regarding the loss of existing restaurants. Please refer to the response to comment V-115 regarding low-cost visitor and recreational facilities.



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30230 Provides that marine resources shall be maintained, enhanced, and, where feasible, restored.

No where in the DEIR is there a commitment to enhancing or restoring marine resources unless they have been damaged in some way by the project, in which case only the minimum amount is restored to mitigate at a minimal level. The long range consequences to the sea turtles, benthic organisms, eel-grass, the bay and resources of the Wildlife Refuge of the massive amount of intense development planned, but poorly described, are pretty much ignored. There is no interest expressed in restoring the seasonal wetland to a marsh by restoring its connection to the F&G Street Marsh, and the 400- foot ecological buffer is delayed until phase II with no fence and a plan to build "as funds become available." This project as poorly described in the DEIR is not maintaining, enhancing or restoring marine resources. The building of a pier and the dredging of a new channel also involve more destruction of habitat, which is only replaced at minimal levels and do alternatives are analyzed.

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There are many impacts to marine organisms and coastal marine and wetland habitat as well as acknowledgement of on-going impacts during operation, but there is no specificity and clear commitment to prevent these impacts through specific improved design features, enforced rules and regulations or restoration of increased habitat to allow animal migration further from area of impact. Water Quality BMP's are standard, but IPM everywhere, specific anti-bird strike design features, specific noise and light impact avoidance practices, etc. are missing from the DEIR. There are way to many could's, may's and possible's to provide certainty of protection of anything and the opportunity to restore the Telegraph Channel is specifically rejected.

30240 Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values. Section 30240 of the Coastal Act provides for the protection of environmentally sensitive habitat areas by restricting uses within, or adjacent, to such areas.

The land trade does remove the residential from the Sweetwater District, which would have been very detrimental to habitat values, but the development planned for this district is still too intense. An 18 acre park with absolutely no design guidelines, over 2,000 parking spaces, and numerous possible unspecified uses has the potential to attract many people and their pets and attract predators and excessive trash.

There is no Resource Management Plan, no predator control plan, no ranger to patrol, no rules, no specific design, no limits on hours or activities, the possibility of numerous buildings, etc. The park is not described at a project level so it is impossible for the public or the coastal commission to determine what the impacts will be to the numerous sensitive habitats in the area. (\*\*232) VI. Prejudice

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**V-120** The commenter questions whether the land trade allows for incorporation of new visitor-serving commercial facilities consistent with Section 30222 of the California Coastal Act. The Revised DEIR addresses the Proposed Project's consistency with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* (pages 4.1-41 and 4.1-42) specifically addresses California Coastal Act Section 30222 referenced by the commenter. As summarized in *Table 4.1-7*, the Proposed Project designates new visitor-serving facilities within all three districts. The proposed land trade would facilitate the project's ability to develop both public and private lands to enhance public recreation and visitor-related activities. Should the CSLC approve the land exchange, as proposed by the project, the requirements as stated on page 4.1-37 in the Revised DEIR will no longer apply to the parcels affected by the land trade (H-13, H-14, HP-5 and H-15).

*Chapter 3.0, Project Description*, of the Revised DEIR clearly states that the proposed program-level uses for Parcel H-15 include mixed-use office and commercial uses, recreational uses, and retail uses (pages 3-106 and 3-107). The proposed designations under the LCP for Parcels H-13, H-14, HP-5 and H-15 are provided in *Table 4.1-6*, specifically on page 4.1-35. The uses proposed for Parcel H-15 are allowed under the California Coastal Act as Commercial (Professional and Administrative) and Commercial (Visitor) uses under the City's proposed LCP.

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30224 Encourages the increased recreational boating use of coastal waters and specifies methods to increase such usage. If the Southbay boatyard moves there will be the same number of slips that there now are, but in reality the current plan reduces the number of slips by 200 for at least the short term, if not permanently. The parking for the boat launch ramp is to be reduced by 25 spaces, which could mean fewer people will be able to use it. The amount of open water space at HW-2 is being reduced. The navigation Channel is being straightened which may benefit some boaters. The boating center is a big IF, if somewhere is found to relocate the SouthBay Boat Yard and if someone comes along willing to pay for it. The word "could" is used in the description, which cannot be counted on.

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No where in the DEIR is there a commitment to enhancing or restoring marine resources unless they have been damaged in some way by the project, in which case only the minimum amount is restored to mitigate at a minimal level. The long range consequences to the sea turtles, benthic organisms, eel-grass, the bay and resources of the Wildlife Refuge of the massive amount of intense development planned, but poorly described, are pretty much ignored. There is no interest expressed in restoring the seasonal wetland to a marsh by restoring its connection to the F&G Street Marsh, and the 400- foot ecological buffer is delayed until phase II with no fence and a plan to build "as funds become available." This project as poorly described in the DEIR is not maintaining, enhancing or restoring marine resources. The building of a pier and the dredging of a new channel also involve more destruction of habitat, which is only replaced at minimal levels and do alternatives are analyzed.

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The land trade does remove the residential from the Sweetwater District, which would have been very detrimental to habitat values, but the development planned for this district is still too intense. An 18 acre park with absolutely no design guidelines, over 2,000 parking spaces, and numerous possible unspecified uses has the potential to attract many people and their pets and attract predators and excessive trash.

There is no Resource Management Plan, no predator control plan, no ranger to patrol, no rules, no specific design, no limits on hours or activities, the possibility of numerous buildings, etc. The park is not described at a project level so it is impossible for the public or the coastal commission to determine what the impacts will be to the numerous sensitive habitats in the area. (\*\*232) VI. Prejudice

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**V-121** This comment expresses concern with the temporary loss of boat slips and boat spaces and how that relates to the project's consistency with Section 30224 of the California Coastal Act. The Revised DEIR addresses the Proposed Project's consistency with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* (page 4.1-42) specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30224 referenced by the commenter. The project proposes program-level components over the course of four phases (Phases I through IV) and many years. In fact, both the H-1 community boating center, and the HW-6 marina reconfiguration do not take place until Phase IV, and the timing of the improvements will not reduce the number of slips for any period of time. Please see the response to comment V-116 regarding the relocation of 200 boat slips. Please see the response to comment V-71 regarding boat trailer spaces.

Due to the programmatic nature of these improvements for Phase III and IV components, it is speculative to identify an impact that may not occur. In addition, subsequent environmental review will be required for all Phase II-IV components. It should also be noted that the Revised DEIR addresses what is proposed as part of the project and does not dictate what will be constructed, hence the use of the word "could" in the Revised DEIR in regard to program-level components.

**V-122** The comment questions how the project will enhance or restore marine resources consistent with Section 30230 of the California Coastal Act. The Revised DEIR addresses the Proposed Project's consistency with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* (page 4.1-43) specifically addresses the

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Proposed Project's consistency with the California Coastal Act Section 30230 referenced by the commenter. Pursuant to the requirements of CEQA, potentially significant impacts attributable to the project are mitigated through measures identified in the Revised DEIR. The impacts addressed in the Revised DEIR include consideration of long-term impacts associated with construction and operation of the project, including impacts on green sea turtles, benthic organisms, and eelgrass. *Section 4.9, Marine Biological Resources*, and *Appendix 4.9-1* of the Revised DEIR contain a focused assessment of marine biological resources. Please also see the response to B-56, B-223, and B-226 regarding benthic organisms and the response to comment H-7 regarding eelgrass.

Please see the responses to comments B-6 and B-13 regarding restoration within the ecological buffers. As provided in the response to comment B-6 from USFWS, fencing will be incorporated in to the design features of the project to protect the SDBNWR preserve areas from trespassing and other intrusions. The buffer proposed on Parcel SP-1 will remain undeveloped in Phase I and will therefore serve the function of a buffer for purposes of avoiding and reducing indirect effects from Phase I development.

In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, the Final EIR has been revised to include 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement. Please see the response to comment V-26 regarding timing of the buffer. Please also see the response to comment B-18 regarding coastal marsh restoration and the responses to comments C-11, I-10, and Q-10 regarding other proposed restoration.

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There are many impacts to marine organisms and coastal marine and wetland habitat as well as acknowledgement of on-going impacts during operation, but there is no specificity and clear commitment to prevent these impacts through specific improved design features, enforced rules and regulations or restoration of increased habitat to allow animal migration further from area of impact. Water Quality BMP's are standard, but IPM everywhere, specific anti-bird strike design features, specific noise and light impact avoidance practices, etc. are missing from the DEIR. There are way to many could's, may's and possible's to provide certainty of protection of anything and the opportunity to restore the Telegraph Channel is specifically rejected.

30240 Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values. Section 30240 of the Coastal Act provides for the protection of environmentally sensitive habitat areas by restricting uses within, or adjacent, to such areas.

The land trade does remove the residential from the Sweetwater District, which would have been very detrimental to habitat values, but the development planned for this district is still too intense. An 18 acre park with absolutely no design guidelines, over 2,000 parking spaces, and numerous possible unspecified uses has the potential to attract many people and their pets and attract predators and excessive trash.

There is no Resource Management Plan, no predator control plan, no ranger to patrol, no rules, no specific design, no limits on hours or activities, the possibility of numerous buildings, etc. The park is not described at a project level so it is impossible for the public or the coastal commission to determine what the impacts will be to the numerous sensitive habitats in the area. (\*\*232) VI. Prejudice

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V-119  
(Cont.)

V-120

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V-124

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V-126

**V-123** The comment expresses concern regarding the description of how the project will enhance or restore marine resources consistent with Section 30230 of the California Coastal Act. As provided in the response to comment V-122, *Table 4.1-7* (page 4.1-43) specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30230 referenced by the commenter. Impacts on marine resources associated with dredging of the new navigation channel and pier construction are analyzed at the program-level in *Section 4.9, Marine Biological Resources*, of the Revised DEIR. Significant impacts associated with those activities are identified, and mitigation is provided to reduce the impacts to less-than-significant levels.

In response to the commenter's concern regarding adequate project description in the Revised DEIR, please refer to the response to comment V-2 regarding CEQA Guidelines requirements for a project description.

**V-124** The commenter references Section 30231 of the California Coastal Act in regard to the maintenance and restoration of biological productivity and quality of coastal marine and wetland habitat. The Revised DEIR addresses the Proposed Project's consistency with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* (page 4.1-43) specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30231 referenced by the commenter.

This comment generally asserts that mitigation measures, or project features, are not sufficiently specific. However, references are not specific or sufficiently clear to afford a detailed response in each issue area. It should be noted that many of the issue areas identified in this comment are addressed in other comments within this comment letter,

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venues will be for guests at the hotel. Will the public have greater access or less? Their prices will probably be restrictive as well.

30222 Private lands suitable for visitor-serving commercial recreational facilities designed to enhance public coastal recreation shall have priority over all other development, except agriculture and coastal dependent development or uses. There will be a land exchange and the private land will be used for 1500 condominiums. There is a possibility enough land will be included in the trade for a hotel, but this is not something that is definitely stated in the DEIR. Port lands are designated for commercial recreational facilities of an unspecified nature, private lands are not. 14 acres of them are to be private condominiums. Other acres are for a grocery store and retail to serve the residents. This is not coastal dependent development.

30224 Encourages the increased recreational boating use of coastal waters and specifies methods to increase such usage. If the Southbay boatyard moves there will be the same number of slips that there now are, but in reality the current plan reduces the number of slips by 200 for at least the short term, if not permanently. The parking for the boat launch ramp is to be reduced by 25 spaces, which could mean fewer people will be able to use it. The amount of open water space at HW-2 is being reduced. The navigation Channel is being straightened which may benefit some boaters. The boating center is a big IF, if somewhere is found to relocate the SouthBay Boat Yard and if someone comes along willing to pay for it. The word "could" is used in the description, which cannot be counted on.

30230 Provides that marine resources shall be maintained, enhanced, and, where feasible, restored.

No where in the DEIR is there a commitment to enhancing or restoring marine resources unless they have been damaged in some way by the project, in which case only the minimum amount is restored to mitigate at a minimal level. The long range consequences to the sea turtles, benthic organisms, eel-grass, the bay and resources of the Wildlife Refuge of the massive amount of intense development planned, but poorly described, are pretty much ignored. There is no interest expressed in restoring the seasonal wetland to a marsh by restoring its connection to the F&G Street Marsh, and the 400- foot ecological buffer is delayed until phase II with no fence and a plan to build "as funds become available." This project as poorly described in the DEIR is not maintaining, enhancing or restoring marine resources. The building of a pier and the dredging of a new channel also involve more destruction of habitat, which is only replaced at minimal levels and do alternatives are analyzed.

30231 Specifies that biological productivity and the quality of coastal marine and wetland habitat needed to sustain optimum populations of marine organisms, and to protect human health, shall be maintained and, where feasible, restored.

There are many impacts to marine organisms and coastal marine and wetland habitat as well as acknowledgement of on-going impacts during operation, but there is no specificity and clear commitment to prevent these impacts through specific improved design features, enforced rules and regulations or restoration of increased habitat to allow animal migration further from area of impact. Water Quality BMP's are standard, but IPM everywhere, specific anti-bird strike design features, specific noise and light impact avoidance practices, etc. are missing from the DEIR. There are way to many could's, may's and possible's to provide certainty of protection of anything and the opportunity to restore the Telegraph Channel is specifically rejected.

30240 Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values. Section 30240 of the Coastal Act provides for the protection of environmentally sensitive habitat areas by restricting uses within, or adjacent, to such areas.

The land trade does remove the residential from the Sweetwater District, which would have been very detrimental to habitat values, but the development planned for this district is still too intense. An 18 acre park with absolutely no design guidelines, over 2,000 parking spaces, and numerous possible unspecified uses has the potential to attract many people and their pets and attract predators and excessive trash.

There is no Resource Management Plan, no predator control plan, no ranger to patrol, no rules, no specific design, no limits on hours or activities, the possibility of numerous buildings, etc. The park is not described at a project level so it is impossible for the public or the coastal commission to determine what the impacts will be to the numerous sensitive habitats in the area. (\*\*232) VI. Prejudice

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V-119  
(Cont.)

V-120

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V-124

V-125

V-126

and responses are provided. In addition, analysis of impacts and mitigation for the impacts described in this comment are discussed in *Section 4.5, Hydrology and Water Quality*; *Section 4.8, Terrestrial Biological Resources*; and *Section 4.9, Marine Biological Resources*. Moreover, some of the issue areas, particularly those related to marine resources, are related to lack of detail for program-level components. As noted in previous responses, program-level components are analyzed in the Revised DEIR to the extent that information is available. Additional environmental review will be required when those program elements are advanced to a project-level approval. Please also see the response to comment B-38 regarding Telegraph Creek Channel.

**V-125** This comment cites Section 30240 of the California Coastal Act regarding the protection of environmentally sensitive habitat and states the general opinion that the development planned for the Sweetwater District is too intense and has the potential to attract many people, their pets, predators, and excessive trash. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* (pages 4.1-46 and 4.1-47) specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30240 referenced by the commenter.

The potential impacts of the Proposed Project on environmentally sensitive habitat and the mitigation measures required to protect such habitat are discussed in *Section 4.8, Terrestrial Biological Resources*, and *Section 4.9, Marine Biological Resources*, of the Revised DEIR. As this comment does not identify any specific aspect of these sections that the commenter believes is inadequate, no further responses is warranted.

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(27) "[HN28] When the informational requirements of CEQA are not complied with, an agency has failed to proceed in 'a manner required by law.'" (*Peninsula, supra*, 87 Cal.App.4th at p. 118.) If the deficiencies in an EIR "preclude[] informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred." (*Id.* at p.128.)

There are also four other uses: a 100-space parking lot for the Nature Center, a 100 foot high 750 room resort hotel with 750 parking spaces very close to the refuge and the F&G Street marsh, a 125 foot high office building with 480 parking spaces adjacent to the Refuge and a mixed use office and commercial recreation building with another 350 parking spaces.

2,196 parking spaces is a huge increase in impermeable surfaces and a likely producer of additional heat. There is no mention of using permeable surfaces or specific vegetation plans for reducing heat from pavement.

The buffer will be built without a fence in Phase II when "funds become available," but the park with its parking lot and the Nature Center Parking lot will be in phase I.

There are no specifications as to how bird flushing will be prevented. The F&G Street marsh may be shaded by the RCC. The two- day study was based upon the current plan, which is not finalized. The final location of the buildings needs to be determined by building plans before the shading situation can be resolved. There is also the issue of the cutting off of breezes by these massive buildings, which will likely affect the temperature of the F&G Street marsh. This was not analyzed in the DEIR. There are no specific design features committed to to prevent bird strikes.

The marsh will also be subjected to light from the 24- hour uses in the hotel. There are no specific restrictions on fireworks, light or laser shows.

Noise and light are not specifically controlled by any specific restrictions on operation. It is unclear what protection is provided if any for the mud flats.

The seasonal wetland is not being enhanced and joined to the F&G Street marsh. Lagoon Road has not been removed and replaced by some kind of a bridge to allow tidal flushing of the seasonal wetland.

Telegraph Channel is not being restored to a more natural state. There is a fence in the Otay District to protect the J Street marsh, but it is not specified it will go around the entire District to protect the sensitive habitats on the north, south and west sides. There is no fence on the north side of the marsh now or apparently in the future, even though many more people will be using this area. The incredibly massive development in Phase I is only the start, but the long term consequences to the multiple sensitive habitats has not been adequately addressed by the DEIR.

30250 New residential, commercial, or industrial development shall be located in close proximity to an area with adequate public services that will not significantly affect coastal resources.

It is not true that all impacts to public services will be mitigated below the level of significance. Libraries are out of compliance now with threshold standards. There is a deficit and will be until another library is built. Over 3,000 new residents will make this worse.

The police are out of compliance for level 2 calls and have been for years. Over 3,000 new residents will make this worse. The project requires between 7 and 10 police officers more, but the city will receive no new General Fund money to pay for them.

The DEIR says that Cumulative Energy will be an unmitigatable negative impact of this project. There are not adequate public services. Bad Air Quality will negatively impact people's health requiring more health services. There will be a need for more sewer capacity, water and streets. Some of these will be paid for by fees from the residential development, but is unclear who will pay for the rest.

<sup>5</sup> BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; PANAMA 99 PROPERTIES LLC, Real Party in Interest and Respondent; BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; CASTLE & COOKE COMMERCIAL-CA, INC., Real Party in Interest and Appellant. F044943, F045035 COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT 124 Cal. App. 4th 1184; 22 Cal. Rptr. 3d 203; 2004 Cal. App. LEXIS 2121; 2004 Cal. Daily Op. Service 10918; 2004 Daily Journal DAR 14768; 34 ELR 20153

**V-126** The mitigation measures provided in *Section 4.8.6* and *Section 4.9.4* of the Revised DEIR and the MMRP required pursuant to California Public Resources Code Section 21081.6 serve as the resource management, predator control, and other plans for reducing or avoiding potential significant impacts to environmentally sensitive habitats. In addition, the policies, rules, and regulations that govern all Port lands, including limits on hours and activities for public spaces, apply to the project area. Please also see the responses to comments B-5 through B-23.

**V-127** This comment describes potential uses of parcels in the Sweetwater District in Phases II, III, and IV of the Proposed Project. If the description of future uses is intended as an example of development the commenter considers too intense, please see the response to comment V-125. The comment also states that the proposed parking lots in the Sweetwater District would result in a huge increase in impermeable surfaces. Please see the response to comment V-84.

**V-128** This comment repeats concerns raised previously. As previously stated in the responses to comments V-9, V-59, V-63, and V-88, flushing is considered a component of indirect impacts to sensitive birds that were addressed in *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR beginning on page 4.8-106. Specific measures to prevent bird flushing are provided in **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6** of the Revised DEIR. Please also see the responses to comments V-9 and V-63.

Shading impacts of the RCC are discussed in *Section 4.8.5* of the Revised DEIR. As noted in the Preface to the Final EIR, however, development on Parcel H-3 is no longer analyzed at a project level as there is currently no active developer pursuing development of this parcel. At the time a project-specific development application is

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(27) "[HN28] When the informational requirements of CEQA are not complied with, an agency has failed to proceed in 'a manner required by law.'" (*Peninsula, supra*, 87 Cal.App.4th at p. 118.) If the deficiencies in an EIR "preclude[] informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred." (*Id.* at p.128.)

There are also four other uses: a 100-space parking lot for the Nature Center, a 100 foot high 750 room resort hotel with 750 parking spaces very close to the refuge and the F&G Street marsh, a 125 foot high office building with 480 parking spaces adjacent to the Refuge and a mixed use office and commercial recreation building with another 350 parking spaces.

2,196 parking spaces is a huge increase in impermeable surfaces and a likely producer of additional heat. There is no mention of using permeable surfaces or specific vegetation plans for reducing heat from pavement.

The buffer will be built without a fence in Phase II when "funds become available," but the park with its parking lot and the Nature Center Parking lot will be in phase I.

There are no specifications as to how bird flushing will be prevented. The F&G Street marsh may be shaded by the RCC. The two- day study was based upon the current plan, which is not finalized. The final location of the buildings needs to be determined by building plans before the shading situation can be resolved. There is also the issue of the cutting off of breezes by these massive buildings, which will likely affect the temperature of the F&G Street marsh. This was not analyzed in the DEIR. There are no specific design features committed to to prevent bird strikes.

The marsh will also be subjected to light from the 24- hour uses in the hotel. There are no specific restrictions on fireworks, light or laser shows.

Noise and light are not specifically controlled by any specific restrictions on operation. It is unclear what protection is provided if any for the mud flats.

The seasonal wetland is not being enhanced and joined to the F&G Street marsh. Lagoon Road has not been removed and replaced by some kind of a bridge to allow tidal flushing of the seasonal wetland.

Telegraph Channel is not being restored to a more natural state. There is a fence in the Otay District to protect the J Street marsh, but it is not specified it will go around the entire District to protect the sensitive habitats on the north, south and west sides. There is no fence on the north side of the marsh now or apparently in the future, even though many more people will be using this area. The incredibly massive development in Phase I is only the start, but the long term consequences to the multiple sensitive habitats has not been adequately addressed by the DEIR.

30250 New residential, commercial, or industrial development shall be located in close proximity to an area with adequate public services that will not significantly affect coastal resources.

It is not true that all impacts to public services will be mitigated below the level of significance. Libraries are out of compliance now with threshold standards. There is a deficit and will be until another library is built. Over 3,000 new residents will make this worse.

The police are out of compliance for level 2 calls and have been for years. Over 3,000 new residents will make this worse. The project requires between 7 and 10 police officers more, but the city will receive no new General Fund money to pay for them.

The DEIR says that Cumulative Energy will be an unmitigatable negative impact of this project. There are not adequate public services. Bad Air Quality will negatively impact people's health requiring more health services. There will be a need for more sewer capacity, water and streets. Some of these will be paid for by fees from the residential development, but is unclear who will pay for the rest.

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submitted for Parcel H-3, a site specific shading analysis will be conducted to evaluate impacts. Please also see the response to comment B-30, C-29, and V-10. In response to this comment and other comments regarding shading, *Appendix 4.4-4* has been added to the Final EIR, which includes the graphics depicting the shading analysis conducted for the Phase I project (Pacifica). With respect to the potential impacts on temperature of the F&G Street Marsh, please see the response to comment V-10.

Specific design features and mitigation measures to prevent bird strikes are provided in **Mitigation Measure 4.8-22** of the Revised DEIR. In addition, **Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts relate to bird strikes and bird disorientation. This mitigation measure has also been revised in the Final EIR so that the measures required to reduce or avoid the Proposed Project's potential significant impacts on bird strikes shall be implemented for *any* buildings with unobstructed lines of sight to nearby open water or large areas of open space. Please also see the response to comment B-28.

**V-129** This comment echoes a concern raised previously regarding potential impacts on the marsh from light and noise. Please see, for example, **Mitigation Measure 4.7-1** and **Mitigation Measures 4.7-4** through **4.7-9**, **Mitigation Measure 4.8-6D** and **4.8-6E**, and the responses to comments B-25, B-31, B-32, V-9, and V-47.

**V-130** The Revised DEIR contains a number of control measures related to lighting and noise, as discussed in the analysis and mitigation measures contained in *Section 4.7, Noise*, and *Section 4.8, Terrestrial Biological Resources*. Please see the response to comment V-129.

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There are also four other uses: a 100-space parking lot for the Nature Center, a 100 foot high 750 room resort hotel with 750 parking spaces very close to the refuge and the F&G Street marsh, a 125 foot high office building with 480 parking spaces adjacent to the Refuge and a mixed use office and commercial recreation building with another 350 parking spaces.

2,196 parking spaces is a huge increase in impermeable surfaces and a likely producer of additional heat. There is no mention of using permeable surfaces or specific vegetation plans for reducing heat from pavement.

The buffer will be built without a fence in Phase II when "funds become available," but the park with its parking lot and the Nature Center Parking lot will be in phase I.

There are no specifications as to how bird flushing will be prevented. The F&G Street marsh may be shaded by the RCC. The two- day study was based upon the current plan, which is not finalized. The final location of the buildings needs to be determined by building plans before the shading situation can be resolved. There is also the issue of the cutting off of breezes by these massive buildings, which will likely affect the temperature of the F&G Street marsh. This was not analyzed in the DEIR. There are no specific design features committed to to prevent bird strikes.

The marsh will also be subjected to light from the 24- hour uses in the hotel. There are no specific restrictions on fireworks, light or laser shows.

Noise and light are not specifically controlled by any specific restrictions on operation. It is unclear what protection is provided if any for the mud flats.

The seasonal wetland is not being enhanced and joined to the F&G Street marsh. Lagoon Road has not been removed and replaced by some kind of a bridge to allow tidal flushing of the seasonal wetland.

Telegraph Channel is not being restored to a more natural state. There is a fence in the Otay District to protect the J Street marsh, but it is not specified it will go around the entire District to protect the sensitive habitats on the north, south and west sides. There is no fence on the north side of the marsh now or apparently in the future, even though many more people will be using this area. The incredibly massive development in Phase I is only the start, but the long term consequences to the multiple sensitive habitats has not been adequately addressed by the DEIR.

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It is not true that all impacts to public services will be mitigated below the level of significance. Libraries are out of compliance now with threshold standards. There is a deficit and will be until another library is built. Over 3,000 new residents will make this worse.

The police are out of compliance for level 2 calls and have been for years. Over 3,000 new residents will make this worse. The project requires between 7 and 10 police officers more, but the city will receive no new General Fund money to pay for them.

The DEIR says that Cumulative Energy will be an unmitigatable negative impact of this project. There are not adequate public services. Bad Air Quality will negatively impact people's health requiring more health services. There will be a need for more sewer capacity, water and streets. Some of these will be paid for by fees from the residential development, but is unclear who will pay for the rest.

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**V-131** This comment repeats a concern raised previously regarding removal of Lagoon Street and enhancing or connecting the marshes. Please see the responses to comments Q-10 and V-6.

**V-132** This comment repeats a concern raised previously regarding restoring Telegraph Creek Channel to a more natural state and providing a fence around the entire Otay District. Please see the responses to comments B-38, Q-14, V-7, and V-78 regarding Telegraph Creek Channel and the responses to comments V-75 and V-76 regarding the fence.

**V-133** This comment cites Section 30250 of the California Coastal Act regarding the location of new development in proximity to public services that will not significantly affect coastal resources. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30250, referenced by the commenter, on page 4.1-47.

The commenter is correct. Cumulative impacts to libraries remain significant and unmitigated, as described in the Revised DEIR on page 4.13-27 (**Significant Impact 4.13.5-1**).

**V-134** This comment concurs with the analysis in *Section 4.13.2.3* of the Revised DEIR that additional police officers would be required to serve the project area. As described in *Section 4.13.2.3*, and according to the Chula Vista Police Department, reallocation of officers would be appropriate and adequate to handle the increased calls for service due to the Bayfront. According to the Chula Vista Police Department, additional staffing would be provided based on revenues from the Proposed Project and a less-than-significant impact is expected.



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There are also four other uses: a 100-space parking lot for the Nature Center, a 100 foot high 750 room resort hotel with 750 parking spaces very close to the refuge and the F&G Street marsh, a 125 foot high office building with 480 parking spaces adjacent to the Refuge and a mixed use office and commercial recreation building with another 350 parking spaces.

2,196 parking spaces is a huge increase in impermeable surfaces and a likely producer of additional heat. There is no mention of using permeable surfaces or specific vegetation plans for reducing heat from pavement.

**The buffer will be built without a fence in Phase II when "funds become available," but the park with its parking lot and the Nature Center Parking lot will be in phase I.**

There are no specifications as to how bird flushing will be prevented. The F&G Street marsh may be shaded by the RCC. The two- day study was based upon the current plan, which is not finalized. The final location of the buildings needs to be determined by building plans before the shading situation can be resolved. There is also the issue of the cutting off of breezes by these massive buildings, which will likely affect the temperature of the F&G Street marsh. This was not analyzed in the DEIR. There are no specific design features committed to to prevent bird strikes.

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The police are out of compliance for level 2 calls and have been for years. Over 3,000 new residents will make this worse. The project requires between 7 and 10 police officers more, but the city will receive no new General Fund money to pay for them.

The DEIR says that Cumulative Energy will be an unmitigatable negative impact of this project. There are not adequate public services. Bad Air Quality will negatively impact people's health requiring more health services. There will be a need for more sewer capacity, water and streets. Some of these will be paid for by fees from the residential development, but is unclear who will pay for the rest.

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**V-135** This comment summarizes some of the significant impacts identified for energy, air quality, and public services. In addition, the commenter expresses concern regarding funding for needed public utilities such as sewer capacity, water, and streets. This comment does not address the accuracy or adequacy of the Revised DEIR; therefore, no further response is warranted.

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The DEIR says a fire station will be built and staffed by 7 fire persons 24/7, but the funding for this station and the staff is in great doubt. A very large bond issue may pay for some of this, but cannot pay for salaries.

30251 Scenic and visual qualities of coastal areas shall be considered and protected. To protect such resources, development shall minimize the alteration of natural landforms, be visually compatible with the character of surrounding areas, and, where feasible, restore and enhance visual quality in visually degraded areas.

The DEIR states that Visual/Aesthetic is an unmitigatable negative impact of this project. This is because of the loss of bay views from large areas of the city of Chula Vista, parts of Imperial Beach, Silver Strand, the Nature Center and the freeway coming into Chula Vista as well as from J Street to L on the freeway. The mass and height of the buildings are to blame. A redesign is possible but a choice was made to maximize profit and ignore the scenic and visual qualities the ordinary people cherish. The Mass and height of the residential and RCC are totally out of scale with the character of the surrounding areas.

30252 Provides that the location and amount of new development should maintain and enhance public access to the coast by:

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- 3) Providing non-automobile circulation
- 4) Providing adequate parking or alternative public transportation; auto internal circulation
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- 6) Ensuring that new development will not overload nearby coastal recreation areas.

The DEIR says that there will be an unmitigatable negative impact on freeway traffic caused by this project. This in and of itself violates this provision of the Coastal Act. The majority of the internal road use is for commercial purposes (hotels, commercial recreation, retail, offices, business industrial). The RCC is not a water dependent use nor is the signature park with its expected retail nor is the residential with its resident serving retail. There is pedestrian and bicycle circulation, but the Green Line Shuttle is not going to be provided until "funding becomes available," which may be never. There is no assurance of additional public transit.

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**V-136** The comment expresses concern regarding the funding needed for acquisition and operation of the fire station proposed on Parcel H-17. As provided in the response to comment V-52 and discussed in *Section 4.13, Public Services*, the Bayfront Fire Station will be constructed as a Phase I project-level component on Parcel H-17 in the Harbor District. The fire station is part of the Proposed Project, and its construction was relied upon for the environmental impact analysis in regard to public services. The Final EIR has been revised to state that an interim facility may be utilized until final construction is completed (see *Section 3.4.4.1* in the Final EIR).

**V-137** This comment cites Section 30251 of the California Coastal Act regarding the protection for scenic and visual qualities of coastal areas. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30251, referenced by the commenter, on pages 4.1-47 and 4.1-48. This comment summarizes some of the analysis and conclusions from *Section 4.4, Aesthetics/Visual Quality*, of the Revised DEIR regarding the potential impacts on public views and the mass and height of buildings. Although the comment states generally that a redesign to avoid significant impacts is possible, the comment does not provide any specific recommendations. Accordingly, no further response is possible.

**V-138** This comment cites Section 30252 of the California Coastal Act regarding the maintenance and enhancement of public access to the coast. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table*

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The DEIR says that there will be an unmitigatable negative impact on freeway traffic caused by this project. This in and of itself violates this provision of the Coastal Act. The majority of the internal road use is for commercial purposes (hotels, commercial recreation, retail, offices, business industrial). The RCC is not a water dependent use nor is the signature park with its expected retail nor is the residential with its resident serving retail. There is pedestrian and bicycle circulation, but the Green Line Shuttle is not going to be provided until "funding becomes available," which may be never. There is no assurance of additional public transit.

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4.1-7 specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30252, referenced by the commenter, on page 4.1-48.

This comment states an opinion that the Proposed Project's potential significant impact on freeway traffic, which cannot be mitigated to below a level of significance, violates the California Coastal Act. Because this comment does not raise an issue concerning the adequacy of the Revised DEIR, no further response is required. To the extent this comment expresses concern about significant and unmitigated freeway impacts, as described in *Section 4.2, Traffic and Circulation, Mitigation Measure 4.2-8* does not fully mitigate, but it provides participation in a regional funding mechanism to alleviate traffic on I-5. The Port and City have worked with SANDAG and the California Department of Transportation (Caltrans) to provide fair-share mitigation and funding through payment of the Western Traffic Development Impact Fee. Please also see the responses to comments K-12, Q-27, and V-12 regarding the Green Line Shuttle.

V-139 This comment cites Section 30253(3) of the California Coastal Act regarding consistency with the SDAPCD requirements. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30253, referenced by the commenter, on page 4.1-48.

This comment restates impacts already identified in the Revised DEIR but does not address the adequacy of the Revised DEIR. No further response is required.

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**V-140** This comment cites Section 30253(4) of the California Coastal Act regarding the minimization of energy consumption and vehicle miles traveled. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30253, referenced by the commenter, on page 4.1-49.

This comment restates impacts already identified in the Revised DEIR but does not address the adequacy of the Revised DEIR. No further response is required.

**V-141** This comment cites Section 30260 of the California Coastal Act regarding coastal-dependent industrial facilities. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* specifically addresses the Proposed Project's consistency with the California Coastal Act Section 30260, referenced by the commenter, on page 4.1-49. As stated in the project description, a community boating center is identified as a proposed land use in Phase IV of the Harbor District. This comment does not address the adequacy of the Revised DEIR; therefore, no further response is required. Please also see the response to comment V-86.

**V-142** This comment cites Section 30708 of the California Coastal Act regarding environmental standards for all Port-related developments. The Revised DEIR analyzes the consistency of the Proposed Project with the California Coastal Act in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-38 through 4.1-63. In addition, *Table 4.1-7* specifically addresses the Proposed Project's consistency with the

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California Coastal Act Section 30708, referenced by the commenter, on page 4.1-54.

This comment expresses preference for the Harbor Park Alternative, and it includes the author's general opinion that the analysis of the Harbor Park Alternative is inadequate in the Revised DEIR. This comment does not, however, identify any specific aspect of the Revised DEIR that is inadequate and does not make any specific suggestion for additional mitigation measures or alternatives. The Revised EIR thoroughly analyzes the Harbor Park Alternative in *Section 5.4* from pages 5-16 through 5-86. This comment also agrees with *Section 5.4.11.1(a)* of the Revised DEIR (page 5-74) regarding the increased demand for fire protection services that would result from development under this alternative.

The commenter also expresses concern regarding the perceived loss of 200 boat slips and the maneuverability of vessels within the marina. Please see the response to comment V-93. As discussed in *Chapter 3.0, Project Description*, on page 3-120, the reconfiguration of the existing harbor (HW-1, HW-2, HW-3, HW-4, HW-5, HW-6, HW-7, H-12, and HP-28) includes an approximate 4-acre new commercial harbor at HW-3 in Phase IV and an increased water lease area of approximately 22 acres. To accommodate this addition of active commercial harbor area, the harbor basin would be reconfigured during Phase IV to include the reconfiguration and relocation of marina boat slips. Specifically, the number of slips in the harbor basin within the two marinas would be decreased from 900 to 700; however, the remaining 200 slips would be moved to HW-6 to free up water area for the new commercial area. As a result, the total open water area within the existing harbor would be increased (not decreased) as part of the reconfiguration.

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**Inconsistency with City's General Plan**

E2, E2.2 Pursue safe alternatives to traditional pest management methods in order to reduce toxics in urban runoff and large open uses of land (e.g., golf courses, parks, and agricultural lands). There is nothing in the DEIR stating that IPM techniques will be used, except for parks. This policy is very specific to pest control.

E3.3 Where safe and feasible, promote and facilitate the continued use of recycled water in new developments, and explore opportunities for the use of recycled water in redevelopment projects. No where in the DEIR is it specifically stated that rain cisterns or any other means of collecting water for reuse will be used in the residential development under the city's jurisdiction or in the building to be built on city land in the Sweetwater District. There are re-watering systems that can be installed during construction that would be very feasible especially for the non-residential buildings.

ED 7.1 Improve traffic flow and transportation linkages between the downtown, Bayfront, southwestern, and eastern areas of the City. Add additional travel lanes where warranted, revise signal timing to improve traffic flow, and consider additional freeway crossovers, where necessary. The DEIR says that there is a significant unmitigatable negative affect from this project on Freeway Traffic. The project obviously will make traffic flow linkages worse, not better. With one exception all changes to lights, signs and traffic lanes occur on the Bayfront and will not improve traffic flow or linkages between the rest of the city and the Bayfront.

LUT 13.1 Identify and protect important public viewpoints and viewsheds throughout the Planning Area, including features within and outside the planning area, such as mountain, native habitat areas, San Diego Bay, and historic resources. The massing and height of the proposed residential buildings in the city's jurisdiction cause unmitigatable negative impacts to visual/aesthetics according to the DEIR. The freeway view of the Bay from J Street overpass to L Street will be obliterated by these buildings. The view from homes that now have a Bayview will be changed to one of tall buildings. The SBPP at 187 feet is visible from a great distance. These residential buildings will go as high as 220 feet. They will be visible from numerous places in the city. The proposed hotel on H-23 will also be 300 feet as will Gaylord's tower. From many places on the ground in the project area only buildings will be visible.

LUT 14.3 Plan for high-capacity regional freeway and Transit First! facilities to adequately serve the regional travel demand resulting from the land uses associated with adjacent areas. LUT 15.5 Develop a convenient, destination-oriented shuttle system within the City that links activity centers, recreation opportunities, and other appropriate important destinations. Ensure that such a system is environmentally friendly, affordable, and accessible and connects Downtown Third Avenue, the Civic Center, H Street, and the Bayfront. There is no funding to provide a shuttle service for these homes or for improved opportunities for public transit. Guessing that vanpools etc. might be investigated does not implement this policy or "ensure" anything. The Green Line Shuttle is mentioned as an unfunded possible future amenity. The freeway Traffic is found to be an unmitigatable negative impact. No funding has yet been identified for freeway improvements, trolley crossing improvements or increased transit.

LUT 18.5 Implement Transportation Demand Management (TDM) strategies, such as carpooling, vanpooling, and flexible work hours that encourage alternatives to driving alone during peak periods. 18 LUT 18.6 Encourage employer-based TDM strategies, such as employee transportation allowances, preferential parking for rideshare vehicles, workplace-based carpool programs, and shuttle services.

This has not been implemented in Chula Vista. Nowhere in the DEIR does it say this will be implemented as part of the residential development. The city has no ordinance or written policy to encourage these things at this time nor are they being discussed.

LUT 20.2 Protect rights-of-way where possible to facilitate future transit service and support the development of secure park-and-ride lots within walking distance of transit stations. The DEIR does not include bus turnouts in the ROWs for the new roads, only pedestrian and bicycle trails.

LUT 5.13 Higher-density residential and mixed-use residential/commercial development should be designed to: 1) Create a pleasant walking environment to encourage pedestrian activity; 2) Maximize transit usage; 3) Provide opportunities for residents to conduct routine errands close to their residence; 4) Integrate with surrounding uses to become a part of the neighborhood rather than an isolated project; 5) Use architectural elements or themes from the surrounding neighborhood; and 6) Provide appropriate transition between land use designations to minimize neighbor compatibility conflicts.

There is insufficient detail and no architectural plans in order to be able to evaluate whether these statements are true. There are currently no architectural elements known. It is impossible for the public to know whether or not the project will conform to this LUT without the addition of detailed

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**V-143** This comment cites objective E 2, policy E 2.2, of the City of Chula Vista General Plan regarding pest management methods. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan objective E2, policy E 2.2, on page 4.1-72.

As stated in policy E 2.2, Integrated Pest Management is only recommended for large open uses of land. As such, the project is required to use Integrated Pest Management for park lands, consistent with the City's policy. In addition to what is required under policy E 2.2, and as provided in the response to comment V-41, the Final EIR has been revised to require that all development within the Port's jurisdiction be consistent with the Port's Integrated Pest Management Policy (see **Mitigation Measure 4.8-6G** in the Final EIR).

**V-144** This comment cites policy E 3.3 of the City of Chula Vista General Plan regarding recycled water use. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy E 2.2 on page 4.1-73.

The comment expresses concern regarding whether recycled water will be used in the Pacifica residential development and the buildings in the Sweetwater District within the City's jurisdiction. *Section 4.6, Air Quality*, and *Section 4.14, Public Utilities*, of the Revised DEIR discuss the Proposed Project's incorporation of recycled (reclaimed) water for various uses. **Mitigation Measure 4.6-6** (page 4.6-74) includes provisions for the use of reclaimed water in landscape

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**Inconsistency with City's General Plan**

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irrigation on public property and for new developments. As discussed on pages 4.14-12 and 4.14-13 of the Revised DEIR, the Chula Vista Growth Management Ordinance requires a Water Conservation Plan to be submitted with all Sectional Planning Area Plans or Tentative Subdivision Maps and for all major development projects. The Water Conservation Plan must provide an analysis of water usage requirements of a project, in addition to a detailed plan of proposed water conservation measures, use of recycled water, and other means of reducing water consumption within the project. Developers choose from a menu of indoor and outdoor water conservation measures, including use of recycled water and other means of reducing water consumption within the project. Specifically related to the Pacifica Retail and Residential Project, *Table 4.6-31* on page 4.6-56 states that Pacifica will strive for a 50 percent reduction in residential water use through various water conservation measures. Rain cisterns as suggested by the commenter or other means of collecting water for reuse are potential water conservation measures that Pacifica can incorporate to meet this goal.

**V-145** This comment cites policy ED 7.1 of the City of Chula Vista General Plan regarding traffic flow and transportation linkages. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy ED 7.1 on page 4.1-71. This comment expresses an opinion that traffic flow linkages will be worse. However, the extension of H Street, which will occur in Phase I, will connect the City to the waterfront, as well as provide an enhanced visual corridor. The impacts of the Proposed Project on freeway traffic and traffic flow and transportation linkages with other areas of the City are thoroughly analyzed and mitigation measures recommended in *Section 4.2*,



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*Traffic and Circulation*, of the Revised DEIR. As this comment does not identify any specific way in which the commenter believes the traffic analysis is inadequate, no further response is possible or necessary.

**V-146** This comment cites policy LUT 13.1 of the City of Chula Vista General Plan regarding the protection of public viewpoints and viewsheds. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy LUT 13.1 with respect to views within the project area on page 4.1-89. LUT 13.1 also requires identification and protection of views outside of the project area, which was analyzed in *Section 4.4, Aesthetics/Visual Quality*. In *Section 4.4*, the Revised DEIR again identifies LUT 13.1 as an applicable Chula Vista General Plan policy with respect to visual impacts. The Revised DEIR determined that the height and massing of buildings would have a significant impact on views from outside the project area to the Bay.

As discussed in *Section 4.4, Aesthetics/Visual Quality*, 18 locations with views of the project site were selected as Candidate Key Observation Points (see *Figure 4.4-3*) as a representation of the best combination of visual issues that are being assessed by this study. These eighteen Candidate Key Observation Points serve to document the viewing scene from many different areas around the project site and provide a group of photos from which simulations can be selected. After evaluating the probable visual changes, viewer groups, viewing duration, and viewer sensitivity, Candidate Key Observation Points 5, 9, 10, 13, 16, and 17 were selected for visual simulations. These points were chosen because they allow analysts to assess the



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broad project changes that will be seen by the viewer. They also represent some of the most important vantage points from which to view the project site. Specifically, the location of J Street at Bay Boulevard was analyzed in Visual Simulation 2. The impacts of the Proposed Project on public viewpoints and viewsheds are thoroughly analyzed and mitigation measures recommended in *Section 4.4, Aesthetics/Visual Quality*, and in the visual impact assessment technical reports prepared by KTU+A Consultants in *Appendices 4.4-1, 4.4-2, and 4.4-3* to the Revised DEIR. No further analysis is warranted.

**V-147** This comment cites policy LUT 14.3 of the City of Chula Vista General Plan regarding the high-capacity regional freeway facilities. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy LUT 14.3 on page 4.1-90. As discussed in the Revised DEIR, implementation of the Green Line transit system proposed in the City's Urban Core Specific Plan is dependent upon the availability of funding. The Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. Although the Port and the City are continuing their efforts to identify potential funding sources, SANDAG has indicated that the Green Line is considered to be purely a local transit facility, which is not eligible for regional public transit funds, and will need to seek local or private funding. Please also see the responses to comments K-12, P-2, V-12, V-51, and V-104. As provided in the response to comment V-104, the traffic analysis in *Section 4.2, Traffic and Circulation*, of the Revised DEIR does not consider the Green Car

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Line as mitigation for traffic impacts.

In addition, **Mitigation Measure 4.6-6** includes requirements for multiple transportation demand management features including the following: promoting ride sharing programs, designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing, providing facilities to encourage use of low- or zero-emission vehicles such as charging facilities, providing public transit incentives such as free or low-cost transit passes, providing bicycle parking, a telecommuter work program and education, and information about public transportation. Please also see the responses to comments K-4 and K-6.

**V-148** As provided in *Section 4.2.5* of the Revised DEIR, **Mitigation Measure 4.2-8** requires the Port and the City to participate with Caltrans, SANDAG, and other local agencies in a multijurisdictional planning process for the I-5 South Corridor, which will include high-capacity regional freeway and Transit First! facilities. As part of the Western Transportation Development Impact Fee (WTDIF), a fair-share contribution to improvements on I-5, as well as ultimate trolley crossing improvements, have been identified. Transit services are provided by MTS and are not within the control of the Port, City, or developers.

**V-149** This comment cites policy LUT 18.5 of the City of Chula Vista General Plan regarding Transportation Demand Management strategies. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy LUT 18.5 on page 4.1-93.

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**V-150** This comment cites policy LUT 20.2 of the City of Chula Vista General Plan regarding transit facilities. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy LUT 20.2 on page 4.1-94. As provided in *Table 4.1-9*, the Proposed Project would provide for roadway right-of-way with sufficient capacity and opportunities for bus stop locations to facilitate convenient bus services into the Bayfront area along Marina Parkway, E Street, Lagoon Drive, and Bay Boulevard. This capacity would be maintained to provide the greatest flexibility in the routing of future bus service into the Bayfront. Infrastructure requirements for public transit will be addressed when final roadway designs are prepared.

In August, 2007, Port and City staff met with M. Daney of MTS to discuss provision of transit service within the area. At the time of the meeting, it was determined that ridership would need to be demonstrated before resources would be allocated to the Bayfront area.

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V-151

**V-151** This comment cites policy LUT 5.13 of the City of Chula Vista General Plan regarding higher-density residential and mixed-use development. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy LUT 5.13 on page 4.1-99. The proposed Pacifica Residential and Retail Project will be consistent with General Plan policy LUT 5.13 because it will be designed to provide a pleasant walking environment to encourage pedestrian activity, maximize transit usage, provide opportunities for residents to conduct routine errands close to their residence, integrate with surrounding land uses, use architectural elements or themes from the surrounding neighborhood, and provide an appropriate transition between land use designations to minimize neighbor compatibility issues. Please refer to the description of the Pacifica Residential and Retail Project on pages 3-74 through 3-102 in *Chapter 3.0, Project Description*, of the Revised DEIR, and the description of the Pedestrian Circulation Plan and the Transit Plan in *Sections 3.4.6* and *3.4.7*, respectively. In addition, *Figures 3-11A* through *3-11I* provide a series of architectural site plans and renderings that demonstrate the designs of the Pacifica project, which are consistent with policy LUT 5.13 as described above. The design of the Pacifica Residential and Retail Project is subject to the City's Design Review Process to be reviewed by a variety of City departments to ensure that it is consistent with the policies and objectives of the General Plan.

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architectural plans, which are required in a project level EIR. Also it appears the project will be isolated on the bay front, having its own grocery and other retail stores. The exception will be schools.

PFS 5.4 Provide adequate law enforcement staff and equipment pursuant to Police Department strategic plans to meet established service standards. The police department has not met its Priority 2 threshold for many years, adding another district to police is likely to worsen not improve response times. It is uncertain how the city will pay the salaries of additional officers.

**Page 4.1-111**

First note of specific interest: This is an extremely unclear paragraph. What "service road" is being referred to? The road to the Nature Center? This does not extend from the "end of E to the D" as stated.

Second bullet "a minimum of" should say "at least."

Fourth bullet. Hopefully this does not mean the elimination of the sandy beach and replacing it with a paved promenade. The promenade belongs along the east side of the existing park, leaving the beach for people wishing to walk or lie on the sand. This is the only beach in Chula Vista, ruining it with a paved promenade is not acceptable. On the south side there already is a paved promenade that is very pleasant and should remain, but paving the sand is not acceptable. This beach area is now used by wading birds as well as people, but is a popular spot for not only the residents of the RV Park but the residents of Chula Vista as well.

The private shuttle has nothing to do with the city and is not an amenity to anyone except the private employees of the private Gaylord. Why it is emphasized is unclear.

Finally the Green Line Shuttle should not be proposed but actually funded. It is not a part of the project until funding responsibilities are determined and it is provided to the public.

**MSCP**

Overall development within the Project Area including public facilities and circulation shall be located to minimize impacts to Sensitive Biological Resources in accordance with this chapter of the Chula Vista MSCP Subarea Plan and the MSCP Implementation Guidelines.

The closeness of the Gaylord RCC to the F&G Street marsh seems to be in conflict with this provision, especially since H-23 is an option that would minimize the impacts and has been ignored. The location of a 100- foot tall hotel in S-1 and a 125 foot office building in S-4 also do not conform to this provision. The hotel is 40 feet higher and has 400 more rooms than the one proposed in the Harbor Park alternative. The land trade does meet this objective.

**3. The Proposed Project would have a significant impact if it creates a substantial land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.**

This section does not discuss the proposed resort hotel on S-1 and the office building on S-4 or the commercial/recreational use on S-3. These uses all, due to their proposed bulk and height, have great potential for significant incompatibility and/or nuisance impacts with the NWR and the seasonal wetland S-3 from noise, light, bird strikes, raptor perching, etc. The buffer unfortunately is useless as described because 1. It is not in place before construction starts, 2. There is no funding identified for it and it is stated that it will be implemented "as funding becomes available" and 3. There is no fence to effectively prevent human and animal intrusion upon sensitive habitat. The park as stated elsewhere has a huge potential for negative impacts. The 2,196 parking spaces in the Sweetwater District could also have a significant negative impact.

**PMP Goals**

Doesn't simply taking over-riding conditions violate these goals of the PMP?:  
**Goal VIII** The Port will enhance and maintain the Bay and tidelands as an attractive physical and biological entity.

V-151  
(Cont.)

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**V-152** This comment cites policy PFS 5.4 of the City of Chula Vista General Plan regarding law enforcement staffing and equipment. The Revised DEIR analyzes the consistency of the Proposed Project with the Chula Vista General Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-67 through 4.1-107. In addition, *Table 4.1-9* specifically addresses the Proposed Project's consistency with the General Plan policy PFS 5.4 on page 4.1-101. As provided in *Table 4.1-9*, the analysis of the project's potential impact to law enforcement services is discussed in *Section 4.13, Public Services*. Please also see the response to comment V-134.

**V-153** In response to this comment, the Final EIR has been revised to delete the word "the" preceding "D Street" that appeared on page 4.1-111 of the Revised DEIR. The service road refers to the new connection that will be made to allow for buses to pick up and transport visitors from the new Nature Center parking lot to the Nature Center.

**V-154** The comment expresses a preference for revised language; however, the language provided in the Revised DEIR in the second bullet on page 4.1-111 is accurate. No further response is required. Please also see the response to comment V-33.

**V-155** Please see the response to comment V-33.

**V-156** This comment does not address the adequacy of the Revised DEIR, and no further response is warranted.

**V-157** Please see the response to comment V-12.

**V-158** This comment questions the RCC's consistency with the MSCP Development Guidelines, considering the proximity of the RCC to the F&G Street Marsh. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is

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architectural plans, which are required in a project level EIR. Also it appears the project will be isolated on the bay front, having its own grocery and other retail stores. The exception will be schools.

PFS 5.4 Provide adequate law enforcement staff and equipment pursuant to Police Department strategic plans to meet established service standards. The police department has not met its Priority 2 threshold for many years, adding another district to police is likely to worsen not improve response times. It is uncertain how the city will pay the salaries of additional officers.

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The private shuttle has nothing to do with the city and is not an amenity to anyone except the private employees of the private Gaylord. Why it is emphasized is unclear.

Finally the Green Line Shuttle should not be proposed but actually funded. It is not a part of the project until funding responsibilities are determined and it is provided to the public.

**MSCP**

Overall development within the Project Area including public facilities and circulation shall be located to minimize impacts to Sensitive Biological Resources in accordance with this chapter of the Chula Vista MSCP Subarea Plan and the MSCP Implementation Guidelines.

The closeness of the Gaylord RCC to the F&G Street marsh seems to be in conflict with this provision, especially since H-23 is an option that would minimize the impacts and has been ignored. The location of a 100- foot tall hotel in S-1 and a 125 foot office building in S-4 also do not conform to this provision. The hotel is 40 feet higher and has 400 more rooms than the one proposed in the Harbor Park alternative. The land trade does meet this objective.

**3. The Proposed Project would have a significant impact if it creates a substantial land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.**

This section does not discuss the proposed resort hotel on S-1 and the office building on S-4 or the commercial/recreational use on S-3. These uses all, due to their proposed bulk and height, have great potential for significant incompatibility and/or nuisance impacts with the NWR and the seasonal wetland S-3 from noise, light, bird strikes, raptor perching, etc. The buffer unfortunately is useless as described because 1. It is not in place before construction starts, 2. There is no funding identified for it and it is stated that it will be implemented "as funding becomes available" and 3. There is no fence to effectively prevent human and animal intrusion upon sensitive habitat. The park as stated elsewhere has a huge potential for negative impacts. The 2,196 parking spaces in the Sweetwater District could also have a significant negative impact.

**PMP Goals**

Doesn't simply taking over-riding conditions violate these goals of the PMP?:

**Goal VIII** The Port will enhance and maintain the Bay and tidelands as an attractive physical and biological entity.

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currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

The Revised DEIR analyzes the consistency of the Proposed Project with the City of Chula Vista MSCP Subarea Plan in *Section 4.1, Land/Water Use Compatibility*, on pages 4.1-112 through 4.1-117. In addition, *Table 4.1-10* specifically addresses the Proposed Project's consistency with the provision of the City's MSCP Subarea Plan referenced by the commenter (page 4.1-115). As discussed on page 4.1-113, projects within the City of Chula Vista's jurisdiction are required to comply with the City of Chula Vista's MSCP Subarea Plan. While the development of the parcels within the City's jurisdiction would have no direct impacts to MSCP preserve lands within the City of Chula Vista, the F & G Street Marsh (an MSCP preserve), is adjacent to the City's jurisdiction in the Sweetwater District, and there is potential for indirect impacts to occur from lighting, noise, drainage, invasives, and toxic substances. Indirect impacts to preserve lands and refuges would be significant. *Section 4.1, Land/Water Use Compatibility*, fully describes potential impacts due to the Proposed Project such as indirect impacts to the F&G Street Marsh. *Section 4.8, Terrestrial Biological Resources*, further analyzes adjacency issues and provides a series of mitigation measures to ensure less-than-significant impacts from the project.

**V-159** The uses referenced in this comment are reviewed at a program level of analysis in the Revised DEIR. Additional details regarding these

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architectural plans, which are required in a project level EIR. Also it appears the project will be isolated on the bay front, having its own grocery and other retail stores. The exception will be schools.

PFS 5.4 Provide adequate law enforcement staff and equipment pursuant to Police Department strategic plans to meet established service standards. The police department has not met its Priority 2 threshold for many years, adding another district to police is likely to worsen not improve response times. It is uncertain how the city will pay the salaries of additional officers.

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**3. The Proposed Project would have a significant impact if it creates a substantial land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.**

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**PMP Goals**

Doesn't simply taking over-riding conditions violate these goals of the PMP?:

**Goal VIII** The Port will enhance and maintain the Bay and tidelands as an attractive physical and biological entity.

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uses are not currently available. Additional environmental review will be required when those program elements are advanced to a project-level approval pursuant to CEQA Guidelines Section 15168.

**V-160** The buffer proposed within Parcel SP-1 will remain undeveloped in Phase I and will therefore serve the function of a buffer for purposes of avoiding and reducing indirect effects from Phase I development. Please also see responses to comments V-26, V-64, and a Q-14.

**V-161** This comment expresses concern regarding the potential for impacts related to the Signature Park. Potential impacts associated with the Signature Park have been fully evaluated in the Revised DEIR. The comment does not specify which impacts the commenter is concerned about; therefore, no further response is possible.

The comment also expresses a concern regarding the potential negative impacts associated with parking proposed in the Sweetwater District. Impacts to parking are fully addressed in *Section 4.3, Parking*, of the Revised DEIR.

**V-162** The PMP and its goals are intended to provide a framework to guide land use and development on Port tidelands. While some impacts are identified as being significant and unable to be fully mitigated, the CVBMP is consistent with many of the PMP goals and objectives.



<p>Comment Letter V (Page 28)</p>	
<p>Maintaining a 100-foot ROW for H Street simply does not maintain sufficient view corridors, nor does it maintain panoramic views or vistas, just the opposite. There is the question of the function of the RCC buildings as well: function should be integrated with and related to the site and surroundings of that activity. We don't know the actual final design of the buildings but what has been shown does not come close to integrating with the wetlands and marsh adjoining it. It also does not integrate at all with the marina. Instead it towers over these features and in the case of the wetlands could cause long-term negative impacts without more specific design features.</p> <p><b>General Plan Objectives, LCP</b>  <b>Objective LUT 9</b> Create enhanced gateway features for City entry points and important other entries, such as to special districts. This specifically requires a Gateway Master Plan with specific design guidelines and public amenities. The city has not written such a plan or any specific design guidelines; so this project could not possibly conform to this goal.          Ensure that buildings and related site improvements for public and private development are well-designed and compatible with surrounding properties and districts. Since the DEIR has no specific designs for these buildings it is impossible to know if they will be "well-designed." Also since there are no design guidelines it is impossible to define "well-designed." As far as compatibility goes the mass and height of the Phase I projects are clearly not compatible with their surroundings, which is the criteria being used to declare the unmitigatable negative impact in this area. This means they are inconsistent with this GP principle as well.  <b>Objective LUT 13</b> Preserve scenic resources in Chula Vista, maintain the City's open space network, and promote beautification of the City. There is inadequate protection in the current DEIR to preserve the scenic resources of the Wildlife Refuge and no funding or protections to maintain the important open space areas on the bayfront. Areas are declared open space, but there is no plan to fund management and lack of a specific management plan.          LCP, <b>Objective VW.1:</b> Plan and develop the Bayfront to ensure provision of important views to, from, and within the project area. The proposed finding of unmitigatable negative visual impacts essential declares this is not being done.  <b>Chula Vista Bayfront Specific Plan, Chula Vista Municipal Code 19.85.006</b>          View Points: Development of the Bayfront shall ensure provision of three types of views:          1. Views from the Freeway and Major Entry: Ensure a pleasant view onto the site and establish a visual relationship with the Bay, marshes, and Bay-related development.          2. Views from Roadway within the Site (particularly from Marina Parkway, to the marshlands, Bay, parks, and other Bay-related development): Locations shall preserve a sense of proximity to the Bay and marshlands.          3. View from the Perimeters of the Bayfront Outward: Views which are primarily pedestrian-oriented, stationary, and more sustained should be experience from parts of the open space and pathway system and enable viewers to renew visual contact at close range with the Bay and marshlands. The Pacifica skyscrapers and the resort hotels' towers will destroy a visual relationship with the bay and marshes from the freeways and major entry points. Pedestrians will be over-whelmed by the size of many of the buildings and not able to see beyond the buildings. There will be no views of the bay from the east perimeters. The view from the Nature Center will no longer include the San Ysidro Mountains.          4.4-84 It says a gateway plan will be developed for E and H Street but it does not say the applicant will do it, so exactly what entity is responsible for this and exactly what funds are to be used to pay for it and clearly it won't happen before construction takes place?</p> <p><b>4.4 Aesthetics/Visual Quality</b></p> <p>Actually the bay is now visible from the freeway from J Street to L Street exit until the power plant blocks the view. It is also visible coming from National City to 54 and as mentioned from the 54 on ramp. What have been ignored are the spectacular views from several schools, streets and many homes in Chula Vista. People are quite fond of these views and replacing them with buildings is an extreme negative. It also will depress the value of the homes, which now have Bay views but with these high buildings will only have views of buildings. The DEIR admits this is an unmitigatable negative</p>	<p><b>V-163</b> As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level components of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.</p> <p>This comment states the commenter's opinion regarding the width of the H Street view corridor and the integration of the proposed RCC buildings with the surrounding area. Potential impacts of the proposed RCC buildings associated with view corridors and site integration are discussed in <i>Section 4.4, Aesthetics/Visual Quality</i>; and potential long-term impacts on wetlands are analyzed in <i>Section 4.8, Terrestrial Biological Resources</i>. As the comment does not address the adequacy of the Revised DEIR, no further response is possible or required.</p> <p><b>V-164</b> As described in <b>Mitigation 4.4-1F</b>, "Concurrent with the preparation of Phase I infrastructure design plans for E and H Streets, a Gateway Plan shall be prepared for E and H Streets." In addition, "Concurrent with development of Parcels H-13 and H-14, the applicant shall submit a Gateway Plan for J Street for City Design Review consideration." These mitigation measures would reduce aesthetic/visual quality impacts and are consistent with the City's General Plan objective LUT 9.</p> <p><b>V-165</b> Pages 3-45 through 3-101 provide a series of architectural site plans and renderings that demonstrate the designs of the project-level components of Phase I (Pacifica project). Although the General Plan</p>



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Maintaining a 100- foot ROW for H Street simply does not maintain sufficient view corridors, nor does it maintain panoramic views or vistas, just the opposite. There is the question of the function of the RCC buildings as well: function should be integrated with and related to the site and surroundings of that activity. We don't know the actual final design of the buildings but what has been shown does not come close to integrating with the wetlands and marsh adjoining it. It also does not integrate at all with the marina. Instead it towers over these features and in the case of the wetlands could cause long-term negative impacts without more specific design features.

V-163

**General Plan Objectives, LCP**

**Objective LUT 9** Create enhanced gateway features for City entry points and important other entries, such as to special districts. This specifically requires a Gateway Master Plan with specific design guidelines and public amenities. The city has not written such a plan or any specific design guidelines; so this project could not possibly conform to this goal.

V-164

Ensure that buildings and related site improvements for public and private development are well-designed and compatible with surrounding properties and districts. Since the DEIR has no specific designs for these buildings it is impossible to know if they will be "well-designed." Also since there are no design guidelines it is impossible to define "well-designed." As far as compatibility goes the mass and height of the Phase I projects are clearly not compatible with their surroundings, which is the criteria being used to declare the unmitigatable negative impact in this area. This means they are inconsistent with this GP principle as well.

V-165

**Objective LUT 13** Preserve scenic resources in Chula Vista, maintain the City's open space network, and promote beautification of the City. There is inadequate protection in the current DEIR to preserve the scenic resources of the Wildlife Refuge and no funding or protections to maintain the important open space areas on the bayfront. Areas are declared open space, but there is no plan to fund management and lack of a specific management plan.

V-166

LCP, **Objective VW.1:** Plan and develop the Bayfront to ensure provision of important views to, from, and within the project area. The proposed finding of unmitigatable negative visual impacts essential declares this is not being done.

V-167

**Chula Vista Bayfront Specific Plan, Chula Vista Municipal Code 19.85.006**

View Points: Development of the Bayfront shall ensure provision of three types of views:

1. Views from the Freeway and Major Entry: Ensure a pleasant view onto the site and establish a visual relationship with the Bay, marshes, and Bay-related development.

2. Views from Roadway within the Site (particularly from Marina Parkway, to the marshlands, Bay, parks, and other Bay-related development): Locations shall preserve a sense of proximity to the Bay and marshlands.

3. View from the Perimeters of the Bayfront Outward: Views which are primarily pedestrian-oriented, stationary, and more sustained should be experience from parts of the open space and pathway system and enable viewers to renew visual contact at close range with the Bay and marshlands. The Pacifica skyscrapers and the resort hotels' towers will destroy a visual relationship with the bay and marshes from the freeways and major entry points. Pedestrians will be over-whelmed by the size of many of the buildings and not able to see beyond the buildings. There will be no views of the bay from the east perimeters. The view from the Nature Center will no longer include the San Ysidro Mountains.

V-168

4.4-84 It says a gateway plan will be developed for E and H Street but it does not say the applicant will do it, so exactly what entity is responsible for this and exactly what funds are to be used to pay for it and clearly it won't happen before construction takes place?

V-169

**4.4 Aesthetics/Visual Quality**

Actually the bay is now visible from the freeway from J Street to L Street exit until the power plant blocks the view. It is also visible coming from National City to 54 and as mentioned from the 54 on ramp. What have been ignored are the spectacular views from several schools, streets and many homes in Chula Vista. People are quite fond of these views and replacing them with buildings is an extreme negative. It also will depress the value of the homes, which now have Bay views but with these high buildings will only have views of buildings. The DEIR admits this is an unmitigatable negative

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does not provide guidelines for determining whether a project is "well designed," this determination is made by the City during its Design Review of projects submit to its jurisdiction. The effect of a proposed building's mass and height on its compatibility with surrounding land uses could be considered a potential impact with respect to land use or with respect to aesthetic and visual resources. CEQA is concerned with the disclosure of information about potential impacts on the environment, not with the label attached to a particular impact. The Revised DEIR thoroughly analyzes the potential significant impacts associated with the mass and height of the Phase I projects in relation to surrounding land uses in *Section 4.4, Aesthetics/Visual Quality*.

**V-166** This comment makes the general statement that the protection of the scenic resources of the SDBNWR is inadequate, and there is no funding to maintain open space areas on the Bayfront. The potential impacts of the Proposed Project on views from the SDBNWR are analyzed in *Section 4.4, Aesthetics/Visual Quality*. Funding for the maintenance of open space areas is addressed in the response to comment Q-22. Since the comment does not make or identify any specific aspect of the Revised DEIR that is inadequate, no further response is possible or required.

**V-167** This comment improperly conflates the proposed finding that the Pacifica Residential and Retail Project may have a significant, unmitigated impact on views from I-5 to the Bay with an inconsistency with the LCP objective to ensure provision of important views to, from, and within the project area. The Proposed Project's potential impacts on views to, from, and within the project area are analyzed in *Section 4.4, Aesthetics/Visual Quality*, of the Revised DEIR. Although there will be a significant, unmitigated impact on the view of the Bay from one off-site viewpoint, the Proposed Project will ensure provision of important views from and within the project area

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Maintaining a 100- foot ROW for H Street simply does not maintain sufficient view corridors, nor does it maintain panoramic views or vistas, just the opposite. There is the question of the function of the RCC buildings as well: function should be integrated with and related to the site and surroundings of that activity. We don't know the actual final design of the buildings but what has been shown does not come close to integrating with the wetlands and marsh adjoining it. It also does not integrate at all with the marina. Instead it towers over these features and in the case of the wetlands could cause long-term negative impacts without more specific design features.

**General Plan Objectives, LCP**

**Objective LUT 9** Create enhanced gateway features for City entry points and important other entries, such as to special districts. This specifically requires a Gateway Master Plan with specific design guidelines and public amenities. The city has not written such a plan or any specific design guidelines; so this project could not possibly conform to this goal.

Ensure that buildings and related site improvements for public and private development are well-designed and compatible with surrounding properties and districts. Since the DEIR has no specific designs for these buildings it is impossible to know if they will be "well-designed." Also since there are no design guidelines it is impossible to define "well-designed." As far as compatibility goes the mass and height of the Phase I projects are clearly not compatible with their surroundings, which is the criteria being used to declare the unmitigatable negative impact in this area. This means they are inconsistent with this GP principle as well.

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by removing existing blighted conditions from the Bayfront area. The project will provide for the removal of unused buildings and foundations and the reuse of previously graded and developed areas. The removal of this blight would enhance the visual appearance of the site and allow more opportunities for the public to enjoy the view of the Bay, native habitat areas associated with the Chula Vista Wildlife Reserve, Sweetwater Marsh NWR, and other sensitive terrestrial and marine biological resources throughout the project area.

**V-168** This comment expresses the commenter's opinion regarding the visual character of the Proposed Project and the Pacifica development. The comment focuses on Chula Vista Municipal Code Section 19.85.006(2)(h). Specifically, the comment alleges that the proposed Pacifica development will destroy a visual relationship with the Bay and marshes from freeways and major entry points. The comment speculates that pedestrians will be overwhelmed by the size of the buildings, that there will be no views of the Bay from "east perimeters," and that the view from the Nature Center will no longer include the San Ysidro Mountains.

Chula Vista Municipal Code Section 19.85.006(2)(h) provides that development of the Bayfront shall ensure provision of three types of views, in accordance with the following:

1. Views from the Freeway and Major Entry: Ensure a pleasant view onto the site and establish a visual relationship with the bay, marshes, and bay-related development.
2. Views from Roadways within the Site (particularly from Marina Parkway, to the marshlands, bay, parks, and other bay-related development): Locations shall preserve a sense of proximity to the bay and marshlands.

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Maintaining a 100-foot ROW for H Street simply does not maintain sufficient view corridors, nor does it maintain panoramic views or vistas, just the opposite. There is the question of the function of the RCC buildings as well: function should be integrated with and related to the site and surroundings of that activity. We don't know the actual final design of the buildings but what has been shown does not come close to integrating with the wetlands and marsh adjoining it. It also does not integrate at all with the marina. Instead it towers over these features and in the case of the wetlands could cause long-term negative impacts without more specific design features.

V-163

**General Plan Objectives, LCP**

**Objective LUT 9** Create enhanced gateway features for City entry points and important other entries, such as to special districts. This specifically requires a Gateway Master Plan with specific design guidelines and public amenities. The city has not written such a plan or any specific design guidelines; so this project could not possibly conform to this goal.

V-164

Ensure that buildings and related site improvements for public and private development are well-designed and compatible with surrounding properties and districts. Since the DEIR has no specific designs for these buildings it is impossible to know if they will be "well-designed." Also since there are no design guidelines it is impossible to define "well-designed." As far as compatibility goes the mass and height of the Phase I projects are clearly not compatible with their surroundings, which is the criteria being used to declare the unmitigatable negative impact in this area. This means they are inconsistent with this GP principle as well.

V-165

**Objective LUT 13** Preserve scenic resources in Chula Vista, maintain the City's open space network, and promote beautification of the City. There is inadequate protection in the current DEIR to preserve the scenic resources of the Wildlife Refuge and no funding or protections to maintain the important open space areas on the bayfront. Areas are declared open space, but there is no plan to fund management and lack of a specific management plan.

V-166

LCP, **Objective VW.1:** Plan and develop the Bayfront to ensure provision of important views to, from, and within the project area. The proposed finding of unmitigatable negative visual impacts essential declares this is not being done.

V-167

**Chula Vista Bayfront Specific Plan, Chula Vista Municipal Code 19.85.006**

View Points: Development of the Bayfront shall ensure provision of three types of views:

1. Views from the Freeway and Major Entry: Ensure a pleasant view onto the site and establish a visual relationship with the Bay, marshes, and Bay-related development.

2. Views from Roadway within the Site (particularly from Marina Parkway, to the marshlands, Bay, parks, and other Bay-related development): Locations shall preserve a sense of proximity to the Bay and marshlands.

3. View from the Perimeters of the Bayfront Outward: Views which are primarily pedestrian-oriented, stationary, and more sustained should be experienced from parts of the open space and pathway system and enable viewers to renew visual contact at close range with the Bay and marshlands. The Pacifica skyscrapers and the resort hotels' towers will destroy a visual relationship with the bay and marshes from the freeways and major entry points. Pedestrians will be over-whelmed by the size of many of the buildings and not able to see beyond the buildings. There will be no views of the bay from the east perimeters. The view from the Nature Center will no longer include the San Ysidro Mountains.

V-168

4.4-84 It says a gateway plan will be developed for E and H Street but it does not say the applicant will do it, so exactly what entity is responsible for this and exactly what funds are to be used to pay for it and clearly it won't happen before construction takes place?

V-169

**4.4 Aesthetics/Visual Quality**

Actually the bay is now visible from the freeway from J Street to L Street exit until the power plant blocks the view. It is also visible coming from National City to 54 and as mentioned from the 54 on ramp. What have been ignored are the spectacular views from several schools, streets and many homes in Chula Vista. People are quite fond of these views and replacing them with buildings is an extreme negative. It also will depress the value of the homes, which now have Bay views but with these high buildings will only have views of buildings. The DEIR admits this is an unmitigatable negative

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- Views from the Perimeters of the Bayfront Outward: Views which are primarily pedestrian-oriented, stationary and more sustained should be experienced from parts of the open space and pathway system and enable viewers to renew visual contact at close range with the bay and marshlands.

In regards to Chula Vista Municipal Code Section 19.85.006(2)(h)(1), there is currently no easily recognizable entrance to the Bayfront. The Bay itself is seldom, if ever, visible from I-5, primarily due to a lack of elevated viewing areas and intervening maritime, industrial, and transportation facilities situated between the freeway and the bayshore. From the Proposed Project's E Street entrance, railway features and trees along Bay Boulevard obscure views of the Bay and undeveloped land in the northern portion of the site. Power lines in the area also dominate views to and from the Proposed Project area. With the implementation of the Proposed Project, including the Pacifica development, a pleasant view onto the site will be established in accordance with the implementation and construction of required Chula Vista Gateway plans at the major points of entry to the Proposed Project area. Gateway plans will be implemented at E, H, and J streets, thereby enhancing the visual relationship with the Bay, marshes, and Bay-related development. In so doing, the Proposed Project and the Pacifica development meet Section 19.85.006(2)(h)(1).

Regarding Chula Vista Municipal Code Section 19.85.006(2)(h)(2), views from the streets within the site do preserve a sense of proximity to the Bay and marshland, and the Pacifica development does not hinder these views. Specifically, views from Marina Parkway to the SDBNWR located to the south remain unencumbered, as do views westerly to the Bay. In addition, views from E Street to the Bay and the F&G Street Marsh also will remain unencumbered, thereby preserving a sense of proximity to the Bay and marshlands. Therefore,

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Maintaining a 100-foot ROW for H Street simply does not maintain sufficient view corridors, nor does it maintain panoramic views or vistas, just the opposite. There is the question of the function of the RCC buildings as well: function should be integrated with and related to the site and surroundings of that activity. We don't know the actual final design of the buildings but what has been shown does not come close to integrating with the wetlands and marsh adjoining it. It also does not integrate at all with the marina. Instead it towers over these features and in the case of the wetlands could cause long-term negative impacts without more specific design features.

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V-167

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the Proposed Project and the Pacifica development meet Section 19.85.006(2)(h)(2).

Regarding Chula Vista Municipal Code Section 19.85.006(2)(h)(3), views that are primarily pedestrian oriented (i.e., from the Proposed Project's parks and trails) will enable viewers to view, at close range, the Bay and marshlands. Again, the Pacifica development would not obstruct these views. For example, the Proposed Project's parks, open space, and trail system are oriented to have unobstructed views to the marshes and the Bay. As such, the Proposed Project and the Pacifica development also meet Section 19.85.006(2)(h)(3).

Lastly, *Table 4.4-2* in the Revised DEIR indicates that the Pacifica project-level impacts are "neutral" or "low" with regard to conflicts with the adopted City plans and effects on the visual relationship with the Bay and the Pacifica project. In summary, there are no inconsistencies between the Proposed Project and the Pacifica development and the Chula Vista Municipal Code Section 19.85.006(2)(h).

**V-169 Mitigation Measure 4.4-1** requires preparation of a Gateway Plan concurrent with the Infrastructure Plans, delegating responsibilities to both the City and Port.

**V-170** This comment states that the views from several schools, streets, and many homes in Chula Vista have been ignored and that buildings will block these views and depress the value of the homes that now have Bay views. The Revised DEIR analyzes the potential impacts of the Proposed Project on public views from a number of viewpoints in *Section 4.4, Aesthetics/Visual Quality*. Private landowners in California do not have a right to a view over adjacent or nearby property, and concern regarding the effect of a Proposed Project on property values does not state a valid environmental concern under CEQA.

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effect of the project. Redesigning the buildings to be less massive and more compatible with their environment is an option, but it would cut into profits.

**Air Quality**

The impacts will be significant and unmitigable even after mitigation. This is not acceptable to those of us who must bear the increased negative health effects of this poor Air Quality. This is a good indicator that excessive development is planned for this area. It would be interesting to analyze how much development would need to be cut in order to get Air Quality below the level of significance.

**There is a failure to correlate adverse Air Quality impacts to resulting adverse health impacts.** *The DEIR has omitted relevant information when it concludes that there is no available mitigation for the projects adverse Air Quality impacts but fails to correlate the identified adverse air quality impacts to resultant adverse health effects.*<sup>6</sup>

This is particularly troubling considering that the two local hospitals have been losing millions of dollars per year from the treatment of under-insured and uninsured people, and the high number of retail and hotel uses in the project will result in thousands of low wage employees who, if they will have insurance, probably will not have adequate coverage. [MediCare reimbursement in San Diego County](http://www.signonsandiego.com/news/northcounty/20060108-9999-1n8cuts.html) (<http://www.signonsandiego.com/news/northcounty/20060108-9999-1n8cuts.html>) is one of the lowest in the state and not adequate to cover the cost of treatment.

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Cheryl Clark, **The San Diego Union - Tribune**, San Diego, Calif.: Feb 3, 2005. pg. A.1

This has the potential of being a huge significant negative impact, which is not even mentioned in the DEIR, and case law indicates must be fully analyzed.

**Protecting the Aquifer:**

There is so much contamination in the soil<sup>7</sup>, and our potable water aquifer is only 200 feet down in the ground. It says often that there will be no permanent dewatering anywhere on the Bayfront. This is good. What is not clear is how footings deep enough to support these high buildings in earthquakes, that can cause liquefaction of the fill land even if a layer above is compacted can be dug without contaminating the deeper aquifer. Since the level of the highest aquifer is 5 feet or even less, how exactly is permanent dewatering going to be prevented? These issues are mentioned but they are certainly not analyzed in any depth. The public has the right to know this information, because it is our future potential water supply that is being threatened, and the quality of our bay water.

**Green House Gas**

**TABLE 4.6-27** This table deals with Gaylord. It is commendable that a gray water system shall be incorporated. It is unfortunate the commitment is only to 20% reduction in water use, but at least there is a real commitment. *The Project shall be designed with sustainable design features within the building that will result in energy efficiency to the extent possible. This shall be incorporated into the building design phase.* It is unfortunate language such as "to the extent possible" is used instead of to some measurable level. This sentence clearly indicates that the building has not yet been designed. This would indicate it is not a project level EIR. It is inadequate that the commitment is for only 15% over Title 24 instead of at least 20%. It is unclear why

<sup>6</sup> [\*\*\*6] V. Failure to Correlate Adverse Air Quality Impacts to Resulting Adverse Health Impacts BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; PANAMA 99 PROPERTIES LLC, Real Party in Interest and Respondent. BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent; CASTLE & COOKE COMMERCIAL-CA, INC., Real Party in Interest and Appellant. F044943, F045035 COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT 124 Cal. App. 4th 1184; 22 Cal. Rptr. 3d 203; 2004 Cal. App. LEXIS 2121; 2004 Cal. Daily Op. Service 10918; 2004 Daily Journal DAR 14768; 34 ELR 20153

<sup>7</sup> Fact Sheet #1 for Goodrich Aerostructures Group 850 Lagoon Drive Chula Vista, California; 11/06, RWQRB

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**V-171** This comment expresses the author's concern over significant and unmitigable air quality impacts. The commenter suggests that this significant impact be avoided or reduced to below a level of significance. As discussed in *Section 4.6, Air Quality*, although the mitigation measures will reduce air quality impacts of the Proposed Project, they would not bring construction and operational emissions to a level below the standards established by the South Coast Air Quality Management District and used in the Revised DEIR by the Port and the City.

An alternative to the Proposed Project, the Reduced Overall Density Alternative, would reduce the impacts to air quality associated with the Proposed Project. As discussed in *Section 5.6.5* of the Revised DEIR, the Reduced Overall Density Alternative would generate less traffic and reduce pollutant emissions resulting from construction. As stated on page 5-157 and illustrated in *Table 5.6-2*, this alternative would result in a projected reduction of 30 percent in the emissions for the operation of the project. While the alternative represents a substantial reduction in emissions, it would still result in air quality impacts in excess of standards. Impacts would remain significant and unmitigated.

**V-172** This comment expresses the author's concern regarding the perceived failure of the Revised DEIR to analyze adverse air quality impacts as they relate to adverse health impacts. The commenter cites *Bakersfield Citizens for Local Control v. City of Bakersfield* (124 Cal.App.4th 1184), which relies on CEQA Guidelines Section 15126.2(a) and the requirement that an EIR discussion of significant environmental effects include relevant specifics of the health and safety problems caused by physical changes.

*Section 4.6, Air Quality*, of the Revised DEIR first references the

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effect of the project. Redesigning the buildings to be less massive and more compatible with their environment is an option, but it would cut into profits.

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**There is a failure to correlate adverse Air Quality impacts to resulting adverse health impacts.** *The DEIR has omitted relevant information when it concludes that there is no available mitigation for the projects adverse Air Quality impacts but fails to correlate the identified adverse air quality impacts to resultant adverse health effects.*<sup>6</sup>

This is particularly troubling considering that the two local hospitals have been losing millions of dollars per year from the treatment of under-insured and uninsured people, and the high number of retail and hotel uses in the project will result in thousands of low wage employees who, if they will have insurance, probably will not have adequate coverage. [MediCare reimbursement in San Diego County](http://www.signonsandiego.com/news/northcounty/20060108-9999-1n8cuts.html) (<http://www.signonsandiego.com/news/northcounty/20060108-9999-1n8cuts.html>) is one of the lowest in the state and not adequate to cover the cost of treatment.

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This has the potential of being a huge significant negative impact, which is not even mentioned in the DEIR, and case law indicates must be fully analyzed.

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**TABLE 4.6-27** This table deals with Gaylord. It is commendable that a gray water system shall be incorporated. It is unfortunate the commitment is only to 20% reduction in water use, but at least there is a real commitment. *The Project shall be designed with sustainable design features within the building that will result in energy efficiency to the extent possible. This shall be incorporated into the building design phase.* It is unfortunate language such as "to the extent possible" is used instead of to some measurable level. This sentence clearly indicates that the building has not yet been designed. This would indicate it is not a project level EIR. It is inadequate that the commitment is for only 15% over Title 24 instead of at least 20%. It is unclear why

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protection of public health as it relates to air quality on pages 4.6-1 and 4.6-2. In this discussion, the Revised DEIR specifically states that the primary National Ambient Air Quality Standards (NAAQS), which were developed by the U.S. Environmental Protection Agency (EPA), are to "protect the public health with an adequate margin of safety" and furthermore that consideration must be given to long-term exposure for the most sensitive groups of the population, namely children, senior citizens, and people with breathing difficulties. It is important to note that both the NAAQS and the California AAQS are established based on the potential for pollutants to result in health-related effects. Stated another way, the purpose of these standards is to identify the level of pollutant emissions that would result in adverse health effects and to require identification of an impact should the standard be exceeded and the potential for adverse health effects exist.

As referenced on page 4.6-2 of the Revised DEIR, *Table 4.6-2* is provided on page 4.6-4 to identify the potential health effects associated with exposure to elevated concentrations of the six criteria pollutants, which are ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, lead, and suspended particulates (PM<sub>10</sub> and PM<sub>2.5</sub>). The health effects provided in this table were identified by the California Air Resources Board in 2007. As specifically stated on page 4.6-2 of the Revised DEIR, project conformance to the NAAQS and California AAQS and health risks due to specific emitters are presented and discussed in *Section 4.6.3* of the Revised DEIR.

In *Section 4.6.3* of the Revised DEIR, on page 4.6-45, the Revised DEIR identifies a significant impact to sensitive receptors during construction of Phases I, II, III, and IV (**Significant Impact 4.6-6**). As stated on pages 4.6-44 and 4.6-45, this impact is the result of the project exceeding significance thresholds for carbon monoxide, nitrogen dioxide, PM<sub>10</sub> and PM<sub>2.5</sub>, and reactive organic gases (ROGs).

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As discussed on page 4.6-41 of the Revised DEIR, this impact is associated with the project's exposure of sensitive receptors to pollutant concentrations in excess of the California AAQS and NAAQS due to regional air pollutant concentrations, to which the project contributes. By identifying the potential health effects associated with exposure to elevated concentrations of pollutants in *Table 4.6-2*, and identifying an impact resulting from the exposure of sensitive receptors to these pollutant concentrations (**Significant Impact 4.6-6**), the Revised DEIR directly correlates the air quality impact to specific adverse health impacts. In response to this comment, the Final EIR has been revised to refer back to *Table 4.6-2* in the discussion of **Significant Impact 4.6-6** to reaffirm to the reader that the air quality impact identified in the EIR may correlate to adverse health effects as described earlier in the section on pages 4.6-1 through 4.6-6 and page 4.6-25.

The Revised DEIR also identifies a significant impact to air quality associated with the cumulatively considerable net increase of criteria pollutants related to the construction of all phases (**Significant Impact 4.6-1**) on pages 4.6-33, 4.6-36, 4.6-38, and 4.6-39. This impact results from construction-related activities that exceed significance thresholds for criteria pollutants. As stated above, the Revised DEIR identifies the potential health effects associated with exposure of elevated concentrations to these pollutants in *Table 4.6-2*. In response to this comment, the Final EIR has been revised to refer back to *Table 4.6-2* in the discussion of **Significant Impact 4.6-1** to reaffirm to the reader that the air quality impact identified in the EIR may correlate to adverse health effects as described earlier in the section on pages 4.6-1 through 4.6-6 and page 4.6-25.

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This is particularly troubling considering that the two local hospitals have been losing millions of dollars per year from the treatment of under-insured and uninsured people, and the high number of retail and hotel uses in the project will result in thousands of low wage employees who, if they will have insurance, probably will not have adequate coverage. [MediCare reimbursement in San Diego County](http://www.signonsandiego.com/news/northcounty/20060108-9999-In8cuts.html) (<http://www.signonsandiego.com/news/northcounty/20060108-9999-In8cuts.html>) is one of the lowest in the state and not adequate to cover the cost of treatment.

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Cheryl Clark, **The San Diego Union - Tribune**, San Diego, Calif.: Feb 3, 2005. pg. A.1

This has the potential of being a huge significant negative impact, which is not even mentioned in the DEIR, and case law indicates must be fully analyzed.

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**Green House Gas**

**TABLE 4.6-27** This table deals with Gaylord. It is commendable that a gray water system shall be incorporated. It is unfortunate the commitment is only to 20% reduction in water use, but at least there is a real commitment. *The Project shall be designed with sustainable design features within the building that will result in energy efficiency to the extent possible. This shall be incorporated into the building design phase.* It is unfortunate language such as "to the extent possible" is used instead of to some measurable level. This sentence clearly indicates that the building has not yet been designed. This would indicate it is not a project level EIR. It is inadequate that the commitment is for only 15% over Title 24 instead of at least 20%. It is unclear why

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<sup>7</sup> Fact Sheet #1 for Goodrich Aerostructures Group 850 Lagoon Drive Chula Vista, California; 11/06, RWQRB

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pollutants related to the operation of all phases (**Significant Impact 4.6-2** on page 4.6-35; **Significant Impact 4.6-3** on page 4.6-37; **Significant Impact 4.6-4** on page 4.6-39; and **Significant Impact 4.6-5** on page 4.6-40). These impacts result from operational activities that exceed significance thresholds for criteria pollutants. As stated above, the Revised DEIR identifies the potential health effects associated with exposure of elevated concentrations to these pollutants in *Table 4.6-2*. In response to this comment, the Final EIR has been revised to refer back to *Table 4.6-2* in the discussion of **Significant Impact 4.6-2** through **Significant Impact 4.6-5** to reaffirm to the reader that the air quality impact identified in the EIR may correlate to adverse health effects as described earlier in the section on pages 4.6-1 through 4.6-6 and page 4.6-25.

In *Chapter 6.0, Cumulative Impacts*, on pages 6-23 through 6-32, the Revised DEIR identifies the project's contribution to significant cumulative air quality impacts associated with construction (**Significant Impact 6.8-1**) and operation (**Significant Impact 6.8-2**). These impacts result from operational activities that exceed significance thresholds for criteria pollutants. As stated above, the Revised DEIR identifies the potential health effects associated with exposure of elevated concentrations to these pollutants in *Table 4.6-2* in *Section 4.6, Air Quality*. In response to this comment, *Chapter 6.0, Cumulative Impacts*, in the Final EIR has been revised to refer back to *Table 4.6-2* in the discussion of **Significant Impact 6.8-1** and **Significant Impact 6.8-2** to reaffirm to the reader that the air quality impact identified in the EIR may correlate to adverse health effects as described in *Section 4.6, Air Quality*.

In addition to impacts from criteria pollutants, the Revised DEIR also analyzes potential impacts resulting from emissions of pollutants identified by the state and federal government as hazardous air



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effect of the project. Redesigning the buildings to be less massive and more compatible with their environment is an option, but it would cut into profits.

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pollutants (HAPs) and TACs, including diesel particulates (pages 4.6-5, 4.6-6, 4.6-25, and 4.6-45 through 4.6-47). No significant impacts were identified.

In conclusion, the Port agrees with the commenter that adverse air quality impacts correlate to adverse health effects. As summarized above, the Revised DEIR considered the evaluation of pollutant emissions, which is in direct relation to an evaluation of whether the project will result in adverse health-related effects. As referenced above, the Final EIR has been revised to clarify this point in the discussion of all significant impacts to air quality.

The remainder of the comment addresses social and economics issues regarding health care funding, which is not required to be studied in an EIR. Therefore, no further response is required.

**V-173** The commenter expresses a concern regarding contamination in the soil and the impact that potential dewatering along the Bayfront would have on the quality of water. As stated in *Section 4.5, Hydrology and Water Quality*, the RWQCB prohibits permanent dewatering for new construction. The Proposed Project does not propose the direct use of groundwater during any phase of development, and permanent dewatering would be prohibited by on-site operations. Please also see *Appendices 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5* of the Revised DEIR. As provided in the response to comment V-29, the project will be implementing BMPs and LID features to address water quality, as identified in *Section 4.5.3* of the Revised DEIR.

The Revised DEIR considers the impacts that development will have on groundwater conditions and efforts to remediate groundwater. First, if soil remediation will be necessary to accommodate the proposed land use for a given parcel, it is likely to be required to be

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effect of the project. Redesigning the buildings to be less massive and more compatible with their environment is an option, but it would cut into profits.

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completed prior to development. Thus, grading, excavation, and other soil-disturbing activities associated with construction will have less of a chance of encountering contamination. However, even if soil remediation in a given area has been completed, soil-disturbing construction activities would be performed in accordance with an SWMP in the event that unknown contamination is encountered. If contamination is encountered, construction would be temporarily halted while the contamination is assessed and it is determined with the regulatory agencies what, if any, further actions are necessary. If development is proposed for an area where soil remediation is not necessary or has been completed, but groundwater remediation is required, there are several factors that will be considered, including, but not limited to:

- Depth to groundwater
- Depth of the contamination in groundwater
- Contaminant concentrations
- The type of remedial activities proposed
- The proposed location of remediation equipment.

In many of the project areas, although groundwater is impacted, the nature of the contaminants (dense chlorinated solvents) has caused the contamination to migrate vertically downward and laterally to the west (down gradient). Therefore, construction activities such as grading and excavation of utility trenches are not likely to encounter highly contaminated groundwater. However, if shallow groundwater is impacted, and if migration of contamination along a utility alignment is a concern, a 12-inch-wide bentonite slurry barrier can be installed every 20 feet of trench as part of the excavation bottom to prevent the ability of the utility trench to serve as a migration pathway.

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Deep footings that could extend into contaminated groundwater zones will be installed using methods to minimize the potential for creating conduits for migration of contaminants. Additionally, pile spacing will be at least four times the maximum dimension of the pile; therefore, piles are less likely to have an effect on lateral groundwater flow and contaminant transport.

As with soil, construction activities will be performed in accordance with an SWMP that provides guidance on assessment and handling of water encountered during construction. For example, if dewatering is required, the water that is generated will need to be contained and characterized to determine treatment and disposal options. In addition, potential dewatering activities must be noticed to and approved by RWQCB and local stormwater management agencies prior to the discharge of non-stormwater. The Proposed Project will comply with all applicable dewatering permit conditions and regulations, which may include a separate NPDES dewatering permit, if required.

**V-174** As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on Parcel H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168.

The proposed RCC will incorporate design features that will reduce greenhouse gas emissions. Due to advancements in construction technology and energy efficiency, it has not yet been determined

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the commitment is only 15%, but “the applicant’s duty” is stated as to reduce by 20%. **TABLE 4.6-31** This table deals with Pacifica. Where is the access to mass transit? There is no Green Line shuttle bus, and J Street is rather far from the H Street trolley as is C Street.

“shall strive for 50 percent reduction” is not a commitment to actually achieve a 50% reduction in water use, and 50% is still a lot of extra water, requiring a lot of energy..

LEED certification and over Title 24 commitments are good starts, but both projects need to commit to much more in this area, such as the production of a significant amount of the energy required by the projects.

This entire analysis is totally inadequate, because it ignores the largest source of Green House Gas-idling cars in traffic jams. The DEIR acknowledges that the traffic on I-5 will be F or highly congested. It reclassifies roads to level D (minimal to substantial congestion). This source of Green House gas is an unmitigatable result of this project and the GPU. Therefore Green House Gas is also an unmitigatable impact.

Diesel-powered construction equipment used in the project as well as operational use of water and energy can be sources of emissions and must be included in the analysis. This has not been adequately analyzed in the section on Green House Gas emissions. The city of Chula Vista has a threshold of returning to 1990 emissions. They are currently 35% above this. Merely reducing emissions in operation below “business as usual” does not get emissions down to 1990 standards. The amount of traffic generated by the project must be considered in the analysis as well. (<http://www.northbaybusinessjournal.com/article/20080714/BUSINESSJOURNAL/588823600/1209>)

**Noise**

The biggest problem with the noise analysis is that it mostly analyzes traffic noise. The operational/housekeeping functions of Gaylord appear to be relatively close to the F/G Marsh and HP-11. Certainly figures must be available from an existing Gaylord of approximately this size, which could be used to estimate the noise to be expected from the trash handling, loading and unloading and other activities that will take place here. There also appears to be a surface parking lot adjacent to HP-11. Another source of noise not dealt with could be the nightclubs, entertainment, activities for guests, etc. This is particularly important since nowhere does it state that outdoor music concerts, fireworks, laser and light shows, jet-skis, etc. will be prohibited. Exactly what is to be allowed and what is not to be allowed needs to be committed to and the impacts fully analyzed at the project level. Will the nightclubs be sound proofed and will the doors and windows be closed or will the noise spill out into the plazas? Will there be musicians in the plazas? What activities exactly will be allowed in the plazas? These things must be known and possible impacts (especially light and noise) must be analyzed. Even exactly where the nightclubs will be is not known at this time.

The noise impact of the nightly freight train needs to be analyzed as well both for hotel guests and residents. It will blow its horn almost continuously from before E until after H. This will likely be heard at 3 AM nightly by hotel guests and residents. Effects on sleep: <http://www.nonoise.org/library/whonoise/whoresponse.htm>

4.7-33 A noise level of 84 dB Leq at 50 feet would be at the F&G Street marsh. This is for construction noise and is very significant. Why the report is measuring it 800 feet away at the rest of the Wildlife Refuge is uncertain. Also the inlet is being ignored, which is a significant habitat that must be protected from excessive noise as well as wetlands HP-11.

**Terrestrial Biological Resources**

The surveys show that there are many habitats in the project area that are inhabited by a variety of species. Many of the habitats are quite degraded, but the reality is that these animals do not have readily available alternatives. The non-native grasslands in the Harbor, Otay and Sweetwater Districts

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which specific measures will be the most effective; however, the RCC will achieve a reduction in greenhouse gas emissions to 20 percent below business as usual. Building energy efficiency will be reduced pursuant to **Mitigation Measure 4.16-2** in the Final EIR, and other features, such as reduction in water use, will achieve a 20-percent reduction below business as usual.

**V-175** The commenter references *Table 4.6-31* in the Revised DEIR and requests clarification regarding where Pacifica’s access to mass transit is located. As discussed in *Section 4.2, Traffic and Circulation* and *Chapter 3.0, Project Description*, there are currently two trolley stations in the Bayfront area: one at H Street and one at E Street. The nearest station to the Pacifica project is the H Street trolley station. Standard methodology states that transit-oriented development is defined when a transit stop is located 0.25 to 0.5 mile from the proposed development.

**V-176** The Pacifica Residential and Retail Project’s commitment to strive for a 50-percent reduction in water use is based on its best efforts to achieve the reduction by implementing the specific design features identified in *Table 4.6-31* of the Revised DEIR. This comment expresses an opinion regarding water efficiency but does not address the adequacy of the Revised DEIR; therefore, no further response is required.

**V-177** This comment expresses an opinion about generation of power on site, but does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

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**Noise**

The biggest problem with the noise analysis is that it mostly analyzes traffic noise. The operational/housekeeping functions of Gaylord appear to be relatively close to the F/G Marsh and HP-11. Certainly figures must be available from an existing Gaylord of approximately this size, which could be used to estimate the noise to be expected from the trash handling, loading and unloading and other activities that will take place here. There also appears to be a surface parking lot adjacent to HP-11. Another source of noise not dealt with could be the nightclubs, entertainment, activities for guests, etc. This is particularly important since nowhere does it state that outdoor music concerts, fireworks, laser and light shows, jet-skis, etc. will be prohibited. Exactly what is to be allowed and what is not to be allowed needs to be committed to and the impacts fully analyzed at the project level. Will the nightclubs be sound proofed and will the doors and windows be closed or will the noise spill out into the plazas? Will there be musicians in the plazas? What activities exactly will be allowed in the plazas? These things must be known and possible impacts (especially light and noise) must be analyzed. Even exactly where the nightclubs will be is not known at this time.

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4.7-33 A noise level of 84 dB Leq at 50 feet would be at the F&G Street marsh. This is for construction noise and is very significant. Why the report is measuring it 800 feet away at the rest of the Wildlife Refuge is uncertain. Also the inlet is being ignored, which is a significant habitat that must be protected from excessive noise as well as wetlands HP-11.

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The surveys show that there are many habitats in the project area that are inhabited by a variety of species. Many of the habitats are quite degraded, but the reality is that these animals do not have readily available alternatives. The non-native grasslands in the Harbor, Otay and Sweetwater Districts

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**V-178** The Revised DEIR specifically addresses potential impacts from emissions from Vehicular Use emissions for the Pacifica project via the EMFAC2007 model and provides project design features intended to reduce those greenhouse gas emissions, such as smart-growth land-use patterns, vehicle standards, and access to mass transit, as well as the low carbon fuel standard, all of which will reduce greenhouse gas emissions from vehicles associated with the project (pages 4.6-48 through 4.6-61).

**V-179** Please see the response to comment V-178. In addition, the Revised DEIR on pages 4.6-68 and 4.6-53 specifically calculates and analyzes constructed-related emissions due to use of heavy equipment and vehicle trips. AB 32 and Executive Order S-3-05 apply to existing and new greenhouse gas emission sources. To account for growth and prevent inhibition of future development, reductions below “business as usual” are quantified. For the purposes of the Proposed Project, “business as usual” is considered to be development in compliance with the energy efficiency standards established by Title 24 and other applicable regulations, including water conservation requirements. As provided in *Section 4.6.2.2*, reducing greenhouse gas emissions to 1990 levels by 2020 is equivalent to a 25-percent reduction below “business as usual.”

**V-180** The comment refers to operational noise generated by the RCC project. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. As discussed in *Section 4.7, Noise*, on pages 4.7-37 through 4.7-41, anticipated noise sources associated with the RCC operation include deliveries,

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the commitment is only 15%, but “the applicant’s duty” is stated as to reduce by 20%. **TABLE 4.6-31** This table deals with Pacifica. Where is the access to mass transit? There is no Green Line shuttle bus, and J Street is rather far from the H Street trolley as is C Street.

“shall strive for 50 percent reduction” is not a commitment to actually achieve a 50% reduction in water use, and 50% is still a lot of extra water, requiring a lot of energy..

LEED certification and over Title 24 commitments are good starts, but both projects need to commit to much more in this area, such as the production of a significant amount of the energy required by the projects.

This entire analysis is totally inadequate, because it ignores the largest source of Green House Gas-idling cars in traffic jams. The DEIR acknowledges that the traffic on I-5 will be F or highly congested. It reclassifies roads to level D (minimal to substantial congestion). This source of Green House case is an unmitigatable result of this project and the GPU. Therefore Green House Gas is also an unmitigatable impact.

Diesel-powered construction equipment used in the project as well as operational use of water and energy can be sources of emissions and must be included in the analysis. This has not been adequately analyzed in the section on Green House Gas emissions. The city of Chula Vista has a threshold of returning to 1990 emissions. They are currently 35% above this. Merely reducing emissions in operation below “business as usual” does not get emissions down to 1990 standards. The amount of traffic generated by the project must be considered in the analysis as well.  
(<http://www.northbaybusinessjournal.com/article/20080714/BUSINESSJOURNAL/588823600/1209>)

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The biggest problem with the noise analysis is that it mostly analyzes traffic noise. The operational/housekeeping functions of Gaylord appear to be relatively close to the F/G Marsh and HP-11. Certainly figures must be available from an existing Gaylord of approximately this size, which could be used to estimate the noise to be expected from the trash handling, loading and unloading and other activities that will take place here. There also appears to be a surface parking lot adjacent to HP-11. Another source of noise not dealt with could be the nightclubs, entertainment, activities for guests, etc. This is particularly important since nowhere does it state that outdoor music concerts, fireworks, laser and light shows, jet-skis, etc. will be prohibited. Exactly what is to be allowed and what is not to be allowed needs to be committed to and the impacts fully analyzed at the project level. Will the nightclubs be sound proofed and will the doors and windows be closed or will the noise spill out into the plazas? Will there be musicians in the plazas? What activities exactly will be allowed in the plazas? These things must be known and possible impacts (especially light and noise) must be analyzed. Even exactly where the nightclubs will be is not known at this time.

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buses, and mechanical equipment. The nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168.

**V-181** Please see the responses to comments B-26, Q-20, V-9, V-32, and V-103 regarding fireworks. Please see the responses to comments V-32, V-87, and V-90 regarding jet skis. Noise from potential nighttime activities will comply with the City’s Noise Ordinance. In response to this and other comments, **Mitigation Measure 4.8-6D** in the Final EIR has been revised to include the prohibition of laser light shows in the CVBMP area.

**V-182** Please see the response to comment V-55.

**V-183** The first part of the comment questions why the Revised DEIR uses an 800-foot measurement from the F&G Street Marsh. The objective for the noise mitigation is to protect existing preserve areas, including the F&G Street Marsh, from equivalent continuous noise levels above 60 dB(A) Leq, in accordance with the requirements of the City’s MSCP Subarea Plan. Mitigation measures have been incorporated to ensure that this standard is maintained. The noise analysis predicts noise levels at the preserve boundary. The 800-foot reference is the distance from the source of noise at which the sound level would attenuate to the 60 dB(A) Leq threshold, which is outside of the preserve area. Therefore, noise was not measured at 800 feet from the preserve, as the comment suggests.

The second part of the comment expresses a concern regarding impacts from noise levels during construction on the inlet and existing wetlands on Parcel HP-11. Contrary to the commenter’s assertion, the Revised DEIR has not ignored noise impacts to Parcel HP-11 and the inlet feeding into the F&G Street Marsh. The purpose of the noise

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restrictions on sensitive habitat is to protect the breeding of sensitive species. Breeding activity is not anticipated to occur in the inlet channel. In addition, as shown on *Figure 4.8-3* in the Revised DEIR, the predominate habitat on Parcel HP-11 is disturbed habitat, with the exception of a small strip of southern coastal salt marsh in the channel bottom. The channel bottom does not serve as breeding habitat for sensitive bird species; the habitat within the F&G Street Marsh does serve as habitat.

**V-184** The comment expresses a concern regarding the mitigation for non-native grasslands in the Harbor, Sweetwater, and Otay districts. Mitigation for impacts on non-native grassland is included in the Revised DEIR in **Mitigation Measure 4.8-9**. Ratios for mitigation of non-native grassland project-wide are consistent with the City’s MSCP Subarea Plan requirements and are listed in *Table 4.8-6*. The Port must comply with the agencies regarding restoration plans for impacts to riparian habitat and sensitive vegetation communities. Please also see the response to comment B-72. As illustrated on *Table 4.8-1A* and *Table 4.8-1B*, and discussed on page 4.8-17 of the Revised DEIR, non-native grassland habitat on site is sparse, is highly degraded, and occurs in vacant lots within the Harbor District and within undeveloped areas on the southern end of the Otay District. There is no existing non-native grassland within the Sweetwater District; therefore, no mitigation is required for impacts to non-native grassland within this district. Development in the Otay District is analyzed at a program level in the Revised DEIR. As stated on page 4.8-111 of the Revised DEIR, program-level impacts to sensitive communities include approximately 34.44 acres of non-native grassland (**Significant Impact 4.8-11**). This impact is mitigated at a 0.5:1 ratio as provided in **Mitigation Measure 4.8-9** and shown in *Table 4.8-6* in the Revised DEIR.



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that will be destroyed by this project must all be mitigated for. This does not appear to be the case from the text.

**Buffers**

Figure 4.8-11 shows the extension of F will impact the jurisdictional wetlands in two places. This is totally unacceptable. There is supposed to be a 50-foot minimum buffer around this wetlands. The road does not need to be straight it could easily avoid these impacts, which is required by CEQA.

Page 4.8-107 *The CityMSCP Subarea Plan addresses Adjacency Management Issues in order to reduce indirect impacts associated with development adjacent to the Preserve areas. As described in Chapter 3.0, Project Description, a 400-foot-wide ecological buffer would be established within the Sweetwater District, and a 170- to 200-foot-wide ecological buffer would be established in the Otay District as part of the Proposed Project design. In the eastern portion of the buffers, a foot path would be provided for pedestrian use. A series of staggered berms within the Sweetwater District would serve as a barrier between the human users of recreation facilities and the sensitive wildlife in the nearby marsh habitat. The berms within the ecological buffers would also serve to reduce the amount of noise that may be disruptive to the sensitive species within the marshes.* This passage makes clear the buffers are Project Design Features to address adjacency issues. Their design, including the restoration of habitat, fencing, blocking light, shielding the presence of humans, keeping out domestic animals, etc., is intended only to help avoid adjacency issues. They must include sturdy fencing and they must be installed before construction starts or they will not serve their intended purpose at all.

It is also inaccurate to call the buffer zone an "ecological buffer" when so little habitat is to be restored and human access is allowed in half of it. Saying that trespassing laws will be strictly enforced will not make it so. Funding must be included as development mitigation to pay for enough full-time equivalent ranger/guide/security positions to provide seven day a week full daytime enforcement. After hours when parks are closed would be responsibility of the Chula Vista Police Department or a nighttime ranger? The buffer zones need to be worked out in detail with the USFWS before a project level EIR can be done for them, and they must be in effect before Phase I construction starts or they will not be able to serve their purpose.

The Port also needs to finally implement the policy it agreed to as a condition of its last PMP amendment and transfer the tidal flat west of Gun Powder Point to a responsible agency. ("As part of the environmental review for the proposed land and water use change, the Port has agreed to enter into a cooperative agreement to protect and/or enhance, where appropriate, this sensitive biological wetland habitat." (Staff Recommendation on the San Diego Unified Port District Port Master Plan Amendment No. 32 (South Bay Boat Yard) CCC staff report, p. 1, Nov. 16, 2001)) The mud flats along the Sweetwater and the Harbor Districts (near Bay Front Park) should also be transferred at the same time.

**Building Shading: Port and City Jurisdiction**

Shading studies were conducted during Summer and Winter solstices. This is probably not adequate. It is not conclusive as regards the RCC because a final design still has not been reached. It is still unknown exactly where these buildings will be located on the R3 site. This will not be known until an architect finally draws building plans. This is another reason why there is inadequate information for a project level DEIR. H3 directly abuts HP-11, which flows into the F&G Street marsh. Shading cannot be ruled out at this point.

Pacifica still does not even know the height of its buildings, because no decision has been made about the L Street ditch. The fact that shading was shown by the study indicates an impact. Any impact should be mitigated. Why was it dismissed as insignificant? Insignificant is when a mobile source passes by occasionally, not when a building shades for several hours a day. Also what is the impact on this wetlands of all the traffic on A and C Streets day and night with headlights?

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**V-185** This comment states that it is unacceptable that the extension of F Street will impact wetlands in two places as shown in *Figure 4.8-11* because a 50-foot buffer should be around wetlands. As discussed in *Section 4.1, Land/Water Use Compatibility*, of the Revised DEIR, impacts to coastal wetlands are allowable for infrastructure under certain circumstances—in this case, to facilitate public access. Therefore, the suggestion that road impacts on wetland resources are not permissible is incorrect. In response to this and other comments, *Chapter 1.0, Executive Summary*, and *Chapter 3.0, Project Description*, of the Final EIR has been revised to include, within Parcel SP-2, a permanent 100-foot-wide buffer from proposed development for the seasonal wetland proposed on this parcel. The PMP Amendment will also be revised to reflect the permanent buffer width within Parcel SP-2. The establishment of this buffer will occur upon the adoption of the master plan and its assignment with the Open Space land use designations. Please also see the response to comment Q-10 regarding the protection of Parcel SP-2 and the ultimate closure of F Street. As described in the response to comment Q-10, once emergency access to the Proposed Project area has been adequately established such that F Street is no longer needed for public right-of-way, the Port and City will abandon/vacate the F Street right-of-way for vehicular use, but may reserve it for pedestrian and bicycle use if ecologically appropriate.

**V-186** Please see the responses to comments Q-14 and V-64 in regard to the materials used for fencing. In response to this and other comments on the Revised DEIR, the Final EIR has been revised include 6-foot-high vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement.



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that will be destroyed by this project must all be mitigated for. This does not appear to be the case from the text.

**Buffers**

Figure 4.8-11 shows the extension of F will impact the jurisdictional wetlands in two places. This is totally unacceptable. There is supposed to be a 50- foot minimum buffer around this wetlands. The road does not need to be straight it could easily avoid these impacts, which is required by CEQA.

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It is also inaccurate to call the buffer zone an "ecological buffer" when so little habitat is to be restored and human access is allowed in half of it. Saying that trespassing laws will be strictly enforced will not make it so. Funding must be included as development mitigation to pay for enough full-time equivalent ranger/guide/security positions to provide seven day a week full daytime enforcement. After hours when parks are closed would be responsibility of the Chula Vista Police Department or a nighttime ranger? The buffer zones need to be worked out in detail with the USFWS before a project level EIR can be done for them, and they must be in effect before Phase I construction starts or they will not be able to serve their purpose.

The Port also needs to finally implement the policy it agreed to as a condition of its last PMP amendment and transfer the tidal flat west of Gun Powder Point to a responsible agency. ("As part of the environmental review for the proposed land and water use change, the Port has agreed to enter into a cooperative agreement to protect and/or enhance, where appropriate, this sensitive biological wetland habitat." (Staff Recommendation on the San Diego Unified Port District Port Master Plan Amendment No. 32 (South Bay Boat Yard) CCC staff report, p. 1, Nov. 16, 2001)) The mud flats along the Sweetwater and the Harbor Districts (near Bay Front Park) should also be transferred at the same time.

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Shading studies were conducted during Summer and Winter solstices. This is probably not adequate. It is not conclusive as regards the RCC because a final design still has not been reached. It is still unknown exactly where these buildings will be located on the R3 site. This will not be known until an architect finally draws building plans. This is another reason why there is inadequate information for a project level DEIR. H3 directly abuts HP-11, which flows into the F&G Street marsh. Shading cannot be ruled out at this point.

Pacifica still does not even know the height of its buildings, because no decision has been made about the L Street ditch. The fact that shading was shown by the study indicates an impact. Any impact should be mitigated. Why was it dismissed as insignificant? Insignificant is when a mobile source passes by occasionally, not when a building shades for several hours a day. Also what is the impact on this wetlands of all the traffic on A and C Streets day and night with headlights?

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**V-187** Please see the responses to comments B-6, B-7, B-11, Q-11, Q-12, Q-14, and Q-22.

**V-188** Please see the responses to comments Q-8 and Q-9.

**V-189** Please see the response to comment V-128. This comment asserts that the shading analysis of the RCC is inadequate because a final design of the RCC is not complete. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. Potential shading impacts of the RCC are analyzed in *Section 4.8.5* of the Revised DEIR. At the time a project-specific development application is submitted for Parcel H-3, a site-specific shading analysis will be conducted to evaluate impacts. The nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168. Please also see the responses to comments B-30, C-29, V-10, and V-128 regarding shading.

**V-190** This comment incorrectly states that the height of the buildings for the Pacifica Residential and Retail Project is not known because no decision has been made regarding the L-Ditch. As explained in *Chapter 3.0, Project Description*, the Proposed Project assumes the L-Ditch will be remediated in place as a wetland, and the Revised DEIR analyzed shading impacts of the Pacifica project on this basis. The Revised DEIR determined that the Pacifica project's potential shading impacts would be less than significant because the shading would not result in substantial reduction in solar radiation and is not anticipated to substantially affect the functions and value of the affected habitat

Comment Letter V (Page 31)

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(Cont.)

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**V-191** *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR evaluates impacts to bird species pursuant to thresholds identified on page 4.8-100. Flushing is considered a component of indirect impacts to sensitive birds that was addressed in this section consistent with MSCP standards, which were approved by the resource agencies (page 4.8-106). As discussed in *Section 4.8*, mitigation measures are proposed to reduce the direct impacts to nesting and foraging birds, and to prevent the flushing of birds from their nests. These measures include surveys, setbacks, biological monitoring, raptor management, and consultation with the USFWS and the CDFG (see **Mitigation Measures 4.8-1, 4.8-2, 4.8-3, 4.8-4, and 4.8-6**). In addition, the 50-foot buffer along the L-Ditch is provided to avoid substantial adverse indirect impacts, such as those associated with light intrusion. Please also see the response to comment V-9.

## 4.8-128

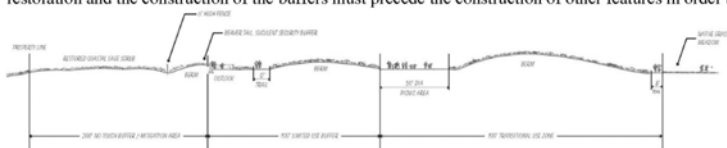
Telegraph Canyon Channel must be naturalized. Adding more cement even with 10 feet of vegetation in the bottom does not protect or enhance this wetland in anyway, just further degrades it.

It is incorrectly stated that there are no migratory wildlife corridors. The entire undeveloped area in Otay and in the Midbayfront area have been being used by small mammals, reptiles and insects for years. The migratory birds that are in this area in Fall and Spring all use the entire project area to move from one feeding area to another. It is on the Pacific Flyway, a migratory wildlife corridor).

The online monitoring programs show the Sea Turtles use the entire bay including especially the south bay for feeding. They are grazing animals that move through these waters frequently. Fish obviously also use the bay as well as other aquatic organisms. The burrowing owl nesting on the property leased to the SBPP obviously uses the Otay area for foraging. This entire project will have a significant impact upon all these creatures. This must be acknowledged and sufficient time taken in making any changes maximized to assure that impacts are minimized. Where did four phases and 24 years come from anyway? Is it possible that this is not the appropriate amount of phases and years?

#### 4.9-149 buffers

It says the buffers will be created and maintained by the city and Port, but again no funding source is identified. The entire 200 foot western part of the buffer needs to be restored and enhanced habitat. This is a project feature. The habitat outside of the preserve would afford the public a great educational opportunity as well as provide additional habitat to compensate partially for the numerous direct and indirect impacts of the rest of the project. As stated elsewhere this is a design feature providing mitigation for some of the adjacency issues of the projects in Sweetwater District. This restoration and the construction of the buffers must precede the construction of other features in order to



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**4.8-128**

There is an impact to a jurisdictional wetland that has not been minimized and avoided. SP-2 is still separated from the F&G Street Marsh. Lagoon Road needs to be removed and replaced with a bridge. The tidal connection between the two marshes needs to be restored.

Telegraph Canyon Channel must be naturalized. Adding more cement even with 10 feet of vegetation in the bottom does not protect or enhance this wetland in anyway, just further degrades it.

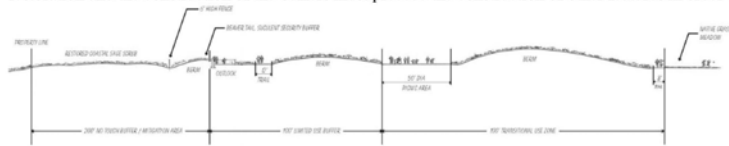
**4.8-132: The Proposed Project would have a significant impact if it interferes substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impedes the use of native wildlife nursery sites.**

It is incorrectly stated that there are no migratory wildlife corridors. The entire undeveloped area in Otay and in the Midbayfront area have been being used by small mammals, reptiles and insects for years. The migratory birds that are in this area in Fall and Spring all use the entire project area to move from one feeding area to another. It is on the Pacific Flyway, a migratory wildlife corridor).

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subsequent review, as noted in the Revised DEIR. Such review would be subject to the exclusive jurisdiction of the California Energy Commission (CEC) pursuant to Public Resources Code Section 25500, and is beyond the scope of the CVBMP EIR. Please also see the responses to comments A-3 and H-6 regarding green sea turtles.

**V-196** Effects on the movement of fish and other aquatic organisms are addressed in *Section 4.9, Marine Biological Resources* (pages 4.9-26 through 4.9-28). As discussed on pages 4.9-25, 4.9-27, and 4.9-28, construction of the H Street Pier and reconfiguration of the existing South Bay Boatyard into a commercial marina may effect, either directly or through habitat modifications, species identified as candidate, sensitive, or special-status species (**Significant Impact 4.9-6**). In addition, impacts to marine resources related to lighting associated with construction and operation of the proposed marinas would be significant (**Significant Impact 4.9-8**). The H Street Pier and reconfiguration of the existing South Bay Boatyard will take place in Phases II through IV and will therefore require subsequent environmental review.

**V-197** The analysis contained in *Sections 4.8 and 4.9* of the Revised DEIR address the project's potential impacts on burrowing owls and green sea turtles, respectively. Specifically, potential impacts on burrowing owls, and measures to avoid significant adverse effects on the species, were identified in accordance with the requirements of the City's MSCP Subarea Plan (see **Mitigation Measure 4.8-2**). Habitat loss for burrowing owls is also addressed, and mitigation is provided pursuant to the City's Subarea Plan mitigation ratios (see **Mitigation Measure 4.8-9** in the Revised DEIR).

**V-198** Project phasing and scheduled completion is based on best estimates at this time, considering available funding, market absorption rates,

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**4.8-128**

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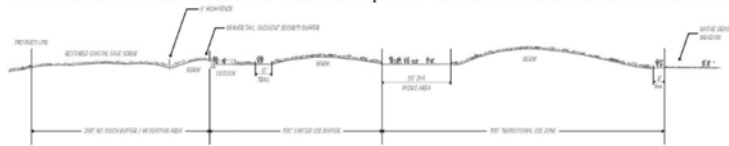
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**4.9-149 buffers**

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and other factors. The project phasing and the reasons for phasing are discussed in more detail in *Chapter 1.0, Executive Summary* (page 1-6), and *Section 3.4.3, Project Phasing* (pages 3-33 through 3-38), of the Revised DEIR.

**V-199** Preservation of the buffer area, in particular the 200-foot “no-touch” area, is included as a project feature for purposes of avoiding indirect impacts from adjacent development on the SDBNWR. The proposed habitat creation, restoration, and enhancement within the buffer are identified as mitigation for specific direct impacts caused by the project on sensitive habitats and jurisdictional wetlands/waters. Please see the responses to comments B-6, B-13, and V-122 regarding restoration within the buffer. Habitat creation, restoration, and/or enhancement will be implemented on an incremental basis, in conjunction with impacts as they occur throughout the development phases. As noted in these responses to comments, the Final EIR has been revised to include a 6-foot-high vinyl-coated chain-link fence in the design of the buffer. Please also see the responses to comments B-6, B-7, Q-12, and Q-14.

**V-200** Please see the response to comment V-199. In response to this and other comments, the Final EIR has been revised at *Figure 4.8-24* to reflect the fact that the proposed fence will be located outside of the 200-foot “no-touch” area.

**V-201** The comment’s suggestions on species of native grasses will be considered in final design of the landscape plans for the buffer areas.

**V-202** The proposed Signature Park is within the jurisdiction of the Port. Daily trash removal will be the responsibility of the Port.

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The Port may not have any ordinances protecting biological resources; however, policies in the Port Master Plan, such as Goals 4, 8, and 11, identify protection as a trust duty.

**Bird Strikes:**

There is inadequate attention given to requiring mitigations to minimize or prevent these deaths. This is the Pacific Flyway. There needs to be an attempt to map bird flight paths and assure their safety. Any building over two stories needs to take significant precautions to prevent bird strikes.<sup>8</sup> It is only recently that research has been started nationwide on this topic. This is because only recently have high-rise buildings become so common everywhere. Predators have learned which buildings kill birds and they hang out around these buildings in order to pick up the bodies super-quickly. (Another reason a Predator Management Plan must be developed, adopted and funded as a condition of any construction) Maintenance people also dispose of bodies quickly to prevent the luring of rats to the area by the abundant food. It has been estimated that a billion birds<sup>9</sup> a year die from striking windows and buildings.<sup>10</sup> It is also estimated there are 20 billion birds in the USA. This makes this an extremely significant problem not adequately addressed in the DEIR. Lights are a big problem as well, luring birds at night into windows.<sup>11</sup> There must be mitigations in terms of building design and restrictions on night lighting, especially, during peak migration times. Just providing drapes does not assure anything will happen, especially without an educational training program for staff and visitors. "Possible" features are not adequate at the Project level. There has to be definite features and procedures agreed to in advance.

The Migratory Bird Treaty protects these birds from harassment. It must also protect them from night lighting and windows. There are a few mitigations mentioned here and there, but nowhere does it require specific design features for all buildings higher than two stories.<sup>12</sup> First of all reflective glass must be banned from all buildings.<sup>13</sup> The higher the building the more mitigations must be required. Building placement is also a concern, and bird flight paths, feeding and resting areas must be considered when buildings are sited. This does not appear to have been considered, nor is it mentioned in the DEIR, but it is a significant "operational" impact that can be helped with design guidelines and height restrictions.

Another absolutely essential mitigation is providing funding and a location for rehabilitation and treatment of injured birds, as well as keeping track of the situation and reverting to more stringent regulations to further reduce the problem, if necessary. The RCC is the Phase One project that must be designed to minimize and avoid impacts as a model. What works here must be mandated for all other buildings to come in later phases, or the **cumulative effect** with all these buildings will be overwhelming negative. There must be mandatory regulation of design and avoidance through sensitive building placement as well as design features and monitoring.

*4.8-135 The Proposed Project includes provision of an ecological buffer 400 feet wide that will avoid impacts of local movements of birds striking buildings. Some impacts may occur especially with the taller buildings and with respect to the migration of bird species. These impacts are potentially significant due to the numbers that may be involved and the composition, which may include special-status species migrating at the altitude of the taller buildings.*

This statement is misleading:

1. The Ecological buffer is Phase II after impacts are likely to begin.
2. The buffer does not include a secure fence along its entire length.

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<sup>13</sup> [http://www.economist.com/displayStory.cfm?story\\_id=2647668](http://www.economist.com/displayStory.cfm?story_id=2647668)

**V-203** This comment does not raise issues related to the adequacy of the Revised DEIR; therefore, no further response is warranted. The mitigation requirements and impact avoidance measures of the City's Subarea Plan are applied throughout the Proposed Project.

**V-204** The comment asserts, "There is inadequate attention given to requiring mitigations to minimize or prevent these [bird strike] deaths," but fails to provide details on how the analysis of bird strikes or mitigation measures identified to avoid significant adverse effects from bird strikes is inadequate. The remainder of this comment cites information from websites; the information appears to be primarily derived from the same published literature referenced in the Revised DEIR, which was also used as a basis for the analysis and mitigation measures related to bird strikes.

**V-205** **Mitigation Measure 4.8-22** in the Revised DEIR provides specific recommendations to reduce or avoid bird strikes (pages 4.8-186 through 4.8-189). This mitigation measure is based on and incorporates the recommendations of the City of Chicago's Bird-Safe Building Design Guide and the City of Toronto's Fata Lights Awareness Bird-Friendly Design Guidelines. Lighting and its potential effects on bird strikes is addressed in the Revised DEIR, and design criteria related to lighting is required as part of this mitigation measure, including design of lighting features and restrictions on the location and type of lighting. Please also see the response to comment V-47. **Mitigation Measure 4.8-22** in the Revised DEIR has been renumbered to **Mitigation Measure 4.8-23** in the Final EIR and revised to incorporate additional measures regarding the design and siting of buildings and parking to reduce impacts relate to bird strikes and bird disorientation. In addition, this mitigation measure has been revised in the Final EIR so that the measures required to reduce or avoid the Proposed Project's potential significant impacts on bird

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The Port may not have any ordinances protecting biological resources; however, policies in the Port Master Plan, such as Goals 4, 8, and 11, identify protection as a trust duty.

**Bird Strikes:**

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Another absolutely essential mitigation is providing funding and a location for rehabilitation and treatment of injured birds, as well as keeping track of the situation and reverting to more stringent regulations to further reduce the problem, if necessary. The RCC is the Phase One project that must be designed to minimize and avoid impacts as a model. What works here must be mandated for all other buildings to come in later phases, or the **cumulative effect** with all these buildings will be overwhelming negative. There must be mandatory regulation of design and avoidance through sensitive building placement as well as design features and monitoring.

*4.8-135 The Proposed Project includes provision of an ecological buffer 400 feet wide that will avoid impacts of local movements of birds striking buildings. Some impacts may occur especially with the taller buildings and with respect to the migration of bird species. These impacts are potentially significant due to the numbers that may be involved and the composition, which may include special-status species migrating at the altitude of the taller buildings.*

This statement is misleading:

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V-203

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strikes shall be implemented for *any* buildings that have an unobstructed line of sight to nearby open water or large areas of open space.

**V-206** Please see the responses to comments V-43, V-47, V-204, and V-205. The comment incorrectly states that the requirements of the Migratory Bird Treaty Act (16 U.S.C. 703–712) protect birds from harassment. Harassment is not regulated under the act. The act establishes federal prohibition to "pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or eggs of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof..." The act is not applicable to the design or operation of buildings and structures.

**V-207** This comment states that mitigation for potential impacts relating to bird strikes should include funding for rehabilitation and treatment of injured birds, and ongoing monitoring to determine whether additional measures are required. As the author noted in comment V-204, research on this issue is very recent and the extent of the problem of bird strikes is not well known, especially on the west coast, where no research studies are known to have been conducted. **Mitigation Measure 4.8-22** in the Revised DEIR addresses this concern by requiring Phase I projects to retain a qualified biologist to design a protocol and schedule for ongoing monitoring, in consultation with the USFWS and subject to approval of the Port and the City (page 4.8-189).

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**V-208** This comment quotes language from the Revised DEIR and raises no issues related to the adequacy of the EIR; therefore, no further response is warranted.

**V-209** The entire 400-foot ecological buffer in Parcel SP-1 will be established during Phase I. The improvements in the limited and transitional zones of the buffer will take place in Phase II. The buffer will serve to avoid and reduce indirect effects from Phase I development. As provided in the response to comment B-6, the project has been designed with a 400-foot buffer adjacent to the majority of the sensitive habitats, both on and off site. As requested by USFWS, the Port will maintain the first 200 feet, or full width in the case of reduced buffer areas, as a "no-touch" buffer, and will not contain any trails or overlooks. The remaining area of buffer will include some passive recreation features, such as trails, and overlooks. Fencing will be incorporated in to the design features of the project to protect the SDBNWR preserve areas from trespassing and other intrusions. Please also see the responses to comments B-10, B-14, and V-21. In regard to fencing in Phase I, please see the responses to comments B-14, C-4, C-25, V-26, V-64, V-68, and V-186.



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3. It will be in force as funding becomes available, which could be never-it is not guaranteed at this time. This makes it totally dysfunctional until these serious flaws are corrected.

4. The Ecological Buffer has nothing to do with local travel of birds from the Sweetwater unit of the NWR to the F&G Street Marsh and to the Southbay unit of the NWR and the Tijuana Estuary. This travel is frequent. Feeding is better at different times of the day at these different locations.

The buffer is a design feature in the Sweetwater District designed to minimize the impacts of the increased number of people and pets in the area. There is no way it can, will or should be associated with bird strikes!! Bird strikes are a significant problem as stated and only mandated design features of buildings are likely to reduce them. Only a more sensitive placement of buildings and height restrictions is likely to avoid a significant number of bird strikes. This reference to the buffer in regard to bird strikes needs to be removed, not repeated lamely several times! The whole passage implying this is not significant because neither the Port trust nor the MSCP specifically mention bird strikes is shameful and documents a lack of concern for the precious irreplaceable biological resources barely eking out an existence here, which this project threatens tremendously. The Port and the City must start taking their responsibility to protect the natural environment for future generations much more seriously than this document indicates! They have already through their actions contributed to the destruction of over 90% of the salt marsh habitat in the bay and even over 80% of the natural floor of the bay itself.

It is noted that there is a passage where the city and port supposedly bind themselves to not issue any building permits until the designs of Pacifica's, Gaylord's and future developers' buildings utilize a number of specific design features to prevent bird strikes. There is also a monitoring program indicated.

**There are a few problems with this passage:**

1. It makes it clear there are no design guidelines now, which again reinforces the fact that there is insufficient clarity for a project EIR.
2. It deprives the public of their right under CEQA to judge for themselves whether the measures are adequate mitigation and relies upon a vague written list, which has been held to be inadequate for mitigation purposes.
3. It is in contrast to what is written in the project description where both applicants refuse to commit to specific measures. This is rather troubling, since both the Port and the city are far too willing to give away everything to have a project-any project.
4. There is no indication that Environmental groups will be given the opportunity to oversee the monitoring.
5. The word "may" before one of the lists is totally unacceptable. It needs to say **will**.
6. There is not a guaranteed minimum amount of design features required, which could be construed as differing specific mitigation measures to some time in the future (when building permits are issued.) Formulation of mitigation measures "*should not be deferred until some future time.*" Courts have held EIRs to be inadequate when the mitigation measure "*does no more than require a report be prepared and followed, or allow approval by a county department without setting any standards.*"<sup>14</sup>
7. e-glass should not be exempted from requirement to not use reflective glass.

**Marine Biological Resources**

**Sea Turtles**

The eel grass beds through out the bay are used by the green sea turtles. Since 1850 Sea Turtles have been noted to use the San Diego Bay. As stated in the DEIR it is unknown whether the 60 to 80 who live here year-round were here before the power plant or whether they will stay when and if the power plant stops operating, but Green Sea Turtles likely will always come here to feed. If they may go

<sup>14</sup> *Endangered Habitats League, Inc. v. County of Orange*, 131 Cal.App.4th 777, 794 (2005).

**V-210** Please see the response to comment V-209. The function of the buffer as it relates to avoidance of indirect effects, such as bird strikes, will be in effect from the initial stages (Phase I) of development, regardless of funding available to install improvements within the buffer. Please also see the responses to comments B-10, B-14, and V-21.

**V-211** The buffer does have value for bird species that occupy and may move between the F&G Street Marsh, the Sweetwater Marsh, and the Tijuana Estuary. The buffer is part of the overall project design that orients development such that the intensity of uses is decreased with increased proximity to sensitive preserve areas. Because the buffer prohibits development in the area where bird activity is most prominent, the buffer provides benefits in terms of reducing the potential for bird strikes associated with localized bird movement.

**V-212** Please see the responses to comments V-205 and V-207. The buffer is discussed as only one method of reducing impacts related to bird strikes. As noted in the Revised DEIR, and in the responses to comments V-43 and V-47, design criteria have been developed for the project, based on extensive research of available published literature on the issue, to reduce potential impacts related to bird strikes to the greatest extent practicable.

**V-213** The purpose of developing a comprehensive set of criteria for purposes of EIR mitigation is to ensure that as future design details are developed, and as future phases of development are proposed, the criteria can be applied to a variety of different circumstances as may be necessary and required to reduce potential bird strike impacts. CEQA does not require that design guidelines be provided for disclosure and mitigation of environmental effects.

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3. It will be in force as funding becomes available, which could be never-it is not guaranteed at this time. This makes it totally dysfunctional until these serious flaws are corrected.  
4. The Ecological Buffer has nothing to do with local travel of birds from the Sweetwater unit of the NWR to the F&G Street Marsh and to the Southbay unit of the NWR and the Tijuana Estuary. This travel is frequent. Feeding is better at different times of the day at these different locations.

The buffer is a design feature in the Sweetwater District designed to minimize the impacts of the increased number of people and pets in the area. There is no way it can, will or should be associated with bird strikes!! Bird strikes are a significant problem as stated and only mandated design features of buildings are likely to reduce them. Only a more sensitive placement of buildings and height restrictions is likely to avoid a significant number of bird strikes. This reference to the buffer in regard to bird strikes needs to be removed, not repeated lamely several times! The whole passage implying this is not significant because neither the Port trust nor the MSCP specifically mention bird strikes is shameful and documents a lack of concern for the precious irreplaceable biological resources barely eking out an existence here, which this project threatens tremendously. The Port and the City must start taking their responsibility to protect the natural environment for future generations much more seriously than this document indicates! They have already through their actions contributed to the destruction of over 90% of the salt marsh habitat in the bay and even over 80% of the natural floor of the bay itself.

It is noted that there is a passage where the city and port supposedly bind themselves to not issue any building permits until the designs of Pacifica's, Gaylord's and future developers' buildings utilize a number of specific design features to prevent bird strikes. There is also a monitoring program indicated.

There are a few problems with this passage:

1. It makes it clear there are no design guidelines now, which again reinforces the fact that there is insufficient clarity for a project EIR.
2. It deprives the public of their right under CEQA to judge for themselves whether the measures are adequate mitigation and relies upon a vague written list, which has been held to be inadequate for mitigation purposes.
3. It is in contrast to what is written in the project description where both applicants refuse to commit to specific measures. This is rather troubling, since both the Port and the city are far too willing to give away everything to have a project-any project.
4. There is no indication that Environmental groups will be given the opportunity to oversee the monitoring.
5. The word "may" before one of the lists is totally unacceptable. It needs to say will.
6. There is not a guaranteed minimum amount of design features required, which could be construed as differing specific mitigation measures to some time in the future (when building permits are issued.) Formulation of mitigation measures "*should not be deferred until some future time.*" Courts have held EIRs to be inadequate when the mitigation measure "*does no more than require a report be prepared and followed, or allow approval by a county department without setting any standards.*"<sup>14</sup>
7. e-glass should not be exempted from requirement to not use reflective glass.

Marine Biological Resources

Sea Turtles

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**V-214** Please see the responses to comments V-205 and V-213. The comment asserts that the criteria contained in **Mitigation Measure 4.8-22** are "vague" and "held to be inadequate" without providing any evidence as to how or why the criteria would not mitigate impacts. In fact, some of the measures identified by the commenter in comment V-43, such as non-reflective glass, and techniques to make glass appear solid, are included in the design criteria. In addition, the mitigation measures provided to avoid or reduce bird strikes have been strengthened and clarified in **Mitigation Measure 4.8-23** of the Final EIR. No other specific comment or evidence is offered that indicates that the criteria are inadequate, incomplete, or otherwise inappropriate.

**V-215** The reference to the project description—"the applicants refuse to commit to specific measures"—is unclear. **Mitigation Measure 4.8-22** is required, is enforceable by the agencies with jurisdiction over approval of the applicants' projects, and will be implemented prior to building permit issuance. Therefore, if the applicants were in theory to "refuse" to implement the required mitigation, they would not be able to build their projects.

**V-216** The monitoring program required by **Mitigation Measure 4.8-22** in the Revised DEIR will be established and implemented in consultation with the USFWS. Please see the response to comment V-207. CEQA does not require that environmental groups be given opportunity to oversee monitoring of mitigation measures.

**V-217** The term "may" is generally used in **Mitigation Measure 4.8-22** in the Revised DEIR to allow flexibility among design options, not as a means of allowing optional compliance.

**V-218** The design measures provided in **Mitigation Measure 4.8-22** in the

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Revised DEIR are not necessarily quantitative, such that application of more measures would result in further reduction in impacts. A variety of measures are provided to address a variety of design applications to respond to different circumstances, such as building location, orientation, height, design, materials, etc. Therefore, requiring a "minimum amount of design features," as is suggested by the comment, would not be reasonable or necessarily effective. The mitigation is required prior to building permit issuance and is not deferred. As is permissible under CEQA, the mitigation measure establishes a process and a set of criteria that will be applied to individual buildings by the appropriate agency with jurisdiction. See CEQA Guidelines, Section 15126.4(a)(1)(B).

**V-219** In response to this comment and comment V-43, **Mitigation Measure 4.4-2** and **Mitigation Measure 4.8-23** have been revised in the Final EIR to remove the exception for low-e glass. Please note that **Mitigation Measure 4.8-22** was renumbered to **Mitigation Measure 4.8-23** in the Final EIR.

**V-220** Please see the responses to comments Q-19 and V-197.

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dormant in the winter, it will become even more important to make sure speed limits are enforced in this area and boaters are confined to the channel.  
<http://www.coastalconservancy.ca.gov/coast&ocean/winter2002-03/pages/one.htm>  
<http://137.110.142.7/textblock.aspx?Division=PRD&ParentMenuId=212&id=4378>. Satellite tracking has recorded their daily movements and like other grazing animals they are on the move eating most of the day. **Several have been killed by boats**, so it is important to enforce the 5 mph limit. Disturbing the eelgrass they feed on could have a significant impact on them. Precautions must be taken to protect them from construction and dredging activity.

**Importance of marine resources in South Bay**

The only salt marshes left in San Diego Bay are in the southern part. This has been declared a prime breeding grounds for numerous fish species. All this as well as being an important stop-over on the Pacific Fly Way. The Port has a huge responsibility to safe guard this region, which should far exceed its quest for developing property to raise money, especially when it will likely diminish biological resources somewhat, if not hugely. The language of protection needs to be much stronger in this DEIR and quibbling about paltry mitigation amounts needs to be replaced by more extensive plans for restoration and enhancement. The primary value of the South Bay is for the protection of fisheries and other wildlife.

Pandering to Gaylord is unseemly behavior. When we see the final lease arrangement we sincerely hope Gaylord will not have all the development rights for everything around it. When it says that the developer will pay for the mitigation/restoration, etc., this should include Gaylord. Why are the city and Port financing all this Infrastructure? Why isn't Gaylord? Pacifica is being asked to finance all its infrastructure.

Will a survey of numbers and biodiversity of benthic organisms prior to and after dredging be done? The biodiversity is at least as important as the number of organisms. Assuming that the communities will rapidly regenerate is not very reassuring. Will research be done to confirm that this occurs and noting the amount of time required?

**Pier**

Shading is mentioned as an impact, but the pilings will also alter the water flow and temperature of the water. Will the impacts of all the results be studied after Phase II is completed before a decision is made about Phase IV?

The EIR acknowledges that the proposed pier and channel realignment will have significant impacts on both water quality and marine biology. Under CEQA an EIR must discuss a range of potential alternatives to the proposed project that "shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects." There are no alternatives presented in the DEIR to the pier or the channel realignment.

There also appears to be inadequate mitigation for the significant negative impacts to be caused. The temporary turbidity and lack of eel grass, etc. may not seem significant to a land based mammal, but will likely be significant to the green sea turtles, fish, migrating birds and especially the larva and benthic organisms to be destroyed. Is there a guarantee or even a monitoring procedure that will assure that there is no effect upon species diversity- both those which feed upon the displaced organisms and the organisms themselves? Not having an expected food source for any period of time is a huge negative effect upon a grazer or predator. The DEIR keeps saying the organisms will have no problem re-colonizing the area, but will it be the same species of organisms with the same diversity? Will the other species dependent upon these species survive the interval?

How is harassment of the federally protected sea turtles and listed shore and marine birds to be prevented? The various tracking devices put on various turtles show that they wander all through the

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**V-221** This comment expresses an opinion regarding the Port's duty to safeguard biological resources. As provided in the response to comment V-122, pursuant to the requirements of CEQA, potentially significant impacts attributable to the project are mitigated through measures identified in the Revised DEIR. The impacts addressed in the Revised DEIR include consideration of long-term impacts associated with construction and operation of the project, including impacts on green sea turtles, benthic organisms, and eelgrass. *Section 4.9, Marine Biological Resources*, and *Appendix 4.9-1* of the Revised DEIR contain a focused assessment of marine biological resources. Please also see the responses to B-56, B-223, and B-226 regarding benthic organisms, and the response to comment H-7 regarding eelgrass. As provided in the response to comment V-190, CEQA only requires mitigation for significant impacts. This comment does not raise specific issues related to the adequacy of the Revised DEIR; therefore, no additional response is warranted.

**V-222** This comment expresses opinions regarding Gaylord and asks why Gaylord is not financing all of the infrastructure. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review which may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168.

To the extent this comment relates to costs associated with project features or mitigation measures, the allocation of responsibility for project features is discussed in *Chapter 3.0, Project Description*, and

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dormant in the winter, it will become even more important to make sure speed limits are enforced in this area and boaters are confined to the channel.  
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Shading is mentioned as an impact, but the pilings will also alter the water flow and temperature of the water. Will the impacts of all the results be studied after Phase II is completed before a decision is made about Phase IV?

The EIR acknowledges that the proposed pier and channel realignment will have significant impacts on both water quality and marine biology. Under CEQA an EIR must discuss a range of potential alternatives to the proposed project that "shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects." There are no alternatives presented in the DEIR to the pier or the channel realignment.

There also appears to be inadequate mitigation for the significant negative impacts to be caused. The temporary turbidity and lack of eel grass, etc. may not seem significant to a land based mammal, but will likely be significant to the green sea turtles, fish, migrating birds and especially the larva and benthic organisms to be destroyed. Is there a guarantee or even a monitoring procedure that will assure that there is no effect upon species diversity- both those which feed upon the displaced organisms and the organisms themselves? Not having an expected food source for any period of time is a huge negative effect upon a grazer or predator. The DEIR keeps saying the organisms will have no problem re-colonizing the area, but will it be the same species of organisms with the same diversity? Will the other species dependent upon these species survive the interval?

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for mitigation measures is identified in each mitigation measure throughout the Revised DEIR. To the extent this comment relates to financing of the Proposed Project, it does not raise an environmental issue concerning the Revised DEIR; therefore, no further response is warranted.

**V-223** *Section 4.9, Marine Biological Resources*, of the Revised DEIR includes a discussion and analysis of impacts to benthic organisms on pages 4.9-3, 4.9-7, 4.9-13, 4.9-14, 4.9-18, 4.9-22 through 4.9-27, and 4.9-29. Please also refer to *Appendix 4.9-1*. As discussed in these pages of the Revised DEIR, any impacts to benthic organisms would be less than significant due to the rapid recolonization of the benthic community. No permanent loss of this habitat would result. Therefore, this impact is not significant. No surveys of benthic organisms are planned because they are not necessary or required to support the conclusions of the Revised DEIR. Please also see the response to comment B-56.

**V-224** The long-term effects of piles to support pier structures on water flow and temperature would be incalculably negligible. Therefore, no additional analysis or response to this comment is required.

**V-225** As the comment correctly states, CEQA requires an EIR to evaluate a reasonable range of alternatives that could avoid or substantially reduce one or more of the potential significant impacts of the Proposed Project. CEQA does not require an EIR to evaluate alternatives to parts or components of the Proposed Project or to every significant impact. Thus, while the Revised DEIR does not analyze any alternatives to the pier or channel realignment, the analysis in *Section 5.0, Alternatives*, clearly fulfills the requirements of CEQA (see, for example, *Table 5.1-1*).

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**V-226** Potential project impacts related to increased turbidity have been reduced to less-than-significant levels with the required mitigation (**Mitigation Measure 4.9-4**). Please see responses to comment B-56 and H-7 regarding temporal loss of benthic organisms and eelgrass habitat, respectively. Please see the response to comment V-223 regarding the recolonization of the benthic community and less-than-significant impacts to benthic organisms.

**V-227** Potential adverse effects of program-level components have been analyzed to the extent possible in *Section 4.9, Marine Biological Resources*, in the Revised DEIR given the information available, without engaging in speculation. Future environmental analysis will provide more detailed project-level analysis as more specific information becomes available.

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Bay feeding in different areas. There is also the possibility that these actions may damage the larva of fish that are produced in this important fisheries nursery area. The first half of the pier is Phase II, so this is program level, but some attention should be given to alternatives and potential mitigations for adverse impacts.

This site recounts the many negative impacts of piers, mostly not mentioned in the DEIR. Since this is such an important fish nursery site, all of these impacts need to be considered before building this pier: <http://dnr.wi.gov/fish/documents/impactsofpiershadingonfish.pdf>. This site shows that there are actually less fish around piers than elsewhere. Were any studies done to determine if this actually is an acceptable location for a pier? What will the pilings be made out of? Will they leach copper into the water? This could have a significant negative impact. Does the Port have guidelines for the siting of piers? Has a survey of sensitive sites been done? Does the Port have standards for siting and construction as well as management rules? This is an excerpt of a summary of impacts of piers from this website: <http://www.mass.gov/czm/dockpierssummary.htm>

Key Points from Panel on Ecological Impacts from Dock and Pier Construction

- Shading from dock/pier construction reduces the density of submerged aquatic vegetation (SAV) growth directly under structure. Height is the most important variable, with docks of 10 feet and higher significantly reducing impacts. Spacing between pilings does not noticeably affect plant growth. Orientation is also a factor, with north/south orientation being optimal.
- While it is clear that docks affect SAV growth, it is likely that other factors such as vessel propellers and land-based nutrient inputs also contribute to SAV loss.
- Shading has similar impacts on salt marsh vegetation. For a four-foot wide walkway, heights of 4 ¼ feet over *Spartina patens* and 4 feet over *Spartina alterniflora* seem to minimize impacts, but additional research is necessary. It is not currently known what the threshold is for shading impacts for vegetation, nor is there an easily implemented means of calculating shading based on the various parameters such as height, width and orientation.
- Chromated copper arsenate (CCA) is commonly used to pretreat wood for placement in the marine environment. CCA treated piles and bulkheads can leach copper in both controlled lab experiments and in the marine environment. The effect of copper on marine organisms in the field is localized, with impacts detected only within 3 meters. While evidence exists that bulkheads of CCA material have impacts on water and sediment quality, particularly in poorly flushed areas, similar evidence has not been developed for pilings either in salt marsh sediments or in tidal waters.
- Floats on the bottom of docks should not be flat. Flat floats cause hydraulic pumping that can cause erosion under the float and can alter sediment size effectively changing habitat.

Key Points from Panel on Practical Approaches to Managing Docks & Piers

- Developing local dock and pier siting plans based on demand data and the identification of sensitive resources is a good approach. Such local plans can be used to strengthen state authorities.
- It is important for management programs to establish standards for evaluating dock and pier siting and construction. In addition to ecological thresholds, aesthetic, recreational, and navigational standards are also important.
- Pleasant Bay Resource Alliance divided the Bay into 26 geographic subsections and surveyed each area for biological, environmental, and human use factors. A sensitivity scale was developed for each subarea. The sensitivity scale was used to determine where additional docks and piers would be allowable subject to performance standards.

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(Cont.)

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**V-228** This comment refers to potential negative impacts of piers and refers to websites which summarize potential negative impacts. As analyzed in *Section 4.9, Marine Biological Resources*, in the Revised DEIR, the potential effect of shading on aquatic life is the primary negative impact identified for piers. Such impacts can be substantially reduced by increasing the height of the pier to above 10 feet and maximizing the space between pilings. The effects of shading from the proposed program-level pier projects have been identified as significant permanent impacts in the Revised DEIR (**Significant Impact 4.9-1**). Therefore, in a worst-case scenario, it is assumed that all habitat value, including fish foraging and spawning, may be lost. Mitigation for these effects is identified in *Section 4.9* in the Revised DEIR (**Mitigation Measure 4.9-1**). Therefore, the EIR considers all potential adverse effects associated with pier shading and provides mitigation to substantially lessen those effects to less-than-significant levels. When a specific design of the pier is proposed for approval, it will be subject to further environmental review pursuant to CEQA Guidelines, Section 15168. Nonetheless, in response to this comment, the Final EIR has been revised to indicate that the pier will be designed to be the maximum feasible height and have the maximum feasible space between pilings in order to minimize shading impacts.

**V-229** This comment relates to details on pier construction. As noted in *Chapter 3.0, Project Description*, and *Section 4.9, Marine Biological Resources*, in the Revised DEIR, the pier improvements are program-level elements and are not analyzed at a project level. Additional environmental analysis will be provided for these features at such a time when specific projects are advanced.



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Key Points from Panel on Best Management Practices of Docks and Piers

- The primary material used today for docks and piers is CCA, but new innovations include steel-reinforced plastic and recycled plastic.
- Docks and piers should be designed based on specifics of each site (natural resources, wind, waves, water depth, boat wakes, current, ice, and soil).
- Fewer piles generally cause fewer impacts.
- Designers of public facilities need to design to Americans with Disabilities Act (ADA) standards (includes slope, turnarounds, and width).

Have any of the points above been taken into consideration? What were the results of the studies?

Something needs to be done about "the increased lighting from operation of the commercial marinas (new and reconfigured) and pier proposed as part of the project, which has the potential to result in increased algal blooms, detrimental to the health of the ecology of the Bay. This particularly could effect the health of the Sea Turtles and migratory birds, since these blooms can be poisonous. What is going to be done to prevent this?

Hazardous Materials and Safety

Some of these materials and ground water are being remediated, but it is not acceptable that other ones are being ignored such as arsenic, because they meet industrial standards. The standard needs to be raised, since children will be using these areas. A park will have children playing in it. The new uses are not industrial and people could come into contact with these soils. The groundwater now has a beneficial use, if it is the groundwater in the deeper-San Diego Foundation aquifer, since Sweetwater plans to desalinate it and use it for drinking water. Further remediation appears to be needed in a number of cases sited due to current non-industrial plans for this site.

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**V-230** The Revised DEIR addresses potential lighting impacts on marine biological resources and identifies potentially significant impacts. As discussed on pages 4.9-26 through 4.9-32, the increase in lighting over water areas causes marine organisms such as zooplankton to no longer approach the surface at night. This could result in algal blooms, which are toxic in nature and detrimental to Bay ecology. Algal blooms could adversely affect special-status species, such as eelgrass and turtles, within the Bay (**Significant Impact 4.9-8**). **Mitigation Measure 4.9-6** provides measures to avoid potentially significant adverse indirect effects associated with lighting.

**V-231** Through site investigation, contaminants of concern at a site are identified and initially compared to published regulatory health-risk screening levels to determine if further assessment or possibly remediation is warranted. These health risk screening levels are typically categorized as "industrial/commercial" or "residential." If contaminants of concern are present at concentrations exceeding health screening levels, an HHRA is then performed to determine the health risk posed by those contaminants given the proposed uses of the site (e.g., child or adult resident, construction worker, individuals pursuing recreation, trespasser). An HHRA will calculate cleanup levels for each contaminant of concern to meet acceptable risk levels. In some cases, industrial/commercial levels of contaminants may be acceptable for the proposed land use. In the case of arsenic, however, even the naturally occurring levels of this metal in soil typically exceed both residential and industrial/commercial health risk screening levels. In this case, the naturally occurring level of arsenic in "background" soil (i.e., soil that has not been impacted by anthropogenic or "man-induced" sources) is set as the cleanup level. Depending on the natural mineral content of the soil in the area of the site in question, background can sometimes exceed 20 milligrams/kilogram (mg/kg), which is much greater than even the



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Key Points from Panel on Best Management Practices of Docks and Piers

- The primary material used today for docks and piers is CCA, but new innovations include steel-reinforced plastic and recycled plastic.
- Docks and piers should be designed based on specifics of each site (natural resources, wind, waves, water depth, boat wakes, current, ice, and soil).
- Fewer piles generally cause fewer impacts.
- Designers of public facilities need to design to Americans with Disabilities Act (ADA) standards (includes slope, turnarounds, and width).

Have any of the points above been taken into consideration? What were the results of the studies?

Something needs to be done about "the increased lighting from operation of the commercial marinas (new and reconfigured) and pier proposed as part of the project, which has the potential to result in increased algal blooms, detrimental to the health of the ecology of the Bay. This particularly could effect the health of the Sea Turtles and migratory birds, since these blooms can be poisonous. What is going to be done to prevent this?

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industrial/commercial health-risk screening level for arsenic. It is very common for naturally occurring background levels of arsenic to be somewhere in the range of 3 to 10 mg/kg, which still exceeds the industrial/commercial health risk screening level. Therefore, regardless of the proposed land use of a given site and anticipated site occupant, child recreational park visitor, child resident, adult, etc., arsenic is required to meet the established background level in the area, rather than a health risk screening level.

The RWQCB will continue to oversee groundwater assessment, monitoring, and remediation, and further remediation may be required to meet the beneficial uses designated for the groundwater. Groundwater remediation, however, is not necessarily driven by land use and, therefore, does not have to be completed before development can proceed. Groundwater remediation can be coordinated to be performed before, during, or after development of a site.

V-232 The only wells found in the Parcel S-2 area are four groundwater monitoring wells. These wells, if not required to be maintained for monitoring purposes, will be abandoned in accordance with San Diego County requirements. Given the low estimated health risk associated with the pesticides encountered in soil in Parcel S-2 and the fill requirements, options are available to minimize the health risk to future park users. The soil that is impacted with low levels of pesticides could be capped by clean soil fill as part of the planned grading in this area, or the impacted soils could be removed for off-site disposal. Implementation of **Mitigation Measure 4.12-8** will reduce **Significant Impact 4.12-9** (associated with the risk of exposing residents and/or users in the Sweetwater District to elevated concentrations of residual pesticides and herbicides) to below a level of significance. Prior to development in Parcel S-2, a remedial action plan or other similar decision document will be prepared to outline a

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specific course of action for soil in this area. Such a document would be reviewed by the appropriate regulatory agency and would need to be approved prior to development.

V-233 Please see the response to comment V-232.

V-234 This comment states an assumption that nothing will be built until the L-Ditch is cleaned up to the satisfaction of the RWQCB. As explained in *Section 3.4.9.2* of the Revised DEIR, the clean up and remediation of the L-Ditch pursuant to CAO 98-08 is a matter within the jurisdiction and regulatory oversight of the RWQCB and is proceeding as a project separate from and independent of the Proposed Project. Remediation of the L-Ditch will either be completed or in progress pursuant to the requirements of the RWQCB before any construction commences on or adjacent to the L-Ditch.

V-235 This comment states that the cleanup of contamination on the SBPP and surrounding sites will take a long time and will further delay an RV Park in the Otay District. The comment does not raise an environmental issue or comment on the adequacy of the Revised DEIR; therefore, no further response is warranted.

V-236 The comment expresses concern regarding the funding needed for acquisition and construction of the fire station proposed on Parcel H-17. As provided in the responses to comments V-52 and V-136, and as discussed in *Section 4.13, Public Services*, the Bayfront Fire Station will be constructed as a Phase I project-level component on Parcel H-17 in the Harbor District. The fire station is part of the Proposed Project, and its construction was relied upon for the environmental impact analysis in regard to public services. The Final EIR has been revised to state that an interim facility may be utilized until final construction is completed (see *Section 3.4.4.1* in the Final EIR).

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Development and nothing from Gaylord for 20 years. Where is the city going to get the money from for this station?

**Police**

The police are saying that 8 additional officers and equipment will be required by Phase I projects to create a Bayfront Beat plus a two person walking beat!! The city cannot afford these new officers. The DEIR says the projects will fund them, **but this is not true**. No income from Gaylord from TOT or sales tax will go to the city for 20 years while the bond is being paid off. The Pacifica project is in a redevelopment area. By state law redevelopment tax increment funds cannot be spent on any General Fund expense. Police are a General Fund expense. Therefore, the city will get no income from this project that can pay the new police officers' salaries. The various existing DIF fees go to parks, traffic, etc. By law the DIF fees can only be spent on what they are collected for. How will the city pay for these new police officers? They are having trouble paying for the existing ones. This is a significant impact.

**This impact is significant**, because there is **no** funding provided by the projects in Phase One for at least 20 years. ALL of the revenues from Gaylord project, we have been told, will go to pay for the 300 or more million- dollar bond for 20 years, leaving nothing to fund police services. The Pacifica Project is within a Redevelopment area and will provide no income to the General Fund. Police Services are a General Fund expense and cannot be paid for with tax increment money. This passage indicates a need for 10 more police officers: *According to the Department, up to six additional police officers, along with related equipment, would be required to serve the project area. These six officers would be allocated to different shifts/days to provide 24-hour-a-day coverage for the Bayfront beat. Additionally, depending on the final configuration and use of the Phase I developments, the Department will require a two-person officer team to be assigned to patrol the Bayfront beat on foot during peak hours, similar to the way the Gaslamp District in San Diego is patrolled. A foot patrol assignment may require an additional four officers for a full week's coverage. The additional staffing required will be provided by the City and will be funded by revenues generated by the Proposed Project. Impacts to police protection services would therefore be less than significant.* Where exactly will the city get the money to pay these officers? How much will the Port contribute through the re-negotiation of the current agreement with the city? The proposed Phase One project provides no money to the city's General Fund.

**Water**

Indeed SWA may have water to provide for these projects now, assuming they conserve as promised. The DEIR says until 2030. What happens after 2030? SWA is doing a great job of developing local resources, but this is to provide for current customers. The city of CV's General Plan predicts a 46% growth in population by 2030. At some point SWA has to stop increasing users. It is being forced to rely more and more upon uncertain imported water. There is currently a drought and we are all being asked to conserve this year, but will probably be required to cut back next year if the drought continues. This project is a huge additional water obligation, which will require a lot more conservation from existing residents.

**In 2009 residential users may be on water rationing. There needs to be restrictions on further growth. It is unfortunate the legislature did not pass the bill requiring all new users to find the water they would need from existing uses, so there would be no net increase in use. This is article from North County Times that is more up to date than DEIR: REGION: Drought declaration sets stage for rationing Area residents could face fines for wasting water**  
<http://www.ncetimes.com/articles/2008/06/06/news/sandiego/za8ef95448a43541e8825745f00599b1f.txt>

By DAVE DOWNEY - Staff Writer | Friday, June 6, 2008 8:25 PM PDT =

Southern California's primary drinking-water supplier, reacting to the governor's declaration this week that California is locked in a drought, said Friday it will declare a "water supply alert" and urge the region's cities to crack down on water-wasters.

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**V-237** The comment expresses concern regarding the funding needed for operation (staffing) of the fire station proposed on Parcel H-17. As provided in the responses to comments V-52, V-136, and V-236, and as discussed in *Section 4.13, Public Services*, the Bayfront Fire Station will be constructed as a Phase I project-level component on Parcel H-17 in the Harbor District. The fire station is part of the Proposed Project, and its construction was relied upon for the environmental impact analysis in regard to public services. Funds for providing incremental services, including fire services, to the Bayfront are allocated from gross project revenues before funds are made available for debt service. Revenues available for debt sizing and annual debt service are referred to as "new net revenues" and are calculated net of the project's incremental service costs. These incremental service costs are generally referred to as operation and maintenance costs and include fire services. As a result, the impact is less than significant.

**V-238** The commenter expresses concern regarding how the City will afford the funds necessary to provide adequate police protection to the Proposed Project. *Section 4.13.2, Police Protection*, of the Revised DEIR thoroughly analyzes potential impacts to police services as a result of implementation of the project based on adopted thresholds. As described in *Section 4.13.2.3*, and according to the Chula Vista Police Department, reallocation of officers would be appropriate and adequate to handle the increased calls for service due to the Bayfront. Funds for providing incremental services, including police services, to the Bayfront are allocated from gross project revenues before funds are made available for debt service. Revenues available for debt sizing and annual debt service are referred to as "new net revenues" and are calculated net of the project's incremental service costs. These incremental service costs are generally referred to as operation and maintenance costs and include police services. As a result, the impact

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In addition, as discussed in *Section 4.13, Public Services*, the Port reimburses the City for the cost of police services provided by the City on Port tidelands and property with the City limits pursuant to the "Agreement for Police, Fire and Emergency Medical Services" (page 4.13-1).

V-239 Please see the response to comment V-238.

V-240 This comment includes a newspaper article regarding the effect of continuing drought and the possibility for imposition of water use restrictions and rationing, and states that the Proposed Project will result in a significant increase in demand and will require more conservation from existing residents. The potential impacts of the Proposed Project on water supply are analyzed in *Section 4.14.1.3* and *Appendices 4.5-2* and *4.14-1* through *4.14-4*. The cumulative potential impacts on water supply are discussed in *Section 6.15.1* of the Revised DEIR. As described fully in *Section 6.15.1.1* regarding potable water supply and availability, the Proposed Project's water supply demands were considered as part of the Sweetwater Authority's demands and in fact are lower than those previously considered. The analysis runs through 2030 and determined that the impact is less than significant.

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Officials with **Metropolitan Water District**, which supplies river water imported from the Rockies and Sierra Nevada to 19 million people in six counties, including San Diego and Riverside, also **said in a conference call with reporters that residential customers could face rationing in 2009.** If such a restriction is invoked, it would be the first time since rationing was ordered in 1991 following six years of drought. Metropolitan's board of directors is scheduled to take up the "water supply alert" resolution on Tuesday. The resolution calls on the region's cities and water retailers to dust off drought ordinances that lay out how rationing should occur if required, to establish tiered rates that promote conservation, to fine people who let water run down the street and to set up hotlines for residents to report waste. Metropolitan distributes water to 26 agencies, among them the San Diego County Water Authority and the Western and Eastern municipal water districts of Riverside County, which in turn provide water to area cities and, in some cases, sell directly to homes and businesses.

John Liarakos, a spokesman for the San Diego County Water Authority, said most of the San Diego-area cities are in the process of updating drought ordinances written the last time rationing was threatened in 1991 or drafting new ones, and setting the stage for fining people who waste water.

For example, the Vallecitos Water District, which provides water to more than 20,000 homes and businesses in San Marcos, Vista and Escondido, has an ordinance that would fine people \$100 the first time, \$200 for a second violation and \$500 for every other time they let water run down the street, said Dale Mason, assistant general manager. Mason said the penalty probably won't be put into effect unless the regional water authority calls for rationing.

In Riverside County, one agency is already gearing up to fine people. Eastern Municipal Water District, which serves the Interstate 215 corridor between Murrieta and Moreno Valley, just passed an ordinance that put residents on notice they could be in trouble if they let sprinklers water the street or let the hose run down the driveway while they are lathering soap on their cars. "After Sept. 1, if we see that you are wasting water, we can, after two warnings, fine you \$100," said Peter Odencrans, an Eastern spokesman.

And in some places, rationing is possible this year. Tedi Jackson, a spokeswoman for Western Municipal Water District, which provides water to parts of Lake Elsinore, Murrieta and Temecula, said watering restrictions could come into play as early as August or September, depending on conditions at that point.

"The immediate impact to us right here is probably not going to be felt by your average consumer," Liarakos said. "But the specter of a mandatory water restriction ... is right out in front of us and it could hit us as early as the beginning of 2009."

The problem is, in the wake of years of drought in the Sierra Nevada and Rockies and court-ordered reductions in water deliveries aimed at protecting an endangered fish, Metropolitan will be able to deliver only about three-quarters of the water that it normally delivers.

Typically, said General Manager Jeffrey Kightlinger, Metropolitan sells 2.2 million acre-feet of water a year, but in 2008, deliveries are expected to total 1.7 million acre-feet — about the same as last year. Because of the cutback, Metropolitan has had to draw down its emergency supplies in area reservoirs, such as Diamond Valley Lake near Temecula.

It could take six months, he said, to repair aqueducts that deliver water from the Colorado River or Northern California, and the region must have a way to continue supplying water in the meantime.

Such emergency storage exceeded 3 million acre-feet a couple years ago. But it is down to 2.2 million — and it continues to decline, Kightlinger said. Consequently, they said, the region may simply have to learn to live with less, permanently.

"Conservation isn't needed just in dry years," said Metropolitan Vice Chairman Anthony Fellow of the San Gabriel Valley, in the conference call. "We're coming to the point in Southern California life where there's no room for water waste, whether today, tomorrow or in the coming years. Conservation is going to have to become the new norm. ... We're running out of water, period."

"Yes, we did have some rain," said Kristen Crane, water conservation manager for Poway, which has been out front calling for a 10 percent reduction since the first of the year. "But all things considered, we are in a critically dry year."

Contact staff writer Dave Downey at (760) 745-6611, Ext. 2623.

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[http://www.signonsandiego.com/uniontrib/20080605/news\\_1n5drought.html](http://www.signonsandiego.com/uniontrib/20080605/news_1n5drought.html): "Rationing is highly unlikely for 2008, Steiner said, but added, "We'll have to take 2009 as it comes." ... "It is a very safe assumption that rates will continue to go up," she said. ... "I think everybody in San Diego hopes that it won't come to mandatory water conservation," Mercer said. ... Marney Cox, chief economist for the San Diego Association of Governments, said that if it comes to that, it "could push the region over the edge into a recession. We already are in a slowdown, and it looks like we will have to cut back even more on water, and in turn that will mean a slower economy."

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The water report is based upon out of date information. The update from Sweetwater is from 2006. Things have changed since then. Their report is based upon a report from Metropolitan issued in 2005. The figures in the report are not at all reassuring since the projected demand is exactly equal to the supply. There is no room for error here. On 2/3/08 Sweetwater representative (<http://www.youtube.com/watch?v=EURk5YSEAAk>) gave a report on the water situation to the Chula Vista council. Even this report is a little out of date, but it clearly shows that much less water must be used by this project. This is not the time to add more water users. Many San Diego businesses and agriculture simply cannot cut back any more.

V-241

The analysis is woefully inadequate for the long-term. An old letter from Sweetwater for the very short-term does not do it. Saying permeable surfaces will be used everywhere in one spot but not being specific in all places is not enough. Trying to cut back 15-20% is not enough. Existing residents should not have to do draconian amounts of conservation and pay 20% more for water to support excessive new development. The situation has changed. The Colorado is at 45%. The Delta is at 50%. There is talk of mandatory conservation, because voluntary is way too low.

From the L.A. Times:

**Is growth over?**

California's continuing water crisis may mean the end of the state as we have known it.

By Cary Lowe

July 20, 2008

Gov. Arnold Schwarzenegger's recent executive order certifying that California is in a drought and directing state agencies to start thinking about what to do about it is only the latest sign that a way of life built on cheap and readily available water is coming to a close. For much of the state, June was the driest month on record, according to the National Climatic Data Center. The continuing water crisis raises the question of whether we are approaching the limits of growth in California.

V-242

For the last century, it seemed there was no limit. More than any other state, California's economy and population exploded, a growth spurt fueled in large part by abundant water supplies. Now we may be at a turning point, especially in Southern California.

The most obvious indicators certainly point in that direction. Snowmelt in the Sierras, which historically has filled the state's major reservoirs and aqueducts, has been shrinking steadily. California's rights to Colorado River water have been gradually scaled back by regional agreements and mounting claims by other states. Court orders in response to environmental lawsuits aimed at protecting endangered fish species have slashed water deliveries from the San Joaquin-Sacramento River Delta. And reduced rainfall throughout the region has made it increasingly difficult to replenish groundwater basins.

Initially, the public agencies responsible for ensuring water supplies were cautious in their response to the signs of a growing water crisis, perhaps fearing a political backlash from Californians who expect to be able to open a tap and let it flow, without limits, any time, anywhere, for any purpose. Adding a reservoir, drilling a few more wells or cutting deals with farmers to transfer some of their water to nearby cities helped soften, if not avoid, the effects of the state's growing water shortage. Now, however, the situation is becoming sufficiently dire that the water agencies are beginning to give the public a taste of what lies ahead.

Earlier this year, the Metropolitan Water District of Southern California, the largest water agency in the region and the principal supplier to the cities of Los Angeles, San Diego and numerous others in between, announced a

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**V-241** Please see the response to comment V-240. This comment states that the analysis of water supplies in the Revised DEIR is based on outdated information. The information considered by the Port consists of the latest information available from the Sweetwater Authority. Most recently, the Sweetwater Authority provided comments on the Revised DEIR in a letter dated August 4, 2008, which stated that the Sweetwater Authority is developing new local water supplies and the Metropolitan Water District has not changed its conclusion regarding available water surplus. The Sweetwater Authority also acknowledged the current drought conditions and the legal and regulatory issues involving the delivery of California State Water Project water to Southern California. Taking these concerns into account, the Sweetwater Authority stated that it cannot guarantee that, at some time at the future, the Metropolitan Water District may not project a supply of surplus water required to serve the project. Although CEQA requires an evaluation of water supply availability, CEQA does not require a project to identify a guaranteed source of future water supplies. In the event there is a change in future conditions, subsequent environmental review of water supply availability will be required pursuant to CEQA Guidelines, Section 15168.

Subsequent to the release of the Revised DEIR, California Governor Arnold Schwarzenegger declared a state of emergency due to drought conditions and regulatory restrictions impacting the state's water supply. Prior to the announcement, the San Diego County Water Authority (SDCWA) already had begun preparing for the potential reduction in water supply by encouraging water conservation and augmenting its supplies by securing short-term "dry year" water transfers from sources in Central and Northern California. In July 2009, the Metropolitan Water District reduced its water supply deliveries to the SDCWA by 13 percent as part of a Level 2 Drought Alert. The SDCWA instituted mandatory water use restrictions to offset the reduction. In February 2010, the SDCWA announced that conservation efforts resulted in a 12.9-percent reduction in water use

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[http://www.signonsandiego.com/uniontrib/20080605/news\\_1n5drought.html](http://www.signonsandiego.com/uniontrib/20080605/news_1n5drought.html): "Rationing is highly unlikely for 2008, Steiner said, but added, "We'll have to take 2009 as it comes." ... "It is a very safe assumption that rates will continue to go up," she said. ... "I think everybody in San Diego hopes that it won't come to mandatory water conservation," Mercer said. ... Marney Cox, chief economist for the San Diego Association of Governments, said that if it comes to that, it "could push the region over the edge into a recession. We already are in a slowdown, and it looks like we will have to cut back even more on water, and in turn that will mean a slower economy."

V-240  
(Cont.)

The water report is based upon out of date information. The update from Sweetwater is from 2006. Things have changed since then. Their report is based upon a report from Metropolitan issued in 2005. The figures in the report are not at all reassuring since the projected demand is exactly equal to the supply. There is no room for error here. On 2/3/08 Sweetwater representative (<http://www.youtube.com/watch?v=EURk5YSEAAk>) gave a report on the water situation to the Chula Vista council. Even this report is a little out of date, but it clearly shows that much less water must be used by this project. This is not the time to add more water users. Many San Diego businesses and agriculture simply cannot cut back any more.

V-241

The analysis is woefully inadequate for the long-term. An old letter from Sweetwater for the very short-term does not do it. Saying permeable surfaces will be used everywhere in one spot but not being specific in all places is not enough. Trying to cut back 15-20% is not enough. Existing residents should not have to do draconian amounts of conservation and pay 20% more for water to support excessive new development. The situation has changed. The Colorado is at 45%. The Delta is at 50%. There is talk of mandatory conservation, because voluntary is way too low.

From the L.A. Times:

**Is growth over?**

California's continuing water crisis may mean the end of the state as we have known it.

By Cary Lowe  
July 20, 2008

Gov. Arnold Schwarzenegger's recent executive order certifying that California is in a drought and directing state agencies to start thinking about what to do about it is only the latest sign that a way of life built on cheap and readily available water is coming to a close. For much of the state, June was the driest month on record, according to the National Climatic Data Center. The continuing water crisis raises the question of whether we are approaching the limits of growth in California.

V-242

For the last century, it seemed there was no limit. More than any other state, California's economy and population exploded, a growth spurt fueled in large part by abundant water supplies. Now we may be at a turning point, especially in Southern California.

The most obvious indicators certainly point in that direction. Snowmelt in the Sierras, which historically has filled the state's major reservoirs and aqueducts, has been shrinking steadily. California's rights to Colorado River water have been gradually scaled back by regional agreements and mounting claims by other states. Court orders in response to environmental lawsuits aimed at protecting endangered fish species have slashed water deliveries from the San Joaquin-Sacramento River Delta. And reduced rainfall throughout the region has made it increasingly difficult to replenish groundwater basins.

Initially, the public agencies responsible for ensuring water supplies were cautious in their response to the signs of a growing water crisis, perhaps fearing a political backlash from Californians who expect to be able to open a tap and let it flow, without limits, any time, anywhere, for any purpose. Adding a reservoir, drilling a few more wells or cutting deals with farmers to transfer some of their water to nearby cities helped soften, if not avoid, the effects of the state's growing water shortage. Now, however, the situation is becoming sufficiently dire that the water agencies are beginning to give the public a taste of what lies ahead.

Earlier this year, the Metropolitan Water District of Southern California, the largest water agency in the region and the principal supplier to the cities of Los Angeles, San Diego and numerous others in between, announced a

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in the last 6 months of 2009 as compared to the same period in 2008. Construction of the All-American Canal lining project has continued, with completion scheduled for 2010. The canal-lining project will conserve an estimated 67,700 acre feet of water per year, with the majority of the water being recovered through the lining project being allocated to the SDCWA.

In addition to those efforts described in the Revised DEIR to address water supply issues in California and San Diego County, in November 2009 state lawmakers adopted a series of four policy bills that were signed by Governor Schwarzenegger to meet the state's growing water challenges by establishing a Delta Stewardship Council, setting ambitious water conservation policy, ensuring better groundwater monitoring, and providing funds for the increased enforcement of legal water diversion. In addition, a bond measure entitled the Safe, Clean and Reliable Drinking Water Supply Act of 2010 will be on the November ballot and, if passed, will provide \$11.4 billion in funding (including \$227 in funding to the San Diego region) for drought relief, water supply reliability, Delta sustainability, statewide water system operational improvements, conservation and watershed protection, groundwater protection, water recycling, and water conservation programs. None of these developments is inconsistent with or requires substantial modifications in the water supply analysis contained in the Revised DEIR.

V-242 This comment states that the Revised DEIR's analysis of water supply is inadequate and the Proposed Project's voluntary measures to conserve water are not enough. Because the comment provides only a general criticism and does not identify any specific aspect of the Revised DEIR which is inadequate, no further response is possible. The comment also includes an article from the Los Angeles Times about the effects of the drought and reduced water supplies on development in California. Please see the response to comment V-241.



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30% reduction in deliveries to agricultural customers, which means that farmers will have less water for their crops and to give to cities. And things could get worse. The agency also adopted a contingency plan that could result in similar cutbacks to urban consumers and rate hikes of up to 20%. Local water agencies, including the Los Angeles Department of Water and Power, followed suit, beginning with voluntary conservation programs but warning of mandatory ones to come.

Such steps alone will probably not make enough of a difference to avert a water-supply crisis. There is a finite amount of water available in Southern California, and it has not increased since 1990. The MWD annually imports 2.1 million gallons of water to the region. Without a plan of action by state and local governments, coupled with across-the-board changes in how we consume, major sectors of the state's economy such as agriculture and real estate development will soon face previously unimagined restrictions.

Meanwhile, environmental groups such as the California Water Impact Network are contending that many of our water-use practices violate the state's constitutional mandate that water be put to beneficial use to the maximum possible extent and that waste or unreasonable use be prevented. They particularly object to pumping water from the San Joaquin-Sacramento River Delta to irrigate thirsty crops like cotton and alfalfa, as well as lawns. These environmentalists plan to petition the state Department of Water Resources to permanently reduce Delta pumping. If state officials or the courts agree, it would affect virtually every aspect of water use.

Real estate development already is feeling the pinch. State laws that took effect six years ago require water agencies to document sufficient long-term water supplies to support large developments. If they can't, they must block the developments, and these agencies are increasingly doing just that. The Eastern Municipal Water District, the largest water agency in Riverside County, recently delayed approval of a huge industrial development because it couldn't guarantee water supplies to the facility. The agency also indicated that it may withhold certifications of water availability for other projects if conditions do not improve.

Courts are increasingly weighing in on the issue. Last year, the state Supreme Court overturned approval of a major new planned community in the Sacramento area because the project's environmental impact report did not adequately address long-term water supplies. Earlier this year, a court in Riverside County reversed the go-ahead for a large residential project in Banning, in part on similar grounds. All told, dozens of planned developments throughout Southern California already have been delayed or abandoned because of uncertainty about long-term water supplies. And that number will soar once the recession in real estate eases.

Scaled-down developments that clear the water-supply hurdle must still meet tough new water-use standards. For instance, don't expect new homes to be built along the fairways of a new golf course or the shores of a man-made lake. The appliances in the new homes will be low-flow, and the pavement outside permeable to help replenish groundwater. State legislation that would have required developers to utilize all feasible water-efficiency measures in new construction and carry out other conservation measures in the surrounding community didn't pass earlier this year, but it undoubtedly will be back. Meanwhile, the Legislature is considering a requirement that all urban water agencies reduce their consumption by 20% within 12 years.

Agriculture, which consumes two-thirds of the delivered water in the state and remains a huge component of the California economy, is also feeling the sting of dwindling water supplies. Beginning with the MWD's reduction in water supplies, agencies throughout the state are pressing farmers to cut their water consumption by not growing water-intensive crops, investing in more efficient irrigation systems and even taking land out of agricultural use altogether. Pending state legislation would establish agricultural water conservation requirements.

The entire state economy ultimately will be affected by the water crisis. Yet it is unrealistic to expect that California's population and economy will stop growing. Accommodating that growth will require major commitments to reducing water consumption and increasing supply.

Unlike previous droughts, the current shortage of water is largely the product of long-term climate change because of global warming. This means that the shortage will not abate without major changes in how we consume water. The cheapest and easiest way to increase water supplies is conservation. Even small increases in the efficiency of agriculture's use of water can produce huge savings. Cutting back landscape irrigation, which accounts for more than half of urban and suburban consumption, is another option, as is treating and recycling water. Finally, rain and snowmelt can be collected and stored for future use.

As things stand now, California is rapidly approaching the limits of growth. Those areas of the state with limited local water supplies already are off-limits for development, and those sectors of the economy that are big users of water, such as agriculture, are cutting back. We can extend the period of growth and prosperity by pursuing the measures mentioned above. What remains to be seen is whether that will just postpone the day of reckoning -- when we have done all we can do to cut consumption but demand still exceeds supply. At the point, California

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V-242  
(Cont.)



Comment Letter V (Page 42)

will have reached the limit of its growth.  
Cary Lowe is a land-use lawyer and urban planning consultant.

Solid Waste

The city has an excellent contract with Allied Waste. It has a mandatory recycling program as well. Unfortunately the city is filling the landfill faster than necessary, because it is using construction debris and green waste as landfill cover instead of diverting them entirely from the landfill by insisting that Allied compost the green waste and make mulch available to residents. The city recently passed a mandatory construction recycling ordinance, which went into effect on July 1, 2008. Projects on the Bayfront should be required to include compactors to reduce trash volume significantly. There should be a continuous education campaign about recycling to optimize it on the Bayfront.

Energy

Since there is a cumulative negative impact on Energy use caused by these projects they need to produce a significant part of their own energy using renewable resources such as PV and energy cells.

Tables 4.16-7 and -8 do not give the total amount of natural gas use, because they do not factor in the amount of natural gas needed to produce the amount of electricity required by the Gaylord and Pacifica projects. This is important because of the scarcity of natural gas, even with the LNG shipments recently started. This is also important in showing that these projects and the others on the Bayfront will have a significant negative effect on Energy availability. A cumulative effect was acknowledged, but it is more than cumulative when it is considered that the CVBMP was not fully developed in 2004 when SDGE filed their resource plan referred to on page 4.16-13.

It is imperative that Gaylord and Pacifica being the largest potential users of electricity and gas not only conserve to the highest degree possible but also produce as much of their own energy as possible.

**TABLE 4.16-9 Proposed Project VMT** This may show the total estimated vehicle miles traveled based upon the ADTs but it may be a gross under estimate. Also when deciding about "wasteful use of energy" the congestion caused on area roads and particularly I-5 needs to be considered. There is no more wasteful use of gasoline than idling in traffic jams, which the project acknowledges will be typical on I-5 if this project goes forward as planned. This is a significance criteria which is clearly exceeded by this project.

"Implementation of the policies and objectives contained in the General Plan would aid in reducing adverse energy impacts." This is untrue for two reasons. First of all if that plan is implemented it will put over 400,000 more cars on I-5, which will increase the waste of energy considerably. Second of all after almost three years even the implementation plans that were supposed to have been written within 180 days have not been written or implemented. Therefore, it is unlikely much of the GPU will ever be implemented and certainly not enough to have any positive effect since over-riding considerations were taken for energy availability, water availability, traffic, and air quality when the plan was adopted. Actually, if the GPU will cause unmitigatable negative effects to traffic, obviously this project will as well, which will cause a significant impact to energy.

Considering that this project is west of I-5 and the trolley station is east of I-5 not many people will walk to the trolley station, except the workers at Gaylord, who will probably mostly live in TJ, since they certainly will not be able to afford to live in Chula Vista without doubling and tripling up. It is clearly the expressed intent that people will shop, recreate and, if possible, work on the bayfront. This will essentially keep them out of the city of Chula Vista-both residents and visitors. If they do get in their cars, getting on the freeway would make it most convenient to go to San Diego or parts south. If someone were walking or on a bicycle it would be a long ride or walk along J or H through residential

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**V-243** This comment expresses the readers concern with solid waste and mandatory recycling. The comment recommends inclusion of trash compactors to reduce trash volume. As a key component of the Port's Green Port Program, the Port is committed to reducing waste from Port operations through material reuse, recycling, and composting. The Port is actively investigating opportunities to expand its current recycling program in order to meet the objective of diverting 4 tons of waste from the landfill.

**V-244** This comment suggests that the projects proposed within the CVBMP should produce a significant amount of their own energy using renewable resources in order to address the cumulative adverse impact on energy. As discussed in *Section 4.16, Energy*, project-level components proposed for Phase I incorporate project features to ensure efficient use of energy, and program-level components for Phases I through IV will be required to reduce energy consumption by 30 percent pursuant to **Mitigation Measure 4.16-2** in the Final EIR. In order to reduce potential cumulative impacts to energy, innovative energy conservation practices are encouraged in new development and redevelopment projects (**Mitigation Measure 6.17-1**). In addition, as part of mitigation to reduce impacts to air quality, development of program-level components of the CVBMP (Phases II through IV) are required to implement measures to reduce greenhouse gas emissions, which may include renewable energy generation (**Mitigation Measure 6.8-3**). Finally, SDG&E, which supplies electricity and natural gas to the project area, disagrees with the Revised DEIR's conclusion that the Proposed Project would result in a cumulative significant unmitigated impact. Please also see comment L-9. As stated by SDG&E in its comment letter on the Revised DEIR, SDG&E is prepared to meet its supply obligations and "there is no basis for concluding that growth in energy demand for the entire City of Chula Vista is so great that it would have 'the potential to exceed available supply' (that SDG&E is obligated to arrange) and therefore result in unmitigated impacts" (Comment L-10).

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**V-245** This comment expresses concern regarding *Table 4.16-7* and *Table 4.16-8*, stating that the natural gas usage for Gaylord and Pacifica does not take into consideration the amount of natural gas needed to produce electricity for these projects. Electricity comes from a variety of sources through the grid, which include natural gas but is not exclusively gas. As stated in SDG&E's comment letter, specifically comments L-9 and L-10, SDG&E is prepared to meet the project's supply obligations, and "there is no basis for concluding that growth in energy demand for the entire City of Chula Vista is so great that it would have 'the potential to exceed available supply' (that SDG&E is obligated to arrange) and therefore result in unmitigated impacts."

As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on Parcel H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA, Guidelines Section 15168.

**V-246** This comment recommends that Gaylord and Pacifica conserve energy as much as possible and produce energy of their own. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on Parcel H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the

Comment Letter V (Page 42)

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V-243

V-244

V-245

V-246

V-247

V-248

V-249

nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168.

As provided in the response to comment V-244, Pacifica, a project-level component of the Proposed Project, is incorporating design features to conserve energy and demonstrate consistency with the policies contained in the City's General Plan, including energy-efficient fixtures, achieving LEED certification, incorporating sustainable design features, achieving energy conservation through reduction in water use, and commitments to energy performance that exceed Title 24 standards (see *Section 4.16, Energy*). Although there is no requirement for projects to produce energy on site, as a component to achieving LEED certification, the projects are investigating the feasibility of providing some or all of their own electricity.

**V-247** This comment opines that the vehicle miles traveled projection in *Table 4.16-9* may underestimate the wasteful use of energy because it does not consider idling in traffic jams. The Proposed Project addresses this concern by providing all feasible mitigation available to reduce significant traffic impacts that would result in congestion.

As analyzed and discussed in *Section 4.16, Energy*, the Proposed Project also includes a number of features to reduce the number of vehicle miles traveled generated by the project, thereby reducing the gallons of gasoline that would be consumed as a result of project operation. These features include alternative modes of transportation such as pedestrian-friendly streets, walkways, and bicycle route improvements. Use of alternative energy sources would decrease consumption of gasoline and reduce the amount of emissions generated by project-related traffic. Therefore, impacts would be

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V-245

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V-248

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V-249

considered less than significant.

**V-248** This comment expresses disagreement with the effectiveness of the policies and objectives of the City's General Plan. The comment also summarizes the significant impact to energy that exists as a result of the Proposed Project. This comment does not relate to the accuracy or adequacy of the Revised DEIR; therefore, no further response is warranted.

**V-249** This comment expresses the commenter's opinions regarding frequency of use for various modes of transportation, including cars, the trolley, and bicycles. This comment also summarizes the commenter's opinion regarding the ethnicity and demographic of workers within the CVBMP area. These opinions are those of the commenter and are not reflected within the Revised DEIR. The comment does not address the accuracy or adequacy of the Revised DEIR; therefore, no further comment is warranted.

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neighborhoods before reaching a business District on Broadway. The exception is the businesses actually on H Street between the freeway and Broadway.

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*"Although this impact is considered less than significant, there are opportunities to incorporate several energy conservation measures into the Proposed Project in order to further reduce the electricity demand of the project, which equates to lower energy bills and assisting the state in meeting its short-term and long-term Renewable Portfolio Standard Goals." Opportunities have nothing to do with reducing significant impacts. There must be clear commitments to these things or they don't count. This is not project level and it certainly does nothing to reduce the significant energy problem.*

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The peak hour traffic volumes should be more than 10% of the ADA. These people will need to work to pay for these units or they will employ others.

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**V-250** This comment suggests that one of the objectives of the project, namely, to eliminate or reduce barriers linking the Bayfront to the rest of Chula Vista, is inconsistent with an idea to draw people to the Bayfront. In response, it should be noted that these two concepts are not mutually exclusive. The CVBMP offers residents and visitors an opportunity to enjoy and experience the uniqueness of this setting, including recreational, public art, and open space opportunities. This doesn't mean that people will abandon western Chula Vista. Instead, the Proposed Project will result in the integration of the Bayfront with the rest of Chula Vista, extending the City all the way to the Bayfront. *Section 4.1, Land/Water Use Compatibility*, provides an in-depth analysis of how the project provides enhanced connections from western Chula Vista to the Bayfront, including a series of streets, pathways and pedestrian/bicycle corridors that link the Bayfront planning area with the Chula Vista Urban Core and H and E Street Trolley stations.

**V-251** This comment summarizes the finding in the Revised DEIR that the direct impact to energy from wasteful or unnecessary energy use at a program level is considered less than significant. The commenter then states that the reference to energy conservation opportunities in the Revised DEIR is not appropriate for reducing significant impacts, but that clear commitments must be made. In response, CEQA Guidelines do not require mitigation measures for effects which are not found to be significant (Section 15126.4(a)(3)). The Revised DEIR clearly states that the impact is less than significant on a program level; therefore, mitigation measures as suggested by the commenter are not required. The "opportunities" mentioned in the Revised DEIR were included to recognize options to conserve energy even though there is not a significant direct impact on a program level. In addition, in response to this comment and others received by the Port, the Port has agreed to incorporate specific measures to further reduce energy

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The idea seems to be to keep everyone on the Bayfront in order to reduce energy use and traffic. This is contrary to one of the major goals of the project to unite Chula Vista with its Bayfront. Clearly the two goals are contradictory. If a free Green Line trolley were funded as part of Phase I, there might be a possibility of some people riding it to see the rest of the city or to get to the trolley station at least. The DEIR makes clear that this is not funded.

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The mitigations are inadequate. Tank-less water heaters, and/or solar water heaters should be required. All air conditioners should not only be the highest efficiency models available but they should be hooked up to be on a cycle with near-by air conditioners to save additional energy at virtually no additional cost. Has any research been done to see if triple paned windows might produce more energy efficiency? How about requiring shading of some kind-awnings/over-hangs- on the south and west sides of buildings? What about programmable thermostats? None of these specifics are in the DEIR.

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consumption by 30 percent for all program-level components as **Mitigation Measure 4.16-2** in the Final EIR. Once project-level plans are proposed, subsequent environmental review will consider potential impacts from the project, including energy impacts and associated mitigation, if applicable.

**V-252** This comment states that the mitigation provided for reducing the significant impact associated with long-term energy consumption resulting from the Proposed Project is not adequate.

The Proposed Project has incorporated several design features in order to reduce energy demand resulting from the long-term operation of the Proposed Project, including Pacifica's various commitments related to LEED certification, reduction in water use in irrigation systems, landscape plans and water fixtures, sustainable building design features, energy-efficient appliances, and energy performance that exceeds Title 24 standards. As project-level plans are proposed for future development within the CVBMP area, subsequent environmental review will consider potential impacts to energy and incorporate energy conservation measures to reduce energy demand. Please also see the response to comment V-251.

**V-253** The commenter believes that tank-less water heaters and/or solar water heaters should be required and that all air conditioners should be part of a cycle with other air conditioners to save energy. The commenter also questions whether triple-paned windows, required shading of buildings, and programmable thermostats should be required. As stated in the responses to comments V-251 and V-252, the Proposed Project has incorporated several design features to reduce energy demand resulting from the long-term operation of the project. Decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project.

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**V-254** The commenter misread *Table 4.7-8*. The commenter misquotes the number of trips for Street A from J Street to B Street (4,091 trips) instead of those for J Street from Marina Parkway to Street. In fact, J Street from Marina Parkway to Street A allocates over 25,000 trips (page 4.7-23).

**V-255** The 10 percent is directly out of the *(Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region* (SANDAG 2002) and is consistent with established methodology.

**V-256** The 2004 data is acceptable, as significant land use changes have not occurred in the project area, and is consistent with the adopted City of Chula Vista General Plan.

**V-257** The decision regarding future trolley crossing improvements is not within the jurisdiction of the Port or the City and is not proposed as part of this project. Please see the response to comment V-256 regarding 2004 traffic data. The remaining comments do not address the adequacy of the EIR; therefore, no further response is warranted.

**V-258** The traffic data used in the Revised DEIR is valid because no substantial development has occurred from the time initial counts were taken. In fact, in 2006, traffic counts taken in 2002 were well within the definition of existing conditions in accordance with City thresholds.

**V-259** The Pacifica residential development is considered a "very high density residential development" according to SANDAG's *(Not So) Brief Guide* (2002), which assigns a rate of six trips per unit, and was used in the Traffic Study (Appendix 4.2-1). SANDAG's generation rates are based on local, empirical data and constitute the most current information available for the region.



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medium- and 9.9 per day for high-income households.

([http://www.wplwloo.lib.ia.us/HousingAuthority/Services\\_files/Myths1Web.htm](http://www.wplwloo.lib.ia.us/HousingAuthority/Services_files/Myths1Web.htm)) Density is not the determining factor of trips per unit. High-income homes have more deliveries and hire more outside help. They also own more cars.

4.2-1 The Bayfront was not considered in the Urban Core Specific Plan. The only development in the existing LCP is on the Mid Bayfront. This is less than the 550 or so acres in the current Bayfront Master Plan. The GPU and the UCSP did not do an analysis of the Bayfront. They deferred such a study to a future time. It is extremely confusing when the consultants try to make a case for all traffic being mitigated based upon differences with the UCSP and the GPU when they did not deal with the Bayfront.

4.2-11 Verifies the age of the traffic data used. Considering how fast Chula Vista has been growing and that it is expected to grow 46% more by 2030, using old traffic data is simply not acceptable.

Table 4.2-8 shows there are a whole lot of plans for future transit, but because there is no funding identified, no timetable for implementation and no specifics these plans can not be considered mitigation for traffic.

The figures for the Bayfront in general are way too low, if the estimates had been computed correctly it is likely traffic on Bayfront Streets would be unmitigatably negative as well as freeway and trolley crossings.

**4.2.4.2 Project Trip Generation** The Proposed Project assumes a total development of 1,500 residential units, 640,000 square feet of mixed-use office/commercial, 580,000 square feet of restaurant/retail, 100,000 square feet of civic/cultural uses, 3,500 hotel rooms, an industrial business park generating up to 1,200 daily trips; 139 acres of public space, and a 236-space RV Park.

In order to determine the traffic generation for the Proposed Project, trip generation rates published by the SANDAG (Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region, April 2002, were applied to the land uses associated with the Proposed Project, with the exception of the Civic/Cultural land uses. In this case, the library rate outline in the City of San Diego Trip Generation Manual revised in May 2003 was used since it most accurately reflected this type of land use. Using the library rate from San Diego City for the Civic/Cultural uses is not the appropriate trip generation. When these cultural uses were discussed, no one envisioned libraries. Performance buildings and museums were what people had in mind, which generate much higher use. The only Civic building besides the existing Harbor Patrol Office would be the fire station.

The figures used to project traffic do not reflect all the traffic. 1,500 residential, high-end should have a trip generation rate of at least 8 per unit. The 415,000sf conference center does not have any trip rate generation. There is no trip generation for the 900 boat slips. There is no trip generation for the 125 parking spaces over at the boat launching ramp. There are 47 acres of industrial business park, which would likely generate more than 1200 trips. There is nothing for the pier. There is nothing for the Nature Center with a 100- car parking lot. There are 2,196 parking spaces in the Sweetwater District. This would imply a large number of car trips per day. It is not clear how many if any car trips were computed for the unspecified number of cultural/retail uses in the parks and along the edge of the marina.

It is projected that 819 students will be generated by the residential. There are no schools on the BayFront and no plan to build any. These children will need to be transported to and from school, since walking across the freeway and trolley tracks would likely not be allowed by any parents and the children below 6<sup>th</sup> grade (525) probably would not be able to negotiate what could be very complex public transportation even if available. The older students would likely not be able to get to school on time if they had to use public transportation, if it was even available. Unless students were disabled it is unlikely there would be school bus transportation available. This traffic needs to be included in the traffic generation figures.

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**V-260** The traffic study for the Proposed Project uses a model that considers cumulative projects, including the Urban Core Specific Plan land uses. As discussed in the methodology description of the traffic impact analysis on pages 4.2-1 and 4.2-5 of the Revised DEIR, the traffic analysis results of the recently completed Chula Vista Urban Core Specific Plan was considered. The land use program analyzed in the Urban Core Specific Plan traffic impact analysis for the area encompassed by the CVBMP was more intense and generated more trips than is currently proposed in the CVBMP. Therefore, this comparison is conservative and with the Proposed Project, intersections would operate at an LOS equal to or better than as shown in the Urban Core Specific Plan. Please also refer to the traffic impact analysis prepared for the Proposed Project in *Appendices 4.2-1, 4.2-2, 4.2-3, and 4.2-4.*

**V-261** Please see the response to comment V-258.

**V-262** Table 4.2-8 of the Revised DEIR sets forth the General Plan policies and objectives pertaining to the development of alternative transportation. The traffic analysis in the Revised DEIR did not identify these transit policies and objectives as mitigation measures and did not allocate any reduction in traffic due to alternative transportation, which is under the worst-case scenario.

**V-263** Generation rates are based on SANDAG's (Not So) Brief Guide (2002), which constitutes the most current and relevant information available for the region and are used throughout the San Diego region.

**V-264** Established guidelines do not have specific trip rates for civic/cultural uses. The traffic engineers found the most appropriate "proxy" (most similar) trip rate. A similar type project, the reuse of the San Diego Naval Training Center, had land uses similar to the civic/cultural



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envisioned for the Bayfront. For that study, prepared for the City of San Diego, the library trip rate best matched what we would expect for the planned land uses. The daily trip rate is about 50 percent of assumed retail uses. Also, the morning peak hour is not expected to produce many trips and is consistent with what might be expected for a civic/cultural use.

**V-265** Please see the response to comment V-259. Parking is not considered a trip-generating land use. The Nature Center is an existing use and is not part of the Proposed Project. The H Street Pier uses 50 trips per acre (*Section 4.2, Table 4.2-11*). A 4-per-berth trip-generation rate was used for marina uses (*Table 4.2-9*). Retail uses along the marina on Parcels H-9 and H-21 were considered in *Table 4.2-11* and *Table 4.2-12*. Cultural and retail uses for Parcel H-23 are considered in *Table 4.2-11*. Although the size of the industrial business park has not been determined, the 1,200 trips allocated to the land use are consistent with the General Plan. When the size of the business park is known and specific development proposals are made, additional environmental review will occur pursuant to CEQA Guidelines, Section 15168. For the RCC, the rate was based on a hotel with convention facilities.

**V-266** *Section 4.2, Traffic and Circulation*, included trip generation for residential land uses for the Pacifica development. This generation rate includes within the calculations transporting students to school.

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Another reason to doubt the traffic figures and indeed many of the reports is that the same firm did them all. This means the same handful of people. There were no new set of eyes checking the work of the people who did the earlier reports, which means mistakes could have been easily missed or even magnified. This is not an acceptable practice-cheaper maybe, but not the way to ensure accuracy.

Some questions:

1. 4.2-12 Has South Corridor Group ever come to any decisions? (WIDIF is inadequate to cover freeway upgrades, since it will only have funding in small quantities spread over a large period of time, probably not starting until the economy improves.)

2. 4.2-14 How will traffic signal solve problem of too much traffic at J and Bay Blvd.?

3. 4.2-23 Who (which tenant) will be responsible for widening H, J, A, and C? How are these roads going to be widened in future phases? Will there be large enough ROW's without vegetation? What will happen to bike and pedestrian paths, when roads are widened?

4. If idea is to integrate the bay front with the rest of Chula Vista why is almost all of the focus of mitigation on west of I-5 except for one at Woodlawn and one to Broadway? The reality is there needs to be a major east west road (freeway?) all the way east past I-805.

5. 4.2-31 Does not state adequacy of mitigation.

6. 4.2-42 How can you justify assuming that all traffic before phase IV on H will start at I-5? A 6 lane major road (H) 25 years into project would seem to be too little too late? How will this be accomplished when numerous businesses including Gateway east of I-5 are virtually on the street?

7.4.4-3 How can 100- foot setbacks be maintained when all these roads are to be widened in each phase?

8. MMP 4.2-6 how will widening H St. to 4 lanes help E Street at I-5?

9. 4.2-31 Does not state adequacy of mitigation.

10. How will 4.2-41 2 left turn lanes along street A help traffic on F and E?

11. How will stop light where there is now a stop sign help J and Bay Blvd.?

12. 4.2-11 How will widening H help J and Marina Blvd.?

**Housing and Population**

Gaylord will have a profound negative effect upon the housing situation in Chula Vista. In western Chula Vista 55% of the people are renters. There are numerous families living in overcrowded conditions with two or more families sharing accommodations. There is a 3% vacancy rate. Rents are currently going up due to the foreclosure situation. Hotels and retail even at the prevailing wage have the lowest wages of all businesses. Gaylord says it will employ 2-5,000 people. The overwhelming majority of these workers will not earn enough to rent adequate living space in Chula Vista without doubling or tripling up, which is already the situation in Chula Vista for many families. <http://www.onlinecpi.org/article.php?list=type&type=264>. Gaylord has to help provide housing for its workers. 20% of its tax increment will not even equal one million dollars for a number of years. This will not be nearly enough to provide the needed housing. The city of Chula Vista is behind already with required affordable housing for existing low-wage workers.

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**V-267** This comment consists of unsupported speculation and does not address the adequacy of the Revised DEIR, therefore, no further response is warranted.

**V-268** SANDAG and Caltrans coordinate the activities of the I-5 South Corridor Group. The Port and City, in consultation with Caltrans and SANDAG, have created a mitigation measure (**Mitigation Measure 4.2-1**) that provides fair-share mitigation via the WTDIF to mitigate for potential cumulative traffic impacts. No further mitigation is warranted.

**V-269** Currently, the intersection at J Street and Bay Boulevard is stop controlled. Signals are more efficient in parsing out rights-of-way in an intersection and are more efficient at a certain level of volume and, therefore, effectively reduce intersection delays.

**V-270** Ultimate right-of-way will be preserved and established by the CVBMP. Roadways will be installed to their ultimate widths upon construction. No future road widening is anticipated within the boundaries of the CVBMP.

**V-271** The focus of mitigation is primarily on west of I-5 because the analysis of potential impacts on traffic showed that most impacts of the Proposed Project would occur west of I-5. The analysis did not indicate that the project would result in the need for a major east-west road past Interstate 805.

**V-272** Page 4.2-233 of the Revised DEIR, under **Significant Impact 4.2-31**, states that **Mitigation Measure 4.2-20** would reduce the significant impact to a level below significance.

**V-273** The traffic analysis did not assume that all traffic before Phase IV on H Street will start at I-5; the analysis instead determined that

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Another reason to doubt the traffic figures and indeed many of the reports is that the same firm did them all. This means the same handful of people. There were no new set of eyes checking the work of the people who did the earlier reports, which means mistakes could have been easily missed or even magnified. This is not an acceptable practice-cheaper maybe, but not the way to ensure accuracy.

Some questions:

1. 4.2-12 Has South Corridor Group ever come to any decisions? (WIDIF is inadequate to cover freeway upgrades, since it will only have funding in small quantities spread over a large period of time, probably not starting until the economy improves.)
2. 4.2-14 How will traffic signal solve problem of too much traffic at J and Bay Blvd.?
3. 4.2-23 Who (which tenant) will be responsible for widening H, J, A, and C? How are these roads going to be widened in future phases? Will there be large enough ROW's without vegetation? What will happen to bike and pedestrian paths, when roads are widened?
4. If idea is to integrate the bay front with the rest of Chula Vista why is almost all of the focus of mitigation on west of I-5 except for one at Woodlawn and one to Broadway? The reality is there needs to be a major east west road (freeway?) all the way east past I-805.
5. 4.2-31 Does not state adequacy of mitigation.
6. 4.2-42 How can you justify assuming that all traffic before phase IV on H will start at I-5? A 6 lane major road (H) 25 years into project would seem to be too little too late? How will this be accomplished when numerous businesses including Gateway east of I-5 are virtually on the street?
- 7.4.4-3 How can 100- foot setbacks be maintained when all these roads are to be widened in each phase?
8. MMP 4.2-6 how will widening H St. to 4 lanes help E Street at I-5?
9. 4.2-31 Does not state adequacy of mitigation.
10. How will 4.2-41 2 left turn lanes along street A help traffic on F and E?
11. How will stop light where there is now a stop sign help J and Bay Blvd.?
12. 4.2-11 How will widening H help J and Marina Blvd.?

**Housing and Population**

Gaylord will have a profound negative effect upon the housing situation in Chula Vista. In western Chula Vista 55% of the people are renters. There are numerous families living in overcrowded conditions with two or more families sharing accommodations. There is a 3% vacancy rate. Rents are currently going up due to the foreclosure situation. Hotels and retail even at the prevailing wage have the lowest wages of all businesses. Gaylord says it will employ 2-5,000 people. The overwhelming majority of these workers will not earn enough to rent adequate living space in Chula Vista without doubling or tripling up, which is already the situation in Chula Vista for many families. <http://www.onlinecpi.org/article.php?list-type&type=264>. Gaylord has to help provide housing for its workers. 20% of its tax increment will not even equal one million dollars for a number of years. This will not be nearly enough to provide the needed housing. The city of Chula Vista is behind already with required affordable housing for existing low-wage workers.

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improvements on H Street would not be required until Phase IV. **Mitigation Measure 4.2-27** addresses the potential impacts of acquisition and right-of-way for expansion of H Street to six lanes at a programmatic level. At such time when Phase IV projects are proposed, additional review will be required per CEQA Guidelines, Section 15168. In addition, Phase I projects will mitigate cumulative impacts through payment into the WTDIF. Please see the response to comment V-270.

V-274 Please see the response to comment V-270.

V-275 According to the traffic study, widening H Street to ultimate width makes the street more attractive to motorists drawing vehicles from smaller peripheral streets with better amenities, thereby reducing ADTs and improving LOS at E Street/I-5.

V-276 Please see the response to comment V-272.

V-277 The two left-turn lanes mitigate impacts at Street A as stated in *Table 5-3 of Appendix 4.2-1*. There are no impacts identified for E Street and F Street; therefore, no mitigation is warranted.

V-278 See response to comment V-269.

V-279 See response to comment V-275.

V-280 This comment expresses concern with the negative effects that the Proposed Project may have on housing in Chula Vista. As provided in the response to comment V-58, CEQA Guidelines limit the analysis of the effects on social and economic factors to the extent that they can result in a significant adverse physical effect. Please refer to the response to comment V-58 for a discussion of how both the City and development within the Proposed Project are working to offset potential impacts regarding affordable housing.

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Gaylord will be required to pay prevailing wages, but this does not necessarily include health benefits, which are a huge expense for a family. Also the prevailing wage for hotel workers is not adequate to rent an adequate sized market-rate space for a family, even if both parents work. Chula Vista does not have an adequate number of subsidized units for this many workers.

V-281

The Pacifica project will provide affordable housing, but it is a waste to provide for sale homes to moderate and low-income people when there is a desperate need now for low-income housing and this need will increase tremendously with the kinds of businesses-hotel and retail planned for the bayfront. Chula Vista cannot absorb more low-income workers without help. Pacifica should provide off site affordable rental housing for the very low income. Many of the low and moderate income, if they have jobs, may be able to buy foreclosed homes.

V-282

Without housing for the workers this project becomes another example of irresponsible development: <http://www.onlinecpi.org/article.php?list-type&type=25> Making Ends Meet in San Diego discusses the true costs of living in San Diego. If Gaylord really thinks so much of its employees it needs to help them find a place to live and provide health insurance:

V-283

<http://www.onlinecpi.org/article.php?list-type&type=305> This is not Tennessee the cost of living here is extremely high and rising.

It is not just that the rich become richer from projects like this while life becomes harder for the poor. Some of these jobs may go to our existing working poor, but many of these employees will have to live in Tijuana to make ends meet. This many new renters will probably drive rents up even more, forcing families out of existing housing. This could increase our homeless population as well. The largest homeless population now in Chula Vista is families. If the H street Corridor is bought up by developers and filled with businesses hoping to feed upon the success of Gaylord this could eliminate more affordable housing. The homes along the freeway, including several mobile home parks, which provide affordable housing could become more valuable to their owners as investment property. This could further exasperate the housing problems for existing residents as well as new employees. Local businesses a bit further from the bayfront could find themselves out of business. This could increase urban decay.

V-284

**V-281** This comment expresses an opinion about prevailing wages but does not address the adequacy of the Revised DEIR; therefore, no further response is warranted. Please also see the response to comment V-280.

**V-282** Please see the response to comment V-280.

**V-283** This comment expresses an opinion about provision of worker housing and health insurance but does not address the adequacy of the Revised DEIR; therefore, no further response is warranted. Please also see the response to comment V-280.

**V-284** This comment further speculates regarding potential housing problems in Chula Vista and Mexico, which are claimed to increase urban decay. Please see the response to comment V-280.

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There are now 19 empty stores in a 2-block area of Third Ave. in downtown Chula Vista. If this project drew more people from the city to the bayfront this number could increase, increasing urban decay. Possible gentrification of areas near the bay front could also contribute to urban decay by displacing lower income families, making them homeless or commuters from a distance and drawing more business from long-term businesses not conveniently located near the Bay Front. There needs to be an analysis of this possibility. Any time one or more large corporations comes to town it is difficult for existing small businesses to survive. This has been shown across the nation. A business such as Gaylord with centralized merchandising would likely not patronize local businesses. Their business would go to businesses patronized by the home office.

The influx of low wage jobs could easily also contribute to Urban Decay. If the lack of adequate affordable housing caused more over-crowding of housing and increased homelessness this could contribute to urban decay within the western part of the city where the median wage now is lower than in the east.

If indeed the freeway acted as a barrier to keep visitors out of the city, but city resources went toward providing services on the bayfront, this would leave less funds to provide services for the working poor and others in the city itself. If many people were forced to live in Tijuana this would reduce the multiplier effect considerably of any stores on the Bay Front. Strained city resources contribute to Urban Decay, and this has not been analyzed in the DEIR and must be. *19) When there is evidence suggesting that the economic and social effects caused by the proposed project ultimately could result in urban decay or deterioration, then the lead agency is obligated to assess this [\*\*\*35] indirect impact. ... The lead agency cannot divest itself of its analytical and informational obligations by summarily dismissing the possibility of urban decay or deterioration as a "social or economic effect" of the project.*<sup>15</sup>

Alternatives

Harbor Park Alternative

The description of the Harbor Park Alternative does not reflect changes that have come about since it was first drafted. This is not an acceptable description or analysis since obviously many details have been worked out in the Sweetwater Park alternative since the last CAC meeting. There is absolutely no reason why the hotel rooms for H-23 could not be built in phase I instead of phases II & III. H-9 could be added to H-23 to provide more space, eliminating that section of Marina Parkway. This would put the RCC right on the Marina.



<sup>15</sup> Page 19, BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent, PANAMA 99 PROPERTIES LLC, Real Party in Interest and Respondent. BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent, CASTLE & COOKE COMMERCIAL-CA, INC., Real Party in Interest and Appellant F044943, FOURTH COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT 134 Cal. App. 4th 1184, 22 Cal. Rptr. 3d 203, 2004 Cal. App. LEXIS 2121, 2004 Cal. Daily Op. Service 10918, 2004 Daily Journal DAR 14768, 34 ELR 20153

**V-285** This comment expresses concern that the RCC development would necessarily draw business away from downtown Chula Vista. In fact, no other similar type of development exists in Chula Vista. The services and merchandise potentially offered would not draw from existing businesses in the area.

**V-286** This comment expresses the opinion that low-income jobs could contribute to urban decay. This conclusion is speculative and does not address the adequacy of the Revised DEIR; therefore, no further response is warranted. Please also see the response to comment V-280.

**V-287** This comment expresses opinion that the provision of services in the Bayfront would necessarily reduce service to the remainder of Chula Vista. There is no evidence of this; in fact, *Section 4.13, Public Services*, analyzes all potential impacts and finds there are no significant and unmitigable impacts with the exception of library services, which are already operating at a deficiency. No further analysis is warranted.

**V-288** This comment expresses concern that the description of the Harbor Park Alternative was not revised to the extent that the Sweetwater Alternative was revised to incorporate changes since the previously circulated DEIR. The Revised DEIR does include revisions to the description and impact analysis of the Harbor Park Alternative (*Section 5.4*); however, as a project alternative, the discussion of the Harbor Park Alternative is not intended or required to include information or analysis to the same level as that of the Proposed Project (previously referred to as the Sweetwater Park Alternative). CEQA Guidelines, Section 15126.6(d) requires that an EIR include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.

Comment Letter V (Page 47)

There are now 19 empty stores in a 2-block area of Third Ave. in downtown Chula Vista. If this project drew more people from the city to the bayfront this number could increase, increasing urban decay. Possible gentrification of areas near the bay front could also contribute to urban decay by displacing lower income families, making them homeless or commuters from a distance and drawing more business from long-term businesses not conveniently located near the Bay Front. There needs to be an analysis of this possibility. Any time one or more large corporations comes to town it is difficult for existing small businesses to survive. This has been shown across the nation. A business such as Gaylord with centralized merchandising would likely not patronize local businesses. Their business would go to businesses patronized by the home office.

V-285

The influx of low wage jobs could easily also contribute to Urban Decay. If the lack of adequate affordable housing caused more over-crowding of housing and increased homelessness this could contribute to urban decay within the western part of the city where the median wage now is lower than in the east.

V-286

If indeed the freeway acted as a barrier to keep visitors out of the city, but city resources went toward providing services on the bayfront, this would leave less funds to provide services for the working poor and others in the city itself. If many people were forced to live in Tijuana this would reduce the multiplier effect considerably of any stores on the Bay Front. Strained city resources contribute to Urban Decay, and this has not been analyzed in the DEIR and must be. *19) When there is evidence suggesting that the economic and social effects caused by the proposed project ultimately could result in urban decay or deterioration, then the lead agency is obligated to assess this [\*\*\*35] indirect impact. ... The lead agency cannot divest itself of its analytical and informational obligations by summarily dismissing the possibility of urban decay or deterioration as a "social or economic effect" of the project.*<sup>15</sup>

V-287

Alternatives

Harbor Park Alternative

The description of the Harbor Park Alternative does not reflect changes that have come about since it was first drafted. This is not an acceptable description or analysis since obviously many details have been worked out in the Sweetwater Park alternative since the last CAC meeting. There is absolutely no reason why the hotel rooms for H-23 could not be built in phase I instead of phases II & III. H-9 could be added to H-23 to provide more space, eliminating that section of Marina Parkway. This would put the RCC right on the Marina.



V-288

Although the Harbor Park Alternative is analyzed in greater detail than is normally required, the analysis is not intended or required to be as comprehensive as for the Proposed Project.

This comment further opines that phasing for development of Parcel H-23 under the Harbor Park Alternative could be revised and that Parcel H-9 could be added to Parcel H-23 to provide more space, thereby eliminating a section of Marina Parkway. The proposed phasing and development under the Harbor Park Alternative was based on an evaluation of an alternative that would avoid or reduce significant impacts of the project. As Marina Parkway serves as a primary access road through the Harbor District, the combination of Parcels H-9 and H-23 as suggested by the commenter would result in a significant interruption in on-site circulation by removing a portion of Marina Parkway. Elimination of this segment would redirect traffic from this primary access road to Street A, causing an increase in traffic impacts and related hazards. In addition, impacts at the intersection of H Street and the modified E Street Extension/Marina Parkway alignment would increase. As a result, conditioning the project as proposed by the commenter would be inappropriate because the proposed condition would result in additional impacts.

<sup>15</sup> Page 19, BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent, PANAMA 99 PROPERTIES LLC, Real Party in Interest and Respondent. BAKERSFIELD CITIZENS FOR LOCAL CONTROL, Plaintiff and Appellant, v. CITY OF BAKERSFIELD, Defendant and Respondent, CASTLE & COOKE COMMERCIAL-CA, INC., Real Party in Interest and Appellant F044943, FOURTH COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT 124 Cal. App. 4th 1184, 22 Cal. Rptr. 3d 203, 2004 Cal. App. LEXIS 2121, 2004 Cal. Daily Op. Service 10918, 2004 Daily Journal DAR 14768, 34 ELR 20153

Comment Letter V (Page 48)

Differences

The Conference Hotel on S-2 would actually have less of an impact than the park or the hotel planned for S-1 in the preferred plan, due to its lower height and smaller size. Again whether this was built in Phase I or II would depend upon when someone was willing to build it.

V-289

Mixed-use office/commercial/recreation/cultural uses with a maximum height of 60 feet would replace the 750-room resort hotel with a maximum height of 100 feet on S-1 in the Sweetwater District. Specifically, up to 300,000 square feet of mixed-use office/commercial recreation and 50,000 square feet of cultural would be built on S-1. This is an excessive amount of square footage that would need to be reduced.

V-290

A 500-room resort hotel with a maximum height of 65 feet and a 200-slip marina would replace the community boating center on H-1 in the Harbor District. This is what the PMP calls for and this is a beautiful location for a resort hotel. This is just as uncertain as the buildings in the preferred plan, because the Southbay shipyard is an important maritime use.

V-291

Up to 100,000 square feet of retail would be built around the northern portion of the harbor on H-8/H-9, instead of up to 50,000 square feet of retail as with the Proposed Project. Again one or both of these parcels could be part of the RCC to increase its acreage and the retail would likely be similar to what is planned now for the RCC, probably more like 50,000 than 100,000. It makes no sense to increase the amount of retail here because the amount of space is the same.

V-292

The E Street Extension/Marina Parkway alignment within Sweetwater would be modified to direct traffic easterly as the road enters the Harbor District. The Marina Parkway segment between Goodrich and H-3 would be a primary public access road. Under the Proposed Project, this road traverses west as it enters the Harbor District connecting to the end of H Street. If the RCC was on H-23 it would help the circulation to keep the road west of the cultural buildings. It would also maintain the views from the road. Parking could be in back of the buildings, out of site, and there would be views of the bay from the road. At one point this was discussed as a possibility, I believe.

V-293

Fire Station

"No fire station would be proposed on H-17, as is proposed under the Proposed Project. This parcel would remain in the Port's jurisdiction and would be designated for Industrial Business Park use."

V-294

This is not true and needs to be changed a fire station would still be needed, and this is a good spot for it. The fire station was not originally in the Sweetwater Park Alternative either. It was not in the 2006 EIR. Only after more analysis was it found to be needed. There is no reason for it not to be included in this Alternative also.

SP-3 would be constructed in Phase IV, instead of in Phase I as proposed under the Proposed Project. Why? Why couldn't it be built in Phase I if that is when it is needed. In 2006 it was in Phase III.

V-295

It is important that Bay Blvd. be left as it was decided for Sweetwater Park alternative.

The RCC is a key anchor and needs to be in Phase I. Gaylord has no architectural plans. A good architect could design a building with spectacular views using H-23 and H-9.

Intensity of Development

The intensity of development in the Sweetwater District would be greater for the Harbor Park Alternative as compared to the Proposed Project. The Harbor Park Alternative provides an additional 128 acres of parkland as compared to the Proposed Project, which is consistent with the Port's public amenities objectives. We strongly disagree with this statement. The Harbor Park alternative has less intensity for the Sweetwater District than the Sweetwater Park alternative. We believe that in conjunction with the decreased density and height alternative this would be the least environmentally

V-296

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**V-289** This comment suggests that under the Harbor Park Alternative, the proposed conference hotel on Parcel S-2 would have less of an impact than the Signature Park proposed for Parcel S-2 and the resort hotel proposed for Parcel S-1 in the Proposed Project. Under the Harbor Park Alternative in *Section 5.4*, a conference hotel would be proposed on Parcel S-2 instead of a Signature Park, and up to 300,000 square feet of mixed-use office/commercial and recreation and 50,000 square feet of cultural uses would replace the resort hotel on Parcel S-1. As a result, land uses within the Sweetwater District under the Harbor Park Alternative, which involves development on both Parcel S-2 (conference hotel) and Parcel S-1 (mixed/cultural uses), would be a higher intensity as compared to the Proposed Project, which involves development of a Signature Park on S-2 and a resort hotel on S-1.

The comment regarding phasing dependent on willingness of builders does not address the adequacy or accuracy of the Revised DEIR; therefore, no further response is warranted.

**V-290** This comment opines that the square footage proposed for the mixed-use development on Parcel S-1 under the Harbor Park Alternative is excessive and should be reduced. The comment regarding the preferred reduction does not address the adequacy or accuracy of the Revised DEIR or provide the necessary level of detail to respond to a suggested revision to the Harbor Park Alternative. No further response is warranted.

**V-291** This comment expresses preference for the resort hotel proposed for Parcel H-1 under the Harbor Park Alternative. The comment regarding preferred development for Parcel H-1 will be included in the Final EIR for consideration by the Board of Port Commissioners. The comment does not, however, address the adequacy or accuracy of the Revised DEIR; therefore, no further response is warranted.

Comment Letter V (Page 48)

Differences

The Conference Hotel on S-2 would actually have less of an impact than the park or the hotel planned for S-1 in the preferred plan, due to its lower height and smaller size. Again whether this was built in Phase I or II would depend upon when someone was willing to build it.

V-289

Mixed-use office/commercial/recreation/cultural uses with a maximum height of 60 feet would replace the 750-room resort hotel with a maximum height of 100 feet on S-1 in the Sweetwater District. Specifically, up to 300,000 square feet of mixed-use office/commercial recreation and 50,000 square feet of cultural would be built on S-1. This is an excessive amount of square footage that would need to be reduced.

V-290

A 500-room resort hotel with a maximum height of 65 feet and a 200-slip marina would replace the community boating center on H-1 in the Harbor District. This is what the PMP calls for and this is a beautiful location for a resort hotel. This is just as uncertain as the buildings in the preferred plan, because the Southbay shipyard is an important maritime use.

V-291

Up to 100,000 square feet of retail would be built around the northern portion of the harbor on H-8/H-9, instead of up to 50,000 square feet of retail as with the Proposed Project. Again one or both of these parcels could be part of the RCC to increase its acreage and the retail would likely be similar to what is planned now for the RCC, probably more like 50,000 than 100,000. It makes no sense to increase the amount of retail here because the amount of space is the same.

V-292

The E Street Extension/Marina Parkway alignment within Sweetwater would be modified to direct traffic easterly as the road enters the Harbor District. The Marina Parkway segment between Goodrich and H-3 would be a primary public access road. Under the Proposed Project, this road traverses west as it enters the Harbor District connecting to the end of H Street. If the RCC was on H-23 it would help the circulation to keep the road west of the cultural buildings. It would also maintain the views from the road. Parking could be in back of the buildings, out of site, and there would be views of the bay from the road. At one point this was discussed as a possibility, I believe.

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It is important that Bay Blvd. be left as it was decided for Sweetwater Park alternative.

The RCC is a key anchor and needs to be in Phase I. Gaylord has no architectural plans. A good architect could design a building with spectacular views using H-23 and H-9.

Intensity of Development

The intensity of development in the Sweetwater District would be greater for the Harbor Park Alternative as compared to the Proposed Project. The Harbor Park Alternative provides an additional 128 acres of parkland as compared to the Proposed Project, which is consistent with the Port's public amenities objectives. We strongly disagree with this statement. The Harbor Park alternative has less intensity for the Sweetwater District than the Sweetwater Park alternative. We believe that in conjunction with the decreased density and height alternative this would be the least environmentally

V-296

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V-292 This comment recommends combining one or both of Parcels H-8 and H-9 with the proposed RCC under the Harbor Park Alternative to increase acreage. The combination of one or both of Parcels H-8 and H-9 with Parcel H-23 would result in a significant interruption in on-site circulation by removing a portion of Marina Parkway. Conditioning the project as proposed by the commenter would be inappropriate because the proposed condition would result in additional impacts of the project. Please also refer to the response to comment V-288.

The comment also suggests that the proposed maximum of 100,000 square feet of retail on Parcels H-8 and H-9 under the Harbor Park Alternative can be reduced to match that of the Proposed Project. The increased retail square footage proposed as part of the Harbor Park Alternative (Section 5.4) is included as a feasible alternative to the proposed development of these parcels under the Proposed Project. The commenter's suggestion is noted, and once project-level plans are proposed for Parcels H-8 and H-9, subsequent environmental review will consider potential impacts from the retail development proposed, whether under the Proposed Project or the Harbor Park Alternative.

V-293 This comment consists of a suggestion for the circulation system of the Harbor Park Alternative. Specifically, the commenter suggests moving the E Street Extension/Marina Parkway alignment west of the proposed cultural buildings on Parcel H-3 to reduce circulation impacts and improve visual quality from the road. The suggestion may actually result in increased impacts to circulation. The Harbor Park Alternative discussed in Section 5.4 of the Revised DEIR combines Parcels HP-1 and H-3 under the Proposed Project to establish one parcel, HP-1, which would be developed as a 35-acre Signature Park adjacent to the Bay. The circulation pattern proposed in regard to the E Street Extension/Marina Parkway located the cultural and retail uses adjacent to the Signature Park so as to enhance



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Differences

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V-296

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public access to this area and encourage "walkability." The suggested relocation of the E Street Extension/Marina Parkway to the west of the cultural/retail uses would separate these uses from the Signature Park, inhibiting pedestrian access to these areas and isolating these uses from complementary uses. This suggestion does not raise any issues relating to the adequacy of the Revised DEIR; therefore, no additional response is warranted.

**V-294** This comment objects to the absence of a fire station on Parcel H-17 under the Harbor Park Alternative because the fire station would still be needed under this alternative. The commenter is correct that development under the Harbor Park Alternative, similar to the Proposed Project, would increase the demand for fire protection services. Development of a fire station on Parcel H-17 is not considered feasible under the Harbor Park Alternative (*Section 5.4*) because the City has not agreed to acquire Parcel H-17 from the Port. The Port is precluded by law from providing municipal facilities, including fire protection facilities, on Port land. The Port, as the lead agency, can only control its own actions and can therefore not provide a fire station on Parcel H-17 if the City is not willing to acquire this parcel for development of a fire station as under the Proposed Project.

**V-295** This comment inquires as to why Parcel SP-3 would be constructed in Phase IV under the Harbor Park Alternative instead of Phase I as proposed under the Proposed Project. The reason for this phasing decision is because under the Harbor Park Alternative, Parcel S-2 would no longer be built as a Signature Park/Open Space in Phase I of the Proposed Project; therefore, the Nature Center Parking and Access Road proposed for Parcel SP-3 in the Harbor Park Alternative would not be necessary in Phase I. The existing Chula Vista Nature Center parking lot located off the I-5 off-ramp at E Street will continue to provide adequate parking and access until Parcel SP-3 is developed in Phase IV.

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Differences

The Conference Hotel on S-2 would actually have less of an impact than the park or the hotel planned for S-1 in the preferred plan, due to its lower height and smaller size. Again whether this was built in Phase I or II would depend upon when someone was willing to build it.

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Mixed-use office/commercial/recreation/cultural uses with a maximum height of 60 feet would replace the 750-room resort hotel with a maximum height of 100 feet on S-1 in the Sweetwater District. Specifically, up to 300,000 square feet of mixed-use office/commercial recreation and 50,000 square feet of cultural would be built on S-1. This is an excessive amount of square footage that would need to be reduced.

V-290

A 500-room resort hotel with a maximum height of 65 feet and a 200-slip marina would replace the community boating center on H-1 in the Harbor District. This is what the PMP calls for and this is a beautiful location for a resort hotel. This is just as uncertain as the buildings in the preferred plan, because the Southbay shipyard is an important maritime use.

V-291

Up to 100,000 square feet of retail would be built around the northern portion of the harbor on H-8/H-9, instead of up to 50,000 square feet of retail as with the Proposed Project. Again one or both of these parcels could be part of the RCC to increase its acreage and the retail would likely be similar to what is planned now for the RCC, probably more like 50,000 than 100,000. It makes no sense to increase the amount of retail here because the amount of space is the same.

V-292

The E Street Extension/Marina Parkway alignment within Sweetwater would be modified to direct traffic easterly as the road enters the Harbor District. The Marina Parkway segment between Goodrich and H-3 would be a primary public access road. Under the Proposed Project, this road traverses west as it enters the Harbor District connecting to the end of H Street. If the RCC was on H-23 it would help the circulation to keep the road west of the cultural buildings. It would also maintain the views from the road. Parking could be in back of the buildings, out of site, and there would be views of the bay from the road. At one point this was discussed as a possibility, I believe.

V-293

Fire Station

"No fire station would be proposed on H-17, as is proposed under the Proposed Project. This parcel would remain in the Port's jurisdiction and would be designated for Industrial Business Park use."

V-294

This is not true and needs to be changed a fire station would still be needed, and this is a good spot for it. The fire station was not originally in the Sweetwater Park Alternative either. It was not in the 2006 EIR. Only after more analysis was it found to be needed. There is no reason for it not to be included in this Alternative also.

SP-3 would be constructed in Phase IV, instead of in Phase I as proposed under the Proposed Project. Why? Why couldn't it be built in Phase I if that is when it is needed. In 2006 it was in Phase III.

V-295

It is important that Bay Blvd. be left as it was decided for Sweetwater Park alternative.

The RCC is a key anchor and needs to be in Phase I. Gaylord has no architectural plans. A good architect could design a building with spectacular views using H-23 and H-9.

Intensity of Development

The intensity of development in the Sweetwater District would be greater for the Harbor Park Alternative as compared to the Proposed Project. The Harbor Park Alternative provides an additional 128 acres of parkland as compared to the Proposed Project, which is consistent with the Port's public amenities objectives. We strongly disagree with this statement. The Harbor Park alternative has less intensity for the Sweetwater District than the Sweetwater Park alternative. We believe that in conjunction with the decreased density and height alternative this would be the least environmentally

V-296

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This comment also expresses concern regarding Bay Boulevard under the Harbor Park Alternative but does not provide the necessary detail to respond to specific inadequacies of concern to the commenter.

In addition, the commenter opines that the RCC under the Harbor Park Alternative needs to be in Phase I, and that Gaylord should provide adequate architectural plans for the RCC to include a building with spectacular views using Parcels H-23 and H-9. Please note that the Harbor Park Alternative does not assume that Gaylord would be the developer of the RCC. The RCC is proposed in Phase II under the Harbor Park Alternative as an alternate development option than the Proposed Project, and as such an alternative, the proposed RCC is not required to include project-level analysis. Should the Harbor Park Alternative be adopted, once project-level plans are proposed for the RCC on Parcel H-23, subsequent environmental review will consider potential impacts from the project, including aesthetic impacts.

V-296

This comment expresses disagreement with the statement in the Revised DEIR that "the intensity of development in the Sweetwater District would be greater for the Harbor Park Alternative as compared to the Proposed Project." The reason this statement is included in the Revised DEIR is because under the Harbor Park Alternative, development would occur on both Parcel S-2 with a conference hotel and Parcel S-1 with mixed/cultural uses. This development would be a higher intensity compared to the Proposed Project, which includes a Signature Park on Parcel S-2 and resort hotel on Parcel S-1. Even though the maximum building heights for the resort hotel on Parcel S-1 in the Proposed Project would be greater than the maximum building heights of the mixed/cultural uses on Parcel S-1 under the Harbor Park Alternative, the addition of a conference hotel on Parcel S-2 instead of an 18-acre Signature Park would result in a higher intensity of development in the Sweetwater District than what is included in the Proposed Project for this district.

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damaging alternative. By itself it would be better than the current preferred alternative. USFWS has made this clear as well.

The traffic analysis ignores that we are now talking about four phases, not three. It is hard to see why 5,000 more trips are being projected for this alternative over the other? The advantage of this alternative is fewer trips in Phase I, which is probably the only phase sure to be built, considering all the uncertainties.

**Visual/Aesthetics**

However, this beneficial aesthetic impact is counteracted via the development of S-2, which would bring development in the Sweetwater District closer to the Sweetwater Marsh and Chula Vista Nature Center compared to the Proposed Project. This is not true because the park in S-2 for the current alternative is development and would have an undetermined number of buildings. Also the types of buildings proposed for the parkland would be uninteresting and less aesthetically pleasing than a unified attractive theme that would be used for the hotel.

In summary, the Harbor Park Alternative would result in a significant impact to adjacent/on-site Bay views from Marina Parkway, the E Street Corridor, and the I-5 overpass and would require mitigation. This finding is different from that of the Proposed Project, which identified a low impact to on-site Bay views, which is considered less than significant. This comment proves that the statement that on-site-Bay views would be less than significant for the proposed project is wrong. Obviously they will be as great or greater than the Harbor park alternative. The view would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings.

Views to the Bay across the Sweetwater District would be more obstructed as compared to the Proposed Project due to development on both S-1 and S-2. This development would contribute to blockage of views from the Freeway flyover from SR-54 at I-5. Regardless, this partial loss of Bay views would be considered a significant impact and would require mitigation. This impact would not result from the Proposed Project. Again we disagree with this statement. The 120- foot office building and 100 foot hotel would block more of the view than the low rise buildings in the Harbor Alternative. Since the buildings in the Harbor Alternative would be lower than those in the current alternative the view would actually improve. Also the RCC would not be part of the view at all. This statement is quite odd since the RCC will be as high or higher than the freeway, but the buildings in the Harbor alternative will be much lower and not block the view from the freeway.

Bay Views from Marina Parkway: See adjacent/on-site Bay views above. Impact would be greater as compared to the Proposed Project since the roadway would be located further east, obstructing views along the portion of Marina Parkway east of Parcel H-3. Putting the road further east is a choice that makes H a dead end road. This alignment should be reconsidered. The height number and size of the cultural buildings has not been determined. Marina Parkway should be west of the cultural buildings.

Bay Views from E Street: See adjacent/on site Bay views above. Views looking west from the portion of E Street adjacent to S-2 would be obstructed via development of this parcel, which is part of the signature park. Considering the number and size of all the retail/cultural, etc. buildings in the park has not been described or analyzed for proposed alternative in is quiet possible they will be less obstructed in this alternative. The berms likely will block the view beyond S-2 in both alternatives, unless one is in a bus or other high vehicle.

Impacts to this already urban area would not adversely impact the character of the site. The existing bay front is hardly an "urban area." What people love about it is the peacefulness and openness of the land with views of wildlife habitats.

**Harbor Park Alternative** Would the project have a substantially adverse effect on a scenic vista, public view, or public resources (such as a symbol or landmark)? Yes. **Significant Impacts 4.4-1 through 4.4-5** Greater (Same as Proposed Project, as well as significant impacts from Marina Parkway, the E Street Corridor, the I-5 overpass at J Street Corridor, and impacts due to loss of bay view at SR-54/I-5) This is not true. The view from

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V-296  
(Cont.)

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**V-297** The traffic analysis for the Harbor Park Alternative considered development in three phases. Phase I includes Phases I and II of the Proposed Project; Phase II corresponds to Phase III of the Proposed Project; and Phase III corresponds to Phase IV of the Proposed Project. The comment correctly states that the Harbor Park Alternative will generate fewer trips in Phase I compared to Phases I and II in the Proposed Project (page 5-33) and will generate approximately 5,000 more trips than the Proposed Project at build-out. Due to revisions in phasing from the Proposed Project and the alternatives, land uses for Phase I of the Proposed Project only include Gaylord, Pacifica, and Signature Park volumes (30,342 trips as compared to the 46,808 proposed in the Harbor Park Alternative). Phase II trip generation is 25,190 trips, as opposed to 29,418 in the Harbor Park Alternative. Phase III trip generation is estimated to be 8,685 trips, as opposed to 10,180 in the Harbor Park Alternative. Further, Phase IV trips are estimated to be 14,600 for the Proposed Project, where there is no Phase IV planned for in the Harbor Park Alternative. The Harbor Park Alternative contains different land uses spread amongst different phases to depict an alternate scenario than the Proposed Project, and as such, the Proposed Project proposes 5,639 fewer trips that the Harbor Park Alternative.

**V-298** This comment disagrees with the Revised DEIR statement that the beneficial aesthetic impact to the Sweetwater Marsh NWR from moving the RCC to Parcel H-23 would be offset by the development of S-2 as a conference hotel rather than a Signature Park as in the Proposed Project. The commenter supports this opinion by stating that the "park in S-2 for the current alternative is development and would have an undetermined number of buildings," concluding that this would be less aesthetically pleasing than the hotel proposed for Parcel S-2 in the Harbor Park Alternative.

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damaging alternative. By itself it would be better than the current preferred alternative. USFWS has made this clear as well.

The traffic analysis ignores that we are now talking about four phases, not three. It is hard to see why 5,000 more trips are being projected for this alternative over the other? The advantage of this alternative is fewer trips in Phase I, which is probably the only phase sure to be built, considering all the uncertainties.

**Visual/Aesthetics**

However, this beneficial aesthetic impact is counteracted via the development of S-2, which would bring development in the Sweetwater District closer to the Sweetwater Marsh and Chula Vista Nature Center compared to the Proposed Project. This is not true because the park in S-2 for the current alternative is development and would have an undetermined number of buildings. Also the types of buildings proposed for the parkland would be uninteresting and less aesthetically pleasing than a unified attractive theme that would be used for the hotel.

In summary, the Harbor Park Alternative would result in a significant impact to adjacent/on-site Bay views from Marina Parkway, the E Street Corridor, and the I-5 overpass and would require mitigation. This finding is different from that of the Proposed Project, which identified a low impact to on-site Bay views, which is considered less than significant. This comment proves that the statement that on-site-Bay views would be less than significant for the proposed project is wrong. Obviously they will be as great or greater than the Harbor park alternative. The view would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings.

Views to the Bay across the Sweetwater District would be more obstructed as compared to the Proposed Project due to development on both S-1 and S-2. This development would contribute to blockage of views from the Freeway flyover from SR-54 at I-5. Regardless, this partial loss of Bay views would be considered a significant impact and would require mitigation. This impact would not result from the Proposed Project. Again we disagree with this statement. The 120- foot office building and 100 foot hotel would block more of the view than the low rise buildings in the Harbor Alternative. Since the buildings in the Harbor Alternative would be lower than those in the current alternative the view would actually improve. Also the RCC would not be part of the view at all. This statement is quite odd since the RCC will be as high or higher than the freeway, but the buildings in the Harbor alternative will be much lower and not block the view from the freeway.

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Bay Views from E Street: See adjacent/on site Bay views above. Views looking west from the portion of E Street adjacent to S-2 would be obstructed via development of this parcel, which is part of the signature park. Considering the number and size of all the retail/cultural, etc. buildings in the park has not been described or analyzed for proposed alternative in is quiet possible they will be less obstructed in this alternative. The berms likely will block the view beyond S-2 in both alternatives, unless one is in a bus or other high vehicle.

Impacts to this already urban area would not adversely impact the character of the site. The existing bay front is hardly an "urban area." What people love about it is the peacefulness and openness of the land with views of wildlife habitats.

**Harbor Park Alternative** Would the project have a substantially adverse effect on a scenic vista, public view, or public resources (such as a symbol or landmark)? Yes. **Significant Impacts 4.4-1 through 4.4-5** Greater (Same as Proposed Project, as well as significant impacts from Marina Parkway, the E Street Corridor, the I-5 overpass at J Street Corridor, and impacts due to loss of bay view at SR-54I-5) This is not true. The view from

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(Cont.)

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It appears the commenter is confusing the analysis of aesthetic impacts in *Chapter 5.0, Alternatives*, of the Revised DEIR with a comparative analysis against a No Project Alternative. To clarify, the "undetermined number of buildings" to which the commenter refers would potentially exist under the No Project Alternative, not the Proposed Project. Under a No Project Alternative, future development of the Sweetwater District would allow high-intensity residential, recreation, commercial/retail, and office uses, including a maximum 30-foot building height in the area generally adjacent to the Sweetwater Marsh NWR. The commenter is comparing this No Project Alternative scenario that could result in a potentially "undetermined number of buildings" with the Harbor Park Alternative's proposed conference center on Parcel S-2. This is an incorrect comparison, as the alternatives section is intended as a comparison of the impacts of each alternative against the Proposed Project, not against a No Project scenario. The Proposed Project includes development of a Signature Park on Parcel S-2, which would result in a more aesthetically pleasing view from the Sweetwater Marsh NWR than the conference hotel proposed under the Harbor Park Alternative. The Revised DEIR's statement regarding visual impacts to the Sweetwater Marsh NWR under the Harbor Park Alternative is therefore supported.

**V-299** This comment concludes that the Revised DEIR's discussion of impacts from adjacent or on-site Bay views under the Harbor Park Alternative is inconsistent with the "less-than-significant" determination for the Proposed Project. The commenter states that instead, the impacts to these views under the Proposed Project should be the same or greater than the Harbor Park Alternative.

The impact discussion and less-than-significant determination for on-site Bay views in the Proposed Project is provided in *Section 4.4*,

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damaging alternative. By itself it would be better than the current preferred alternative. USFWS has made this clear as well.

The traffic analysis ignores that we are now talking about four phases, not three. It is hard to see why 5,000 more trips are being projected for this alternative over the other? The advantage of this alternative is fewer trips in Phase I, which is probably the only phase sure to be built, considering all the uncertainties.

**Visual/Aesthetics**

However, this beneficial aesthetic impact is counteracted via the development of S-2, which would bring development in the Sweetwater District closer to the Sweetwater Marsh and Chula Vista Nature Center compared to the Proposed Project. This is not true because the park in S-2 for the current alternative is development and would have an undetermined number of buildings. Also the types of buildings proposed for the parkland would be uninteresting and less aesthetically pleasing than a unified attractive theme that would be used for the hotel.

In summary, the Harbor Park Alternative would result in a significant impact to adjacent/on-site Bay views from Marina Parkway, the E Street Corridor, and the I-5 overpass and would require mitigation. This finding is different from that of the Proposed Project, which identified a low impact to on-site Bay views, which is considered less than significant. This comment proves that the statement that on-site-Bay views would be less than significant for the proposed project is wrong. Obviously they will be as great or greater than the Harbor park alternative. The view would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings.

Views to the Bay across the Sweetwater District would be more obstructed as compared to the Proposed Project due to development on both S-1 and S-2. This development would contribute to blockage of views from the freeway flyover from SR-54 at I-5. Regardless, this partial loss of Bay views would be considered a significant impact and would require mitigation. This impact would not result from the Proposed Project. Again we disagree with this statement. The 120- foot office building and 100 foot hotel would block more of the view than the low rise buildings in the Harbor Alternative. Since the buildings in the Harbor Alternative would be lower than those in the current alternative the view would actually improve. Also the RCC would not be part of the view at all. This statement is quite odd since the RCC will be as high or higher than the freeway, but the buildings in the Harbor alternative will be much lower and not block the view from the freeway.

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Bay Views from E Street: See adjacent/on site Bay views above. Views looking west from the portion of E Street adjacent to S-2 would be obstructed via development of this parcel, which is part of the signature park. Considering the number and size of all the retail/cultural, etc. buildings in the park has not been described or analyzed for proposed alternative in is quiet possible they will be less obstructed in this alternative. The berms likely will block the view beyond S-2 in both alternatives, unless one is in a bus or other high vehicle.

Impacts to this already urban area would not adversely impact the character of the site. The existing bay front is hardly an "urban area." What people love about it is the peacefulness and openness of the land with views of wildlife habitats.

**Harbor Park Alternative** Would the project have a substantially adverse effect on a scenic vista, public view, or public resources (such as a symbol or landmark)? Yes. **Significant Impacts 4.4-1 through 4.4-5** Greater (Same as Proposed Project, as well as significant impacts from Marina Parkway, the E Street Corridor, the I-5 overpass at J Street Corridor, and impacts due to loss of bay view at SR-54/I-5) This is not true. The view from

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(Cont.)

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*Aesthetics/Visual Quality*, and supported by detailed analysis. The discussion of on-site Bay views in the Harbor Park Alternative and the reason for determining a significant impact on these views is sufficiently supported by the discussion in *Chapter 5.0, Alternatives*. The following discussion is provided to summarize the major differences in impacts to on-site Bay views under the Proposed Project and the Harbor Park Alternative as support for why impacts to this viewing scene were determined to be less than significant for the Proposed Project and significant for the Harbor Park Alternative.

Under the Proposed Project, realignment of E Street to the west of the proposed RCC on Parcel H-3, and east of the Signature Park on Parcel S-2, would increase unobstructed views of the Bay and provide more open space than currently exists adjacent to the road. Under the Harbor Park Alternative, the E Street Extension/Marina Parkway alignment would be located further east than the Proposed Project, which would obstruct views of the Bay because the road is now east of retail/cultural uses on Parcel H-3. In addition, views looking west from E Street adjacent to Parcel S-2 would be obstructed by a conference hotel, which would be a Signature Park under the Proposed Project.

The comment also states, "The view [under the Harbor Park Alternative] would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings." Although the E Street Extension is east of Parcel H-3 in the Harbor Park Alternative to allow for a 35-acre Signature Park on Parcel HP-1, this road alignment is not the same under the Proposed Project and will not obstruct views of the Bay. As described above, the realignment of E Street to the west of the proposed RCC on Parcel H-3 in the Proposed Project would increase views of the Bay.

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damaging alternative. By itself it would be better than the current preferred alternative. USFWS has made this clear as well.

The traffic analysis ignores that we are now talking about four phases, not three. It is hard to see why 5,000 more trips are being projected for this alternative over the other? The advantage of this alternative is fewer trips in Phase I, which is probably the only phase sure to be built, considering all the uncertainties.

**Visual/Aesthetics**

However, this beneficial aesthetic impact is counteracted via the development of S-2, which would bring development in the Sweetwater District closer to the Sweetwater Marsh and Chula Vista Nature Center compared to the Proposed Project. This is not true because the park in S-2 for the current alternative is development and would have an undetermined number of buildings. Also the types of buildings proposed for the parkland would be uninteresting and less aesthetically pleasing than a unified attractive theme that would be used for the hotel.

In summary, the Harbor Park Alternative would result in a significant impact to adjacent/on-site Bay views from Marina Parkway, the E Street Corridor, and the I-5 overpass and would require mitigation. This finding is different from that of the Proposed Project, which identified a low impact to on-site Bay views, which is considered less than significant. This comment proves that the statement that on-site-Bay views would be less than significant for the proposed project is wrong. Obviously they will be as great or greater than the Harbor park alternative. The view would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings.

Views to the Bay across the Sweetwater District would be more obstructed as compared to the Proposed Project due to development on both S-1 and S-2. This development would contribute to blockage of views from the freeway flyover from SR-54 at I-5. Regardless, this partial loss of Bay views would be considered a significant impact and would require mitigation. This impact would not result from the Proposed Project. Again we disagree with this statement. The 120- foot office building and 100 foot hotel would block more of the view than the low rise buildings in the Harbor Alternative. Since the buildings in the Harbor Alternative would be lower than those in the current alternative the view would actually improve. Also the RCC would not be part of the view at all. This statement is quite odd since the RCC will be as high or higher than the freeway, but the buildings in the Harbor alternative will be much lower and not block the view from the freeway.

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Bay Views from E Street: See adjacent/on site Bay views above. Views looking west from the portion of E Street adjacent to S-2 would be obstructed via development of this parcel, which is part of the signature park. Considering the number and size of all the retail/cultural, etc. buildings in the park has not been described or analyzed for proposed alternative in is quiet possible they will be less obstructed in this alternative. The berms likely will block the view beyond S-2 in both alternatives, unless one is in a bus or other high vehicle.

Impacts to this already urban area would not adversely impact the character of the site. The existing bay front is hardly an "urban area." What people love about it is the peacefulness and openness of the land with views of wildlife habitats.

**Harbor Park Alternative** Would the project have a substantially adverse effect on a scenic vista, public view, or public resources (such as a symbol or landmark)? Yes. **Significant Impacts 4.4-1 through 4.4-5** Greater (Same as Proposed Project, as well as significant impacts from Marina Parkway, the E Street Corridor, the I-5 overpass at J Street Corridor, and impacts due to loss of bay view at SR-54-I-5) This is not true. The view from

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V-296  
(Cont.)

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**V-300** This comment expresses disagreement with the Revised DEIR's conclusion regarding impacts to off-site Bay views from the east under the Harbor Park Alternative. Specifically, the commenter states, "The 120-foot office building and 100 foot hotel [in the Proposed Project] would block more of the view than the low rise buildings in the Harbor [Park] Alternative," and concludes that the view of the Bay from this vantage point would actually be better under the Harbor Park Alternative as compared to the Proposed Project.

The partial loss of Bay views referred to in this impact analysis for the Harbor Park Alternative is the loss of Bay views across the Sweetwater District, specifically resulting from the additional development on Parcel S-2, which would not result from the Proposed Project. As discussed in the responses to comments V-289 and V-296, the major distinction between the Proposed Project and the Harbor Park Alternative in regard to the Sweetwater District is the development of Parcel S-2. In the Proposed Project, Parcel S-2 is proposed as a Signature Park, rather than a maximum 60-foot-high conference hotel as under the Harbor Park Alternative. Views across Parcel S-2 would remain open and unobstructed, which would not be the case under the Harbor Park Alternative. The other difference, as noted by the commenter, is the maximum building height for development on Parcel S-1, which is greater under the Proposed Project (100 feet versus 60 feet). The 120-foot office building the commenter mentions would be included under both the Proposed Project and the Harbor Park Alternative.

In response to the portion of the comment related to views over the Harbor District in the Proposed Project, the commenter is correct in stating that views will be blocked by the RCC on Parcel H-3. These views occur at such a distance, however, that the view blockage of the corridor will be only a few degrees. Overall visual quality impacts

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damaging alternative. By itself it would be better than the current preferred alternative. USFWS has made this clear as well.

The traffic analysis ignores that we are now talking about four phases, not three. It is hard to see why 5,000 more trips are being projected for this alternative over the other? The advantage of this alternative is fewer trips in Phase I, which is probably the only phase sure to be built, considering all the uncertainties.

**Visual/Aesthetics**

*However, this beneficial aesthetic impact is counteracted via the development of S-2, which would bring development in the Sweetwater District closer to the Sweetwater Marsh and Chula Vista Nature Center compared to the Proposed Project. This is not true because the park in S-2 for the current alternative is development and would have an undetermined number of buildings. Also the types of buildings proposed for the parkland would be uninteresting and less aesthetically pleasing than a unified attractive theme that would be used for the hotel.*

*In summary, the Harbor Park Alternative would result in a significant impact to adjacent/on-site Bay views from Marina Parkway, the E Street Corridor, and the I-5 overpass and would require mitigation. This finding is different from that of the Proposed Project, which identified a low impact to on-site Bay views, which is considered less than significant. This comment proves that the statement that on-site-Bay views would be less than significant for the proposed project is wrong. Obviously they will be as great or greater than the Harbor park alternative. The view would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings.*

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*Impacts to this already urban area would not adversely impact the character of the site. The existing bay front is hardly an "urban area." What people love about it is the peacefulness and openness of the land with views of wildlife habitats.*

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V-296  
(Cont.)

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- V-301** This comment suggests that the E Street Extension/Marina Parkway alignment under the Harbor Park Alternative should be reconsidered so that H Street does not dead-end. This comment also suggests that this road be located west of the cultural buildings proposed on Parcel H-3. In response, the E Street Extension under the Harbor Park Alternative does not meet H Street as it does in the Proposed Project because under the Harbor Park Alternative, Parcel HP-1 contains a 35-acre Signature Park that would preclude alignment of this road so that it meets the terminus of H Street. In response to the commenter's suggestion regarding placement of the E Street Extension/Marina Parkway west of the cultural buildings, see response to comment V-293 regarding circulation impacts resulting from the suggested relocation.
- V-302** This comment suggests that views of the Bay across Parcel S-2 in the Sweetwater District would not be obstructed more under the Harbor Park Alternative than in the Proposed Project because the number and size of the retail/cultural buildings proposed for Parcel S-2 under this alternative were not described or analyzed. As shown in *Table 5.4-1*, the proposed use for Parcel S-2 under this alternative is a conference hotel with two to four stories and a maximum height of 60 feet. As shown in *Table 3-7* in *Section 3.4.4.1, Phase I*, of the Revised DEIR, the proposed use and development of this same parcel in the Proposed Project would be an 18-acre Signature Park. As described on the page following *Table 3-7*, the only buildings proposed for Parcel S-2 in the Proposed Project would be park facilities such as public restrooms. The development on Parcel S-2 in the Proposed Project would therefore be less visually obtrusive from E Street than a 60-foot-high conference hotel as proposed in the Harbor Park Alternative.



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damaging alternative. By itself it would be better than the current preferred alternative. USFWS has made this clear as well.

The traffic analysis ignores that we are now talking about four phases, not three. It is hard to see why 5,000 more trips are being projected for this alternative over the other? The advantage of this alternative is fewer trips in Phase I, which is probably the only phase sure to be built, considering all the uncertainties.

**Visual/Aesthetics**

However, this beneficial aesthetic impact is counteracted via the development of S-2, which would bring development in the Sweetwater District closer to the Sweetwater Marsh and Chula Vista Nature Center compared to the Proposed Project. This is not true because the park in S-2 for the current alternative is development and would have an undetermined number of buildings. Also the types of buildings proposed for the parkland would be uninteresting and less aesthetically pleasing than a unified attractive theme that would be used for the hotel.

In summary, the Harbor Park Alternative would result in a significant impact to adjacent/on-site Bay views from Marina Parkway, the E Street Corridor, and the I-5 overpass and would require mitigation. This finding is different from that of the Proposed Project, which identified a low impact to on-site Bay views, which is considered less than significant. This comment proves that the statement that on-site-Bay views would be less than significant for the proposed project is wrong. Obviously they will be as great or greater than the Harbor park alternative. The view would actually improve in the H3 area because there will be a park instead of 120 foot plus buildings.

Views to the Bay across the Sweetwater District would be more obstructed as compared to the Proposed Project due to development on both S-1 and S-2. This development would contribute to blockage of views from the freeway flyover from SR-54 at I-5. Regardless, this partial loss of Bay views would be considered a significant impact and would require mitigation. This impact would not result from the Proposed Project. Again we disagree with this statement. The 120- foot office building and 100 foot hotel would block more of the view than the low rise buildings in the Harbor Alternative. Since the buildings in the Harbor Alternative would be lower than those in the current alternative the view would actually improve. Also the RCC would not be part of the view at all. This statement is quite odd since the RCC will be as high or higher than the freeway, but the buildings in the Harbor alternative will be much lower and not block the view from the freeway.

Bay Views from Marina Parkway: See adjacent/on-site Bay views above. Impact would be greater as compared to the Proposed Project since the roadway would be located further east, obstructing views along the portion of Marina Parkway east of Parcel H-3. Putting the road further east is a choice that makes H a dead end road. This alignment should be reconsidered. The height number and size of the cultural buildings has not been determined. Marina Parkway should be west of the cultural buildings.

Bay Views from E Street: See adjacent/on site Bay views above. Views looking west from the portion of E Street adjacent to S-2 would be obstructed via development of this parcel, which is part of the signature park. Considering the number and size of all the retail/cultural, etc. buildings in the park has not been described or analyzed for proposed alternative in is quiet possible they will be less obstructed in this alternative. The berms likely will block the view beyond S-2 in both alternatives, unless one is in a bus or other high vehicle.

Impacts to this already urban area would not adversely impact the character of the site. The existing bay front is hardly an "urban area." What people love about it is the peacefulness and openness of the land with views of wildlife habitats.

**Harbor Park Alternative** Would the project have a substantially adverse effect on a scenic vista, public view, or public resources (such as a symbol or landmark)? Yes. **Significant Impacts 4.4-1 through 4.4-5** Greater (Same as Proposed Project, as well as significant impacts from Marina Parkway, the E Street Corridor, the I-5 overpass at J Street Corridor, and impacts due to loss of bay view at SR-54/I-5) This is not true. The view from

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V-296  
(Cont.)

V-297

V-298

V-299

V-300

V-301

V-302

V-303

V-304

**V-303** The commenter disagrees with the statement on page 5-49 in *Chapter 5.0, Alternatives*, where the Revised DEIR characterizes the Bayfront area as an "already urban area" in describing the existing visual character of the project site. As described in *Section 4.1, Land/Water Use Compatibility*, current land and water uses on the Proposed Project area include former industrial use buildings, undeveloped/open space land, the Chula Vista Marina, the California Yacht Marina, the existing South Bay Boatyard, Chula Vista RV Resort, the SBPP, the DG&E switchyard, two restaurants, four parks, a boat launch ramp, and public art.

As discussed in *Section 4.4, Aesthetics/Visual Quality*, a wide range of land uses occur within the Proposed Project's boundary. These uses include commercial, retail, industrial, warehousing, natural open space, marinas, active and passive parks, marine/visitor-related uses, bikeways, transit corridors, and roads. The SDG&E transmission lines run parallel to the Coronado Railroad track, which is within a 40-foot-wide easement that extends the entire length of the project site along its eastern edge. The majority of developed use areas accessible to the public are in the Harbor District. The Otay District is characterized by industrial uses and primarily closed to the public. The Sweetwater District is generally undeveloped.

**V-304** This comment disagrees with the first row in *Table 5.4-9*, where it is stated that the visual quality impacts of the Harbor Park Alternative are greater than those for the Proposed Project due to impacts from Marina Parkway, the E Street Corridor, the I-5 overpass at the J Street Corridor, and loss of Bay views.

The commenter points out that the views from the I-5 overpass at the J Street Corridor would be the same for both the Harbor Park Alternative and the Proposed Project. The commenter is correct. This



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the J Street corridor of the residential will be exactly the same for both alternatives! H-23 was to have a 300- foot hotel in both alternatives. Marina Parkway will not appreciably change. The E street extension if it is moved west will have bay views to the west and the cultural buildings to the east, but will still have views of the mountains beyond Goodrich to the east, which would vanish with Gaylord there. Nothing on S-2, H-3 or S-1 will be high enough to impact views from SR54/I-5 unlike with the current project. Page 6 in Appendix 11, upon which these comments supposedly are based says: "*Harbor Park Alternative – Visually prominent elements are as described above and do not differ from Sweetwater Park Alternatives.*"

V-304  
(Cont.)

Noise

Would the project result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Yes: **Significant Impacts 4.7-1, 4.75, 4.7-9, 4.7-10, and 4.7-11** Greater (Same as Proposed Project, but construction noise impact is more severe due to construction on S-1 and S-2.) This is ridiculous. The proposed project has construction on both S-1 and S-2 as well as a huge amount on H-3 (that this project does not have). These are similar not greater!

V-305

Biological Resources Summary and Mitigation

This analysis ignores the greater likelihood of intrusions, noise, flushing, domestic pets, and trash from the proposed project because of the closeness of a park. Granted all these problems go with the first 200 feet of the buffer and its trails, which are the same for both projects, but the hotel will have staff and supervised activities, which should cut down on this behavior somewhat.

V-306

Paleontological Resources

The Harbor Park Alternative would therefore involve a greater grading and excavation area in the Sweetwater District. This comment ignores the fact that the entire Sweetwater District will be graded in both alternatives for the water quality swale, buffer and numerous buildings (unspecified in size and location). The low- rise hotel on S-1 will be built on the surface just as the buildings planned for the park would be. This is no greater threat to **Paleontological** resources. This statement needs to be changed. Besides if the current mitigation is used neither project would destroy anything. The monitor would make sure of this.

V-307

Since a fire station is found to be needed in this alternative it should be built on H-17 just like the current alternative requires.

V-308

Sewer

This alternative would generate approximately 0.06 MGD more sewage on average than the Proposed Project. The City currently has a capacity of 20.87 MGD and a current flow of 17.00. The City anticipates a future sewage generation rate of 26.20, which would require an additional needed capacity of 5.33 MGD. The City does not have capacity for future generation and would not have adequate capacity to serve the additional sewer generated from the Harbor Park Alternative. This makes absolutely no sense. If this is true then for the exact same reasons the Sweetwater Park alternative also is a significant unmitigatable impact. For both alternatives additional sewage facilities need to be built. There is functionally absolutely no difference. The city needs more sewer capacity. The Sweetwater Park Alternative also contributes to this problem. This tiny bit more could be eliminated by the port insisting upon gray water systems for all future lessees, which the Port ought to do anyway. This needs to be added as an unmitigatable negative impact of the Sweetwater Park Alternative.

V-309

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text is found in *Section 5.4.3.1(g), Impact Analysis of the Harbor Park Alternative—Visual Impacts*, at the top of page 5-50, where the Revised DEIR states that “impacts from this vantage point [looking west from the I-5 overpass at J Street] are similar to that of the Proposed Project.” *Table 5.4-9* has been revised in the Final EIR to omit “the I-5 overpass at J Street Corridor” as part of the list of greater impacts.

The commenter states that views from Marina Parkway would be similarly impacted under the Harbor Park Alternative as in the Proposed Project if the E Street Extension is moved west of the cultural/retail buildings on Parcel H-3. Please see the responses to comments V-293 and V-301 regarding the suggested relocation of this road. It is also important to note that the visual analysis of the Harbor Park Alternative was not based upon the commenter’s suggested relocation of the E Street Extension; therefore, the statements in the Revised DEIR text and in *Table 5.4-9* regarding increased impacts from Marina Parkway under this alternative are accurate and supported in the Revised DEIR.

The commenter also states, “Nothing on S-2, H-3 or S-1 will be high enough to impact views from State Route 54/I-5 unlike with the current project,” and refers to “Appendix 11” as support for this conclusion. There is no “Appendix 11” to the Revised DEIR. The comment does not provide the necessary detail to respond to issues of adequacy or accuracy of the Revised DEIR; therefore, no further response is warranted.

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the J Street corridor of the residential will be exactly the same for both alternatives! H-23 was to have a 300- foot hotel in both alternatives. Marina Parkway will not appreciably change. The E street extension if it is moved west will have bay views to the west and the cultural buildings to the east, but will still have views of the mountains beyond Goodrich to the east, which would vanish with Gaylord there. Nothing on S-2, H-3 or S-1 will be high enough to impact views from SR54/I-5 unlike with the current project. Page 6 in Appendix 11, upon which these comments supposedly are based says: "*Harbor Park Alternative – Visually prominent elements are as described above and do not differ from Sweetwater Park Alternatives.*"

Noise

*Would the project result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Yes: **Significant Impacts 4.7-1, 4.75, 4.7-9, 4.7-10, and 4.7-11** Greater (Same as Proposed Project, but construction noise impact is more severe due to construction on S-1 and S-2.) This is ridiculous. The proposed project has construction on both S-1 and S-2 as well as a huge amount on H-3 (that this project does not have). These are similar not greater!*

Biological Resources Summary and Mitigation

This analysis ignores the greater likelihood of intrusions, noise, flushing, domestic pets, and trash from the proposed project because of the closeness of a park. Granted all these problems go with the first 200 feet of the buffer and its trails, which are the same for both projects, but the hotel will have staff and supervised activities, which should cut down on this behavior somewhat.

Paleontological Resources

*The Harbor Park Alternative would therefore involve a greater grading and excavation area in the Sweetwater District. This comment ignores the fact that the entire Sweetwater District will be graded in both alternatives for the water quality swale, buffer and numerous buildings (unspecified in size and location). The low- rise hotel on S-1 will be built on the surface just as the buildings planned for the park would be. This is no greater threat to **Paleontological** resources. This statement needs to be changed. Besides if the current mitigation is used neither project would destroy anything. The monitor would make sure of this.*

Since a fire station is found to be needed in this alternative it should be built on H-17 just like the current alternative requires.

Sewer

*This alternative would generate approximately 0.06 MGD more sewage on average than the Proposed Project. The City currently has a capacity of 20.87 MGD and a current flow of 17.00. The City anticipates a future sewage generation rate of 26.20, which would require an additional needed capacity of 5.33 MGD. The City does not have capacity for future generation and would not have adequate capacity to serve the additional sewer generated from the Harbor Park Alternative. This makes absolutely no sense. If this is true then for the exact same reasons the Sweetwater Park alternative also is a significant unmitigatable impact. For both alternatives additional sewage facilities need to be built. There is functionally absolutely no difference. The city needs more sewer capacity. The Sweetwater Park Alternative also contributes to this problem. This tiny bit more could be eliminated by the port insisting upon gray water systems for all future lessees, which the Port ought to do anyway. This needs to be added as an unmitigatable negative impact of the Sweetwater Park Alternative.*

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(Cont.)

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V-308

V-309

**V-305** This comment disagrees with the statement in *Table 5.4-20* on page 5-64 of the Revised DEIR that construction noise impacts under the Harbor Park Alternative would be more severe due to the construction on both Parcels S-1 and S-2. The comment states that the Proposed Project has construction on both of these parcels as well. The commenter is correct in that there will be construction on both Parcels S-1 and S-2 in the Proposed Project; however, the construction noise impacts that would result from construction of a Signature Park on Parcel S-2 in the Proposed Project would be greater than construction of a 60-foot-high conference hotel on Parcel S-2 under the Harbor Park Alternative.

Please also note that *Table 5.4-20* clearly identifies that construction noise impacts would result from the Proposed Project (**Significant Impacts 4.7-1, 4.7-5, 4.7-9, 4.7-10, and 4.7-11**). Construction noise impacts from development on Parcel H-3, highlighted by the commenter, are included amongst those impacts (**Significant Impact 4.7-5**).

**V-306** This comment expresses concern that the summary of biological resource impacts under the Harbor Park Alternative ignores certain impacts that the commenter believes would be greater under the Proposed Project due to the closeness of a park, namely "intrusions, noise, flushing, domestic pets, and trash." It is important to note that the Harbor Park Alternative also proposes a park close to the Bay on Parcel HP-1 instead of the RCC proposed in the Proposed Project. As such, any impacts resulting from placement of a park close to the Bay would also exist under the Harbor Park Alternative and would therefore not be greater under the Proposed Project than the Harbor Park Alternative. Impacts to biological resources resulting from the Proposed Project are analyzed in *Section 4.8, Terrestrial Biological Resources*, and *Section 4.9, Marine Biological Resources*. This

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the J Street corridor of the residential will be exactly the same for both alternatives! H-23 was to have a 300- foot hotel in both alternatives. Marina Parkway will not appreciably change. The E street extension if it is moved west will have bay views to the west and the cultural buildings to the east, but will still have views of the mountains beyond Goodrich to the east, which would vanish with Gaylord there. Nothing on S-2, H-3 or S-1 will be high enough to impact views from SR54/I-5 unlike with the current project. Page 6 in Appendix 11, upon which these comments supposedly are based says: "*Harbor Park Alternative – Visually prominent elements are as described above and do not differ from Sweetwater Park Alternatives.*"

Noise

*Would the project result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Yes: Significant Impacts 4.7-1, 4.75, 4.7-9, 4.7-10, and 4.7-11 Greater (Same as Proposed Project, but construction noise impact is more severe due to construction on S-1 and S-2.)* This is ridiculous. The proposed project has construction on both S-1 and S-2 as well as a huge amount on H-3 (that this project does not have). These are similar not greater!

Biological Resources Summary and Mitigation

This analysis ignores the greater likelihood of intrusions, noise, flushing, domestic pets, and trash from the proposed project because of the closeness of a park. Granted all these problems go with the first 200 feet of the buffer and its trails, which are the same for both projects, but the hotel will have staff and supervised activities, which should cut down on this behavior somewhat.

Paleontological Resources

*The Harbor Park Alternative would therefore involve a greater grading and excavation area in the Sweetwater District.* This comment ignores the fact that the entire Sweetwater District will be graded in both alternatives for the water quality swale, buffer and numerous buildings (unspecified in size and location). The low- rise hotel on S-1 will be built on the surface just as the buildings planned for the park would be. This is no greater threat to **Paleontological** resources. This statement needs to be changed. Besides if the current mitigation is used neither project would destroy anything. The monitor would make sure of this.

Since a fire station is found to be needed in this alternative it should be built on H-17 just like the current alternative requires.

Sewer

*This alternative would generate approximately 0.06 MGD more sewage on average than the Proposed Project. The City currently has a capacity of 20.87 MGD and a current flow of 17.00. The City anticipates a future sewage generation rate of 26.20, which would require an additional needed capacity of 5.33 MGD. The City does not have capacity for future generation and would not have adequate capacity to serve the additional sewer generated from the Harbor Park Alternative.* This makes absolutely no sense. If this is true then for the exact same reasons the Sweetwater Park alternative also is a significant unmitigatable impact. For both alternatives additional sewage facilities need to be built. There is functionally absolutely no difference. The city needs more sewer capacity. The Sweetwater Park Alternative also contributes to this problem. This tiny bit more could be eliminated by the port insisting upon gray water systems for all future lessees, which the Port ought to do anyway. This needs to be added as an unmitigatable negative impact of the Sweetwater Park Alternative.

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(Cont.)

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analysis includes a discussion of potential impacts from human and animal intrusion, noise, bird flushing, domestic pets, and trash.

**V-307** This comment disagrees with the conclusion that the Harbor Park Alternative could result in impacts to paleontological resources in the Sweetwater District over a greater area than that of the Proposed Project. The commenter supports this disagreement by stating that the entire Sweetwater District would be graded. Ground-disturbing aspects of the project, such as project-related grading and excavation, have the potential to impact paleontological resources. The more the ground is moved, graded, or excavated, the greater the potential impact to paleontological resources lying below the surface. The Harbor Park Alternative proposes development of a conference hotel on Parcel S-2 instead of a Signature Park as in the Proposed Project, which would result in more grading and excavation of this parcel within the Sweetwater District than if a Signature Park was developed on this parcel. Although grading would occur under both the Harbor Park Alternative and the Proposed Project, the amount of grading and excavation necessary would be greater under the Harbor Park Alternative specifically due to the development of Parcel S-2 as a conference hotel instead of a park. The area of potential impact to paleontological resources would therefore also be greater.

**V-308** This comment states that a fire station should be built on Parcel H-17 under the Harbor Park Alternative as in the Proposed Project. As provided in the response to comment V-294, development of a fire station on Parcel H-17 is not considered feasible under the Harbor Park Alternative because the City has not agreed to acquire Parcel H-17 from the Port, and the Port is precluded by law from providing municipal facilities on Port land. The Port, as the lead agency, can only control its own actions and can therefore not provide a fire station on Parcel H-17 if the City is not willing to acquire this parcel

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the J Street corridor of the residential will be exactly the same for both alternatives! H-23 was to have a 300- foot hotel in both alternatives. Marina Parkway will not appreciably change. The E street extension if it is moved west will have bay views to the west and the cultural buildings to the east, but will still have views of the mountains beyond Goodrich to the east, which would vanish with Gaylord there. Nothing on S-2, H-3 or S-1 will be high enough to impact views from SR54/I-5 unlike with the current project. Page 6 in Appendix 11, upon which these comments supposedly are based says: "*Harbor Park Alternative – Visually prominent elements are as described above and do not differ from Sweetwater Park Alternatives.*"

V-304  
(Cont.)

Noise

Would the project result in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Yes: **Significant Impacts 4.7-1, 4.75, 4.7-9, 4.7-10, and 4.7-11** Greater (Same as Proposed Project, but construction noise impact is more severe due to construction on S-1 and S-2.) This is ridiculous. The proposed project has construction on both S-1 and S-2 as well as a huge amount on H-3 (that this project does not have). These are similar not greater!

V-305

Biological Resources Summary and Mitigation

This analysis ignores the greater likelihood of intrusions, noise, flushing, domestic pets, and trash from the proposed project because of the closeness of a park. Granted all these problems go with the first 200 feet of the buffer and its trails, which are the same for both projects, but the hotel will have staff and supervised activities, which should cut down on this behavior somewhat.

V-306

Paleontological Resources

The Harbor Park Alternative would therefore involve a greater grading and excavation area in the Sweetwater District. This comment ignores the fact that the entire Sweetwater District will be graded in both alternatives for the water quality swale, buffer and numerous buildings (unspecified in size and location). The low- rise hotel on S-1 will be built on the surface just as the buildings planned for the park would be. This is no greater threat to **Paleontological** resources. This statement needs to be changed. Besides if the current mitigation is used neither project would destroy anything. The monitor would make sure of this.

V-307

Since a fire station is found to be needed in this alternative it should be built on H-17 just like the current alternative requires.

V-308

Sewer

This alternative would generate approximately 0.06 MGD more sewage on average than the Proposed Project. The City currently has a capacity of 20.87 MGD and a current flow of 17.00. The City anticipates a future sewage generation rate of 26.20, which would require an additional needed capacity of 5.33 MGD. The City does not have capacity for future generation and would not have adequate capacity to serve the additional sewer generated from the Harbor Park Alternative. This makes absolutely no sense. If this is true then for the exact same reasons the Sweetwater Park alternative also is a significant unmitigatable impact. For both alternatives additional sewage facilities need to be built. There is functionally absolutely no difference. The city needs more sewer capacity. The Sweetwater Park Alternative also contributes to this problem. This tiny bit more could be eliminated by the port insisting upon gray water systems for all future lessees, which the Port ought to do anyway. This needs to be added as an unmitigatable negative impact of the Sweetwater Park Alternative.

V-309

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for development of a fire station as under the Proposed Project.

**V-309** This comment expresses confusion over the identification of sewer impacts under the Harbor Park Alternative. As discussed on page 5-81 in *Section 5.4.12, Public Utilities*, of the Revised DEIR, the impact exists because the City does not have capacity for an anticipated future generation rate of 26.20 million gallons per day (MGD), with a current capacity of only 20.87 MGD. The 5.33 MGD difference between the two numbers reflects an additional needed capacity and would be a significant impact.

The comment then states that if this sewer impact exists under the Harbor Park Alternative, it would also exist in the Proposed Project and should be added as a significant unmitigatable impact for the Proposed Project. In response, the Revised DEIR clearly identifies the same significant sewer impact in Phases II through IV of the Proposed Project as in the Harbor Park Alternative (**Significant Impact 4.14.2-1**) in *Section 4.14, Public Utilities*, and *Chapter 5.0, Alternatives. Mitigation Measure 4.14.2-1 is included in the Revised DEIR to mitigate for this impact in the Proposed Project (see *Section 4.14, Public Utilities*).*

As stated on page 5-82 of the Revised DEIR, "the Harbor Park Alternative would result in significant impacts to water facilities and significant impacts to sewer facilities, similar to the Proposed Project." *Table 5.4-29* summarizes this impact to sewer facilities in both the Proposed Project and the Harbor Park Alternative. Also stated on page 5-82 of the Revised DEIR, the same mitigation measures identified in *Section 4.14, Public Utilities*, would be implemented to mitigate impacts to public utilities under the Harbor Park Alternative. In summary, the impact to sewer capacity has been identified in the Revised DEIR for both the Proposed Project and the

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the J Street corridor of the residential will be exactly the same for both alternatives! H-23 was to have a 300- foot hotel in both alternatives. Marina Parkway will not appreciably change. The E street extension if it is moved west will have bay views to the west and the cultural buildings to the east, but will still have views of the mountains beyond Goodrich to the east, which would vanish with Gaylord there. Nothing on S-2, H-3 or S-1 will be high enough to impact views from SR54/I-5 unlike with the current project. Page 6 in Appendix 11, upon which these comments supposedly are based says: "*Harbor Park Alternative – Visually prominent elements are as described above and do not differ from Sweetwater Park Alternatives.*"

V-304  
(Cont.)

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V-307

Since a fire station is found to be needed in this alternative it should be built on H-17 just like the current alternative requires.

V-308

Sewer

*This alternative would generate approximately 0.06 MGD more sewage on average than the Proposed Project. The City currently has a capacity of 20.87 MGD and a current flow of 17.00. The City anticipates a future sewage generation rate of 26.20, which would require an additional needed capacity of 5.33 MGD. The City does not have capacity for future generation and would not have adequate capacity to serve the additional sewer generated from the Harbor Park Alternative.* This makes absolutely no sense. If this is true then for the exact same reasons the Sweetwater Park alternative also is a significant unmitigatable impact. For both alternatives additional sewage facilities need to be built. There is functionally absolutely no difference. The city needs more sewer capacity. The Sweetwater Park Alternative also contributes to this problem. This tiny bit more could be eliminated by the port insisting upon gray water systems for all future lessees, which the Port ought to do anyway. This needs to be added as an unmitigatable negative impact of the Sweetwater Park Alternative.

V-309

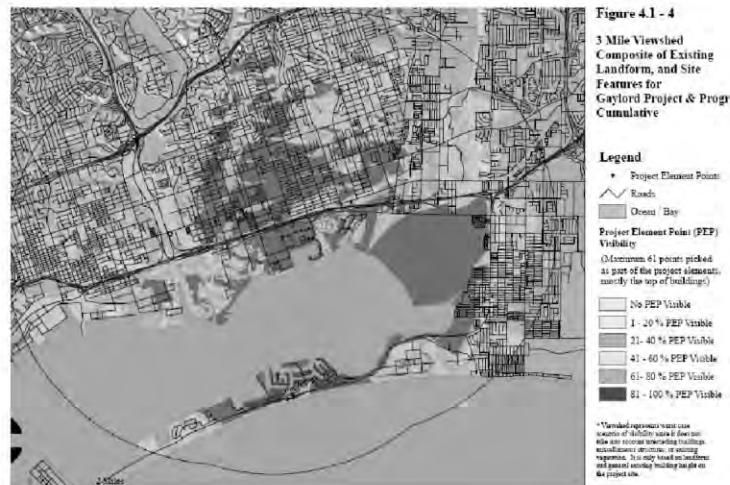
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Harbor Park Alternative, and mitigation is proposed to reduce these impacts to below a level of significance.

The comment also includes a reference to "Page 36, Appendix 15" and a comment regarding "Figures 4.1-4 and 4.1-5." There is no Appendix 15 to the Revised DEIR. The "Figures 4.1-4 and 4.1-5" included in the comment letter are not the Figures 4.1-4 and 4.1-5 included in the Revised DEIR. This comment therefore does not provide the necessary detail to respond to issues of adequacy or accuracy of the Revised DEIR; therefore, no further response is warranted.

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The analysis of the Harbor Park Alternative shown in Figure 4.1-5 includes all of the known buildings associated with the Broader Chula Vista Bayfront project. There are very little differences between 4.1-4 and 4.1-5.



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**No Land Trade Alternative**

The no land trade alternative has to show the Signature Park in the harbor area. It also needs to show the 400- foot buffer in Sweetwater.

Why is the RCC shown in H-3 instead of H-23 for the no land trade alternative? Doesn't it belong in H-23 and the park in H-1 and H-3? The Signature Park was a very important feature of the CAC meeting agreements.

**Alternative Placement of the RCC**

Besides the Harbor Park Alternative with its placement of the RCC south of Goodrich other alternatives need to be considered. Gaylord originally was looking at locations in eastern Chula Vista. Village 13 just east of Upper Otay Lakes is the ideal place for a large conference center like this. There are 200 acres designated as Preserve/Resort. The views from a tall building there would be incredible. There is space for a more sensitive design, a golf course, tennis courts, hiking trails, worker housing, etc. 125 has opened to provide transportation to the site. There is a small airport near-by only used now by gliders, but it could accomodate an air ferry, perhaps, helicopters. Gaylord should be encouraged to consider other locations, including H-23 (as recommended by the CAC) in order to minimize its impacts.

**PMP**

The Wetlands designation may include identified buffers and/or setbacks from delineated wetland areas. Development within wetland buffers is limited to passive uses, such as outlooks, picnic areas, and/or spur-trails. Such improvements should include interpretive and educational opportunities while allowing coastal access in a manner that will ensure the protection and preservation of these sensitive habitat areas. It is totally inappropriate to allow outlooks, picnic areas, and/or spur-trails in wetlands, which in paragraph above are described as: *Wetlands are to be preserved, protected and, where feasible, restored. Development shall be limited to restoration, nature study or similar resource-dependent activities.* Picnic areas and spur trails or outlooks are not passive uses and are not appropriate in wetlands, which can be damaged by foot traffic and are by definition wet. The only development appropriate is restoration as the PMP now says. This new paragraph needs to be changed to delete everything after limited to and replace with restoration to be consistent with existing policy. Nature Study is not development, is resource dependent and emphasizes observing without disturbing.

If the PMP on page 107 specifies the trade of 97 acres for 33 acres why is the DEIR so unclear about these amounts of land?

03108-A2 It says there are Three Phases over 24 Years. It was our understanding that there are four stages. D-Street Habitat Replacement and Marine Sales and Services are totally contradictory uses for this area. Marine Sales and Services need to be eliminated. This is an important breeding area and has been maintained for this use for a number of years. It is not accessible to the public. (The D Street Fill area adjacent to the Sweetwater Flood Control Channel, designated as Estuary, mitigates the loss of intertidal and shallow sub-tidal habitat resulting from the National City Marine Terminal Wharf Extension project.) The marine sales and services use must be dropped. This is land already used as mitigation and classified as Estuary!!

**Sweetwater District**

The Limited Use zone will contain some wetland and upland habitat mitigation, and outlook stations and vegetated berms with appropriate fencing or other barrier surrounding the berms, as well as open space areas with trails. Mitigation land is restored habitat. The DEIR shows no restored habitat in this limited use zone. The restored habitat is in the no-touch zone. This states that the fence will be in the limited use zone. This is more appropriate than the diagram in the DEIR showing the fence inside of the no-use zone. Page 7 shows why putting ecological buffer in phase II would violate the amended PMP: Such

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**V-310** This comment states that the No Land Trade Alternative should show the Signature Park in the Harbor District and the 400-foot buffer in the Sweetwater District. In response, the No Land Trade Alternative is not intended to contain all of the components of the Proposed Project or the Harbor Park Alternative, but is instead an alternate option for development. The Signature Park on Parcel H-3 (Harbor Park Alternative) is not a component of the No Land Trade Alternative; therefore, it is not to be included on the parcel plan (*Figure 5.5-1*) or the illustrative map (*Figure 5.5-2*) for the No Land Trade Alternative. In regard to the 400-foot buffer in the Sweetwater District, it should be noted that no development is proposed in the Sweetwater District under this alternative, no land trade would occur, and all parcels held under option by private developers would remain. This would eliminate the proposed land uses within the Sweetwater District that exist in the Proposed Project and Harbor Park Alternative.

**V-311** This comment expresses confusion as to why the Signature Park on Parcel H-3 in the Harbor Park Alternative is not proposed on Parcel H-3 in the No Land Trade Alternative, but is instead proposed as the RCC in the No Land Trade Alternative. As stated in the response to comment V-310, the No Land Trade Alternative is intended as an alternate development option from the Proposed Project and Harbor Park Alternative and therefore does not include the same components. The comment does not address the adequacy or accuracy of the Revised DEIR; therefore, no further response is warranted.

**V-312** This comment expresses concern regarding the location of the Gaylord RCC on Parcel H-3 in the Proposed Project. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are

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**No Land Trade Alternative**

The no land trade alternative has to show the Signature Park in the harbor area. It also needs to show the 400- foot buffer in Sweetwater.

Why is the RCC shown in H-3 instead of H-23 for the no land trade alternative? Doesn't it belong in H-23 and the park in H-1 and H-3? The Signature Park was a very important feature of the CAC meeting agreements.

V-310

V-311

**Alternative Placement of the RCC**

Besides the Harbor Park Alternative with its placement of the RCC south of Goodrich other alternatives need to be considered. Gaylord originally was looking at locations in eastern Chula Vista. Village 13 just east of Upper Otay Lakes is the ideal place for a large conference center like this. There are 200 acres designated as Preserve/Resort. The views from a tall building there would be incredible. There is space for a more sensitive design, a golf course, tennis courts, hiking trails, worker housing, etc. 125 has opened to provide transportation to the site. There is a small airport near-by only used now by gliders, but it could accomodate an air ferry, perhaps, helicopters. Gaylord should be encouraged to consider other locations, including H-23 (as recommended by the CAC) in order to minimize its impacts.

V-312

**PMP**

The Wetlands designation may include identified buffers and/or setbacks from delineated wetland areas. Development within wetland buffers is limited to passive uses, such as outlooks, picnic areas, and/or spur-trails. Such improvements should include interpretive and educational opportunities while allowing coastal access in a manner that will ensure the protection and preservation of these sensitive habitat areas. It is totally inappropriate to allow outlooks, picnic areas, and/or spur-trails in wetlands, which in paragraph above are described as: *Wetlands are to be preserved, protected and, where feasible, restored. Development shall be limited to restoration, nature study or similar resource-dependent activities.* Picnic areas and spur trails or outlooks are not passive uses and are not appropriate in wetlands, which can be damaged by foot traffic and are by definition wet. The only development appropriate is restoration as the PMP now says. This new paragraph needs to be changed to delete everything after limited to and replace with restoration to be consistent with existing policy. Nature Study is not development, is resource dependent and emphasizes observing without disturbing.

V-313

If the PMP on page 107 specifies the trade of 97 acres for 33 acres why is the DEIR so unclear about these amounts of land?

V-314

03108-A2 It says there are Three Phases over 24 Years. It was our understanding that there are four stages. D-Street Habitat Replacement and Marine Sales and Services are totally contradictory uses for this area. Marine Sales and Services need to be eliminated. This is an important breeding area and has been maintained for this use for a number of years. It is not accessible to the public. (The D Street Fill area adjacent to the Sweetwater Flood Control Channel, designated as Estuary, mitigates the loss of intertidal and shallow sub-tidal habitat resulting from the National City Marine Terminal Wharf Extension project.) The marine sales and services use must be dropped. This is land already used as mitigation and classified as Estuary!!

V-315

**Sweetwater District**

The Limited Use zone will contain some wetland and upland habitat mitigation, and outlook stations and vegetated berms with appropriate fencing or other barrier surrounding the berms, as well as open space areas with trails. Mitigation land is restored habitat. The DEIR shows no restored habitat in this limited use zone. The restored habitat is in the no-touch zone. This states that the fence will be in the limited use zone. This is more appropriate than the diagram in the DEIR showing the fence inside of the no-use zone. Page 7 shows why putting ecological buffer in phase II would violate the amended PMP: Such

V-316

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received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168.

Further, the commenter believes that other locations should be considered for the RCC. In response, the EIR is not required to consider alternatives to components of the Proposed Project, but rather a reasonable range of potentially feasible alternatives to the project that will foster informed decision making and public participation (CEQA Guidelines, Section 15126.6(a)). In order to merit consideration in the EIR, an alternative should meet all or most of the identified project objectives and should reduce one or more significant impacts of the Proposed Project. Due to the nature of the Proposed Project as a master plan for a specific geographic area, an alternative location as a potential alternative to the Proposed Project would not make sense and was not included as part of the Revised DEIR.

**V-313** The uses noted in this comment are not proposed within wetland areas in the project description of the Revised DEIR (page 3-104). Wetlands located within the buffer areas will not be impacted by any development, including trails, overlooks, etc. As such, no changes to the description of the buffers are necessary. The draft PMP Amendment has been revised to not include picnic areas, spur trails, and outlooks within the wetland areas.

**V-314** This comment does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

**V-315** The Port Master Plan Amendment has been revised to reflect that the project will be developed in four phases instead of three to be consistent with the Proposed Project. The D Street Habitat Replacement and Marine Sales and Services are existing land use designations which will not be changed by the Proposed Project.



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mitigation would be implemented in conjunction with development projects. The plan also includes ecological buffers adjacent to environmentally sensitive resources in order to ensure such habitat areas are protected and preserved. Another reason there must be a secure fence.

100 feet is too high in this area. At 100 feet bird strikes become a problem. 60 feet is the height limit previously discussed in the Harbor Park alternative. The "trail" at the terminus of F Street needs to be a bridge so that the connection of this wetland with the bay can be enhanced. The existing culvert is inadequate.

**Otay District**

The existing concrete Telegraph Canyon Creek channel is proposed to be replaced with a more natural vegetated channel. This is what should be in the DEIR instead of an expanded concrete channel with 10 feet of vegetation in the center. A natural channel is much more appropriate. An ecological buffer will be provided along the western boundary of the district between J Street and the RV park. This is insufficient. The buffer also needs to be around the entire north, west and south sides of this area, since it is surrounded by sensitive habitat. Stopping at the RV Park makes no sense. The marsh is also on the north and there is a salt pond on the south.

**LCP**

Page 1-9 probably *south end of Faivre Street*, should say west instead of south.  
4.8-139 *The project as a whole preserves the most sensitive biological resources that are present in the Sweetwater District (adjacent to the Sweetwater Marsh NWR) by relocating the approved residential development to the Harbor District.* This is only partially true, because some of the development in the Sweetwater District has the potential still to cause significant negative impacts. Not as great and as certain as residential development but still needing avoidance and protection strategies to protect sensitive habitat. In addition, the Proposed Project has avoided the sensitive biological resources through the establishment of the ecological buffers along the perimeter of the Sweetwater District. As explained above the Ecological Buffers have not been guaranteed and have not been designed in a satisfactory manner. They also do not avoid all sensitive biological resources in the area and they are planned in phase II after the negative impacts.

**Goals for Development**

"Create an economically sustainable community that generates revenues to support the ability to achieve other Bayfront objectives and encourages private sector participation." Phase I is clearly not economically sustainable and future phases may be wishful thinking. The city will get no income from Gaylord for 20 years it takes to pay off the bonds. Pacifica is in a Redevelopment area so only sales tax from retail will go to the city's General Fund, but many services will be required. The project will entail immediate General Fund expenses:

1. 1.8 acres of land for a fire station.
2. Whatever amount in excess of Pacifica's PFDIF it takes to build a new fire station and equip it with a truck and an engine.
3. The salaries and benefits of 20 full time fire persons to staff the station 24/7 minus whatever can be negotiated as a Port contribution.
4. At least 7 (possibly 10) full-time police officers and staff, minus the Port's contribution.

Considering the city's current financial status this is hardly sustainable. There is the matter of the state law that does not allow a city to undertake more debt in a year than what its income is. It remains to be seen if this will be a problem or not because the total size of the bond apparently has not been determined yet.

"Provide a strong east-west connection between the Bayfront and western Chula Vista by eliminating or reducing barriers to connectivity." Since the Green Line Shuttle has not been funded nor guaranteed, it is likely the bayfront will develop as a self-contained small city with everything the

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**V-316** The comment regarding mitigation within the limited use area is correct, and the PMP Amendment has been revised to reflect the fact that no habitat mitigation, including creation, restoration, or enhancement, is proposed within the limited use area. As noted in response to comment V-200, *Figure 4.8-24* has been revised to depict the fence outside of the "no-touch" portion of the buffer. Regarding phasing of the Parcel SP-1 improvements, please see the response to comment V-160.

**V-317** This comment expresses the preference for a natural channel but does not address the adequacy of the EIR; therefore, no further response is warranted. Please also see the response to comment V-7.

**V-318** This comment expresses opinion about where the buffer should be located. The PMP Amendment has been revised to state that the ecological buffer on OP-2A would narrow to 100 feet wide south of the RV Park, southward to the Liquefied Natural Gas (LNG) site, as stated in the project description on page 3-115.

**V-319** This comment focuses on the LCP, but does not address the adequacy of the Revised DEIR; therefore, no further response is required. The LCP has been revised to clarify the location of the Faivre Street Inland Area.

**V-320** This comment expresses opinion regarding land uses located within the Sweetwater District and the need for avoidance and protection strategies to protect sensitive habitat. The Revised DEIR analyzes this issue in *Section 4.8 Terrestrial Biological Resources*, and provides mitigation measures to protect sensitive habitat.

**V-321** As noted in the response to comment V-313, wetlands within the buffer will be avoided. Some impacts to disturbed coastal sage scrub

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mitigation would be implemented in conjunction with development projects. The plan also includes ecological buffers adjacent to environmentally sensitive resources in order to ensure such habitat areas are protected and preserved. Another reason there must be a secure fence.

100 feet is too high in this area. At 100 feet bird strikes become a problem. 60 feet is the height limit previously discussed in the Harbor Park alternative. The "trail" at the terminus of F Street needs to be a bridge so that the connection of this wetland with the bay can be enhanced. The existing culvert is inadequate.

**Otay District**

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**Goals for Development**

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1. 1.8 acres of land for a fire station.
2. Whatever amount in excess of Pacifica's PFDIF it takes to build a new fire station and equip it with a truck and an engine.
3. The salaries and benefits of 20 full time fire persons to staff the station 24/7 minus whatever can be negotiated as a Port contribution.
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(3.09 acres) would result within the Parcel SP-1 buffer area, but these impacts would be mitigated through replacement of habitat at a 1.5:1 ratio, in accordance with the requirements of the City's Subarea Plan. Regarding phasing of the Parcel SP-1 improvements, please see the response to comment V-160.

**V-322** This comment focuses on the LCP, which outlines several goals and policies to achieve through the Proposed Project, in accordance with the Coastal Act. Pacifica will generate sales and tax increment that can be used within the redevelopment area. These factors will contribute to an economic sustainable community. Please see the response to comment V-237 regarding fire station staffing.

**V-323** This comment expresses concern with meeting the goal regarding provision of a strong east-west connection between the Bayfront and western Chula Vista. The Proposed Project meets that goal by implementing a series of public road improvements, bike lanes, and pedestrian walkways that will encourage visitors from western Chula Vista.

In addition, the Green Car Line is not a component of this project. *Chapter 3.0, Project Description*, of the Revised DEIR makes reference to the City's adopted Urban Core Specific Plan, which identifies the potential for this shuttle service. The implementation of this shuttle is not part of the Proposed Project, however; in response to this comment, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. Please also see the responses to comments K-12 and P-2.

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visitors and residents need provided west of I-5. In fact in the energy and traffic sections of the DEIR this is the intention in order to reduce the use of cars and save energy it is assumed people will recreate and meet their needs close to home and hotel by walking or biking. The situation in Chula Vista is dramatically different than with the Convention Center downtown. The freeway is an effective barrier to keep people on the west side of I-5. Also the area immediately to the east is residential for a number of blocks until Broadway, except for the businesses along H Street-not conducive to strolling as in San Diego. Also Gaylord's entire business plan will entertain people as well as house them and provide retail outlets for purchases as well as recreational facilities and trails. There will be three more hotels that will provide another 1500 rooms for over-flow and numerous more restaurants and retail establishments along the marina and elsewhere on the bayfront. Eventually there will be offices that may actual provide jobs for some of the residents. This plan will create a separate community that will likely be visited by the other residents of Chula Vista, but considering the added traffic burden will likely be more disconnected than now.

*Provide good regional access to encourage visitors to the Bayfront.* The DEIR states that traffic on I-5 will be unmitigatable negative impact of F, which is virtual grid-lock. This hardly will provide good regional access or encourage visitors. The ferry in Phase 4 may bring a few.

*"Provide for the long-term protection of important natural resources, including those within the National Wildlife Refuge."* Putting the 400-foot Ecological buffer in Phase 2 does just the opposite of this. It also says in the DEIR that it will be finished "as funds become available." This is totally unacceptable and a violation of this goal. There is no specific protection for the mud flats west of the Sweetwater District. The DEIR makes no mention of bird flushing and has no means of counteracting this. There are no rules or specific details about the park insuring that users will not damage the Refuge. There are no mandated training programs for construction workers and operational workers insuring that they will be educated about sensitive habitats and the need to protect them. There are no funded rangers for important patrolling and protecting resources. There is no funded predator management plan, natural resources plan, wildlife rehabilitation program or anything else to meet this goal.

Page 2-6 The buffer is said to be a minimum of 200 feet. This should say 400 feet with the 200 feet closest to the Refuge restored habitat and a no-touch zone.

As now written the current DEIR's description of the project does not conform to the Coastal Act.

**Parcel area 2G (H-17).**

It is stated herein that this is owned by the city of Chula Vista, but nowhere is it indicated how the city managed to purchase this lot. If there was a land trade with the Port it is not described in the DEIR and the city appears to still own the 16 acres it has always owned in the Sweetwater District, so what was traded to get this parcel?

*Objective: Ample opportunities should be provided for public open space and areas adjacent to the natural resources of the Chula Vista Coastal Zone to increase public access to the waterfront. A balanced and well-defined mix of land uses should be provided that will be responsive to the development and conservation goals of the Chula Vista LCP. Sensitive natural resources, including but not limited to saltwater marshes, submerged aquatic habitat and mudflats, should be preserved and enhanced to protect the many natural resources values of the habitat and contribute to the visual quality of the Bayfront.*

This objective is not being met, because there is no commitment to restoring the seasonal wetland in Sweetwater District by improving its tidal flushing by removing Lagoon Drive and creating a channel where there now is an inadequate culvert. Having the Ecological buffer in Phase 2 and not providing for a sturdy fence will not meet any habitat protection goals. There is also the problem that this buffer is to be established only "as funds become available." This is not in compliance with the preservation and protection goals of the LCP.

*Objective: Allow development intensity that provides for the economic development of the Bayfront within the capacity of public service and infrastructure systems.*

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**V-324** This comment states that traffic on I-5 will inhibit achieving the goal of providing good regional access to encourage visitors to the Bayfront. The project will participate in regional efforts to resolve congestion on I-5 through implementation of **Mitigation Measure 4.2-8**.

**V-325** Regarding phasing of the Parcel SP-1 improvements, please see the response to comment V-160. The mudflats would be protected from indirect effects associated with the Proposed Project by buffering and other measures, including use restrictions for the Signature Park, as further described in **Mitigation Measure 4.8-6** of the Revised DEIR. Please see the response to comment V-9 regarding bird flushing. Please see the response to comment Q-22 regarding predator management and natural resource management plans. Please see the response to comment V-49 regarding construction worker education. Please also see the responses to comments B-6, B-23, and C-11 regarding education. Port Code, Section 8.02, "Park Areas Regulated," addresses concern regarding potential impacts from park users.

**V-326** The reference in the LCP has been revised to be consistent with the language in the Revised DEIR.

**V-327** This comment expresses opinion that the Revised DEIR's description of the Proposed Project does not conform to the Coastal Act. The Revised DEIR contains a thorough project description in Section 3.0. As demonstrated in *Table 4.1-7*, the Proposed Project meets the goals and intent of the Coastal Act. The comment does not identify in what way the project description fails to conform to the Coastal Act; therefore, no further response is possible. .

**V-328** As described on page 3-74 of *Chapter 3.0, Project Description*, H-17

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visitors and residents need provided west of I-5. In fact in the energy and traffic sections of the DEIR this is the intention in order to reduce the use of cars and save energy it is assumed people will recreate and meet their needs close to home and hotel by walking or biking. The situation in Chula Vista is dramatically different than with the Convention Center downtown. The freeway is an effective barrier to keep people on the west side of I-5. Also the area immediately to the east is residential for a number of blocks until Broadway, except for the businesses along H Street-not conducive to strolling as in San Diego. Also Gaylord's entire business plan will entertain people as well as house them and provide retail outlets for purchases as well as recreational facilities and trails. There will be three more hotels that will provide another 1500 rooms for over-flow and numerous more restaurants and retail establishments along the marina and elsewhere on the bayfront. Eventually there will be offices that may actual provide jobs for some of the residents. This plan will create a separate community that will likely be visited by the other residents of Chula Vista, but considering the added traffic burden will likely be more disconnected than now.

*Provide good regional access to encourage visitors to the Bayfront.* The DEIR states that traffic on I-5 will be unmitigatable negative impact of F, which is virtual grid-lock. This hardly will provide good regional access or encourage visitors. The ferry in Phase 4 may bring a few.

*"Provide for the long-term protection of important natural resources, including those within the National Wildlife Refuge."* Putting the 400-foot Ecological buffer in Phase 2 does just the opposite of this. It also says in the DEIR that it will be finished "as funds become available." This is totally unacceptable and a violation of this goal. There is no specific protection for the mud flats west of the Sweetwater District. The DEIR makes no mention of bird flushing and has no means of counteracting this. There are no rules or specific details about the park insuring that users will not damage the Refuge. There are no mandated training programs for construction workers and operational workers insuring that they will be educated about sensitive habitats and the need to protect them. There are no funded rangers for important patrolling and protecting resources. There is no funded predator management plan, natural resources plan, wildlife rehabilitation program or anything else to meet this goal.

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As now written the current DEIR's description of the project does not conform to the Coastal Act.

**Parcel area 2G (H-17).**

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*Objective: Ample opportunities should be provided for public open space and areas adjacent to the natural resources of the Chula Vista Coastal Zone to increase public access to the waterfront. A balanced and well-defined mix of land uses should be provided that will be responsive to the development and conservation goals of the Chula Vista LCP. Sensitive natural resources, including but not limited to saltwater marshes, submerged aquatic habitat and mudflats, should be preserved and enhanced to protect the many natural resources values of the habitat and contribute to the visual quality of the Bayfront.*

This objective is not being met, because there is no commitment to restoring the seasonal wetland in Sweetwater District by improving its tidal flushing by removing Lagoon Drive and creating a channel where there now is an inadequate culvert. Having the Ecological buffer in Phase 2 and not providing for a sturdy fence will not meet any habitat protection goals. There is also the problem that this buffer is to be established only "as funds become available." This is not in compliance with the preservation and protection goals of the LCP.

**Objective:** Allow development intensity that provides for the economic development of the Bayfront within the capacity of public service and infrastructure systems.

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is currently within the jurisdiction of the Port and is proposed for acquisition by the City for the site of a new fire station.

**V-329** Please see the response to comment Q-10 regarding the removal of Lagoon Drive. Regarding phasing of the Parcel SP-1 improvements, see response to comment V-160. Please see the response to comment V-64 regarding fencing.

**V-330** This comment expresses concern over financing of public infrastructure. Please see the responses to comments V-236 and V-237 regarding the fire station. The impact of the Proposed Project on existing deficiency in library services is disclosed and discussed in *Section 4.13.5, Library Service*, of the Revised DEIR.

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In the DEIR the Fire Department states that the new station must have a truck and an engine and be staffed by 7 firepersons 24/7. This means the city must have General Fund income to pay 20 more firepersons. The city does not have this income nor any projection of this much more income from the projects in Phase 1 since ALL income from Gaylord for 20 years will pay off bonded debt and Pacifica is in a Redevelopment area. Tax increment cannot be used for General Fund expenses. The city will collect a PFDIF from Pacifica, but there is no way this amount alone will pay for the land, building and equipment for this fire station. The city already owes its residents a library from this fund, which the treasurer does not believe will be built before 2013. The 1500 residential put an added strain on the existing library deficit. The housing market has slowed down significantly and the city borrowed to pay for its new Police Station and Civic Center. These bonds are being paid off by future PFDIF funds at the rate of approximately 500 typical payments per year until 2033-36. Due to these debt payments we are missing a library and very little is likely to be available for a fire station for a number of years.

There is also the matter of the 7-10 additional police officers, their equipment, and support personnel that the Police Chief believes will be needed to provide for the Bayfront project as it develops. This is a significant amount of money with no income to the General Fund until the retail and hotels of Phase 2 are built and operating.

There is also a drought, which makes the availability of potable water in doubt, a lack of sewer capacity and an uncertainty about sufficient energy.

**General Circulation and Public Access Objective/Policies**

The DEIR states that traffic on I-5 will be an unmitigatable negative impact of the CVBMP. This will hardly make this a desirable place to come nor does this plan minimize traffic congestion. It actually creates or worsens traffic congestion. Exhibit 9A shows the "Green Line Trolley," but the DEIR indicates no plans for funding it and makes it clear that it will only be funded when "funds become available." This much uncertainty makes this as well as "private jitneys" seem extremely uncertain, if not unlikely.

**Policy A.C2** Making roads on the bayfront "Urban Core Roads" so that D level traffic is now allowed does nothing to prevent traffic congestion, merely justifies it. Not including the signalized intersections at freeway ramps allows development to take place that will cause congestion.

**Policy A.C7** The land use mix identified in this Land Use Plan has been selected to avoid congestion of the freeways and connection arterials. All development within the LCP Planning Area shall be consistent with the land use policies of this Plan. The DEIR in declaring the impact to the freeway and H and E trolley crossings as unmitigatable makes clear that this is not true.

Policy A.R11, Policy A.R12, Policy A.R15, Policy A.R19 It is difficult to understand how changing roads from 4 to two lanes or two to three lanes or 5 to 4 to 3 or 6 to 4 will help traffic in anyway. What seems more likely to happen is the creation of numerous bottlenecks that will slow traffic considerably.

If Policy A.R13 actually means F Street will be completely removed (which is not what the DEIR and the PMP say this is a very good action for the enhancement of the 'seasonal wetlands.')

Policy A.R14 The 100- car parking lot in the DEIR is not small.

Policy A.PT1 Some means must be found for funding these "convenient shuttle stops" or they should not be included in this document as a means of mitigating or preventing traffic or meeting the goal to get people to use the trolley. There is a totally different kind of situation in Chula Vista than at the San Diego Convention Center. In San Diego people need only to cross the street to be at a trolley station and in a commercial district. The bayfront in Chula Vista is cut off from the rest of the city by I-5. People are not likely to cross I-5 to walk some distance to the trolley station. Convenient shuttles are a necessity to meet this objective. People are not likely to often get in a car and drive through blocks of residential to arrive at a commercial center on Broadway or access stores along H. They are more likely to get on the freeway and go to the Zoo or Sea World or the beach in Imperial Beach.

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(Cont.)

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**V-331** Section 4.13.2, *Police Protection*, of the Revised DEIR thoroughly analyzes potential impacts to police services as a result of the EIR and, based on adopted thresholds, finds there is a less-than-significant impact regarding police services. Please see the response to comment V-238.

**V-332** This comment expresses concern about the availability of water, sewer capacity and energy supply. The Revised DEIR analyzes each of these issues in depth, as can be found in *Section 4.14, Public Utilities*, and *Section 4.16, Energy*. Please also see the responses to comments V-240, V-241, and V-242 regarding water supply and availability and responses to comments V-50, V-174, V-244, and V-251 regarding energy.

**V-333** See response to comment V-12 regarding the Green Car Line. Please see the response to comment V-148 regarding the I-5 South Corridor Study.

**V-334** This comment expresses an opinion about "Urban Core Roads" but does not address the adequacy of the EIR; therefore, no further response is warranted. Please also see the response to comment V-100.

**V-335** This comment expresses a concern with compliance with Policy A.C7 regarding avoiding congestion of freeways and arterials. Existing freeway conditions in the project area operate at degraded levels of service. *Section 4.2, Traffic and Circulation*, of the Revised DEIR analyzes potential traffic impacts and provides mitigation to reduce impacts to area roadways to the extent possible. Although the Proposed Project will contribute additional project traffic, it promotes the goal of avoiding freeway congestion through **Mitigation Measure 4.2-8**, which requires the Port and City to participate in the I-5 South Corridor Study and requires developers to participate in the WTDIF to reduce impacts from the Proposed Project.

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In the DEIR the Fire Department states that the new station must have a truck and an engine and be staffed by 7 firepersons 24/7. This means the city must have General Fund income to pay 20 more firepersons. The city does not have this income nor any projection of this much more income from the projects in Phase 1 since ALL income from Gaylord for 20 years will pay off bonded debt and Pacifica is in a Redevelopment area. Tax increment cannot be used for General Fund expenses. The city will collect a PFDIF from Pacifica, but there is no way this amount alone will pay for the land, building and equipment for this fire station. The city already owes its residents a library from this fund, which the treasurer does not believe will be built before 2013. The 1500 residential put an added strain on the existing library deficit. The housing market has slowed down significantly and the city borrowed to pay for its new Police Station and Civic Center. These bonds are being paid off by future PFDIF funds at the rate of approximately 500 typical payments per year until 2033-36. Due to these debt payments we are missing a library and very little is likely to be available for a fire station for a number of years.

There is also the matter of the 7-10 additional police officers, their equipment, and support personnel that the Police Chief believes will be needed to provide for the Bayfront project as it develops. This is a significant amount of money with no income to the General Fund until the retail and hotels of Phase 2 are built and operating.

There is also a drought, which makes the availability of potable water in doubt, a lack of sewer capacity and an uncertainty about sufficient energy.

**General Circulation and Public Access Objective/Policies**

The DEIR states that traffic on I-5 will be an unmitigatable negative impact of the CVBMP. This will hardly make this a desirable place to come nor does this plan minimize traffic congestion. It actually creates or worsens traffic congestion. Exhibit 9A shows the "Green Line Trolley," but the DEIR indicates no plans for funding it and makes it clear that it will only be funded when "funds become available." This much uncertainty makes this as well as "private jitneys" seem extremely uncertain, if not unlikely.

**Policy A.C2** Making roads on the bayfront "Urban Core Roads" so that D level traffic is now allowed does nothing to prevent traffic congestion, merely justifies it. Not including the signalized intersections at freeway ramps allows development to take place that will cause congestion.

**Policy A.C7** The land use mix identified in this Land Use Plan has been selected to avoid congestion of the freeways and connection arterials. All development within the LCP Planning Area shall be consistent with the land use policies of this Plan. The DEIR in declaring the impact to the freeway and H and E trolley crossings as unmitigatable makes clear that this is not true.

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Policy A.R14 The 100- car parking lot in the DEIR is not small.

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V-330  
(Cont.)

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V-336 Please see the response to comment V-97

V-337 Please see the response to comment Q-10.

V-338 This comment expresses opinion regarding the size of a parking lot. However, the proposed parking lot will minimize impacts to sensitive resources consistent with Policy A.R 14.

V-339 This comment expresses the opinion that convenient shuttle stops should be funded or should not be used as mitigation for traffic impacts. The Traffic Analysis for the Revised DEIR did not consider transit stops or shuttles as mitigation for traffic impacts. Please see the response to comment V-147. Consistent with the LCP Policy, the Proposed Project encourages the use of transit shuttles for interconnectivity with existing trolley stations.

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**Exhibit 10**

This exhibit shows E Street and Marina Parkway where it now is both still in existence as major roadways. This is contrary to the PMP and the DEIR, which have a private roadway—"Gaylord Drive in the back of the building and no public road.

**Objective** Plan and develop the Bayfront to ensure provision of important views to, from, and within the project area.

The views from freeways and major entry points are totally or largely obscured by high rises according to the visual simulations in the DEIR. This objective to protect views from freeways has not been met. If indeed everything is setback 100 feet from the edge of H, E, and J there may be a narrow view as one drives along and past these roads. E Street and Marina Parkway will be the only internal roads with a view. Bay Blvd., C, A are likely to only have views of High Rise buildings.

**Landscape**

Evergreens 40-60 foot high on Bay Blvd would really make any views impossible from the freeway. The City Park is awfully close to the marshes. 80- foot high trees don't seem appropriate and would be much loved by hawks to hunt from. It does not seem to make sense to put spikes on buildings to keep raptors from perching and then plant 80- foot tall trees even closer to the marshes. 40-60 foot high formal planting along marina, E, etc. will obscure the views of the bay that the previous objective was insisting upon. This seems extremely inconsistent. Drought tolerate native or naturalizing plant materials shall be used to the maximum extent feasible. Many naturalizing plants are invasive so caution needs to be used with these plants.

**Drainage**

Grading and drainage concepts incorporated into the street plans use the streets with a curb and gutter system as the primary storm water collection system. This contradicts what is in the DEIR for both Gaylord and Pacifica where after treatment water goes into an in street storm drainage pipe.

**Environmental Management**

**Objective** Long-term protection and enhancement of critical natural habitat areas should be provided by cooperating in a multi-jurisdictional planning and implementation plan with adequate safeguards and guarantees. The land exchange is an extremely important way of meeting this objective, but without the Ecological Buffer with an adequate fence in place before any thing in Phase I is open to the public there are not adequate safeguards and guarantees to protect natural habitat areas. If the L-Street ditch is to remain there must be more extensive policies and plans for its protection than simply a 50- foot buffer.

Mitigation for all disturbance of wetland areas shall be provided at a ratio of 4:1 with an approved combination of creation and enhancement. The DEIR does not use this ratio.

**Objective** Protect, maintain, and enhance wildlife habitat within the Sweetwater Marsh National Wildlife Refuge while allowing public enjoyment of coastal resources.

This objective is not met unless funding for the buffer is identified and it is built with an adequate fence in Phase One. Also the 100- foot office building on city property is too high and too close to the SNWR. This height needs to be lowered. The parking needs to be in back of the building and the building moved further south. This is a landlocked lot so building anything here seems questionable, but the LCP should have a lower building. The hotel at 125 feet is also too high.

**Policy** SA2.F.44 The entry to the Bayfront from "F" Street shall emphasize the view down "F" Street to the bay as this shall be a major pedestrian access point to the "F&G" Street Marsh. This needs to be reworded. People do not have access to the F&G Street marsh and access would be inconsistent with objectives of LCP to protect and enhance natural habitats. Perhaps, substituting to the Bayfront or to the Nature Center shuttle stop or simply leave it as pedestrian access point would be appropriate.

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**V-340** In response to this comment, the LCP has been revised to reflect the correct roadway alignment.

**V-341** As noted in the comment, the Revised DEIR analyzes potential impacts through the demonstration of the views in *Figure 4.4.6* in *Section 4.4, Aesthetics/Visual Quality*, and considers the impacts as significant (**Significant Impacts 4.4-1 and 4.4-2**). As concluded in *Section 4.4.6* of the Revised DEIR, those impacts would remain significant and unmitigated. Please also see the response to comment V-167.

**V-342** This comment expresses an opinion regarding the height of trees and their impact on views and as potential predator perches. The locations of trees indicated in LCP Amendment Table 3-3 is representative only and, as indicated in table footnote 2, does not reflect locations approved in the Proposed Project. The actual location of large trees will be consistent with the analysis of visual impacts, the preservation of views, and the avoidance of predator perches as required in *Section 4.4, Aesthetics/Visual Quality*, and *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR.

**V-343** The comment's suggestions concerning naturalizing plants will be considered in final design of the landscape plans.

**V-344** This comment misconstrues the LCP. The LCP states that street drainage shall utilize a curb and gutter drainage system. It does not state that developed parcels are required to use a curb and gutter system. Therefore, the plan is consistent with the LCP.

**V-345** Regarding phasing of the Parcel SP-1 improvements, see response to comment V-160. Please also see the response to comment V-64. The proposed 50-foot buffer surrounding the L-Ditch is consistent with CCC policies regarding wetland buffers.

Comment Letter V (Page 56)

**Exhibit 10**

This exhibit shows E Street and Marina Parkway where it now is both still in existence as major roadways. This is contrary to the PMP and the DEIR, which have a private roadway—"Gaylord Drive in the back of the building and no public road.

**Objective** Plan and develop the Bayfront to ensure provision of important views to, from, and within the project area.

The views from freeways and major entry points are totally or largely obscured by high rises according to the visual simulations in the DEIR. This objective to protect views from freeways has not been met. If indeed everything is setback 100 feet from the edge of H, E, and J there may be a narrow view as one drives along and past these roads. E Street and Marina Parkway will be the only internal roads with a view. Bay Blvd., C, A are likely to only have views of High Rise buildings.

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Evergreens 40-60 foot high on Bay Blvd would really make any views impossible from the freeway. The City Park is awfully close to the marshes. 80- foot high trees don't seem appropriate and would be much loved by hawks to hunt from. It does not seem to make sense to put spikes on buildings to keep raptors from perching and then plant 80- foot tall trees even closer to the marshes. 40-60 foot high formal planting along marina, E, etc. will obscure the views of the bay that the previous objective was insisting upon. This seems extremely inconsistent. Drought tolerate native or naturalizing plant materials shall be used to the maximum extent feasible. Many naturalizing plants are invasive so caution needs to be used with these plants.

**Drainage**

Grading and drainage concepts incorporated into the street plans use the streets with a curb and gutter system as the primary storm water collection system. This contradicts what is in the DEIR for both Gaylord and Pacifica where after treatment water goes into an in street storm drainage pipe.

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Mitigation for all disturbance of wetland areas shall be provided at a ratio of 4:1 with an approved combination of creation and enhancement. The DEIR does not use this ratio.

**Objective** Protect, maintain, and enhance wildlife habitat within the Sweetwater Marsh National Wildlife Refuge while allowing public enjoyment of coastal resources.

This objective is not met unless funding for the buffer is identified and it is built with an adequate fence in Phase One. Also the 100- foot office building on city property is too high and too close to the SNWR. This height needs to be lowered. The parking needs to be in back of the building and the building moved further south. This is a landlocked lot so building anything here seems questionable, but the LCP should have a lower building. The hotel at 125 feet is also too high.

**Policy** SA2.F.44 The entry to the Bayfront from "F" Street shall emphasize the view down "F" Street to the bay as this shall be a major pedestrian access point to the "F&G" Street Marsh. This needs to be reworded. People do not have access to the F&G Street marsh and access would be inconsistent with objectives of LCP to protect and enhance natural habitats. Perhaps, substituting to the Bayfront or to the Nature Center shuttle stop or simply leave it as pedestrian access point would be appropriate.

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**V-346** Pursuant to LCP Policy A.EM5, a ratio less than 4:1 can be applied if approved by the City and resource agencies.

**V-347** Regarding phasing of the Parcel SP-1 improvements, please see the response to comment V-160. Please see the response to comment V-64 regarding fencing. The remainder of this comment expresses the author's opinion regarding the height of future office and hotel buildings in the Sweetwater District. When specific proposals are made for such development, additional environmental review will be required pursuant to CEQA Guidelines, Section 15168.

**V-348** This comment expresses opinion regarding characterization of "pedestrian access"; however, a significant objective of the Proposed Project is to provide additional access to the Bayfront, and the Revised DEIR demonstrates consistency with the objective.



Comment Letter V (Page 57)

**Harbor Area**

The USFWS is mentioned as a major landowner in the Harbor District. Is this correct?

**Discrepancies in tables 4.8-3A, 4.8-3B, 4.8-3C.**

If all of city and port project level impacts are added up from totals on Table 4.8-3A the sum comes to 160.03 acres, but Table 4.8-3B shows a sum of only 131.51. This gives the public another reason to doubt the accuracy of the mitigation figures.

There is also an error in the total on Table 4.8-4A since obviously the Port's total of 592.38 and city's total of 50.32 do not equal the total given on the Table of 463.60.

**Page 30, Heights**

125 and 100 feet are too high for Sweetwater District parcel.

**Park Land**

Obviously number of acres will meet level required but will they meet this requirement? *The PMP emphasizes marine-oriented activities, and also states that public recreation uses operated by the Port "must be of the appropriate type and size to be efficiently developed, administered, and maintained" at a reasonable cost.* Since there is no specific description of the parkland provided, it is impossible for the public to ascertain if the cost of maintenance of all this acreage will be reasonable or not. It is also stated in the document that amenities will be provided as funds become available, which leaves the public wondering if ever.

**Conclusion**

*In this document we have many references to various web sites. We wish to make clear that the information on these sites is also intended to be part of the public record.*

In summary the current DEIR does not meet minimal disclosure requirements for a project level EIR for any of the projects in Phase I. The project description is totally inadequate to provide the public with the information needed to fully evaluate the probable adverse negative environmental effects of the project and suggest specific mitigations or ways of avoiding impacts. It is suggested that the entire DEIR be considered programmatic and the Reduction in Density & Height alternative be adopted with the inclusion of the buffer, parks and shuttle service, as well as the fire station in the bond.

[http://www.ceres.ca.gov/topic/env\\_law/ceqa/guidelines/index.html](http://www.ceres.ca.gov/topic/env_law/ceqa/guidelines/index.html)

a) Basic Purposes of CEQA.

The basic purposes of CEQA are to:

(1) Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.

The lack of specific descriptions of projects has denied the SWCVCA the information needed to fully determine the potential, significant environmental effects, because the proposed activities are not precisely described.

(2) Identify the ways that environmental damage can be avoided or significantly reduced.

The DEIR does not specifically identify ways of avoiding or significantly reducing specific environmental damage. In fact it begins by declaring a great deal of environmental damage to air quality, energy availability, aesthetics, and traffic to be unavoidable if the project is implemented as planned.

(3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.

(4) Choosing an alternative way of meeting the same need;

It is clearly feasible and possible to adopt specific mitigation measures and change the project by adopting the Reduced Density & Height Alternative. The vagueness of the project descriptions actually makes it impossible to determine exactly what the effects are that need to be mitigated and, therefore,

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**V-349** This comment states that the LCP Amendment identified the USFWS as a major land owner in the Harbor District. This is incorrect. The LCP Amendment identifies the USFWS as a major land owner in the Planning Area (see page I-9 of *Appendix 4.1-2*).

**V-350** In response to this comment, please note that the Final EIR has been revised to include a new table in *Section 4.8, Terrestrial Biological Resources (Table 4.8-3B)* because Phase I development now includes both project- and program-level components. As such, *Table 4.8-3A* now summarizes the impacts to vegetation communities and land cover types (Port and City), which are subsequently identified by each parcel in *Tables 4.8-3B, 4.8-3C, and 4.8-3D*. In addition, the Final EIR has been revised to correct mathematical errors in these tables. In terms of project-level impacts (referenced by the commenter), *Table 4.8-3A* identifies 61.58 acres within both the Port and City jurisdictions (Sweetwater and Harbor districts). The new *Table 4.8-3B* identifies the same 61.58 acres of project-level impacts within both Port and City jurisdictions.

**V-351** The Final EIR has been revised to correct mathematical errors in *Table 4.8-3A*. As shown in *Table 4.8-3A* in the Final EIR, impacts to vegetation communities and land cover types will total 587.20 acres in the Port's jurisdiction and 52.12 acres within the City's jurisdiction, for a grand total of 639.32 acres. This grand total is supported by the subsequent tables (*Tables 4.8-3B, 4.8-3C, and 4.8-3D*), which identify impacts per parcel. The grand total of all impact acreages in *Tables 4.8-3B, 4.8-3C, and 4.8-3D* is also 639.32 acres.

**V-352** This comment expresses an opinion that building heights in the Sweetwater District are too high but does not identify any impact not analyzed in the Revised DEIR that may result from the building heights. The comment does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

Comment Letter V (Page 57)

**Harbor Area**

The USFWS is mentioned as a major landowner in the Harbor District. Is this correct?

**Discrepancies in tables 4.8-3A, 4.8-3B, 4.8-3C.**

If all of city and port project level impacts are added up from totals on Table 4.8-3A the sum comes to 160.03 acres, but Table 4.8-3B shows a sum of only 131.51. This gives the public another reason to doubt the accuracy of the mitigation figures.

There is also an error in the total on Table 4.8-4A since obviously the Port's total of 592.38 and city's total of 50.32 do not equal the total given on the Table of 463.60.

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125 and 100 feet are too high for Sweetwater District parcel.

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**Conclusion**

*In this document we have many references to various web sites. We wish to make clear that the information on these sites is also intended to be part of the public record.*

In summary the current DEIR does not meet minimal disclosure requirements for a project level EIR for any of the projects in Phase I. The project description is totally inadequate to provide the public with the information needed to fully evaluate the probable adverse negative environmental effects of the project and suggest specific mitigations or ways of avoiding impacts. It is suggested that the entire DEIR be considered programmatic and the Reduction in Density & Height alternative be adopted with the inclusion of the buffer, parks and shuttle service, as well as the fire station in the bond.

[http://www.ceres.ca.gov/topic/env\\_law/ceqa/guidelines/index.html](http://www.ceres.ca.gov/topic/env_law/ceqa/guidelines/index.html)

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The lack of specific descriptions of projects has denied the SWCVCA the information needed to fully determine the potential, significant environmental effects, because the proposed activities are not precisely described.

(2) Identify the ways that environmental damage can be avoided or significantly reduced.

The DEIR does not specifically identify ways of avoiding or significantly reducing specific environmental damage. In fact it begins by declaring a great deal of environmental damage to air quality, energy availability, aesthetics, and traffic to be unavoidable if the project is implemented as planned.

(3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.

(4) Choosing an alternative way of meeting the same need;

It is clearly feasible and possible to adopt specific mitigation measures and change the project by adopting the Reduced Density & Height Alternative. The vagueness of the project descriptions actually makes it impossible to determine exactly what the effects are that need to be mitigated and, therefore,

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**V-353** This comment expresses concern regarding meeting the parks requirement. As described in *Table 4.12-6 through Table 4.12-9 of Section 4.12, Hazards and Hazardous Materials/Public Safety*, of the Revised DEIR, based on City of Chula Vista thresholds, the Proposed Project meets all park demand required. The location and description of the park plan to be provided in the Proposed Project is identified in *Table 4.13-6 through Table 4.13-9 of Section 4.13.3, Parks and Recreation*, of the Revised DEIR.

**V-354** Please see the responses to comments V-2 and V-4.

**V-355** Please see the response to comment V-2.

**V-356** This comment states a general comment that the Revised DEIR does not identify ways of avoiding or significantly reducing environmental damage. In fact, the Revised DEIR identifies all potential significant environmental effects of the Proposed Project and provides over 130 different feasible mitigation measures to reduce impacts to a less-than-significant level in most cases (see *Table 1-9* of the Revised DEIR). Where impacts cannot be mitigated, findings are made as such, and a Statement of Overriding Considerations shall be prepared.

**V-357** This comment states it is possible to change the project by adopting the Reduced Density and Height Alternative and expresses concern over vagueness of the project description. This comment will be included in the Final EIR and considered by the Board of Port Commissioners when it makes its decision whether or not to approve the project or one of the proposed alternatives. Please see the response to comment V-2 regarding the project description.

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impossible to determine exactly what appropriate strategies for avoidance or mitigation would help reduce them below the level of significance.

5) *Disapproving the project;*

6) *Finding that changing or altering the project is not feasible;*

7) *Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.*

The citizens of Chula Vista should not be expected to have to tolerate the declaration of overriding circumstances for so much environmental damage that could be largely avoided and/or mitigated by changing the project and adopting appropriate mitigation measures suggested during various meetings prior to the issuance of this and the former document. It is also questionable whether considering the Port's trust requirements and goals that the Port could ever legally make such a finding without violating its obligation to protect the lands it manages in trust for the people of California.

There is also the issue of environmental justice. These unmitigatable negative effects will most affect the people living in western Chula Vista. We have a lower median income and are much more ethnically diverse than in the east. The negative burdens of this project as now written will fall disproportionately upon us.

**15021. Duty to Minimize Environmental Damage and Balance Competing Public Objectives**

(a) *CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.*

(1) *In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.*

(2) *A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.*

There are feasible alternatives to this project and there are mitigation measures that in conjunction with these alternatives would substantially lessen any significant effects. Even assuming the Port is right that the entire project depends on Gaylord, which is very questionable, their RCC could be located at H-23 and H-9 instead of H-3. Also the buffer zone could be functional before construction starts and the projects could describe detailed and specific ways they would avoid environmental damage. Since the governor declared California would reduce its carbon footprint by 80% by 2030, all projects must be held to a much higher standard.

b) *When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.*

(c) *If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.*

**15091. Findings**

(a) *No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:*

(1) *Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.*

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**V-358** This comment expresses an opinion about the project and whether the lead agency should approve the project. This does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

**V-359** This comment states the opinion that unmitigated environmental impacts can be considered an environmental justice issue because they will unfairly burden the low-income portion of the community. The comment does not provide any data or factual information to support this opinion. Environmental justice concerns generally relate to the placement of undesirable land uses in low-income communities. The Proposed Project is intended to develop a master plan that is economically sustainable, provides revenue generation, and encourages private sector participation in the creation of a world-class Bayfront (page 1-5 of the Revised DEIR). Environmental justice concerns generally involve social and economic issues, which are not considered significant environmental effects under CEQA (CEQA Guidelines, Section 15064(e)).

**V-360** This comment summarizes CEQA Guidelines, Section 15021 but does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

**V-361** This comment makes the general statement that there are feasible alternatives and mitigation measures that would substantially lessen any significant effects of the Proposed Project. The comment does not identify any specific impacts, alternatives, or mitigation measures; therefore, no further response is possible or necessary. Please see the response to comment V-288 regarding the opinion that the RCC should be located on Parcels H-23 and H-9 instead of Parcel H-3. Please see the response to comment V-160 regarding the phasing of the buffer. Please see *Section 4.6, Air Quality*, of the Revised DEIR regarding the Proposed Project's consistency with AB 32 and California's goals for the reduction of greenhouse gas emissions.

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(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Actually there are specific economic, legal, social considerations of this Master Plan that require mitigation measures not mentioned in the DEIR. Instead of providing employment opportunities for highly trained workers as certain research, industrial and educational uses would the Port Master Plan largely provides employment opportunities in hotels and retail that are largely low and very low paying. The city of Chula Vista already has an obligation to provide 6,500 more housing units for existing low and very low- income workers. If as many as 3,000 or more workers in this category are going to need housing in Chula Vista as a result of this master plan this would have significant negative economic and social impacts upon the city, which are not analyzed. (If people instead lived in Tijuana the city would lose multiplier effect of many dollars.)

The reduced Air Quality would have severe adverse health affects on existing and future residents that have not been analyzed. The Traffic Congestion would increase the Green House Gas production in the area at a time when the city and the state are trying to lower it. The increased water use would exasperate the current drought conditions. Even though the increased bond debt might be paid over time by Gaylord in the mean time the Port and the city will need money to provide all the extra services required by this project-without the income from Gaylord. What affect will this have on other services they are obligated by law to provide? The theory that Gaylord will bring other low wage businesses to the area only exasperates the existing socio-economic problems caused by the RCC. Gaylord's per room profits estimates have been declining, which would make repayment of the bond much longer.

Gaylord shares jump after billionaire boosts stake

Gaylord Entertainment shares surge on speculation that Robert Rowling may pursue a deal July 18, 2008: 03:52 PM EST

NEW YORK (Associated Press) - Shares of Gaylord Entertainment Co. surged on Friday afternoon after an analyst speculated that Texas billionaire Robert Rowling may pursue an acquisition or joint venture with the hotel operators.

Gaylord shares jumped \$1.99, or 7.6 percent, to \$28.05 in afternoon trading, after climbing as high as \$29.10. During the past 52 weeks, the stock has dropped from a high of \$59.89 in August 2007 to touch a low of \$19.30 on Monday.

On Wednesday and Thursday, Rowling's TRT Holdings Inc. reported buying roughly 1.2 million Gaylord shares earlier in the week. The purchases boosted Rowling's stake in the company to 5.3 million shares, or roughly 13 percent, according to the Securities and Exchange Commission filings.

Citigroup analyst Joshua Attie listed four potential outcomes for the investment. He noted that the stake may be for investment purposes and TRT may not take action. On the other hand, he said TRT may pursue a strategic alliance or joint venture with the company or push Gaylord to explore strategic alternatives, including a sale.

The analyst said TRT may also seek to acquire the company itself, possibly through a tender offer. "We would have very mixed feelings about (management) selling the company at a premium to the current share price, but at a time when valuation is depressed," Attie wrote. The analyst said a strategic alliance would be the best outcome, potentially allowing Gaylord to accelerate unit growth and improve its balance sheet.

A representative of TRT Holdings, which owns the Omni Hotel chain and Gold's Gym, was not immediately available to comment.

Gaylord's vice president of corporate communications, Brian Abrahamson, said in a phone interview that the Nashville, Tenn.-based company has not engaged in talks with TRT at this point.

"We welcome long-term investors in Gaylord stock, especially those who know and understand the hotel business and share our enthusiasm for the growth prospects of the company," Abrahamson said.

Earlier Friday, Morgan Keegan & Co. analyst Napoleon Overton lowered his estimates for Gaylord's revenue per available room, citing "persistent deterioration in economic trends impacting lodging demand."

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**V-362** This comment quotes CEQA Guidelines regarding statements of overriding considerations and the findings that are required to be made upon approval of a project. The comment erroneously considers the factors for determining whether a mitigation measure is feasible as factors that require imposition of a mitigation measure. The comment also states that the Proposed Project will create low- and very low-paying employment opportunities, which will impact the availability of low-income housing in the City. Please see the response to comment Q-28 regarding affordable housing, and a description of the expected employment opportunities on pages 7-1 and 7-2 of the Revised DEIR.

**V-363** Please see the response to comment V-172 regarding the health effects associated with reduced air quality. This comment states that the Proposed Project's traffic will increase green house gas emissions. The contribution of traffic to green house gas emissions is analyzed in *Section 4.6, Air Quality* (pages 4.6-49 through 4.6-61 of the Revised DEIR). Please also see the response to comment V-247.

**V-364** This comment expresses opinion regarding water use and drought conditions but does not address the adequacy of the Revised DEIR; therefore, no further response is warranted. Please see the responses to comments V-240, V-241, and V-242.

**V-365** This comment expresses concern about funding infrastructure and the ability to provide funding for public services. Funds for providing incremental services to the Bayfront are allocated from gross project revenues before funds are made available for debt service. Revenues available for debt sizing and annual debt service are referred to as "new net revenues" and are calculated net of the project's incremental service costs. These incremental service costs are generally referred to as operation and maintenance costs.

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(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Actually there are specific economic, legal, social considerations of this Master Plan that require mitigation measures not mentioned in the DEIR. Instead of providing employment opportunities for highly trained workers as certain research, industrial and educational uses would the Port Master Plan largely provides employment opportunities in hotels and retail that are largely low and very low paying. The city of Chula Vista already has an obligation to provide 6,500 more housing units for existing low and very low- income workers. If as many as 3,000 or more workers in this category are going to need housing in Chula Vista as a result of this master plan this would have significant negative economic and social impacts upon the city, which are not analyzed. (If people instead lived in Tijuana the city would lose multiplier effect of many dollars.)

The reduced Air Quality would have severe adverse health affects on existing and future residents that have not been analyzed. The Traffic Congestion would increase the Green House Gas production in the area at a time when the city and the state are trying to lower it. The increased water use would exasperate the current drought conditions. Even though the increased bond debt might be paid over time by Gaylord in the mean time the Port and the city will need money to provide all the extra services required by this project-without the income from Gaylord. What affect will this have on other services they are obligated by law to provide? The theory that Gaylord will bring other low wage businesses to the area only exasperates the existing socio-economic problems caused by the RCC. Gaylord's per room profits estimates have been declining, which would make repayment of the bond much longer.

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Citigroup analyst Joshua Attie listed four potential outcomes for the investment. He noted that the stake may be for investment purposes and TRT may not take action. On the other hand, he said TRT may pursue a strategic alliance or joint venture with the company or push Gaylord to explore strategic alternatives, including a sale. The analyst said TRT may also seek to acquire the company itself, possibly through a tender offer.

"We would have very mixed feelings about (management) selling the company at a premium to the current share price, but at a time when valuation is depressed," Attie wrote. The analyst said a strategic alliance would be the best outcome, potentially allowing Gaylord to accelerate unit growth and improve its balance sheet.

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Earlier Friday, Morgan Keegan & Co. analyst Napoleon Overton lowered his estimates for Gaylord's revenue per available room, citing "persistent deterioration in economic trends impacting lodging demand."

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V-366 Please see the response to comment V-365.

V-367 This comment expresses concern about low-wage businesses in the area but does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

V-368 This comment expresses concern about the effect of Gaylord's profit estimates on repayment of the bonds. The comment does not address the adequacy of the Revised DEIR; therefore, no further response is warranted.

As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on Parcel H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168.

V-369 This comment states the opinion that unmitigated environmental impacts can be considered an environmental justice issue because they will unfairly burden the low-income portion of the community. The comment does not provide any data or factual information to support this opinion. Environmental justice concerns generally relate to the placement of undesirable land uses in low-income communities. The Proposed Project is intended to develop a master plan that is economically sustainable, provides revenue generation, and encourages private sector participation in the creation of a world-class Bayfront (page 1-5 of the Revised DEIR). Environmental justice

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Revpar, or revenue per available room, is considered a key gauge of a hospitality company's performance.  
<http://money.cnn.com/news/newsfeeds/articles/apwire/128fc020dd0dd10c59cf82f1197e06f2.htm>

The state has another law guaranteeing Environmental Justice. The imposition of grid-locked traffic on I-5, delays at trolley crossings, and the congestion to be tolerated by changing the classification of city roads to classifications making D LOS acceptable could be considered an environmental justice issue because it will unfairly burden the lower income minority communities of Chula Vista while not affecting the higher income eastern portion of the city with lower percentages of minority residents, which will still have the same thresholds requiring roads to operate without this congestion. Considering the negative health affects documented to be caused by the lower air quality caused by congested roads this would be significant. A few references:  
<http://www.sdearthtimes.com/et1002/et1002a21.htm>; <http://www.sdearthtimes.com/et1002/et1002a21.htm>;  
[http://www.hs-sc.gc.ca/ewh-sent/air/out-ext/effe/health\\_effects-effets\\_sante-eng.php](http://www.hs-sc.gc.ca/ewh-sent/air/out-ext/effe/health_effects-effets_sante-eng.php);  
<http://familydoctor.org/online/famdocen/home/common/asthma/triggers085.html>;  
[http://www.mnforsustain.org/climate\\_health\\_effects\\_of\\_air\\_pollution\\_mishra\\_pem.htm](http://www.mnforsustain.org/climate_health_effects_of_air_pollution_mishra_pem.htm)

(b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

The Port and the city have concurrent jurisdiction to deal with feasible mitigation measures and alternatives. The differences between the proposed LCP and the proposed PMP could be construed as an attempt to avoid responsibility by confusing the issues and deferring responsibility to another agency.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.

(f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21081, and 21081.6, Public Resources Code; Laurel Hills Homeowners Association v. City Council (1978) 83 Cal.App.3d 313; Cleary v. County of Stanislaus (1981) 118 Cal.App.3d 348; Sierra Club v. Contra Costa County (1992) 10 Cal.App.4th 1212; Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3d 433.

**Discussion:** This section brings together statutory, regulatory, and case law requirements dealing with findings which an agency must make before approving a project for which an EIR was prepared. The statute in Section 21081 provides that a **separate finding must be made for each significant effect.**<sup>16</sup> This section avoids the problem of agencies deferring to each other, with the result that no agency deals with the problem. This result would be contrary to the strong policy declared in Sections 21002 and 21002.1 of the statute.

**Substantial evidence to support the findings**<sup>17</sup> appears to be required to implement the legislative intent of this section. The Legislature wanted agencies to deal directly with the facts presented in the EIR. Although the courts have often drawn the distinction between quasi-adjudicatory findings which must be supported by substantial evidence and quasi-legislative findings which need not be supported by substantial evidence, the Legislature has blurred this distinction by requiring all agencies to make these findings in response to specific facts in an EIR without regard to whether the decision could be classified as legislative or adjudicatory. In requiring this finding, the Legislature appears to have removed the partition between the two pigeon holes and required agencies to grapple with the facts as presented in the EIR.

<sup>16</sup> Emphasis added

<sup>17</sup> Emphasis added

V-369  
(Cont.)

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concerns generally involve social and economic issues, which are not considered significant environmental effects under CEQA (CEQA Guidelines, Section 15064(e)). The physical impacts of increased traffic congestion and trolley delay are fully analyzed in *Section 4.2, Traffic and Circulation*, of the Revised DEIR.

**V-370** The comment accuses the City and Port of purposefully creating confusion between the LCP and PMP. In fact, the Port legal land use planning mechanism is the PMP and contents of the plan must be consistent with Coastal Act and CSLC goals and policies. The City's vehicle to approve their land uses within the Coastal Zone is the LCP, which has a different set of regulatory parameters. As between the City and the Port, the responsibility for implementing mitigation is clearly stated at the beginning of each mitigation measure recommended in the Revised DEIR. This comment does not address the adequacy of the EIR; therefore, no further response is warranted.

**V-371** This comment quotes portions of CEQA Guidelines, Section 15091 and the requirement that findings be supported by substantial evidence. The comment also states the opinion that more detail is needed. In the event the Board of Port Commissioners decides to approve the project, it will be required to adopt written findings pursuant to Section 15091, supported by substantial evidence. The comment does not identify specific findings to which it relates; therefore, no further response is warranted.

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Clearly there is a need for much more detail and specific facts in the DEIR so that the public and decision makers will have adequate information to base any decision about this project.

*Where the courts have required agencies to make findings, they have required three elements. First, the agency must make the ultimate finding called for in the statute. Second, the finding must be supported by substantial evidence in the record. Third, the agency must present some explanation to supply the logical step between the ultimate finding and the facts in the record. Section 15091 requires that all three elements must be addressed. This section implements many court decisions interpreting the findings requirement. The decisions include City of Rancho Palos Verdes v. City Council of the City of Rolling Hills Estates, (1976) 59 Cal. App. 3d 869; Mountain Defense League v. Board of Supervisors, (1977) 65 Cal. App. 3d 723; Village Laguna of Laguna Beach, Inc. v. Board of Supervisors, (1982) 134 Cal. App. 3d 1022.*

*The court in Citizens For Quality Growth v. Mount Shasta (1988) 198 Cal. App. 3d 433, found that passing reference to mitigation measures are insufficient to constitute a finding, as nothing in the lead agency's resolutions binds it to follow [those] measures. In this case, there was nothing in the lead agency findings which obligated the project proponent to implement the necessary measures to effectuate the mitigation.*

Other than the ratio replacement of habitat, a fire station, traffic lights and road enlargements there is little to no commitment to mitigation and avoidance measures in the DEIR. None of these passing references constitute adequate mitigation according to case cited above. Gaylord is not specifically bound to do anything. The Port or the city must take up the slack and bind themselves as well as demonstrate a clear means of financing adopted measures into the future or specific mitigations must be assigned to specific parties to mitigate specific adverse environmental effects prior to anything being built. The existing DEIR is too vague to do this.

Sincerely,

Theresa Acerro  
President  
Southwest Chula Vista Civic Association

Miscellaneous Questions

1. 4.4-5 Mitigation 4.4-1 is irrelevant to the Silverstrand.
2. 4.4-7, 4.4-8 How does 4.4-1 mitigate "disparity of scale" and its moderate significant impact?
3. If Nature Center Road is in Phase I why is extension of F street to it left to Phase IV?
4. Specifically what will be done to prevent bird strikes on the Atrium, since its description appears to have every one of the danger signs?
5. How can it be said the population and housing is not a significant impact when this project plans on adding 3,000 to 5,000 low wage jobs and we already have working poor living two, three or more families to a home in Chula Vista?
6. 6.5-26, etc. How can some of these be evaluated as less than significant and others as unmitigatable?
7. How can Air Quality be significant and Unmitigatable but green house gas be less than significant?

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**V-372** This comment quotes an unidentified legal treatise concerning the requirement for findings under CEQA Guidelines, Section 15091 and states there is little to no commitment to mitigation in the Revised DEIR. This opinion is not supported by facts and is contrary to the more than 130 mitigation measures recommended in the Revised DEIR. See *Table 1.9* on pages 1-27 through 1-122. Accordingly, no further response is warranted.

**V-373** *Section 4.4, Aesthetics/Visual Quality*, of the Revised DEIR identifies a significant impact to the public viewing scene from the Silver Strand (**Significant Impact 4.4-5**) and proposes **Mitigation Measure 4.4-1** to reduce this impact to below a level of significance. The commenter does not believe that the mitigation measure relates to the impact to the Silver Strand.

As stated in *Section 4.4, Aesthetics/Visual Quality*, the Proposed Project would substantially change the existing public viewing scene from the Silver Strand because the built environment would become the major background focal point. The height and bulk of the buildings that will make up the viewing scene from the Silver Strand would result in a dramatic scale imbalance between the existing landform and structures. **Mitigation Measure 4.4-1** reduces this impact by requiring the design of buildings for large-scale projects (greater than two stores in height) to incorporate design techniques that will distribute building massing, interrupt vertical elements, and implement smaller scale massing. These plans will be implemented to diminish building edges, monotonous facades, and straight-edge building rooflines and profiles. In addition, **Mitigation Measure 4.4-1** requires the use of step backs, landscaping considerations, and gateway plans to protect open views, widen the view corridors, and enhance the visual quality of the viewing scene.

**V-374** *Section 4.4, Aesthetics/Visual Quality*, of the Revised DEIR identifies



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Other than the ratio replacement of habitat, a fire station, traffic lights and road enlargements there is little to no commitment to mitigation and avoidance measures in the DEIR. None of these passing references constitute adequate mitigation according to case cited above. Gaylord is not specifically bound to do anything. The Port or the city must take up the slack and bind themselves as well as demonstrate a clear means of financing adopted measures into the future or specific mitigations must be assigned to specific parties to mitigate specific adverse environmental effects prior to anything being built. The existing DEIR is too vague to do this.

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a significant impact to visual character associated with the height and massing of the Pacifica Residential and Retail Project (**Significant Impact 4.4-7**) and the RCC (**Significant Impact 4.4-8**) and proposes **Mitigation Measure 4.4-1** to reduce these impacts to below a level of significance. The commenter questions how this mitigation measure will mitigate the disparity of scale that contributes to the significant impacts identified for the Pacifica project and RCC.

As provided in the response to comment V-373, **Mitigation Measure 4.4-1** requires the incorporation of design techniques that will distribute building massing, separate the building base from its upper elevation, interrupt vertical elements, and reduce the appearance of scale issues for the Pacifica project site. In addition, these techniques will diminish building edges, monotonous facades, and straight-edge building rooflines and profiles.

**V-375** The comment questions why the extension of F Street is proposed for Phase IV when the Nature Center Access Road on Parcel SP-3 is proposed for Phase I. As discussed in *Chapter 3.0, Project Description*, in the Revised DEIR, access to Parcel SP-3, where the new Nature Center parking lot and access road are proposed, will be from the proposed E Street Extension and the new F Street segment proposed in Phase IV (page 3-135). The new F Street segment between the terminus of the existing F Street and the proposed E Street Extension is not necessary for access to Parcel SP-3 prior to Phase IV; however, because access will be provided from the E Street Extension, which is proposed in Phase I. The new F Street segment is proposed in Phase IV to correspond with the development of Parcel S-3 as a mixed-use office and commercial recreation space.

**V-376** As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC



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Clearly there is a need for much more detail and specific facts in the DEIR so that the public and decision makers will have adequate information to base any decision about this project.

↑ V-371  
(Cont.)

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Other than the ratio replacement of habitat, a fire station, traffic lights and road enlargements there is little to no commitment to mitigation and avoidance measures in the DEIR. None of these passing references constitute adequate mitigation according to case cited above. Gaylord is not specifically bound to do anything. The Port or the city must take up the slack and bind themselves as well as demonstrate a clear means of financing adopted measures into the future or specific mitigations must be assigned to specific parties to mitigate specific adverse environmental effects prior to anything being built. The existing DEIR is too vague to do this.

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development on Parcel H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168.

**V-377** The comment questions why the Revised DEIR did not identify a significant impact to population and housing. The commenter believes that the project would add low-paying jobs and implies that this would result in an impact to the population and housing available for existing low-income families in Chula Vista.

As stated in *Section 4.17, Population and Housing*, of the Revised DEIR, and according to CEQA Guidelines, Appendix G, a significant impact to population and housing would exist if the Proposed Project (1) induces substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure); or (2) displaces substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere. In response, the comment does not provide any facts or data in support of its opinion regarding the wage that will be paid for jobs created by the Proposed Project. Moreover, the provision of jobs that would result from the Proposed Project would not substantially add to the population of people demanding housing in Chula Vista. It is expected that both locally unemployed and under-employed persons, as well as people from regions outside of San Diego County, would fill most of the jobs created by implementation of the Proposed Project. As stated in *Section 4.17, Population and Housing*, of the Revised DEIR, the Proposed Project would have a beneficial effect by contributing to the economy of the Chula Vista region in terms of jobs, personal income,

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Clearly there is a need for much more detail and specific facts in the DEIR so that the public and decision makers will have adequate information to base any decision about this project.

*Where the courts have required agencies to make findings, they have required three elements. First, the agency must make the ultimate finding called for in the statute. Second, the finding must be supported by substantial evidence in the record. Third, the agency must present some explanation to supply the logical step between the ultimate finding and the facts in the record. Section 15091 requires that all three elements must be addressed. This section implements many court decisions interpreting the findings requirement. The decisions include City of Rancho Palos Verdes v. City Council of the City of Rolling Hills Estates, (1976) 59 Cal. App. 3d 869; Mountain Defense League v. Board of Supervisors, (1977) 65 Cal. App. 3d 723; Village Laguna of Laguna Beach, Inc. v. Board of Supervisors, (1982) 134 Cal. App. 3d 1022.*

*The court in Citizens For Quality Growth v. Mount Shasta (1988) 198 Cal. App. 3d 433, found that passing reference to mitigation measures are insufficient to constitute a finding, as nothing in the lead agency's resolutions binds it to follow [those] measures. In this case, there was nothing in the lead agency findings which obligated the project proponent to implement the necessary measures to effectuate the mitigation.*

Other than the ratio replacement of habitat, a fire station, traffic lights and road enlargements there is little to no commitment to mitigation and avoidance measures in the DEIR. None of these passing references constitute adequate mitigation according to case cited above. Gaylord is not specifically bound to do anything. The Port or the city must take up the slack and bind themselves as well as demonstrate a clear means of financing adopted measures into the future or specific mitigations must be assigned to specific parties to mitigate specific adverse environmental effects prior to anything being built. The existing DEIR is too vague to do this.

Sincerely,

Theresa Acerro  
President  
Southwest Chula Vista Civic Association

Miscellaneous Questions

1. 4.4-5 Mitigation 4.4-1 is irrelevant to the Silverstrand.
2. 4.4-7, 4.4-8 How does 4.4-1 mitigate "disparity of scale" and its moderate significant impact?
3. If Nature Center Road is in Phase I why is extension of F street to it left to Phase IV?
4. Specifically what will be done to prevent bird strikes on the Atrium, since its description appears to have every one of the danger signs?
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6. 6.5-26, etc. How can some of these be evaluated as less than significant and others as unmitigatable?
7. How can Air Quality be significant and Unmitigatable but green house gas be less than significant?

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and tax revenues. Please see the response to comment Q-28 regarding impacts on affordable housing in Chula Vista.

**V-378** The comment questions how some cumulative traffic impacts are reduced to below a level of significance after mitigation while others remain significant and unmitigated. **Mitigation Measure 6.5-1** is provided to reduce cumulative impacts to I-5; however, because neither the Port nor the City is conducting the overall I-5 Corridor Study, the Port and the City cannot ensure the performance of this mitigation by any other entity. The commitment, as described in the Revised DEIR in **Mitigation Measure 6.5-1**, is that all project developments shall pay their fair share towards project and cumulative impacts to the I-5 South Corridor. The results of the study will identify regional solutions to the cumulative traffic impacts on I-5. The development of the WTDIF ensures that the fees shall be collected and applied to the appropriate areas that warrant mitigation based on traffic studies.

**V-379** The commenter questions why significant impacts to air quality are considered to remain significant and unmitigated after mitigation but significant impacts resulting from greenhouse gas emissions are mitigated to below a level of significance. As discussed in *Section 4.6, Air Quality*, of the Revised DEIR, the significance criteria for air quality impacts on page 4.6-24 are different from the significance criteria for climate change impacts on page 4.6-26. Mitigation measures to reduce impacts to air quality (**Mitigation Measures 4.6-1, 4.6-2, 4.6-3, 4.6-4, and 4.6-5**) would reduce air quality impacts of the Proposed Project, but would not reduce construction, area, and operations emissions to a level below the standard established by the South Coast Air Quality Management District and provided in the Revised DEIR. Air quality impacts would therefore remain significant and unmitigated.

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The analysis of potential impacts due to greenhouse gas emissions and the specific project design features that will be required to reduce emissions are discussed in *Section 4.6, Air Quality*, in the Revised DEIR. **Mitigation Measure 4.6-6** is required to reduce significant impacts to climate change that would result from the potential for program-level components of the Proposed Project (Phases II through IV) to conflict with the goals or strategies of the California Global Warming Solutions Act of 2006 (AB 32). The mitigation provided in the Revised DEIR would require program-level development projects to adopt greenhouse gas emission-reduction measures similar to those adopted by the Pacifica Residential and Retail Project; however, the mitigation also takes into consideration that new, more effective design features may be available prior to the initiation of Phases II through IV and would therefore be required of individual projects as determined by subsequent environmental analyses. **Mitigation Measure 4.6-6** is considered to mitigate the significant impact to climate change from program-level components to below a level of significance because these projects would be required, as conditions of approval, to adopt greenhouse gas emission-reduction measures that would reduce emissions to a substantially greater reduction than 20 percent below "business as usual." The increased efficiency demands associated with completion years beyond 2020 are not specified in terms of business-as-usual reductions because the increased demand for greater reductions for developments beyond the 2020 horizon year and the rapid development of better technology may provide feasible mechanisms and technological applications to avoid conflicts with the goals and strategies of AB 32. Implementation of **Mitigation Measure 4.6-6** would therefore reduce the impact to climate change resulting from a potential conflict with the goals or strategies of AB 32 to below a level of significance.

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**V-380** This comment questions why the Proposed Project's significant impact on energy (**Significant Impact 4.16-1**) is mitigated to below a level of significance but the cumulative energy impact **Significant Impact 6.17-1** remains significant and unmitigated. The significant impact on energy resulting from the long-term energy consumption that would result from the Proposed Project would be reduced to below a level of significance through implementation of **Mitigation Measure 4.16-1**, as well as the efforts by SDG&E for long-term energy supply, as outlined in their filing with the CPUC. Cumulative impacts to energy result when a project's incremental effect is cumulatively considerable, whereby "cumulatively considerable" means that the effects of an individual project are significant when added to the effects of past, present, and probable future projects causing related effects (CEQA Guidelines, Section 15130). Despite the fact that the project would reduce direct impacts to energy to below a level of significance, the potential cumulative impact relative to energy supply would remain significant and unmitigated because of the uncertainty of the future demand and supply of energy. The Revised DEIR includes **Mitigation Measure 6.17-1** to reduce potential cumulative impacts; however, due to the uncertain nature of long-term energy supply, energy impacts remain cumulatively significant and unmitigated. However, please see comment L-9 from SDG&E, in which SDG&E disagrees with this conclusion and states that it will provide an adequate supply of energy in the future.

**V-381** This comment questions how Gaylord and Pacifica are proposing to reduce water use, specifically water used for landscaping, irrigation, and water features. As discussed in *Section 4.16, Energy*, the RCC will strive for a 20-percent reduction in water use, which may include the use of "grey water" for irrigation purposes, native and adaptive landscaping, and high-efficiency irrigation technologies. The Pacifica project will strive for a 50-percent reduction in residential water use

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by including features such as drought-tolerant landscaping and weather-based irrigation controllers. In addition, as outlined in **Mitigation Measures 4.6-6** and **6.8-3**, development of program-level components in Phases II through IV will also include measures to reduce water use. These measures may include the use of reclaimed water for landscape irrigation in new developments and on public property where appropriate, the use of grey water for landscape irrigation, water-efficient irrigation systems and devices such as soil moisture-based irrigation controls, and water-efficient landscapes. Please see the responses to comments V-240, V-241, and V-242 regarding significance of impacts on water supply.

As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on Parcel H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

**V-382** The commenter questions why only a fence is proposed at look-out points within the limited use areas and disagrees that the use of cacti and wood fencing with steel cables will effectively deter human and animal intrusion. As stated in the response to comment V-64, in response to this comment and other comments on the Revised DEIR, the Final EIR has been revised to include a 6-foot-high vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement. Native vegetation may be strategically used in areas in

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addition to fencing as an additional deterrent to prevent unauthorized access.

As discussed in *Section 4.8, Terrestrial Biological Resources*, public access into open space and preserve areas would potentially result in indirect impacts to sensitive biological resources. In addition to the site-specific measures designed to prevent or minimize the impact to adjacent open space preserve areas from humans and domestic animals, as described above, mitigation measures are provided to reduce significant impacts resulting from public access. As provided in **Mitigation Measure 4.8-6**, both temporary and permanent fencing will be installed to protect sensitive habitat areas. A conceptual site plan or fencing plan is required prior to approval of landscape plans to ensure areas designated as sensitive habitat are not impacted. Fencing must be provided within the buffer area only, and not in sensitive habitat areas. As stated above, **Mitigation Measure 4.8-6H** has been revised to reflect the requirement of 6-foot-high vinyl-coated chain-link fencing within the buffer area.

V-383 The comment questions why the buffer on Parcel S-4 is reduced to 100 feet. As provided in the response to comment V-8, the 100-foot-wide habitat buffer will be included on the north end of Parcel S-4 to buffer the sensitive habitat to the north from development (see page 3-116 in *Chapter 3.0, Project Description*, of the Revised DEIR). The 100-foot buffer on Parcel S-4 is consistent with CCC buffer requirements. As described in *Chapter 2.0 Introduction*, and *Chapter 3.0* of the Revised DEIR, program-level components of the Proposed Project would require subsequent environmental review as "subsequent activities" pursuant to CEQA Guidelines, Section 15168. Therefore, once detailed project-level plans are proposed for Parcel S-4, subsequent environmental review will consider potential impacts from the proposed development project pursuant to Section 15168.

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Nonetheless, in response to this comment and other comments on the Revised DEIR regarding the buffer on Parcel S-4, *Chapter 3.0, Project Description*, of the Final EIR has been revised to clarify that at the time project-specific development is proposed, shading impacts, as well as appropriate setbacks, step backs, and/or height reductions, will be analyzed as part of the necessary subsequent environmental review for this parcel.

**V-384** This comment disagrees with the proposed maximum height for future development on Parcel S-4. Specific development proposals for all parcels in Phases II through IV will be subject to subsequent environmental review pursuant to CEQA Guidelines, Section 15168. The comment does not raise specific issues related to the environmental analysis; therefore, no additional response is warranted.

**V-385** The comment questions why no simulations were included to assess visual impacts from I-5 approaching Chula Vista from National City. As provided in *Section 4.4, Aesthetics/Visual Quality*, Key Observation Point 10 is a view of the project area from I-5 at J Street, which focuses on the project elements located in the middle portion of the site. This view was included in three visual simulations (*Figures 4.4-11, 4.4-6a, and 4.4-6b*). This view from I-5 would be visible as freeway drivers approached Chula Vista from National City.

**V-386** The comment questions why no simulations were prepared to assess visual impacts from homes and streets within the City of Chula Vista. Please see the response to comment V-170.

As discussed in *Section 4.4, Aesthetics/Visual Quality*, 18 locations with views of the project site were selected as Candidate Key Observation Points (see *Figure 4.4-3*) as a representation of the best

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combination of visual issues that are being assessed by this study. These 18 Candidate Key Observation Points serve to document the viewing scene from many different areas around the project site and provide a group of photos from which simulations can be selected. After evaluating the probable visual changes, viewer groups, viewing duration, and viewer sensitivity, Candidate Key Observation Points 5, 9, 10, 13, 16, and 17 were selected for visual simulations. These points were chosen because they allow analysts to assess the broad project changes that viewers will see. They also represent some of the most important vantage points from which to view the project site.

V-387 The comment questions how it is possible to construct and install certain roadway system improvements during different phases. As provided in the response to comment V-94, although the traffic analysis identifies which roadways are required for each phase based on proposed adjacent development, the Revised DEIR analysis has been structured to provide flexibility in the ability to construct identified roadway improvements sooner than mandated in the traffic analysis. *Section 4.2, Traffic and Circulation*, specifically analyzes the timing of the construction of the roadway improvements based on access and frontage of proposed adjacent development, and identifies all roadway improvements as mitigation measures. As provided in the response to comment V-270, all roadways will be installed to their ultimate widths upon construction. Please refer to *Figure 3-13A* through *Figure 3-13D* for the proposed roadway cross-sections in the Sweetwater and Harbor districts.

V-388 The comment questions who will be responsible for the maintenance of Marina Parkway between G Street and H Street. The portion of Marina Parkway between G Street and H Street is considered part of the Parcel H-3 leasehold and is a private driveway, not a public road. The RCC developer will be responsible for its maintenance.



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<p>8. How can 4.16-1 say energy impact is less than significant, but cumulative energy impact is significant and unmitigatable? <span style="float: right;">V-380</span></p> <p>9. Considering governor's recent declaration and all the "water features" how can water impact of Gaylord and 1500 condominiums as well as all this landscaping, especially cumulatively be considered less than significant? Reclaimed water needs to be used outside through out. Considering volume of water to be used a re-watering system needs to be included in both the residential and the hotel. <span style="float: right;">V-381</span></p> <p>22. Why is there only a fence where there are look-outs? Cacti have been proven to not be a deterrent. Wood and steel cable can not keep dogs, cats, rats and other predators out. <span style="float: right;">V-382</span></p> <p>23. Why is buffer reduced to 100 feet at S-4? <span style="float: right;">V-383</span></p> <p>24. S-4 is extremely close to sensitive habitat, 125' is way too high for a building here. Development in Sweetwater is supposed to be low-rise only. <span style="float: right;">V-384</span></p> <p>25. Why are there no simulations of visual impact from I-5 approaching Chula Vista from National City? <span style="float: right;">V-385</span></p> <p>26. Why are there no simulations of visual impact from homes and streets in the city of Chula Vista, which now have Bay views? <span style="float: right;">V-386</span></p> <p>27. How will it be possible to landscape along roads, allow on street parking (p302, section 3) on E, J, and H, and do all the street widening proposed at different phases? <span style="float: right;">V-387</span></p> <p>28. If the portion of Marina parkway between G and H is to be part of the RCC leasehold does that mean Gaylord will be responsible for maintenance and any and all problems occurring on said stretch of road?(p 316 (3-109)) <span style="float: right;">V-388</span></p> <p>29. Why does the proposed amendment to the PMP still show the area on the south side of the Sweetwater Channel as "marine sales and services"? (Fig. 4.1-6) This was and is Inad dedicated to habitat for mitigation purposes. <span style="float: right;">V-389</span></p> <p>30. (Page 468, 4.2-5) How did consultants arrive at conclusion that the traffic volume would be as stated? What does this number being more than half of UCSP estimate have to do with anything? Since the UCSP traffic study did not include the project how can assumption be made that if an intersection had an acceptable LOS under that study it would still have after adding this project? <span style="float: right;">V-390</span></p> <p>31. Page 480 4.2-17 says acceptable intersection LOS is D. This is not exactly true. Intersections can have a LOS D for up to 2 hours during rush hour otherwise acceptable is LOS C. <span style="float: right;">V-391</span></p> <p>32. Will any part of the Gaylord buildings shade the F/G Street marsh at any time of the year? Is it possible to know this now, since there are no final architectural plans? <span style="float: right;">V-392</span></p> <p>33. Will the financial analysis of this plan be a worse case scenario? <span style="float: right;">V-393</span></p> <p>34. Will all the negative financial impacts to the city be part of the analysis?-City can not afford to pay 20 new firemen or 7 new police officers out of its General Fund when it will receive no income from <span style="float: right;">V-394</span></p> <p style="text-align: center;">61</p>	<p><b>V-389</b> Please see the response to comment V-315.</p> <p><b>V-390</b> The traffic study uses a model that considers cumulative projects, including the Urban Core Specific Plan land uses. As discussed in the methodology description of the traffic impact analysis on pages 4.2-1 and 4.2-5 of the Revised DEIR, the traffic analysis results of the recently completed Chula Vista Urban Core Specific Plan were considered. The land use program for the area encompassed by the CVBMP was more intense and generated more trips as analyzed in the Urban Core Specific Plan traffic impact analysis than is currently proposed in the CVBMP. Therefore, this comparison is conservative, and with the Proposed Project, intersections would operate at an LOS equal to or better than as shown in the Urban Core Specific Plan. Please also refer to the traffic impact analysis prepared for the Proposed Project in <i>Appendices 4.2-1, 4.2-2, 4.2-3, and 4.2-4</i>.</p> <p><b>V-391</b> Intersections are allowed to go to LOS D. The 2-hour scenario is only applicable to the Traffic Monitoring Program analysis. The traffic study clearly demonstrates the thresholds used (see page 4.2-47 in the Revised DEIR).</p> <p><b>V-392</b> This comment asks whether any part of the Gaylord buildings will shade the F&amp;G Street Marsh at any time of the year. As discussed in <i>Section 4.8.5, Impact Analysis</i>, of the Revised DEIR, the RCC is not expected to adversely impact sensitive habitats based on the maximum height of the proposed building structures. Please see the Revised DEIR, pages 4.8-110 and 4.8-111. Graphics depicting the shading analysis that was performed to determine potential impacts have been included as <i>Appendix 4.4-4</i>. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed, as there is currently no active developer pursuing development of this parcel. The RCC development on Parcel H-3 is a</p>

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Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. Although potential shading impacts of the RCC are analyzed in *Section 4.8.5* of the Revised DEIR, as described above, a site-specific shading analysis may need to be conducted to evaluate impacts at the time a project-specific development application is submitted for Parcel H-3. The nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168.

**V-393** The comment poses a question regarding the financial analysis of the CVBMP. CEQA does not require an EIR to provide a financial analysis of a proposed project. This comment does not address the accuracy or adequacy of the Revised DEIR; therefore, no further response is warranted.

**V-394** Please see the response to comment V-393 regarding potential financial impacts of the CVBMP. Please also see the response to comment Q-28 regarding affordable housing.

Funds for providing incremental services to the Bayfront, including police services and fire protection services, are allocated from gross project revenues before funds are made available for debt service. Revenues available for debt sizing and annual debt service are referred to as "new net revenues" and are calculated net of the project's incremental service costs. These incremental service costs are generally referred to as operation and maintenance costs and include police services. As a result, the impact is less than significant. Please see the response to comment V-237 regarding funding for staffing of the fire station and the responses to comments V-152 and V-238 regarding police staffing.

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V-395 Parcel HP-5 does not include any portion of the J Street Channel.

V-396 As noted in the analysis provided in *Section 4.8, Terrestrial Biological Resources*, of the Revised DEIR, all impacts to non-native grassland (on Port and City lands) will be mitigated at a 0.5:1 ratio, in accordance with the City's Subarea Plan mitigation ratios. A Habitat Loss and Incidental Take ordinance is required for impacts on sensitive habitats within the City's jurisdiction, pursuant to the requirements of the City's Subarea Plan and Municipal Code. The Proposed Project assumes that the L-Ditch will be remediated in place and protected by 50-foot buffer; therefore, mitigation is not required.

V-397 Page 3-139 of the Revised DEIR describes roadway phasing for the Proposed Project. Mitigation measures propose mitigation for impacts at the time the impacts are anticipated to occur; however, the project proposes to construct streets to their ultimate configuration prior to the time the widening is actually required. As provided in the responses to comments V-270 and V-387, all roadways will be installed to their ultimate widths upon construction.

V-398 A two-lane Class II Collector is defined as follows, "Class II collector streets with two-way center turn lanes serve primarily to circulate localized traffic and to distribute traffic to and from arterials, major streets and Class I collectors. Class II collectors are designed to accommodate two lanes of traffic, however, they carry lower traffic volumes at slower speeds than Class I collector streets. This facility type provides access to properties and circulation to residential neighborhoods. Typically, major signalized intersections shall be spaces no closer than 660 feet" (City of Chula Vista Circulation Element).

A Class III Collector is defined as follows, "Class III collector streets also circulate localized traffic as well as distribute traffic to and from

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arterials and other collectors to access residential areas. Class III collector streets accommodate low volume levels and the use of this facility as a carrier of through traffic should be discouraged by its design. Typically, major signalized intersections shall be spaces no closer than 660 feet" (City of Chula Vista Circulation Element).

**V-399** The commenter requests clarification regarding the difference between **Mitigation Measure 4.2-15** and **Mitigation Measure 4.2-1**, as both require the construction and installation of a traffic signal at the intersection of H Street and RCC Driveway. (Please note that the "Gaylord Driveway" has been revised to "RCC Driveway" in the Final EIR.) To clarify, **Mitigation Measure 4.2-15** requires the addition of an exclusive left-turn lane at each approach at the intersection of H Street and RCC Driveway to mitigate for the significant impact to this intersection. In response, two different criteria and thresholds were used to identify the phases of improvements. The first addresses access and frontage to require the need for a signal. The second threshold was LOS. The Revised DEIR assumes the worst case for Phase II, whereby an access issue may not exist but a signal would still be necessary. The same driveway without a signal would operate at LOS E in the evening hours during Phase II. **Mitigation Measure 4.2-15**, which refers to **Significant Impact 4.2-24**, requires that a traffic signal be constructed prior to certificates of occupancy for any development in Phase II, thereby assuring that the signal is in place prior to Phase II.

In response to the commenter's question regarding whether additional mitigation is necessary, please note that the impact is the same but analyzed from two different thresholds only to ensure that the impact is mitigated regardless of the project phasing and thresholds utilized.

**V-400** The comment refers to **Mitigation Measure 4.2-16** regarding improvements along J Street, and questions how many lanes exist

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currently on J Street. As provided in *Section 4.2, Traffic and Circulation*, in *Table 4.2-6* on page 4.2-37 of the Revised DEIR, J Street now has four lanes west of I-5.

**V-401** The commenter requests clarification regarding the right-of-way for turn lanes included in **Mitigation Measure 4.2-19**. The additional lanes will be constructed out of surrounding properties, including portions of Marina View Park. The impacts of the Proposed Project on parkland and the project's overall increase in parkland are discussed in *Section 4.13.3, Parks and Recreation*, of the Revised DEIR. Please also see the response to comment V-101.

**V-402** The comment questions the naming and location of Street A. As shown in *Figure 3-8A* and described in *Chapter 3.0, Project Description*, of the Revised DEIR, Street A continues south from H Street, across Marina Parkway, and into the Otay District until it terminates at Street B.

**V-403** The commenter requests clarification regarding when the E Street Extension is proposed. As provided on page 3-135 of the Revised DEIR, as well as in *Section 4.2, Traffic and Circulation*, E Street is proposed to be extended in Phase I from the Sweetwater District to the newly extended H Street in the Harbor District. However, as discussed in the Traffic Impact Analysis in *Appendix 4.2-I*, completion of the E Street Extension would not be required until Phase III. This issue is also addressed in the response to comment V-30.

**V-404** The commenter expresses dissatisfaction with the mitigation provided in *Section 4.5, Hydrology and Water Quality*, in regard to reducing the potential for litter to enter the Bay, stating that the inclusion of trash control measures as described will not ensure that people will actually use trash containers or that the containers will be emptied

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regularly. The commenter believes that this mitigation is therefore inadequate and suggests provision of some sort of barrier to prevent trash from entering sensitive habitat.

As discussed in *Section 4.8, Terrestrial Biological Resources*, public access into open space and preserve areas would potentially result in indirect impacts to sensitive biological resources. A higher incidence of trash along the edges of sensitive habitats could result in degradation of the habitat, which would be a significant impact (**Significant Impact 4.8-7**). In addition to site-specific measures designed to prevent or minimize the impact to adjacent open space preserve areas from humans and domestic animals, mitigation measures are provided to reduce these impacts to below a level of significance. As provided in **Mitigation Measure 4.8-6**, trash cans will be emptied daily or more often if required during high use periods. Buildings and stores will have dumpsters located in a courtyard or carport that is bermed and enclosed to ensure that litter does not blow into the Bay or marshes. Please also see the responses to comments B-23, B-70, and C-20 regarding self-closing trash receptacles.

**V-405** The comment questions whether the noise barrier along E Street provided for in **Mitigation Measure 4.7-7** would be permanent. As discussed in *Section 4.7, Noise*, noise levels along the segment of E Street between RCC Driveway and F Street would result in a noise level above the wildlife noise threshold of 60 dB(A) Leq during the breeding season at habitat in the F&G Street Marsh (**Significant Impact 4.7-8**). To reduce this impact to below a level of significance, the 3-foot-high noise barrier will be installed along the east right-of-way of E Street for the extent of the habitat. It is the intention that this would be a permanent noise barrier.

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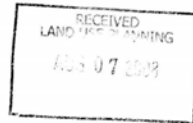
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**V-406** This comment states that the construction of State Route 54 chased clapper rails away from the Refuge and that more care should be taken this time. A complete assessment of potential direct and indirect impacts of the project on clapper rail was conducted as a part of the Revised DEIR in *Section 4.8, Terrestrial Biological Resources*, on pages 4.8-105 through 4.8-107 and 4.8-138. **Mitigation Measure 4.8-4** will be implemented to reduce the direct impact to the light-footed clapper rail (**Significant Impacts 4.8-4**) to below a level of significance. **Mitigation Measure 4.8-6** will be implemented to reduce the indirect impacts (from lighting, noise, use of invasives, toxic substances, and public access) to the light-footed clapper rail, Belding's savannah sparrow, all raptor species, and migratory birds, all of which are protected by state and/or federal regulations (**Significant Impact 4.8-6**), to below a level of significance.

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PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

San Diego Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

RE: DEIR for Bayfront Master Plan, a few additional comments

To Leslie Nishihi:

In reviewing notes from comments of individuals in our organization it was realized that a few points need further explanation.

Under Urban Decay it was not specifically mentioned the problem of gentrification. This requires mitigation to help people relocate. Our demographics in the west, particularly the southwest, include a number of elderly people surviving on social security and/or other fixed income. A project of this size, if it causes increased rents and property values encouraging change of use could have a devastating effect upon these elderly and/or infirm residents without extensive mitigation. This website explains the current problems in the southwest with inadequate and dangerous infrastructure as well as demographic information provided by the city:

<http://chulavistaisues.org/Southwestpage.htm>

The current infrastructure problems, particularly in the southwest, but also in the northwest can be seen at: <http://chulavistaisues.org/CVInfrastructure.htm>. Taken together with the unmitigatable Air Quality and Traffic problems documented in the DEIR these make for a huge Environmental Justice problem as per the state's definition: "fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, or construction of projects" because these problems and conditions are not found in the eastern part of Chula Vista nor are the negative impacts of the current project likely to be felt there, where income is higher and diversity lower. This requires a great deal of mitigation or an altering of the project to minimize these negative impacts.

In reality the negative impacts to traffic throughout western Chula Vista and trolley crossings at J, L, Naples (where people have been killed and maimed already), and Palomar are not even mentioned in the DEIR. If there will be a problem at I-5, the E & H trolley crossings and up to Broadway on H, as acknowledged in the DEIR, there will likely be problems all through the west side of Chula Vista. The increased traffic when put on inferior, deteriorating streets will make the impacts even worse. The city now has a 300 plus million dollar deficit in needed infrastructure repairs, getting a bond to

V-407

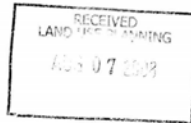
V-408

**V-407** This comment states that the Revised DEIR did not mention the subject of gentrification and the displacement of the elderly or infirm, which might result if the project causes rents or property values to increase. CEQA is concerned with the potential impacts of a proposed project on the physical environment. According to CEQA Guidelines, Appendix G, Section XIII, a project may have a potential impact on population and housing if it displaces substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere. The Revised DEIR thoroughly analyzed the potential impacts of the Proposed Project on population and housing, including affordable housing, in *Section 4.17, Population and Housing*. The potential cumulative impacts on population and housing are discussed in *Section 6.18, Population and Housing*, of the Revised DEIR. The Revised DEIR also analyzed the potential growth-inducing impacts of the Proposed Project in *Section 7.1 Growth Inducement*, and the potential indirect impacts on traffic and circulation (*Section 4.2*), air quality (*Section 4.6*), water quality (*Section 4.5*), public services (*Section 4.13*), and public utilities (*Section 4.14*). To the extent the issue of gentrification involves concerns regarding affordable housing, please see the response to comment V-58. Based on the information contained in the foregoing sections of the Revised DEIR and responses to comments, the Proposed Project is not expected to have a significant impact on population or housing in the project area.

The comment also suggests that the potential significant and unmitigable impacts on traffic and air quality are environmental justice issues because they will affect residents of western Chula Vista, rather than residents of eastern Chula Vista where income allegedly is higher and diversity allegedly is lower. Environmental justice concerns generally arise in connection with industries or waste disposal facilities, in low-income or minority communities. The



Comment Letter V (Page 64)



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

San Diego Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

RE: DEIR for Bayfront Master Plan, a few additional comments

To Leslie Nishihi:

In reviewing notes from comments of individuals in our organization it was realized that a few points need further explanation.

Under Urban Decay it was not specifically mentioned the problem of gentrification. This requires mitigation to help people relocate. Our demographics in the west, particularly the southwest, include a number of elderly people surviving on social security and/or other fixed income. A project of this size, if it causes increased rents and property values encouraging change of use could have a devastating effect upon these elderly and/or infirm residents without extensive mitigation. This website explains the current problems in the southwest with inadequate and dangerous infrastructure as well as demographic information provided by the city:

<http://chulavistaisues.org/Southwestpage.htm>

The current infrastructure problems, particularly in the southwest, but also in the northwest can be seen at: <http://chulavistaisues.org/CVInfrastructure.htm>. Taken together with the unmitigatable Air Quality and Traffic problems documented in the DEIR these make for a huge Environmental Justice problem as per the state's definition: "fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, or construction of projects" because these problems and conditions are not found in the eastern part of Chula Vista nor are the negative impacts of the current project likely to be felt there, where income is higher and diversity lower. This requires a great deal of mitigation or an altering of the project to minimize these negative impacts.

In reality the negative impacts to traffic throughout western Chula Vista and trolley crossings at J, L, Naples (where people have been killed and maimed already), and Palomar are not even mentioned in the DEIR. If there will be a problem at I-5, the E & H trolley crossings and up to Broadway on H, as acknowledged in the DEIR, there will likely be problems all through the west side of Chula Vista. The increased traffic when put on inferior, deteriorating streets will make the impacts even worse. The city now has a 300 plus million dollar deficit in needed infrastructure repairs, getting a bond to

V-407

V-408

Proposed Project is intended to benefit people of all races, cultures, and incomes by providing high-quality hotel, retail, office and residential development, along with increased park land, open space, and other public facilities, which are intended to increase the use, activity, and attractiveness of the Chula Vista Bayfront. Please also see the responses to comments V-359 and V-369.

**V-408** This comment expresses concern over potential impacts on traffic and trolley crossings. However, the project does not propose to "substantially increase hazards due to a design features" as described in the thresholds of significance, and the Revised DEIR analyzes all potential impacts at affected road segments and intersections in *Section 4.2, Traffic and Circulation*, including trolley crossings

Comment Letter V (Page 65)

subsidize Gaylord while ignoring this basic obligation could be seen on its own as an Environmental Justice issue and certainly will contribute to Urban Decay.

The DEIR has made absolutely no effort to deal with the totally disproportionate impacts to various races, cultures, and incomes with respect to development and adoption of a project of this huge magnitude, and its contribution to Urban Decay for an existing segment of the population. It is simply not acceptable that all the benefits be enjoyed by a few, while the rest bear the negative impacts. There are direct, indirect and cumulative impacts in this area that need analysis and mitigation.

The DEIR still does not adequately analyze the tremendous impacts of a project of this incredible magnitude in an incredibly sensitive and fragile regionally environmentally important area. In fact direct, indirect and cumulative regional impacts have not been considered at all but should be. The regions impacted by the congestion on I-5 extend all the way to the border and include Imperial Beach. The regional environments impacted by the project are the entire Pacific Flyway and the entire San Diego Bay. Consideration has to be given to the tremendous loss of habitat all throughout the eastern part of Chula Vista and in the Otay Mesa area. At one time the vernal pools in these areas provided foraging for migrant birds. The loss of countless acres of pools from Hilltop Dr. east in Chula Vista alone have diminished the available foraging areas in the region over the years. The problems with maintenance and protection of existing preserve lands further exasperate this problem. This article details the uncertainty for the future <http://www.voicesofsanandiego.org/articles/2007/05/26/environment/950mscp041607.txt>. This project must make the situation better not worse.

Sincerely,

Theresa Acerro  
President  
Southwest Chula Vista Civic Association

V-408  
(Cont.)

V-409

V-410

**V-409** This comment summarizes concern over negative impacts from the Proposed Project on various races, cultures and incomes. It assumes some relationship regarding both urban decay and gentrification, but does not provide any facts or data to show how the project would necessarily increase either of those impacts. Please also see the response to comment V-407.

**V-410** The commenter generally questions the adequacy of the Revised DEIR's analysis of environmental impacts, stating that indirect and cumulative regional impacts have not been considered. The Revised DEIR includes a thorough analysis of both direct and indirect impacts that would result from implementation of the Proposed Project. The analysis and evaluation of these potential impacts is outlined in the appropriate subject area within *Chapter 4.0, Environmental Analysis*. The comment does not contain the level of detail necessary to specifically respond to the commenter's concern regarding indirect impacts. Therefore, no further response is possible.

A discussion of cumulative impacts in an EIR is not required to provide as great of detail as provided to discuss the impacts attributable to the project alone (CEQA Guidelines, Section 15130(b)). As provided in *Chapter 6.0, Cumulative Impacts*, the Revised DEIR includes a discussion of impacts that are created as a result of the combination of the Proposed Project together with other projects causing related impacts, as required by CEQA Guidelines, Section 15130. Although Section 15130(b)(1) requires only one basis for the cumulative impact assessment, the cumulative impact analysis provided in the Revised DEIR is based on both a list of past, present, and probable future projects producing related or cumulative impacts, and a summary of projections contained in an adopted plan and prior environmental document that has been adopted or certified. The Revised DEIR for the Proposed Project analyzed potential cumulative impacts for each of the subject areas discussed in *Chapter 4.0*,

Comment Letter V (Page 65)

subsidize Gaylord while ignoring this basic obligation could be seen on its own as an Environmental Justice issue and certainly will contribute to Urban Decay.

The DEIR has made absolutely no effort to deal with the totally disproportionate impacts to various races, cultures, and incomes with respect to development and adoption of a project of this huge magnitude, and its contribution to Urban Decay for an existing segment of the population. It is simply not acceptable that all the benefits be enjoyed by a few, while the rest bear the negative impacts. There are direct, indirect and cumulative impacts in this area that need analysis and mitigation.

The DEIR still does not adequately analyze the tremendous impacts of a project of this incredible magnitude in an incredibly sensitive and fragile regionally environmentally important area. In fact direct, indirect and cumulative regional impacts have not been considered at all but should be. The regions impacted by the congestion on I-5 extend all the way to the border and include Imperial Beach. The regional environments impacted by the project are the entire Pacific Flyway and the entire San Diego Bay. Consideration has to be given to the tremendous loss of habitat all throughout the eastern part of Chula Vista and in the Otay Mesa area. At one time the vernal pools in these areas provided foraging for migrant birds. The loss of countless acres of pools from Hilltop Dr. east in Chula Vista alone have diminished the available foraging areas in the region over the years. The problems with maintenance and protection of existing preserve lands further exasperate this problem. This article details the uncertainty for the future <http://www.voicesofsanandiego.org/articles/2007/05/26/environment/950mscp041607.txt>. This project must make the situation better not worse.

Sincerely,

Theresa Acerro  
President  
Southwest Chula Vista Civic Association

V-408  
(Cont.)

V-409

V-410

*Environmental Analysis*, identifying cumulative impacts in the areas of traffic, aesthetics/visual quality, air quality, marine biological resources, public services and utilities, and energy.

The commenter expresses concern that the Revised DEIR cumulative impact analysis does not contain a discussion of the loss of habitat throughout the eastern part of Chula Vista and in the Otay Mesa area, as well as the traffic impacts on I-5 that include Imperial Beach and extend all the way to the U.S./Mexico border. In response, it is important to note that if a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the Proposed Project is consistent with that plan or action, then the EIR for the Proposed Project need not further analyze those cumulative impacts (CEQA Guidelines, Section 15130(e)). The City of Chula Vista General Plan Update EIR assumed the Bayfront land uses that were in effect at the time the General Plan was amended; therefore, the analysis in the General Plan Update EIR was for build-out of the City as established by the proposed changes to the plan. As a result, the cumulative impact analysis presented in the Revised DEIR uses the General Plan Update EIR for those portions of the City outside of the Bayfront. The effects of the Proposed Project were then added to the General Plan Update effects to determine whether additional impacts were cumulatively considerable. Other development plans and projects occurring within the City of Chula Vista, including the Urban Core Specific Plan, are included in the General Plan Update EIR and analysis; therefore, these projects are accounted for in the Revised DEIR's analysis. Other regional plans used to assess cumulative impacts in *Chapter 6.0, Cumulative Impacts* include the SANDAG (2004) Regional Comprehensive Plan; the Chula Vista (2003a) Multiple Species Conservation Program (MSCP); the Water Quality Control Plan for the San Diego Basin (RWQCB 1994); the San Diego Air Pollution Control District (APCD) Regional Air Quality Strategy (RAQS) (San Diego County, 1992); and the Regional Water Facilities Master Plan (SDCWA 2004).

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## Comment Letter W

TRAFFIC RELIEF IS POSSIBLE  
1021 Madison Avenue  
Escondido, CA 92027

July 30, 2008

San Diego Unified Port District  
Land Use Planning Department  
P.O. Box 120488  
San Diego, CA 92112-0488



Re: Revised Draft Environmental Impact Report  
Chula Vista Bayfront Master Plan and Port Master Plan Amendment  
UPD #83356-EIR-658; SCH #2005081077

This is to address the above mentioned EIR and to ask that you do the appropriate studies to determine costs of capital improvements for transportation to mitigate all negative impacts.

TRIP (Traffic Relief Is Possible) is an organization that has been in existence for a decade requesting that region-wide development impact fees be assessed to cause future growth to pay its full fair share.

TRIP draws your attention to the 2007-2008 San Diego County Grand Jury Report , "SANDAG: How Much Growth is Sustainable?" and to SANDAG's response. (Grand Jury Report available at [www.sandag.org](http://www.sandag.org)):

### "Discussion 2 – Boxed in

**Fact:** At the end of 2007 the board of SANDAG considered two choices with respect to the Regional Transportation Plan Funding : a Revenue Constrained Scenario of \$41 billion or a Reasonably Expected Revenue Scenario of \$57 billion.

**Finding #06:** The region in the past has been able to attract funds and grants from many different sources. If these additional funds are not found, it appears that a \$16 billion adjustment is going to be needed.

- **SANDAG Response:** SANDAG agrees with this finding, and we are aggressively pursuing additional resources our \$57 billion RTP."

TRIP is suggesting that additional funding fees should be region-wide development impact fees and that those fees should help fund your Chula Vista Bayfront Project.

Sincerely,  
  
Jerry Harmon 760-839-9128

We look forward to hearing from you as to how you will address our suggestion.  
J.H.

## Response to Comment Letter W

### Traffic Relief Is Possible

July 30, 2008

**W-1** This comment recommends that region-wide development impact fees are assessed to fund capital improvements. As described on pages 4.2-228 through 4.2-330 in **Mitigation Measure 4.2-8**, the Port and City will participate in a multijurisdictional effort conducted by Caltrans and SANDAG to develop a detailed South I-5 Corridor Study, which is intended to focus on regional traffic impacts, to identify the physical and operational improvements needed on I-5 to address such impacts, and to identify the fair-share responsibilities of each of the participating entities for the construction and financing of the proposed improvements. Further, the City has adopted a WTDIF that will be collected by project applicants as their fair-share contribution towards region-wide cumulative improvements.

W-1

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Comment Letter X



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

PLEASE PRINT CLEARLY

NAME: Ross Tyler  
ORGANIZATION: C.V. Marina  
MAILING ADDRESS: 550 Marina PKWY  
EMAIL ADDRESS: ROSSONWHISPER@COX.NET

The facilities in the RV park are part of the marina's amenities. They will be torn down in phase 1. The facilities remaining will not be adequate. There are a lot of liveaboards who will be screwed by this project. How will this be mitigated? temporary facilities? Reduction of slip fees?

X-1

In phase 4 the marinas are to be reconfigured. What plans have been made to move the boats to during this? Will the other 200 slips (located where the boatyard is ???) be built first?

X-2

There has been no consideration for the marina or RV park during this whole 5 year process - no representation at all and it's criminal!

X-3

Comments will be accepted in writing until 5:00 pm on Tuesday, July 8, 2008.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter X

**Chula Vista Marina  
June 18, 2008**

- X-1** This comment states that the RV Park facilities are part of the amenities enjoyed by persons who live aboard boats at the marina and that the removal of such facilities must be mitigated. Please also see the responses to comments V-34, V-108, and V-115. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making their decision whether to approve the Proposed Project.
- X-2** This comment refers to the reconfiguration of the marina. Reconfiguration of the marina is expected to occur in Phase IV, and analysis has occurred at a program level. Specific plans for implementation of the marina reconfiguration have not yet been developed, but will include a construction phasing plan to address the ultimate relocation of 200 slips to the boatyard site. The plan for implementation of the marina reconfiguration will be subject to additional environmental review pursuant to CEQA Guidelines, Section 15168. Please also see the responses to comments V-93 and V-108. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making their decision whether to approve the Proposed Project.
- X-3** Since its inception, the Port and City have held over 40 public meetings to encourage public participation of all affected stakeholders regarding the CVBMP. The plan was developed through this public process with consideration given to all perspectives raised. *Chapter 2.0, Introduction*, of the Revised DEIR details the public participation opportunities that were provided for the Proposed Project. No further response is required.

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Comment Letter Y

ATTORNEYS AT LAW  
225 BROADWAY, SUITE 1900  
SAN DIEGO, CALIFORNIA 92101  
TELEPHONE: (619) 231-5858  
FACSIMILE: (619) 231-5853

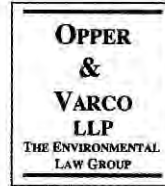
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July 7, 2008



Mr. John Helmer, Acting Director  
Land Use Planning Department  
San Diego Unified Port District  
P.O. Box 120488  
San Diego, CA 92112-0488

Re: Revised Draft Environmental Impact Report for the Chula Vista Bayfront  
Master Plan and Port Master Plan Amendment  
(SCN 2005081077, UPD 83356-EIR-658)

Dear Mr. Helmer:

Thank you for the opportunity to comment on the Revised Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan and Port Master Plan Amendment (SCN 2005081077, UPD 83356-EIR-658). Our firm has been retained by The Marine Group, LLC to represent it in matters relating to the proposed project components identified in the Revised Draft Environmental Impact Report ("Revised DEIR") which potentially impact the continued use and operation of the Southbay Boat Yard leasehold.

As you are aware, the Southbay Boat Yard leasehold does not terminate until 2020, and it is the intention of the current lessee to continue its existing operations at the Southbay Boat Yard facility (the "Property") or relocate the boat yard operations as specified by the terms of the Southbay Boat Yard's current lease.

Having now reviewed the Revised DEIR and the proposed Port Master Plan Amendment, as well as the lease between the Port District and the Southbay Boat Yard, and the amendments thereto, several concerns regarding the Revised DEIR, the proposed Port Master Plan Amendment, and the proposed Chula Vista Bayfront development projects have come to our attention.

First, the Revised DEIR states that during Phase I of the Chula Vista Bayfront Master Plan ("CVBMP") project, some portion of the existing Southbay Boat Yard leasehold will be demolished and redeveloped for use as part of the extension of E Street and for construction of the adjacent resort conference center project. The Revised DEIR states: "Subject to pertinent leases and other agreements, the existing uses and streets (Sandpiper Way, Bayside Parkway, Quay Avenue and G Street) and infrastructure within the H-3 footprint would be demolished in Phase I prior to construction of the

Y-1

Y-2

Response to Comment Letter Y

The Marine Group, LLC

July 7, 2008

- Y-1 The comment explains the reasons for the author's interest in the Revised DEIR. The comment does not raise any environmental issue; therefore, no further response is warranted.
- Y-2 This comment expresses concern that a significant portion of the Southbay Boat Yard leasehold may be impacted by the proposed demolition and construction of a portion of the extension of E Street and construction of the RCC. The comment does not raise any environmental issue; therefore, no further response is warranted.

**Comment Letter Y (Page 2)**

Mr. John Helmer  
July 7, 2008  
Page 2

RCC.” The Revised DEIR fails to provide any legal description of the property within the existing Southbay Boat Yard leasehold that will be affected by this demolition and redevelopment. It is our understanding from reviewing the figures attached to the Revised DEIR that a significant portion of the existing Southbay Boat Yard leasehold will be impacted by this proposed demolition and redevelopment.

Please identify with a legal description that portion of the Southbay Boat Yard Property that will be demolished for uses as an E Street extension and for development of the resort conference center. Accurate maps and full legal descriptions of the properties and current uses impacted by the demolition and construction of the CVBMP project components should be included in the final Environmental Impact Report and Port Master Plan Amendment. Without such legal descriptions and accurate maps, the Environmental Impact Report is defective and the Port Master Plan Amendment is vague and unclear.

Second, the Revised DEIR states that “[s]ubject to pertinent leases and other agreements, the existing uses and streets . . . within the H-3 footprint would be demolished.” However, contrary to this statement in the Revised DEIR, there is no such lease or other agreement which would allow for the use of part of the existing Southbay Boat Yard leasehold as the extension of E Street or the resort conference center. We object to any such change as a violation of the lease between the Port District and Southbay Boat Yard.

Third, at several locations in the Revised DEIR, the Revised DEIR states that the Phase IV redevelopment of the Southbay Boat Yard Property “is subject to relocation of the boatyard or termination of the existing lease.” This statement is incorrect according to the existing Port Master Plan and the proposed Port Master Plan Amendment. Both documents state that “the existing boatyard use may continue to operate until the site is redeveloped to a conforming Commercial Recreation use. Prior to redevelopment, additional boat repair capacity will be identified.” Without reference to the requirement for additional boat repair capacity to be identified prior to redevelopment of the Southbay Boat Yard Property for conforming use, the Revised DEIR is incorrect. The Revised DEIR must be corrected to reflect this Port Master Plan requirement.

Fourth, the Revised DEIR states that during Phase I, Sandpiper Way, Bayside Parkway, Quay Avenue and G Street will all be demolished. The Revised DEIR does not provide any discussion of how access to the existing operations at the Southbay Boat Yard Property will be maintained during the demolition of these roadways or the construction of the E Street extension. Moreover, the Revised DEIR does not provide any discussion of how parking on these demolished streets will be replaced during and after demolition and construction activities. The loss of Property access and available on-street parking for Southbay Boat Yard is a significant impact which must be addressed in the final Environmental Impact Report.

Y-2  
(Cont.)

Y-3

Y-4

Y-5

Y-6

**Y-3** This comment requests a legal description of the portion of the Southbay Boat Yard that will be demolished for uses in the E Street Extension and for development of the RCC. Prior to design of the E Street Extension, the Port shall consult with the Southbay Boat Yard with respect to any impact that may occur to its leasehold. Please also see the response to comment Y-2.

**Y-4** This comment expresses the author’s objection to changes that would affect the current lease between the Port and Southbay Boat Yard. This does not raise an environmental issue; therefore, no further response is required.

**Y-5** Please see the response to comment V-86.

**Y-6** H Street will be improved prior to the closures identified, providing adequate access to the Southbay Boat Yard and park. In addition, both the City and Port require traffic control plans during construction to address impacts to existing parking and property access.

**Comment Letter Y (Page 3)**

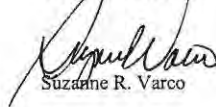
Mr. John Helmer  
July 7, 2008  
Page 3

These comments are intended to highlight deficiencies in the Revised DEIR and proposed Port Master Plan Amendment, and to encourage Port District Staff and the Board of Port Commissioners to revise the final Environmental Impact Report consistent with the issues raised above.

Thank you for your attention to these important comments. In the event you have any questions regarding the above items, please do not hesitate to contact the undersigned.

Yours very truly,

OPPER & VARCO LLP



Suzanne R. Varco

SRV/ssr

cc: Ms. Randa Coniglio, San Diego Unified Port District  
Mr. Art Engel, The Marine Group, LLC

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Comment Letter Z

August 6, 2008

VIA FIRST CLASS U.S. MAIL  
EMAIL AND FACSIMILE

San Diego Port District  
Land Use Planning Department  
Attention: Leslie Nishihi  
3165 Pacific Highway  
San Diego, CA 92101  
FAX (619) 686-6508  
Leslie Nishihi <lnishihi@portofsandiego.org>

RE: COMMENT ON DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)  
GAYLORD PROJECT AND ASSOCIATED PROJECTS

General Comments:

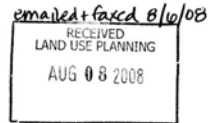
To begin with the DEIR is intimidating and very difficult to review for the average citizen due to its excessive size and the difficult layout. This is especially true for the residents of Western Chula Vista who will receive the greatest negative impact from the projects. Many of the residents of Western (and Southwestern) Chula Vista are elderly, less educated and do not have the financial capability to obtain assistance with the review. This has been documented by the City of Chula Vista in its White Paper for Community Strengthening of Southwestern Chula Vista (hereafter the "White Paper")

The previously reviewed plan that placed the Gaylord in the H-23 zone is preferred to this proposal as it preserves many of the existing facilities on the Bay Front such as the RV park, and local restaurants, which under the proposal at hand are demolished and not replaced for a period of approximately 20 years, if at all.

The "Reduced Density Alternative" is the only reasonable alternative that can be considered based on the information in the DEIR.

The DEIR fails to take into account the proposed San Diego Charger Stadium on the South Bay Power Plant location, which will undoubtedly be commercially developed by some other developer, if not by the San Diego Chargers.

The DEIR fails to consider the "factors to be considered in the review of a proposal" categorized and described in Gov. Code Section 56668 and therefore must be redrafted and resubmitted to the citizenry.



Response to Comment Letter Z

Ned Ardagna  
August 6, 2008

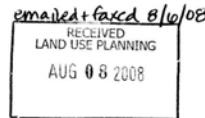
- Z-1** This comment expresses an opinion about the size and layout of the Revised Draft Environmental Impact Report (DEIR), but it does not address the adequacy of the Revised DEIR. The Revised DEIR provides the level of detail in order to adequately address, evaluate, and disclose the project description, potential impacts, and mitigation.
- Z-2** This comment expresses a preference for placing the Resort Conference Center (RCC) on Parcel H-23 in order to avoid the loss of existing facilities on the Bayfront, such as the RV Park and local restaurants (see *Section 5.4* regarding the Harbor Park Alternative). This comment will be included in the Final EIR and will be considered by the Board of Port Commissioners as it makes the decision whether or not to approve the proposed project. Because the comment does not raise any environmental issue, no further response is warranted.
- Z-3** This comment states that the Reduced Density Alternative is the only reasonable alternative. This comment will be included in the Final EIR and will be considered by the Board of Port Commissioners as it makes the decision whether or not to approve the proposed project. Because the comment does not raise any environmental issue, no further response is warranted.
- Z-4** This comment incorrectly states the Revised DEIR failed to take into account the proposed San Diego Chargers stadium on the South Bay Power Plant (SBPP) location. The Revised DEIR provides a detailed description of the existing conditions on the SBPP site and the use of the site for electric power generation in *Section 3.0, Project Description* (pp. 2-110-1 and 2-110-2). The Revised DEIR also

Comment Letter Z

August 6, 2008

VIA FIRST CLASS U.S. MAIL  
EMAIL AND FACSIMILE

San Diego Port District  
Land Use Planning Department  
Attention: Leslie Nishih  
3165 Pacific Highway  
San Diego, CA 92101  
FAX (619) 686-6508  
Leslie Nishih <lnishih@portofsandiego.org>



RE: COMMENT ON DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)  
GAYLORD PROJECT AND ASSOCIATED PROJECTS

General Comments:

To begin with the DEIR is intimidating and very difficult to review for the average citizen due to its excessive size and the difficult layout. This is especially true for the residents of Western Chula Vista who will receive the greatest negative impact from the projects. Many of the residents of Western (and Southwestern) Chula Vista are elderly, less educated and do not have the financial capability to obtain assistance with the review. This has been documented by the City of Chula Vista in its White Paper for Community Strengthening of Southwestern Chula Vista (hereafter the "White Paper")

Z-1

The previously reviewed plan that placed the Gaylord in the H-23 zone is preferred to this proposal as it preserves many of the existing facilities on the Bay Front such as the RV park, and local restaurants, which under the proposal at hand are demolished and not replaced for a period of approximately 20 years, if at all.

Z-2

The "Reduced Density Alternative" is the only reasonable alternative that can be considered based on the information in the DEIR.

Z-3

The DEIR fails to take into account the proposed San Diego Charger Stadium on the South Bay Power Plant location, which will undoubtedly be commercially developed by some other developer, if not by the San Diego Chargers.

Z-4

The DEIR fails to consider the "factors to be considered in the review of a proposal" categorized and described in Gov. Code Section 56668 and therefore must be redrafted and resubmitted to the citizenry.

Z-5

*Description* (pages 3-110 through 3-112). The Revised DEIR also describes the changes in the existing conditions that would have to occur before the SBPP site would be available for redevelopment, including the fact that the fundamental decision whether to terminate the SBPP site's use as a power plant is not within the jurisdiction of the San Diego Unified Port District (Port) or the City of Chula Vista (City). The Revised DEIR specifically discusses the interest in locating a San Diego Chargers football stadium on the SBPP site in *Chapter 3.0, Project Description* (page 3-112), and *Chapter 6.0, Cumulative Impacts* (page 6-9). As stated in *Chapter 6.0, Cumulative Impacts*, San Diego Chargers Stadium is not part of the Proposed Project. Page 6-9 clarifies that, "The City and the San Diego Chargers have had discussions concerning a new football stadium in which the Chargers have identified two potential locations, including the site of the SBPP and switchyard. The Port is informed that no site has been agreed upon, no application or plan has been submitted, and no agreement has been reached between the City and the Chargers concerning a stadium project. Furthermore, the SBPP and switchyard site is within the jurisdiction of the Port, not the City, and the Port is not a party to the discussions between the City and the Chargers. The description of future uses in the Otay District does not include a football stadium because the Port has neither initiated nor received any plan or proposal for such use nor it is considered a cumulative project, as its nature is still speculative at this time."

Z-5

California Government Code, Section 56668, is the governing legislation that regulates determinations of spheres of influence under the Cortese-Knox-Hertzberg Act, which is under regulatory purview of the Local Agency Formation Commission. No annexations or spheres of influence revisions are proposed as part of this project, and therefore the code section cited in the comment is not applicable.

Comment Letter Z (Page 2)

August 6, 2008  
Page 2

Architecture:

It is difficult to understand how this DEIR can be approved, as the report makes it clear that the architecture of the buildings has not been fully developed, which is a fundamental defect in the DEIR. Furthermore, the architecture that is described in the Gaylord project is not within the character of the surrounding area or any historically significant building in the City of Chula Vista or the surrounding area, as is required by the City's General Plan and other City planning documents. The buildings described are nothing more than the standard ugly, glass and steel, architecture that is popular because it is cheap.

Z-6

At the very first meeting with the Chula Vista residents conducted by Gaylord it was mentioned, by Gaylord representatives, that the building would have architecture that the residents would be proud of, even mentioning the architecture of the Coronado Hotel. What is presented here is at best ugly and at worst a blight on our beautiful Bay Front.

Potable Water

The "Timely availability of water supplies adequate for the projected needs" is a factor that is required by the Government Code for consideration. The DEIR describes the consumption of 600,000 gallons of water per day by Gaylord alone and in excess of 3 million gallons of water per day for the Project at build-out as not requiring any mitigation whatsoever. This is probably the most ridiculous statement in what is a flawed DEIR. If the consumption of an additional 3 million g.p.d. of drinking water is not an issue requiring mitigation then what is the purpose of the 20 gallon per day program that is being pushed by the local water agencies. This is an environmental impact not only for the residents of Chula Vista but for all of the residents of urban San Diego County and a fatal flaw in the DEIR.

Z-7

Traffic:

The DEIR does not adequately address nor does it adequately mitigate traffic in Western (and Southwestern) Chula Vista. Re-designating certain existing surface roads to a more lenient category is not mitigation. Western (and Southwestern) Chula Vista have already suffered from the poor condition of the roads which, due to the lack of City services, have now become an outdated patch work quilt of poorly executed repairs that are becoming un-sewn. This problem does not occur in eastern Chula Vista where continuous updating and repair of the roads and infrastructure occurs. Problems for the residents of Chula Vista, especially Western Chula Vista, related to the deteriorated roads will grow in its significance as residents change their habits from large vehicles to light duty economical vehicles.

Z-8

The above described road and traffic problem is exacerbated by the complete lack of any defined bicycle lane throughout Western Chula Vista, this along with the deteriorated road edge in many areas makes bicycle travel difficult at best and dangerous in many cases. Bicyclists are

Z-9

Z-6

This comment states that the architecture of the proposed buildings has not been fully developed. The comment also states that the architecture of the Gaylord project is out of character with the surrounding area and other historically significant buildings in the City or surrounding area.

As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15168.

Z-7

The commenter expresses concern regarding the timely availability of water supplies needed to serve the Proposed Project. As described fully in *Section 6.15.1.1* regarding potable water supply and availability, the Proposed Project's water supply demands were considered as part of the Sweetwater Authority's demands and in fact are lower than those previously considered. The analysis considers 2030 and beyond; however, such a point may be considered speculative as it is not known what type of cumulative environmental may exist at that time. Therefore, the impact is considered less than significant. In addition, *Chapter 6.0, Cumulative Impacts*, of the Revised DEIR goes into great depth regarding the project's anticipated water demand and availability of the water to serve the Proposed Project. Specifically, the Water Supply Assessment and Verification prepared for the project projected water demand based on regional growth projections. According to Sweetwater Authority's Water

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### Architecture:

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Z-8

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Z-9

Supply Assessment, the Sweetwater Authority would be able to provide long-term water supply to the project; therefore, there is no significant cumulative impact on water supply, nor would the project require reliance on Metropolitan Water District of Southern California's (MWD's) reserve and replenishment supplies. Please also refer to the responses to comments V-240, V-241, and V-242.

The commenter also refers to the "20 gallon per day program" and how the project is consistent with this local initiative. It is assumed that the commenter is referencing "The 20 Gallon Challenge," which is a San Diego regional initiative to reduce our region's water use. It is important to note that the program's goal is to reduce water use, on average, by 20 gallons per person, per day. As discussed in *Section 4.14, Public Utilities*, the Proposed Project includes features designed to reduce water demand for the project. Moreover, the water demand estimate included in the Revised DEIR does not take into account the Proposed Project's water efficiency Project Design Features (PDFs). As described in *Section 4.6, Air Quality*, the Proposed Project would implement a series of PDFs that would have the effect of reducing greenhouse gas emissions by reducing total water usage. In regard to the RCC, which was referenced by the commenter, the RCC would implement PDFs that may include use of grey water, ultra low-flow plumbing fixtures, native and adaptive landscaping, and high-efficiency irrigation technologies to achieve a net reduction in water usage of 20 percent (20 percent  $\times$  672.1 acre-feet per year (af/yr), or approximately 134.4 af/yr) (page 4.14-14).



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Z-7

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Z-8

The above described road and traffic problem is exacerbated by the complete lack of any defined bicycle lane throughout Western Chula Vista, this along with the deteriorated road edge in many areas makes bicycle travel difficult at best and dangerous in many cases. Bicyclists are

Z-9

Z-8

This comment makes the general objection that the Revised DEIR does not adequately address or mitigate traffic in western and southwestern Chula Vista. *Section 4.2, Traffic and Circulation*, of the Revised DEIR thoroughly analyzes the potential impacts of the Proposed Project on roadways and intersections in the project area, which are located primarily in western and southwestern Chula Vista. As described in *Section 4.2, Traffic and Circulation*, and specifically *Section 4.2.5, Mitigation Measures*, 30 individual mitigation measures are proposed specifically to reduce traffic-related impacts caused by the Proposed Project. These measures include construction of necessary roads to provide access and frontage improvements for proposed developments, widening of existing roads where necessary to provide adequate capacity, and fair share contribution to the Western Traffic Development Impact Fee and participation in the California Department of Transportation (Caltrans)/San Diego Association of Governments (SANDAG) Interstate 5 (I-5) South Corridor Plan. Because the comment does not identify any specific roadway or intersection for which potential traffic impacts should have been analyzed but were not, or any specific mitigation measure that should have been considered but was not, no further response is possible or warranted.

Z-9

Various bike lane improvements proposed throughout the project area are described in *Section 3.4.7.2, Bayfront Bikeway Loop Alignment*, and throughout *Chapter 3.0, Project Description*, of the Revised DEIR. For example, as described on page 3-151 of the Revised DEIR, "As part of the Proposed Project, a continuous Class I bike path, or Bayfront Loop, is proposed." The Bayfront Loop would begin at the E Street/Bayshore Bikeway intersection, traverse through the Proposed Project development, and rejoin the Bayshore Bikeway at Bay Boulevard south of L Street. In fact, most streets within the Proposed Project area proposed Class I or Class II bike lanes as part of the

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forced to travel on the sidewalks where the riders (depending on their age) receive a liberal dose of enforcement by the Chula Vista Police department. Travel by Scooter and Motorcycle is almost as hazardous due to the many potholes and low quality/sub-standard repairs after road work which can jar a rider off the seat of his two vehicle if the rider does not notice the road surface defect. This is especially important after dark where certain roads are unsafe and dangerous to two wheeled vehicle riders. A suggested mitigation for some of the traffic impact to the residents of Western Chula Vista could (and should) be bicycle lanes and bus turnouts throughout Western Chula Vista.

Finally, any road mitigation that is even suggested in the DEIR does not extend east beyond Broadway and is mostly focused on the I-5 freeway (I guess to allow the new residents and visitors of Chula Vista to bypass any contact with Western Chula Vista's businesses altogether). Why would anyone who resides in the area support this as it is a huge burden to the residents without any benefit whatsoever and constitutes an unacceptable environmental impact rising to the level of being an Environmental Injustice to the residents of Western Chula Vista within the meaning of California and Federal law.

Pollution:

The DEIR does not adequately address nor does it adequately mitigate the increase in pollution that will be caused by the construction of the project for the next 20 or more years nor does the DEIR adequately address nor does it mitigate the ongoing increase in pollution for the residents of Chula Vista, especially the residents of Western Chula Vista, caused by the Project throughout its life span. This creates an unacceptable environmental impact on the residents of Western (and Southwestern) Chula Vista, creating a Health and Environmental Injustice within the meaning of California and Federal law. In fact, the most impacted residents are the least represented under the current City Administration.

Schools and Parks:

The DEIR does not adequately address nor does it mitigate the impact of the significant increase in the residential population of Western Chula Vista and its impact on the schools and educational facilities. Due to the isolated design of the new developments and the acknowledged overcrowded roads, pedestrian traffic to the existing schools will be dangerous, violating current policy of the City of Chula Vista to encourage walking to school. It appears from the DEIR and its traffic analysis bussing of the students will be required. This increase in cost and the resultant overcrowding of the existing schools must be thoroughly addressed by the DEIR. A special assessment of the developer for schools appears to be required.

The DEIR describes the creation of much park space in its mitigation discussion but does not provide funding for the park space that is created. This is a problem similar to what has recently occurred in Eastern Chula Vista where the City took funds to create a park but does not

Z-9  
(Cont.)

Z-10

Z-11

Z-12

Z-13

infrastructure plans. The general conditions of roads outside the project boundaries are not evaluated beyond the capacity of those roads.

**Z-10** As defined in *Section 4.2, Traffic and Circulation*, on page 4.2-1, "The study area limits were defined using modeled traffic volumes and modeled traffic distributions from the areas (traffic analysis zones) incorporating the Chula Vista Bayfront." In addition, traffic impact analysis results from the City of Chula Vista General Plan and Urban Core Specific Plan were considered when defining the traffic study area and applied. Mitigation measure 4.2-27 (pages 4.2-247 through 4.2-248) discusses the widening of H Street between I-5 ramps and Broadway to a six-lane Gateway Street through the Chula Vista Western Transportation Development Impact Fee (WTDIF). Please also see the responses to comments V-407 and V-409.

**Z-11** This comment makes the general objection that the Revised DEIR does not adequately address or mitigate pollution, especially in western and southwestern Chula Vista. However, the comment does not identify what type of "pollution" it refers to. The Revised DEIR analyzed the potential impacts of the proposed project and recommended appropriate mitigation measures with respect to 17 separate impact areas. Because the comment does not identify what type of pollution should have been analyzed but was not, or which specific mitigation measure should have been considered but was not, no further response is possible or warranted.

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forced to travel on the sidewalks where the riders (depending on their age) receive a liberal dose of enforcement by the Chula Vista Police department. Travel by Scooter and Motorcycle is almost as hazardous due to the many potholes and low quality/sub-standard repairs after road work which can jar a rider off the seat of his two vehicle if the rider does not notice the road surface defect. This is especially important after dark where certain roads are unsafe and dangerous to two wheeled vehicle riders. A suggested mitigation for some of the traffic impact to the residents of Western Chula Vista could (and should) be bicycle lanes and bus turnouts throughout Western Chula Vista.

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Pollution:

The DEIR does not adequately address nor does it adequately mitigate the increase in pollution that will be caused by the construction of the project for the next 20 or more years nor does the DEIR adequately address nor does it mitigate the ongoing increase in pollution for the residents of Chula Vista, especially the residents of Western Chula Vista, caused by the Project throughout its life span. This creates an unacceptable environmental impact on the residents of Western (and Southwestern) Chula Vista, creating a Health and Environmental Injustice within the meaning of California and Federal law. In fact, the most impacted residents are the least represented under the current City Administration.

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The DEIR describes the creation of much park space in its mitigation discussion but does not provide funding for the park space that is created. This is a problem similar to what has recently occurred in Eastern Chula Vista where the City took funds to create a park but does not

Z-9  
(Cont.)

Z-10

Z-11

Z-12

Z-13

**Z-12** Section 4.13, *Public Services*, of the Revised DEIR identifies the increase of 819 new students to the schools in Chula Vista as a significant impact. **Mitigation Measure 4.13.4-1** recommends mitigation in the form of fees to offset potential impacts to schools. In fact, California Government Code Section, 65996(b), states that fees are "deemed to provide full and complete school facilities mitigation." Once the statutory school mitigation fee is paid, the impact would be deemed mitigated as a matter of law.

**Z-13** This comment states that the Revised DEIR does not identify funding to build, staff, and maintain the park land that will be created by the Proposed Project, and it recommends the existing parks be preserved and new buildings be constructed around them. The proposed parks will be provided as part of any development in the Chula Vista Bayfront Master Plan. If there is no development, the existing parks will be maintained. One City park exists within the project boundary. The other parks are Port parks, which are provided for all visitors to the Bay, unlike City parks that serve the community.

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have the funds to build, staff and maintain the park for its residents. The residents are better off with the parks that are currently located along the Bay Front and the various projects should be required to build around these parks.

Z-13  
(Cont.)

Southwestern Chula Vista Impact:

The DEIR does not adequately address the impact of the project on Chula Vista residents who reside west of I-805 and south of L Street (Southwestern Chula Vista). This is apparently due to the complete lack of any development plan for Southwestern Chula Vista such as the Urban Core Specific Plan and other city of Chula Vista development plans. It appears that the only possible mitigation for this defect is to wait until the City, in conjunction with the residents of Southwestern Chula Vista, hammer out a Specific Plan for the area. To go forward without a Specific Plan for Southwestern Chula Vista again creates an Environmental Injustice within the meaning of California and Federal Law for the residents "fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."

Z-14

The DEIR clearly describes the greatest impact of the development on the residents of Western Chula Vista (defined as the area west of Interstate 805), which is more vulnerable due to its poorer residents, with a lower income on the average and a lower education level. The DEIR does not specifically address this issue and it must fail.

Environmental Justice, California Government Code:

The proposed building projects described by the DEIR violate current California law as it relates to Environmental Justice for the residents, defined by California Government Code (and other code sections) as "fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies." The DEIR unfairly impacts, without any mitigation, the area of Chula Vista west of I-805 and south of L Street (Southwestern Chula Vista). The City of Chula Vista in its "White Paper" has described this area as being lower income, lower educated, elderly, populated with higher numbers of minorities & homeless, and in general underprivileged, making the residents of Southwestern Chula Vista especially vulnerable to the Environmental Injustice being perpetrated by the City of Chula Vista, the Port District and the developers of the Project. The DEIR opens the City, the Port District and the various developers to a significant lawsuit unless the injustices to the residents of Western (and Southwestern) Chula Vista are mitigated.

Z-15

Currently the residents of Western (and Southwestern) Chula Vista are subject to Environmental Injustice by receiving a higher level of air pollution (from the South Bay Power Plant and the approved Peaker Plant), by the over crowded roads, by the condition of the deteriorated road surfaces, by the excessive placement of lower income housing, by the failure to

Z-16

**Z-14** This comment makes the general objections that the Revised DEIR does not adequately address the impact of the Proposed Project on southwestern Chula Vista, that proceeding with the Proposed Project before the City adopts a Specific Plan for the area creates an environmental injustice, and that the greatest impact of the Proposed Project will be on lower income residents of western Chula Vista. However, the comment does not identify what type of "impact" it refers to. The Revised DEIR analyzed the potential impacts of the proposed project and recommended appropriate mitigation measures with respect to 17 separate impact areas. Because the comment does not identify any specific type of impact that should have been analyzed but was not, or any specific mitigation measure that should have been considered but was not, no further response is possible or warranted. Please also refer to the responses to comments V-407 and V-409.

**Z-15** This comment makes the general objections that the Proposed Project violates California law and that the Revised DEIR unfairly impacts lower income residents of southwestern Chula Vista, which creates an environmental injustice. However, the comment does not identify what type of "impact" it refers to and does not provide any facts or other information in support of its allegations that the Proposed Project unfairly impacts lower income residents. The Revised DEIR analyzed the potential impacts of the proposed project and recommended appropriate mitigation measures with respect to 17 separate impact areas. Because the comment does not identify any specific type of impact that should have been analyzed but was not, or any specific mitigation measure that should have been considered but was not, or any facts or other data in support of its claims regarding environmental injustice, no further response is possible or warranted. Please also see the responses to comments V-407, V-409, and Z-14.

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maintain the parks and more. This DEIR not only does not mitigate the further impact on the residents by the development of the Project it ignores any impact to the residents of Southwestern Chula Vista because a formal plan for development of the area does not exist, such as the Urban Core Specific Plan, through no fault of the residents.

Additionally, the City of Chula Vista has not fulfilled a fundamental duty to the residents of Western (and Southwestern) Chula Vista by allowing the roads and infrastructure to deteriorate to a third world condition, while focusing its attention on the area of Chula Vista east of I-805. The lack of attention that the roads have received already creates a negative and costly impact on the residents in auto repairs and physical injuries (all of which will increase as the residents change their transportation habits to smaller vehicles and alternatives to the automobile). The DEIR must address mitigation of the entire road and traffic pattern in Western Chula Vista and cannot pretend that the roads east of Broadway are not significantly impacted by the Project.

Marina & Marina Parkway Relocation:

The relocation of Marina Parkway appears to be an expensive unnecessary development. Due to the proposed relocation small businesses must be demolished and Marina access will be greatly diminished. Additionally, parking near the Marina appears to be eliminated by the relocation. This is a significant impact on the current users of the Chula Vista Bayfront and must be mitigated. Additionally, the reduction in the number of docking spaces available in the Marina is a major impact on boat owners of the region and is not adequately addressed in the DEIR. The addition of some dock spaces at some delayed point in the future does not adequately mitigate the original reduction in docking facilities for local boaters.

Furthermore, the reduction of the parking spaces in the Boat Launch area is unacceptable and must be mitigated. By reducing parking in the Boat Launch area, access to the water and water sports in and around the newly developed and "more desirable Bay Front" is reduced, which seems to be in conflict with the basic intent of the development of the Bay Front; to provide a desirable place to visit and play. More parking is needed for boats, cars, motorcycles, bicycles, etc., not less.

Existing Small Businesses:

The DEIR does not adequately address the impact as it relates to the elimination of the existing restaurant operations in Phase I of the project. Many existing jobs would be eliminated that are currently held by local residents, especially those living in Western Chula Vista. It appears that the purpose of demolishing the restaurants in Phase I of the project is to provide Gaylord a lock on waterfront dining in Chula Vista, eliminating casual waterfront dining and any competition in its entirety. The plan does not adequately mitigate the loss of this life style which has become embedded in the lifestyle of the Chula Vista residents.

Z-16  
(Cont.)

Z-17

Z-18

Z-19

Z-20

**Z-16** This comment states that residents of Chula Vista are already experiencing higher levels of pollution, overcrowded roads, etc. The Proposed Project provides many project features and mitigation measures that not only mitigate for potential impacts, but provide for increased public services, recreational amenities, and cultural uses to benefit the community and region as a whole. Please see the responses to comments V-407, V-409, Z-14, and Z-15.

**Z-17** This comment states that existing conditions of the roads and infrastructure in western and southwestern Chula Vista is deteriorated and has negative and costly impacts on local residents, and it requests the Revised DEIR address mitigation of the entire road and traffic pattern in western Chula Vista. *Section 4.2, Traffic and Circulation*, of the Revised DEIR analyzes the potential impacts of the Proposed Project on roadways and intersections in the project area, which is located primarily in western Chula Vista, and recommends a variety of mitigation measures to reduce or avoid potential significant impacts on traffic. Although CEQA requires an EIR to recommend mitigation measures to reduce or avoid significant impacts that will result from a proposed project, it does not require an EIR to provide mitigation for deficiencies in existing conditions. Because the comment does not identify any mitigation measure that should have been considered but was not, no further response is possible or warranted.

**Z-18** Please see the responses to comments Y-6 and X-2.

**Z-19** Please see the response to comment V-20.

**Z-20** This comment states that the Revised DEIR does not adequately address impacts related to the elimination of existing restaurant operations during Phase I of the Proposed Project, including the loss of jobs and the loss of the casual waterfront lifestyle. The commenter expresses an opinion that existing waterfront restaurants are being

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maintain the parks and more. This DEIR not only does not mitigate the further impact on the residents by the development of the Project it ignores any impact to the residents of Southwestern Chula Vista because a formal plan for development of the area does not exist, such as the Urban Core Specific Plan, through no fault of the residents.

Z-16  
(Cont.)

Additionally, the City of Chula Vista has not fulfilled a fundamental duty to the residents of Western (and Southwestern) Chula Vista by allowing the roads and infrastructure to deteriorate to a third world condition, while focusing its attention on the area of Chula Vista east of I-805. The lack of attention that the roads have received already creates a negative and costly impact on the residents in auto repairs and physical injuries (all of which will increase as the residents change their transportation habits to smaller vehicles and alternatives to the automobile). The DEIR must address mitigation of the entire road and traffic pattern in Western Chula Vista and cannot pretend that the roads east of Broadway are not significantly impacted by the Project.

Z-17

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Z-18

Furthermore, the reduction of the parking spaces in the Boat Launch area is unacceptable and must be mitigated. By reducing parking in the Boat Launch area, access to the water and water sports in and around the newly developed and "more desirable Bay Front" is reduced, which seems to be in conflict with the basic intent of the development of the Bay Front; to provide a desirable place to visit and play. More parking is needed for boats, cars, motorcycles, bicycles, etc., not less.

Z-19

Existing Small Businesses:

The DEIR does not adequately address the impact as it relates to the elimination of the existing restaurant operations in Phase I of the project. Many existing jobs would be eliminated that are currently held by local residents, especially those living in Western Chula Vista. It appears that the purpose of demolishing the restaurants in Phase I of the project is to provide Gaylord a lock on waterfront dining in Chula Vista, eliminating casual waterfront dining and any competition in its entirety. The plan does not adequately mitigate the loss of this life style which has become embedded in the lifestyle of the Chula Vista residents.

Z-20

expresses an opinion that existing waterfront restaurants are being demolished to eliminate competition with Gaylord as to waterfront dining. The closure of existing restaurants, loss of jobs and "lifestyle," and elimination of competition are social and economic issues that do not in themselves constitute significant environmental effects under CEQA. The comment does not provide any facts or other information to indicate that these potential impacts will result in an adverse change in the physical environment. Accordingly, no further response is possible or warranted. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

Please also note that as described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168 (14 CCR 15000 et seq.).

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Rail Road:

The DEIR is confusing with respect. to the Coronado Branch Line railroad and does not adequately address the environmental impact with respect to the historic nature of the railroad, the railroad right of way, or its viable use as a tourist rail and or mass transit. It appears that the tracks are removed and turned into a green belt but certain portions of the DEIR mention the tracks as useful for mass transit.


Z-21

Conclusion:

The DEIR is premature for many reasons among which include: the make-up, appearance and the number of the buildings is not clear; it does not consider future probable development that are being considered; it fails to mitigate for the huge increase in potable water consumption; it creates an Environmental Injustice for the residents of Western Chula Vista; it fails to mitigate the effects of the increase in traffic and pollution; fails to describe adequate mitigation for school age children of Western Chula Vista; and does not have a Specific Plan for Southwestern Chula Vista to base any review on.

Z-22

Respectfully Submitted:

  
Ned Ardagna  
A Long Time Resident of Chula Vista  
(619) 498-0300

- Z-21** The Proposed Project does not propose any changes to the existing Coronado Branch Line, but contemplates a greenbelt within the existing right-of-way (ROW). Please also see the responses to comments V-85 and AF-1.
- Z-22** The comment summarizes the concerns expressed in the comment letter. Please see the responses to comments Z-1 through Z-21.

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**Comment Letter AA**

August 7, 2008

Ms. Leslie Nishihira  
Associate Redevelopment Planner  
San Diego Unified Port District  
PO Box 120488  
3165 Pacific Highway  
San Diego, CA 92101-1128

Via e-mail: lnishihira@portofsandiego.org

Dear Ms. Nishihira:

On the part of myself, children, and grandchildren who all reside in the City of Chula Vista, I would like to register our strong support for development of the bayfront in a responsible way. We care about our community! We support all the actions included in the Environmental Health Coalition's Green Bayfront recommendations. Please ensure that the Bayfront is for everyone, especially existing residents of Chula Vista who have been denied access to our beautiful bayfront for so long.

Please adopt Environmental Health Coalition's Green Bayfront recommendations as soon as possible.

Sincerely,

Jovita Ayala Aleman and Family  
1194 La Vida Court  
Chula Vista CA 91915



AA-1

**Response to Comment Letter AA**

**Jovita Ayala Aleman**

**August 7, 2008**

**AA-1** This comment expresses support for recommendations outlined in Comment Letter Q from Environmental Health Coalition. Please see the responses to comments Q-1 through Q-35.

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Comment Letter AB



COMMENTS

PLEASE PRINT CLEARLY

August 7, 2008

NAME: ALAN BRILL

ORGANIZATION: SOUTHWEST CHULA VISTA CIVIC ASSOCIATION

MAILING ADDRESS: 858 3rd Ave., #131, Chula Vista, CA 91911

EMAIL ADDRESS:

The proposed Gaylord Hotel/Convention Center & Condominium project is an unwise use of our beautiful Chula Vista bayfront area. This is urban sprawl in a very confined area for the benefit of special interest. A project of this type is better suited further inland in perhaps the Otay Ranch and Olympic Training Center area. Anything that is done along the bay, should be low-profile with minimal interference of the natural scenery of the bay.

AB-1

What comes to mind is a Seaport Village activity with low profile shops, restaurants and motel accommodations. The rail line west of I-5 should be used as an excursion line. The trestle across the Sweetwater River should be rebuilt, giving access to National City on the north and past the Western Salt Flats on the south.

AB-2

The present power plant should stay in the area since the transmission system is already there. An updated, more efficient plant should be built near the existing facility.

AB-3

Thursday, August 7, 2008

Comments will be accepted in writing until 5:00 pm on Tuesday, July 8, 2008.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:

San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter AB

Alan Brill

August 7, 2008

**AB-1** This comment expresses the author's opinion on the inappropriateness of the location of the Proposed Project and that it is urban sprawl. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

**AB-2** This comment suggests desirable project features. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

**AB-3** This comment recommends that the power plant should be replaced with upgrades in a nearby location. The project does not propose relocating or updating the power plant as it is outside of the control of the Port or City. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

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Comment Letter AC

August 31<sup>st</sup>, 2008  
5796 Laramie Way  
San Diego, Ca.

San Diego Unified Port District  
Land Use Planning Department  
P.O. Box 120488  
San Diego, Ca. 92112-0488



To Whom Concerned:

I don't even know why I'm taking the time to write my comments, about this Gaylord extravaganza, because, as usual, the Port and the City have already made up their minds to sell us working class folks out of the picture. I've lived in San Diego for over 40 years and can't remember the Citizens of San Diego, winning out in any development situation. You have sold us out on every occasion, and now you want to build this 'Huge Playground for the Rich', as if we need another one.

I could understand a few Hotels and condominiums, in the area, and keep our Marina as it is. But to build several monstrosities (Hotels), and over 1,600 condominium units in the area is just plain outrageous. Talk about shoving the wealth factor right down the throats of the working and poor! I mean to say this is just outrageous, especially when there are over 10,000 Homes in foreclosure, and that the City of San Diego is facing one of the biggest water shortage issues, ever. Add to that, our poor economy, and the run down neighborhoods in the area, and an increasing crime rate, and this development just doesn't make much sense. The only people that will be able to afford these expensive condominiums will be foreigners, or folks from out of State. That way they won't have to pay much to The State Of California in taxes, just like this Gaylord outfit. Of course when it comes to the Port District, they don't seem to have more sense than the plants growing in front of their lavish Homes and Offices. In fact the plants have a reason to exist. If you think I'm a little upset, then think again. I AM TOTALLY OUTRAGED !!!, as most of us that 'WORK for a living' feel.

What are you going to do with all the boaters in the Chula Vista Marina? Run them out, just like you've run out so many Senior Citizens, and other folks that can't afford a rich lawyer to fight for their rights. I took over 11 years to build the sailboat I have, and it's the only form of recreation that my Wife and I can enjoy and afford. Now we stand to loose our slip in one of the finest Marinas in California, just make way for your rich 'Chronies', and their mega-yachts. Let them have to look for a space for their over bearing mega-yachts. If you'd like to know, there are no slips available in the whole of San Diego.

I ask you this: where are we going to go when you run us out, to make way for these so called 'beautiful people'? I feel, just like most of us, that you don't give a d—n, as you've already made your minds up. I just wonder how you sleep at night?

As you can tell, I'm totally against this present plan. A little more 'Common Sense' in this plan would be nice, but then when it involves money and greed, common sense and decency go right out the window.

A Very Concerned Citizen

Robert S. Carter LT USMC (Ret) RN, BS, MSA.

AC-1

AC-2

AC-3

Response to Comment Letter AC

Robert S. Carter  
August 1, 2008

**AC-1** This comment expresses the author's opinion on the project. The number of condominiums as described in *Chapter 3.0, Project Description*, is 1,500, not 1,600. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

**AC-2** The comment expresses concern regarding the boaters in the Chula Vista Marina. Please see the responses to comments V-93, V-108, V-115, V-116, and V-121 regarding the reconfiguration of the marina and boat slips, the low-cost visitor and recreation facilities, and the residents living aboard the boats.

**AC-3** This comment expresses the author's opinion on the project. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

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Comment Letter AD



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

PLEASE PRINT CLEARLY

NAME: KB Colclasure  
ORGANIZATION: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
EMAIL ADDRESS: kcolclas@sdccd.edu

*There was no adequate information this  
Traffic problems that for sure to happen on  
I-5  
Those of us who work in S.D., & drive  
the freeways will suffer.*

AD-1

*You have not addressed the issues of a  
living wage. We know the Bayland is  
anti-union & the Chula Vista is the same.  
Without a living wage, we may not need to  
worry about 2044. Our standard of living will  
collapse - no tourists will come.*

AD-2

*Well paid workers have always produced a strong  
economy.*

Comments will be accepted in writing until 5:00 pm on Tuesday, July 8, 2008.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter AD

**KB Colclasure  
June 24, 2008**

- AD-1** Section 4.2, *Traffic and Circulation*, of the Revised DEIR presents detailed analysis on project-specific impacts from the Phase I components of the project (Pacifica), as well as program-level components regarding traffic, including freeways. The modeling used to evaluate traffic included potential cumulative projects and the project's contribution to cumulative impacts, as described in *Chapter 6.0, Cumulative Impacts*. The Revised DEIR provides a specific mitigation measure to address the potential impacts on freeway traffic (**Mitigation Measure 4.2-8**).
- AD-2** This comment expresses concern over issues with living wage. The Revised DEIR does not address living wage per CEQA Guidelines, Section 15131, regarding economic and social effects, which requires that analysis must be focused on physical changes derived from the economic or social impact.

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## Comment Letter AE

Lesley Nishihira - RE: DEIR for Bayfront Master Plan

**From:** <kenncolclasure@sbcglobal.net>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 8/4/2008 7:51 PM  
**Subject:** RE: DEIR for Bayfront Master Plan

Dear Ms Nishihira:

After reviewing the Bayfront DEIR I would like to make some comments. The land trade is very important to get the residential away from the Sweetwater Refuge. A program level EIR would be sufficient to pursue this land trade. The DEIR as now written simply does not contain the detail needed for a project level review of the roads, promenade, Signature Park, Pacifica Development or the Gaylord Project. The entire document needs to be a program review. Once architects have drawn building plans individual project level EIR s can be done.

AE-1

It is totally unacceptable and probably an Environmental Justice issue that the residents of western Chula Vista-an Environmental Justice Community- are expected to bear the unmitigatable negative effects to Air Quality, Cumulative Energy Availability, Traffic, and Aesthetics/Visual Quality this project will cause. The reduced Density and Height alternative would help reduce these negative impacts and should be adopted.

AE-2

The DEIR does not analyze but must the Adverse Health effects that the significantly negative Air Quality will cause for the residents of western Chula Vista. Many residents are under or uninsured so will suffer severely from these effects.

AE-3

The 3-5,000 low wage- workers this project will bring to Chula Vista will help contribute to urban decay in our city by raising rents and forcing families into homelessness or double and tripling up. As residents must pay more for housing they will patronize local businesses less leading to more boarded up stores. This effect was not analyzed and must be.

AE-4

Many parks are promised in the DEIR but none of them are funded. Likewise the 400- foot buffer around the wildlife refuge is not funded, and the Green Line Shuttle meant to provide free transportation for the residents and businesses to and from the Bayfront are not funded. These must all be funded and in place from the very beginning. It is unfair that the Green Line Shuttle only connects the northwest with the Bayfront. It must be expanded to the southwest, which has a higher number of low-income residents.

AE-5

AE-6

Tearing down the existing businesses and the RV Park as soon as the project is approved is not acceptable. Maybe they will be replaced sometime in the future and maybe not, but in the mean time we will not have them to enjoy. It is also unacceptable reducing the number of parking spaces at the boat launch to 100 from 125, and eliminating 200 boat slips, which only might be replaced where the Southbay Boat Yard now is. These are low-cost recreational opportunities for many residents of Chula Vista as well as visitors.

AE-7

AE-8

Sincerely,

## Response to Comment Letter AE

**Kenn Colclasure**

**August 4, 2008**

**AE-1** This comment expresses concern regarding the lack of detail needed to review the DEIR as a program level EIR. The Revised DEIR was prepared in part to address concerns from the previously circulated DEIR relative to the level of detail and to include newly available information. The CEQA Guidelines, Section 15124(c), discusses the level of detail required for the DEIR. Please see the responses to comments V-2 and V-4 regarding the level of detail of the Revised DEIR. The Revised DEIR provides a thorough and specific project description of those project components that are occurring in Phase I and analyzed at a project level, namely, the Pacifica project and H-17 fire station. Pages 3-39 through 3-103 of the Revised DEIR contain significant detail and graphics to demonstrate these project components. All other proposed Phase I components, as well as all Phases II through IV development, are intended to occur in the future, and at such time, will conduct subsequent environmental review consistent with CEQA. No further description is required. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

**AE-2** This comment expresses concern with the significant and unmitigable effects to residents of western Chula Vista. Please see the responses to comments V-407 and Z-14. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project

## Comment Letter AE

Lesley Nishihira - RE: DEIR for Bayfront Master Plan

**From:** <kennecolclasure@sbcglobal.net>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 8/4/2008 7:51 PM  
**Subject:** RE: DEIR for Bayfront Master Plan

Dear Ms Nishihira:

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AE-1

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AE-2

The DEIR does not analyze but must the Adverse Health effects that the significantly negative Air Quality will cause for the residents of western Chula Vista. Many residents are under or uninsured so will suffer severely from these effects.

AE-3

The 3-5,000 low wage- workers this project will bring to Chula Vista will help contribute to urban decay in our city by raising rents and forcing families into homelessness or double and tripling up. As residents must pay more for housing they will patronize local businesses less leading to more boarded up stores. This effect was not analyzed and must be.

AE-4

Many parks are promised in the DEIR but none of them are funded. Likewise the 400- foot buffer around the wildlife refuge is not funded, and the Green Line Shuttle meant to provide free transportation for the residents and businesses to and from the Bayfront are not funded. These must all be funded and in place from the very beginning. It is unfair that the Green Line Shuttle only connects the northwest with the Bayfront. It must be expanded to the southwest, which has a higher number of low-income residents.

AE-5

AE-6

Tearing down the existing businesses and the RV Park as soon as the project is approved is not acceptable. Maybe they will be replaced sometime in the future and maybe not, but in the mean time we will not have them to enjoy. It is also unacceptable reducing the number of parking spaces at the boat launch to 100 from 125, and eliminating 200 boat slips, which only might be replaced where the Southbay Boat Yard now is. These are low-cost recreational opportunities for many residents of Chula Vista as well as visitors.

AE-7

AE-8

Sincerely,

**AE-3** Table 4.6-2, *Criteria Pollutants – Sources and Health Effects*, defines each pollutant and its associated potential health effect. Further, the analysis in the section defines what would be considered a sensitive receptor and analyzes land uses and project emissions within that context. Please also see the response to comment V-172.

**AE-4** This comment expresses concern with low-wage workers brought to Chula Vista that will contribute to urban decay. As described on pages 7-1 and 7-2, the Proposed Project is expected to contribute greatly to the economy of the Chula Vista region in terms of jobs, personal income, and tax revenues, in part through the employment of both local and other San Diego residents. The current Housing Element of the City's General Plan was certified in early 2006. The Housing Element demonstrated enough land zoned to meet the immediate growth needs of the community. These growth forecasts assumed development of the Bayfront. Additionally, the Bayfront adds not only new market rate housing, but 10 percent of all new units will be affordable housing for low- and moderate-income households. The jobs created through the Bayfront development will give additional employment opportunities to many Chula Vista residents. Please also see the responses to comments V-58, V-280, V-359, and V-369 regarding affordable housing.

**AE-5** Please see the responses to comments N-4, N-16, Q-22, V-76, V-209, V-210, and Z-13 regarding park funding and funding for buffer areas.

**AE-6** Please see the responses to comments E-5, I-12, K-12, K-14, P-2, Q-27, V-12, V-51, V-104, V-147, and V-323 regarding the Green Line Shuttle.

## Comment Letter AE

Lesley Nishihira - RE: DEIR for Bayfront Master Plan

**From:** <kennecolclasure@sbcglobal.net>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 8/4/2008 7:51 PM  
**Subject:** RE: DEIR for Bayfront Master Plan

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AE-2

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AE-3

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AE-4

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AE-5

AE-6

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AE-7

AE-8

Sincerely,

**AE-7** The comment expresses concern regarding the loss of business and the RV Park as a low-cost recreation opportunity for residents and visitors. Please see the response to comment V-35 regarding loss of the existing restaurant. The SBPP is projected to be demolished by 2015. As a result of the withdrawal of the Gaylord project, Parcel H-3 is not expected to be developed before that time. As a result, Parcels O-3A and O-3B will be available for relocation of the RV Park by the time Parcel H-3 is needed for development. Please also see the responses to comments V-34 and V-115.

**AE-8** This comment expresses concern regarding the reduction of boat parking from 125 spaces to 100 spaces. In response to this and other comments, *Chapter 3.0, Project Description*, of the Final EIR has been revised to preserve the existing number of boat trailer spaces on Parcels HP-14 and HP-15.

The commenter also expresses concern regarding the perceived loss of 200 boat slips. Please see the response to comment V-93. As discussed in *Chapter 3.0, Project Description*, on page 3-120, the reconfiguration of the existing harbor (Parcels HW-1, HW-2, HW-3, HW-4, HW-5, HW-6, HW-7, H-12, and HP-28) includes an approximately 4-acre new commercial harbor at HW-3 in Phase IV and an increased water lease area of approximately 22 acres. To accommodate this addition of active commercial harbor area, the harbor basin would be reconfigured during Phase IV to include the reconfiguration and relocation of marina boat slips. Specifically, the number of slips in the harbor basin within the two marinas would be decreased from 900 to 700; however, the remaining 200 slips would be moved to HW-6 to free up water area for the new commercial area. As a result, the total open water area within the existing harbor would be increased (not decreased) as part of the reconfiguration.

**Comment Letter AE (Page 2)**

Kenn Colclasure  
Resident of Chula Vista

Comment Letter AF



Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)

COMMENTS

PLEASE PRINT CLEARLY

NAME: Lilyane M. Cowherd  
ORGANIZATION: Chula Vista resident and property owner  
MAILING ADDRESS: 394 Corte Marie, C.V. 91910  
EMAIL ADDRESS: lmc91910@cox.net

1. What will happen to railroad tracks? AF-1
2. Why can't you leave restaurants (The Galley and Fish & Grill) fast Phase one. They are needed. What are the owners supposed to do?? AF-2
3. Where are you putting R.V. Park?? And how soon?? AF-3  
It is need land not on Phase 4.
4. I do not think the Bayside Park should be torn up in Phase I. It is really used every day. AF-4

Regarding item 2 - These restaurants have been faithful to their customers and restaurants of this caliber are very necessary to our city, especially on the west side. AF-5

Comments will be accepted in writing until 5:00 pm on ~~Tuesday, July 8, 2008~~ Thursday August 7.

Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter AF

Lilyane M. Cowherd

August 4, 2008

- AF-1 The comment questions what will happen to the railroad tracks. The Proposed Project does not propose any changes to the existing Coronado Railroad tracks. Please also see the response to comment V-85 and Z-21.
- AF-2 The comment questions the removal of the Galley and Fish and Grill restaurants in Phase I. The Galley and Fish and Grill restaurants will not be removed in Phase I. Please also see the response to comment V-35.
- AF-3 The comment expresses concern over the removal of the RV Park. The SBPP is projected to be demolished by 2015. As a result of the withdrawal of the Gaylord project, Parcel H-3 is not expected to be developed before that time. As a result, Parcels O-3A and O-3B will be available for relocation of the RV Park by the time Parcel H-3 is needed for development. Please also see the responses to comments V-34 and V-115 regarding the RV Park.
- AF-4 The comment expresses concern over the loss of the Bayside Park. The reconfiguration and reconstruction of Bayside Park is considered a significant impact (see **Significant Impact 4.13.3-1** and **Mitigation Measure 4.13.3-1**). The 9.2-acre Bayside Park will be replaced with 35 acres of parkland in Phase I. During the temporary loss of Bayside Park during construction, other park facilities will be available in the immediate area. Also, please see the response to comment V-117.
- AF-5 Please see the response to comment AF-2.

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Comment Letter AG



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

PLEASE PRINT CLEARLY

NAME: MELVIN COWHERD 7/29/2008  
 ORGANIZATION: RETIRED  
 MAILING ADDRESS: 394 CORTE MARIA, CHULA VISTA, CA 9190-3136  
 EMAIL ADDRESS: \_\_\_\_\_

Subject - Chula Vista R.V. Resort  
I attended another meeting on the Chula Vista Bayfront project at the M&C Center in Chula Vista that evening. It was a great presentation.  
As an RVer of over 25 years I focus in on the RV Resort. As you hopefully are aware shutting down the RV Resort will place very limited on the south bay area for a long period of time limits the possibility of staying in Chula Vista. The R.O. is selling and will not be available to RV people.  
Many people don't realize that present RVers do spend money in the community which stopped in Chula Vista. This helps the community.  
As the C.V. RV Resort is to be replaced why not do that early on so RVers can still be served.  
Thank you for your consideration of my thoughts.  
Those of a former RVer as I'm now 82 years old.

AG-1

Comments will be accepted in writing until 5:00 pm on Tuesday, July 8, 2008.

Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:

San Diego Unified Port District  
 Land Use Planning Department  
 3165 Pacific Highway  
 San Diego, CA 92101

Thursday August 7

Response to Comment Letter AG

**Melvin Cowherd**

**July 29, 2008**

**AG-1** Within the Otay District, an RV Park containing between 175 and 236 RV parking spaces is proposed in Phase III on an approximately 14-acre parcel. This low-cost visitor and recreational use RV Park would contain ancillary facilities, such as offices, pool/spa, snack bar, general store, meeting space, game room, laundry room, approximately 20 visitor parking spaces, and playground equipment. The SBPP is projected to be demolished by 2015. As a result of the withdrawal of the Gaylord project, Parcel H-3 is not expected to be developed before that time. As a result, Parcels O-3A and O-3B will be available for relocation of the RV Park by the time Parcel H-3 is needed for development. Please also see the responses to comments V-34 and V-115.

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## Comment Letter AH

Lesley Nishihira - CVBMP Project

**From:** <DPDanciu@aol.com>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 7/6/2008 4:20 PM  
**Subject:** CVBMP Project

To all that may be in authority,

As a Chula Vista resident and voter, I have read the executive summary of the revised draft EIR and have the following concerns and comments.

Section 1.6.3 and 1.6.4 (last paragraph) state that there are considerable impacts on traffic, air quality and visual quality that are significant and unmitigated. These are changes that affect quality of life of residents that may benefit very little by this project and would not consider these changes to be positive.

As a compromise, I feel that the project alternative 1.7.5 or reduced overall density alternative, which is environmentally superior, should get serious consideration.

In addition, under table 1-9, 4.14.1 Water supply and availability, There is no information on new water sources or a contingency plan if allotments of water are reduced because of drought or supply disruption. These concerns may be addressed in the complete EIR, but I need more time to access the disc.

Table 1-9 4.16 Energy states that increased demand for the project has potential to exceed the available supply and have a significant impact. While the mitigation measures are commendable, I believe that SDG&E would cite this project to gain approval for other very controversial power projects that are pending approval.

In summary, I believe that there should be more effort to identify sources of power and water that will not disrupt supply and find a way to implement project alternative 1.7.5 to reduce density. This alternative may allow an increase in the pitiful 18 acre "Signature Park" and/or more open space.

Thank You for any consideration,  
 David Danciu

\*\*\*\*\*

Gas prices getting you down? Search AOL Autos for fuel-efficient used cars.  
 (<http://autos.aol.com/used?ncid=aolaut00050000000007>)

AH-1

AH-2

AH-3

AH-4

## Response to Comment Letter AH

David Danciu

July 6, 2008

**AH-1** The comment expresses general concerns with significant and unmitigated impacts to traffic, air quality, and visual quality, and it recommends the Reduced Overall Density Alternative as the environmentally superior development alternative to address these impacts. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

**AH-2** *Chapter 6.0, Cumulative Impacts*, of the Revised DEIR goes into great depth regarding the project's anticipated water demand and availability of the water to serve the Proposed Project. Specifically, the Water Supply Assessment and Verification prepared for the project projected water demand based on regional growth projections. Please also see the responses to comments V-240, V-241, and V-242 regarding water availability and supply.

**AH-3** The commenter is correct that *Section 4.16, Energy*, identifies a potentially significant impact regarding energy supply. Despite the fact that the project would reduce direct impacts to energy to below a level of significance, the potential cumulative impact relative to energy supply would remain significant and unmitigated because of the uncertainty of the future demand and supply of energy. The Revised DEIR includes **Mitigation Measure 6.17-1** to reduce potential cumulative impacts; however, due to the uncertain nature of long-term energy supply, energy impacts remain cumulatively significant and unmitigated. In response to this and other comments, the Final EIR has been revised to include **Mitigation Measure**

## Comment Letter AH

Lesley Nishihira - CVBMP Project

**From:** <DPDanciu@aol.com>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 7/6/2008 4:20 PM  
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To all that may be in authority,

As a Chula vista resident and voter, I have read the executive summary of the revised draft EIR and have the following concerns and comments.

Section 1.6.3 and 1.6.4 (last paragraph) state that there are considerable impacts on traffic, air quality and visual quality that are significant and unmitigated. These are changes that affect quality of life of residents that may benefit very little by this project and would not consider these changes to be positive.

As a compromise, I feel that the project alternative 1.7.5 or reduced overall density alternative, which is environmentally superior, should get serious consideration.

In addition, under table 1-9, 4.14.1 Water supply and availability, There is no information on new water sources or a contingency plan if allotments of water are reduced because of drought or supply disruption. These concerns may be addressed in the complete EIR, but I need more time to access the disc.

Table 1-9 4.16 Energy states that increased demand for the project has potential to exceed the available supply and have a significant impact. While the mitigation measures are commendable, I believe that SDG&E would cite this project to gain approval for other very controversial power projects that are pending approval.

In summary, I believe that there should be more effort to identify sources of power and water that will not disrupt supply and find a way to implement project alternative 1.7.5 to reduce density. This alternative may allow an increase in the pitiful 18 acre "Signature Park" and/or more open space.

Thank You for any consideration,  
 David Danciu

— AH-1

— AH-2

— AH-3

— AH-4

\*\*\*\*\*

Gas prices getting you down? Search AOL Autos for fuel-efficient used cars.  
<http://autos.aol.com/used?ncid=aolaut00050000000007>

4.16-2, which addresses energy conservation and efficiency. Please see the responses to comments M-12 and V-380 regarding water supply and energy consumption. Please also see the responses to comments V-240, V-241, and V-242 regarding water availability and responses to comments V-50, V-174, V-244, and V-251 regarding energy.

**AH-4** This comment supports a greater effort to identify sources of power and water that will not disrupt supply. In addition, the commenter recommends the Reduced Overall Density Alternative in order to potentially allow for an increase in the 18-acre Signature Park proposed for Parcel S-2 and allow for more open space. Decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project.

Comment Letter AI



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

PLEASE PRINT CLEARLY

NAME: David Danciu  
ORGANIZATION: Southwest United in Action, Crossroads II <sup>board of directors</sup>, SWCUCA  
MAILING ADDRESS: 75 E. Queen Anne Dr.  
EMAIL ADDRESS: DDDanciu@aol.com

to all in authority,  
As a Chula Vista resident and voter, I have studied  
the CUBMP DEIR and have the following concerns.  
the Land swap between the Port and City of C.V. is  
a very good plan and should be implemented. the location  
of the Gaylord project is acceptable but the preliminary  
design needs work (does not fit local general architecture)  
the considerable problems arise when I realize the  
impacts a master plan of this size and density

Comments will be accepted in writing until 5:00 pm on ~~Tuesday, July 8, 2008~~ 8-7-08  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:

San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

AI-1

Response to Comment Letter AI

**David Danciu**

**August 7, 2008**

**AI-1** This comment expresses support for the land exchange, but concern with the Gaylord architectural design and effects on traffic, air quality, and aesthetics. The Revised DEIR includes analysis, identification of impacts, and mitigation for traffic (*Section 4.2*), aesthetics (*Section 4.4*), and air quality (*Section 4.6*). As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168 (14 CCR 15000 et seq.).

The comment also expresses concern with the loss of the RV Park and existing businesses. Within the Otay District, an RV Park containing between 175 and 236 RV parking spaces is proposed in Phase III on an approximately 14-acre parcel. This low-cost visitor and recreational use RV Park would contain ancillary facilities, such as offices, pool/spa, snack bar, general store, meeting space, game room, laundry room, approximately 20 visitor parking spaces, and playground equipment. The SBPP is projected to be demolished by 2015. As a result of the withdrawal of the Gaylord project, Parcel H-3 is not expected to be developed before that time. As a result, Parcels O-3A and O-3B will be available for relocation of the RV Park by the time Parcel H-3 is needed for development. Please also see the responses to comments V-34 and V-115.

Comment Letter AI (Page 2)

will have on western Chula Vista, to expect residents to endure the unmitigatable negative effects of traffic, air quality, visual aesthetics is just plain wrong.

To destroy existing businesses and the RV park before a reasonable alternative is planned is wrong. Not connecting the signature park in a meaningful way to produce a contiguous 40 acre park is unacceptable.

I have many concerns about table 1-9 sections 4.14.1 and 4.16. Water supply and availability is not adequately addressed. No one can possibly see how bad future water and/or power supplies will be affected by drought, fire, etc. Studies have shown that the hospitality industry has a profound negative effect on affordable housing, the city of Chula Vista must not have to bear the burden alone.

In summary, I believe the reduced density alternative must be followed and the Pacifica condos & Hotel be reduced in ~~height~~ overall height. We need to maintain a view of the bay, the quality of life issues must be given the same attention that the economic issues command.

David P. Danesi

Thank you!

AI-1  
(Cont.)

AI-2

AI-3

**AI-2** Please see the response to comment V-58 regarding affordable housing. Please see the responses to comments M-12 and V-380 regarding water supply and energy consumption. Please see the responses to comments V-240, V-241, and V-242 regarding water availability and responses to comments V-50, V-174, V-244, and V-251 regarding energy. Please see the response to comment P-4 regarding the parks on Parcels S-2 and H-8 and connections between the two. Please see the response to comment Z-6 regarding the architecture of the RCC on Parcel H-3. Please see the response to comment V-34, V-115, AE-7, AF-3, AG-1, and AI-1 regarding the RV Park. Please see the responses to comments V-35 and Z-20 regarding existing restaurants in the Proposed Project area.

**AI-3** This comment recommends implementation of the Reduced Overall Density Alternative. In addition, the commenter recommends a reduction in building heights for the Pacifica project to maintain views to the Bay. Decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project.

Comment Letter AJ



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

PLEASE PRINT CLEARLY

NAME: Sharon Floyd  
ORGANIZATION: \_\_\_\_\_  
MAILING ADDRESS: 273 D St.  
EMAIL ADDRESS: sjmfloyd@cox.net

*I see that the area now occupied by the motor home park is to be involved in phase I. I don't see where it will be located between the time that it will be started from its present location to its proposed new space to the south.*  
*How can this be reconciled? It is not OK with me to take a viable, very popular business and destroy it — which is what will happen unless you find a way to allow it to continue to operate in some area of the bay front while it is waiting for its new home.*

AJ-1

Comments will be accepted in writing until **5:00 pm on Tuesday, July 8, 2008**.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter AJ

**Sharon Floyd  
June 24, 2008**

**AJ-1** Within the Otay District, an RV Park containing between 175 and 236 RV parking spaces is proposed in Phase III on an approximately 14-acre parcel. This low-cost visitor and recreational use RV Park would contain ancillary facilities, such as offices, pool/spa, snack bar, general store, meeting space, game room, laundry room, approximately 20 visitor parking spaces, and playground equipment. The SBPP is projected to be demolished by 2015. As a result of the withdrawal of the Gaylord project, Parcel H-3 is not expected to be developed before that time. As a result, Parcels O-3A and O-3B will be available for relocation of the RV Park by the time Parcel H-3 is needed for development. Please also see the responses to comments V-34, V-115, AE-7, AF-3, AG-1, and AI-1.

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Comment Letter AK



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

**PLEASE PRINT CLEARLY**

NAME: Sharon Floyd

ORGANIZATION: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS: sfloyd@cox.net

*Something should be done to insure that  
no concrete waterways are allowed anywhere in  
this project. All waterways should be restored  
to their natural state.*

AK-1

Comments will be accepted in writing until 5:00 pm on Tuesday, July 8, 2008.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter AK

**Sharon Floyd**

**June 24, 2008**

**AK-1** This comment expresses the opinion that all waterways should be restored to natural state. As stated on page 4.5-26 of the Revised DEIR in *Section 4.5, Hydrology and Water Quality*, Phase III development in the Otay District includes widening Telegraph Canyon Channel and connecting new storm drain lines from the project site to the channel. In order to increase the channel's capacity, the bottom width of the channel will be increased to 110 feet, to include the construction of a 20-foot-wide, low-flow vegetated channel. The remaining 90 feet of the channel would be concrete. A detailed hydrologic and hydraulic analysis will be required prior to beginning development of Phase III to confirm that the channel's future capacity would be sufficient. All development contemplated for the Otay District is proposed to occur in Phase III and has been assessed at a program level in the Revised DEIR. All project-specific proposals, including improvements to Telegraph Creek Channel (OP-2B), must undergo subsequent environmental review. The feasibility of widening Telegraph Canyon Channel will be considered and analyzed as part of that review process. Please also see the response to comment Q-14.

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## Comment Letter AL

Lesley Nishihira - Bayfront DEIR Comments

**From:** "Sharon M. Floyd" <smfloyd@cox.net>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 8/7/2008 4:12 PM  
**Subject:** Bayfront DEIR Comments

Earlier today I faxed this to the Port, addressed to Denny Stone who I just learned actually works for the city of Chula Vista. I had some erroneous information. Please excuse the hic-up. I just learned that you, Leslie, are the one to whom it should have been sent, so here it is. Thanks for allowing us more time to become familiar with the DEIR and its problems. Working together, we can create a world-class Bayfront; an eco-tourist destination that will draw visitors from around the world.

August 6, 2008

Dear Leslie,

I strongly endorse the concept of a proportionally funded Foundation, such as EHC and Pacifica Corporation agreed to, for all developer entities to subscribe to. This fund would provide a secure stream of revenue that would ensure the financial support for, among other things, an on-going educational program that would advise visitors and residents of what is so precious about our habitats and why we must protect them. There are many other necessary components to an ecological support system that would be the first things to be cut should The Port or City run short of funds sometime in the future. History has proven that this sensitive area will need special consideration in regard to funding. Mayor Cox does not endorse this concept because she does not understand it. She has personally told me that she sees the fund as a potential threat. She fears the money would be used in litigation against the city. This is simply not the case. The Port should work to support this fund so that in future, if there is a shortage of City or Port funds, none of the essential services that support the protection of the wildlife and their habitats will be cut. Mayor Cox's misconceptions should not be allowed to stand in the way of this very excellent and necessary plan for a secure revenue stream to support the ecology of our bay front.

I believe that the Environmental Health Coalition has done the residents of the area a tremendous service in analyzing the DEIR with such focus. Their recommendations are worthy and should be taken very seriously by all. I strongly feel that their analysis should be endorsed by the Port, City, Gaylord; all the stake-holders in this project.

A few of the issues that I personally would like to address are:

AL-1

## Response to Comment Letter AL

**Sharon Floyd**  
**August 7, 2008**

**AL-1** This comment expresses the author's support for funding of a foundation such as that of the Environmental Health Coalition or Bayfront Coalition. In response to this and other comments, the Final EIR has been revised to include **Mitigation Measure 4.8-7**, which addresses funding for the protection of wildlife and their habitats.

Comment Letter AL (Page 2)

The buffer areas need to be part of Phase I. Protecting and preserving what we now have should be of primary focus. Without the buffer- zone fences, the wildlife that the habitats protect will be in jeopardy.

AL-2

Telegraph Canyon Creek should be naturalized. Every effort should be made to return the area to its natural state. The potential for eco-tourism is huge if the development of the Bayfront is done correctly. We have one chance to get it done right. Let's not cut corners and then regret in hindsight. I feel that the L ditch should not be a bone of contention. Let Pacifica grade it over, but mitigate that by naturalizing Telegraph Canyon Creek.

AL-3

Plan to keep the south San Diego Bay for slow, quiet water activities; no power boats, jet skis, etc. It should be a sanctuary for those who enjoy canoeing, kayaking, peddle-boating. As the density increases, there will be pressure to allow water activities that are incompatible with the ambiance that we need to nurture. Standards need to be set now, that will disallow any activities that are not compatible with the serenity of a nature preserve. **This particularly would include sports arenas.**

AL-4

I am concerned that the shuttle service linking the bay front to the Village, (that was discussed during the CAC sessions) does not seem to be addressed in the DEIR. It should have a high priority for all parties. A shuttle service would benefit the area in many ways. It would help to keep negative traffic problems to a minimum. It would provide residents with easy access to their bay front. It is their tax dollars that are subsidizing the plan.

AL-5

Very sincerely,

Sharon McDade Floyd

273 D Street  
Chula Vista, CA 91910  
619-426-3373

AL-2 Please see the response to comment V-160.

AL-3 This comment expresses the opinion that Telegraph Canyon Creek be fully naturalized. As stated on page 4.5-26 of the Revised DEIR in *Section 4.5, Hydrology and Water Quality*, Phase III development in the Otay District includes widening Telegraph Canyon Channel and connecting new storm drain lines from the project site to the channel. In order to increase the channel's capacity, the bottom width of the channel will be increased to 110 feet, to include the construction of a 20-foot-wide, low-flow vegetated channel. The remaining 90 feet of the channel would be concrete. A detailed hydrologic and hydraulic analysis will be required prior to beginning development of Phase III to confirm that the channel's future capacity would be sufficient. The commenter's opinion regarding the fully vegetated channel is noted. Decision makers will be made aware of the commenter's recommendation prior to making a final decision on the project. All development contemplated for the Otay District is proposed to occur in Phase III and has been assessed at a program level in the Revised DEIR. All project-specific proposals, including improvements to Telegraph Creek Channel (OP-2B), must undergo subsequent environmental review. The feasibility of widening Telegraph Canyon Channel will be considered and analyzed as part of that review process.

The commenter also supports the alternate scenario for the existing L-ditch on Parcel HP-5, recommending that the L-ditch be filled and mitigated by naturalizing Telegraph Creek. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

Comment Letter AL (Page 2)

The buffer areas need to be part of Phase I. Protecting and preserving what we now have should be of primary focus. Without the buffer- zone fences, the wildlife that the habitats protect will be in jeopardy.

AL-2

Telegraph Canyon Creek should be naturalized. Every effort should be made to return the area to its natural state. The potential for eco-tourism is huge if the development of the Bayfront is done correctly. We have one chance to get it done right. Let's not cut corners and then regret in hindsight. I feel that the L ditch should not be a bone of contention. Let Pacifica grade it over, but mitigate that by naturalizing Telegraph Canyon Creek.

AL-3

Plan to keep the south San Diego Bay for slow, quiet water activities; no power boats, jet skis, etc. It should be a sanctuary for those who enjoy canoeing, kayaking, peddle-boating. As the density increases, there will be pressure to allow water activities that are incompatible with the ambiance that we need to nurture. Standards need to be set now, that will disallow any activities that are not compatible with the serenity of a nature preserve. **This particularly would include sports arenas.**

AL-4

I am concerned that the shuttle service linking the bay front to the Village, (that was discussed during the CAC sessions) does not seem to be addressed in the DEIR. It should have a high priority for all parties. A shuttle service would benefit the area in many ways. It would help to keep negative traffic problems to a minimum. It would provide residents with easy access to their bay front. It is their tax dollars that are subsidizing the plan.

AL-5

Very sincerely,

Sharon McDade Floyd

273 D Street  
Chula Vista, CA 91910  
619-426-3373

**AL-4** This comment expresses the author's opinion that the project area should be restricted from motorized watercraft activities and should not include a sports arena. Please see the responses to comments V-32, V-87, V-90, and V-181 in regard to jet skis. In response to this and other comments, the Final EIR has been revised to include the prohibition of jet-ski rentals within the Chula Vista Bayfront Master Plan area. Not only will the rental of jet skis and other motorized personal watercrafts (PWCs) be prohibited in the project area, but the use of jet skis/PWCs will also be prohibited in wildlife habitat areas. In regard to the commenter's opinion regarding a sports arena, a sports arena is not proposed and therefore is not applicable. Please also see the response to Z-4 regarding sports arenas.

**AL-5** The Green Car Line is not a component of this project. *Chapter 3.0, Project Description*, of the Revised DEIR makes reference to the City's adopted Urban Core Specific Plan, which identifies the potential for this shuttle service. The implementation of this shuttle is not part of the Proposed Project, however. In response to this comment, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. Please also see the responses to comments P-2, Q-27, and V-12. Please also see the responses to comments E-5, I-12, K-12, K-14, P-2, Q-27, V-12, V-51, V-104, V-147, and V-323 regarding the Green Line Shuttle.

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**Comment Letter AM**

(8/7/2008) Lesley Nishihira - Chula Vista Bayfront DEIR

**From:** <lgilgun@cox.net>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 8/7/2008 1:38 PM  
**Subject:** Chula Vista Bayfront DEIR

Dear Ms. Nishihira,

As a resident of Chula Vista I would like to encourage you to adopt the Green Bayfront recommendations outlined by the Environmental Health Coalition. I believe Chula Vista has a beautiful bayfront that needs to be accessible and preserved for all the families that currently live in Chula Vista now and for generations to come.

Please adopt the Green Bayfront recommendations as soon as possible.

Thank you,  
 Lynda Gilgun  
 925 Monterey Court  
 Chula Vista, CA 91911

AM-1

**Response to Comment Letter AM**

**Lynda Gilgun**

**August 7, 2008**

**AM-1** This comment expresses the author's support of the recommendations of the Environmental Health Coalition. Please see the responses to comments Q-1 through Q-35.

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## Comment Letter AN

San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, Ca 92101



This letter is written in regard to the Chula Vista Bayfront Master Plan, Revised Draft Environmental Input Report (DEIR).

Very simply stated, The Master Plan is too much, too soon. As much as your responsibilities and your decision-making opportunities go, this land should be held in trust for all of the citizens now and in the future. To allow the loss of this land to commercial interests, in my opinion, does not serve the citizens well. It would seem much wiser to only develop a small portion of the Master Plan and not on such a super large scale.

AN-1

Once built as now conceived, it can not be taken back. Pacifica and Gaylord are commercial money making entities; and their best intentions may very well be self-serving, and not in the best interests of involved citizens.

AN-2

For example, why should the citizens of Chula Vista be responsible for infrastructure, etc., to the tune of \$300 million dollars in case of default by either of these two large corporations? It should not be our responsibility.

AN-3

By doing these developments in very small segments, and making sure that the citizens of Chula Vista incur no indebtedness, would be a much safer and wiser plan.

In other words, all infrastructure, parks, roads, fire station, and other related expenses should be the entire responsibility of Pacifica and Gaylord. Once a segment of the Master Plan was decided upon, ALL INFRASTRUCTURE SHOULD BE PUT IN PLACE FIRST BEFORE ANY BUILDINGS WERE BUILT. This would insure that no responsibilities of Pacific and Gaylord could later on be put onto the citizens of Chula Vista.

AN-4

Why does there have to be such a rush to complete the Master Plan? A modest 10 to 15% would be sufficient for many years until it was shown that the segment just completed was, in fact, done correctly and successfully in the best interests of the people of Chula Vista. At that time, then a new segment could be done, and there again, reviewed after many years, for correctness and success.

AN-5

And finally, the environmental impact thru increased water and energy usage, plus increased traffic and pollution, does not appear to have been accurately projected to allow this Master Plan to go ahead as planned. I hope and pray that all of you will make the right decisions for all of the present and future citizens of Chula Vista.

AN-6

Thank you.

*James N. Headland*

James N. Headland,  
P. O. Box 8922  
Chula Vista, CA 91912-8922

## Response to Comment Letter AN

James N. Headland

August 4, 2008

**AN-1** This comment expresses the opinion that the project is "too much too soon," and should be developed much more slowly. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

**AN-2** This comment expresses an opinion regarding Gaylord and Pacifica. Decision makers will be made aware of the commenter's recommendations prior to making a final decision on the project. Further, as described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines, Section 15168 (14 CCR 15000 et seq.).

**AN-3** This comment expresses an opinion regarding financial responsibility for infrastructure. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

Comment Letter AN

San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, Ca 92101



This letter is written in regard to the Chula Vista Bayfront Master Plan, Revised Draft Environmental Input Report (DEIR).

Very simply stated, The Master Plan is too much, too soon. As much as your responsibilities and your decision-making opportunities go, this land should be held in trust for all of the citizens now and in the future. To allow the loss of this land to commercial interests, in my opinion, does not serve the citizens well. It would seem much wiser to only develop a small portion of the Master Plan and not on such a super large scale.

AN-1

Once built as now conceived, it can not be taken back. Pacifica and Gaylord are commercial money making entities; and their best intentions may very well be self-serving, and not in the best interests of involved citizens.

AN-2

For example, why should the citizens of Chula Vista be responsible for infrastructure, etc., to the tune of \$300 million dollars in case of default by either of these two large corporations? It should not be our responsibility.

AN-3

By doing these developments in very small segments, and making sure that the citizens of Chula Vista incur no indebtedness, would be a much safer and wiser plan.

In other words, all infrastructure, parks, roads, fire station, and other related expenses should be the entire responsibility of Pacifica and Gaylord. Once a segment of the Master Plan was decided upon, ALL INFRASTRUCTURE SHOULD BE PUT IN PLACE FIRST BEFORE ANY BUILDINGS WERE BUILT. This would insure that no responsibilities of Pacific and Gaylord could later on be put onto the citizens of Chula Vista.

AN-4

Why does there have to be such a rush to complete the Master Plan? A modest 10 to 15% would be sufficient for many years until it was shown that the segment just completed was, in fact, done correctly and successfully in the best interests of the people of Chula Vista. At that time, then a new segment could be done, and there again, reviewed after many years, for correctness and success.

AN-5

And finally, the environmental impact thru increased water and energy usage, plus increased traffic and pollution, does not appear to have been accurately projected to allow this Master Plan to go ahead as planned. I hope and pray that all of you will make the right decisions for all of the present and future citizens of Chula Vista.

AN-6

Thank you.

*James N. Headland*

James N. Headland,  
P. O. Box 8922  
Chula Vista, CA 91912-8922

AN-4 This comment expresses an opinion regarding the timing of certain infrastructure improvements. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

AN-5 This comment expresses an opinion regarding the pace of phasing of the Proposed Project. The project is proposed to be developed in four phases over a period of 24 years. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

AN-6 This comment expresses a general concern that impacts of water and energy use and increased traffic and pollution were not accurately projected. The Revised DEIR evaluates traffic impacts (*Section 4.2*), energy (*Section 4.16*), water supply (*Section 4.14.1*), and air quality (*Section 4.6*).



Comment Letter AO



1 of 2

**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

**PLEASE PRINT CLEARLY**

NAME: EDUARDO "ED" HERRERA  
ORGANIZATION: \_\_\_\_\_  
MAILING ADDRESS: 1521 ORCA AVE. CHULA VISTA, CA 91911  
EMAIL ADDRESS: info@edherrera.com

Concerned with how the development will impact local schools without proper funding to assist district in accommodating for the influx. I know that the state requires a minimum from developers to warrant the availability and assistance of schools accommodating for children ~~the~~ find most at hand school who are now residents in the new development, however any district as full to capacity as ours, will say the funds are simply not there to build more than portable classroom facilities. DEVELOPER MUST come up with solution for this matter.

AO-1

Also concerned with the fact that the Buseway forms very much as a divider/barrier cutting off the metro-city bayfront project from western Chula Vista. We need some creativity in how

Comments will be accepted in writing until 5:00 pm on Thursday, July 8, 2008.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department

We can work to 3165 Pacific Highway  
San Diego, CA 92101  
incorporate the bayfront with west Chula Vista  
That will further benefit western Chula Vista  
commerce aside from ~~the~~ occupancy taxes and the HST  
contribution

AO-2

Response to Comment Letter AO

**Eduardo "Ed" Herrera  
July 29, 2008**

**AO-1** Section 4.13, *Public Services*, of the Revised DEIR identifies the increase of 819 new students to the schools in Chula Vista as a significant impact. **Mitigation Measure 4.13.4-1** identifies appropriate and legal mitigation in the form of fees to offset potential impacts to schools. In fact, California Government Code Section 65996(b) states that fees are "deemed to provide full and complete school facilities mitigation." Once the statutory school mitigation fee is paid, the impact would be deemed mitigated as a matter of law.

**AO-2** This comment states that I-5 serves as a divider within the City of Chula Vista. This is a comment on an existing condition, and is not an impact from the Chula Vista Bayfront project. As stated in *Section 2.2.1* of the Revised DEIR, the Proposed Project is intended to eliminate or reduce barriers linking the Bayfront to the rest of western Chula Vista.

Comment Letter AO (Page 2)

What about public transportation? There  
needs to be money put forward to  
fund the proposed shuttle routes!  
Public transportation is vital in  
connecting western Chula Vista  
to the Bayfront. Public transportation  
must be reamed! It is discriminating  
to go through with a development project  
without public transportation that provides  
the necessary linkage of community  
and other more obvious advantages such  
as transient and disabled access to  
Bayfront.

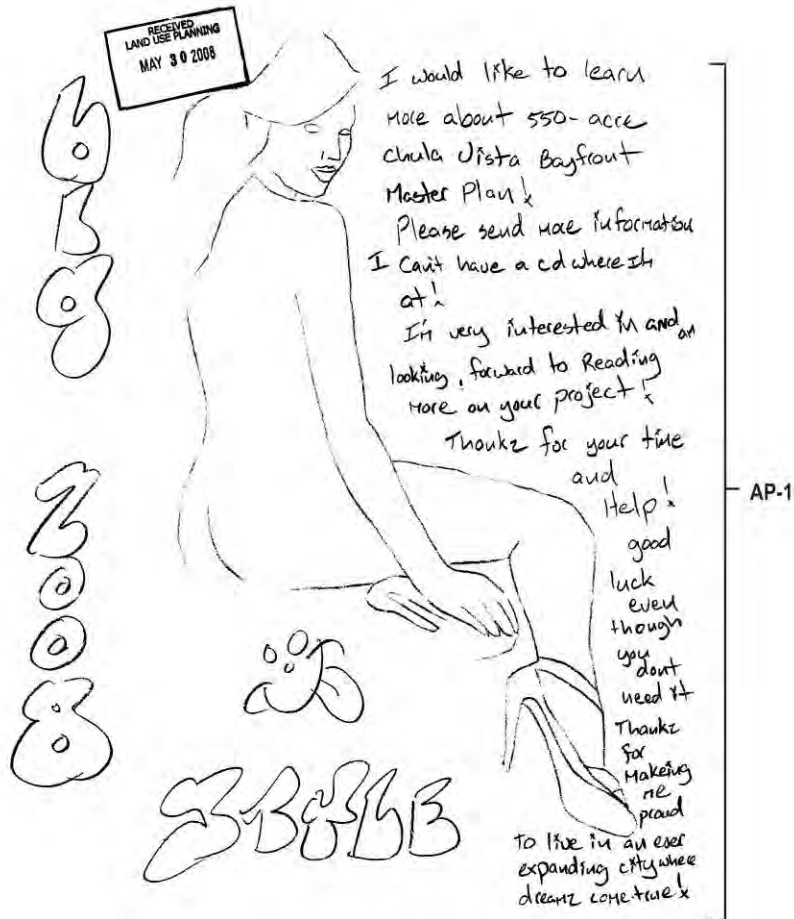
- AO-3

Ed Herrera page 2

81/02/2005 02:48

**AO-3** The comment expresses an opinion that funds need to be provided for the proposed shuttle routes connecting western Chula Vista to the Bayfront. *Chapter 3.0, Project Description*, of the Revised DEIR makes reference to the City's adopted Urban Core Specific Plan, which identifies the potential for this shuttle service. The implementation of this shuttle is not part of the Proposed Project, however. In response to this comment, the Port and City are investigating the potential for regional, state, and federal funding sources for the partial implementation of a Bayfront shuttle system that may incrementally fulfill the Green Car Line as described in the Urban Core Specific Plan. This comment does not address the adequacy of the Revised DEIR; therefore, no further response is warranted. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

Comment Letter AP



Response to Comment Letter AP

Jasso

May 30, 2008

AP-1 This comment expresses support for the Proposed Project. No further response is needed.

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Comment Letter AQ

David W. Krogh  
712 East J Street  
Chula Vista, CA 91910

david.krogh@cox.net  
(619) 421-0254

August 7, 2008

Unified Port of San Diego  
3165 Pacific Highway  
San Diego, CA 92101

Attn: Director, Land Use Planning  
c/o: Lesley Nishihira, [lnishihira@portofsandiego.org](mailto:lnishihira@portofsandiego.org)

Subject: Comment – Chula Vista Bay Front Revised Draft Environmental Impact Report

Dear Chula Vista Bay Front EIR coordinator:

Please accept my comments (this and following pages) into the EIR review process.

As a resident of Chula Vista, I would like to express my appreciation to the Port in serving as lead agency for this EIR and coordinating with the City of Chula Vista as key responsible agency on behalf of the citizens of Chula Vista and other residents of San Diego County. I appreciate the efforts of all staff members of the Port, Chula Vista, and all other public agencies contributing to the formation of this EIR. My foremost hope, through the concerted efforts of all agencies and staff members, in conjunction with review and effective assimilation of public input, is for success for the project and its sponsors, while effectively mitigating significant adverse project impacts, and maximizing the overall public welfare.

Given the extensive public participation and input on many dimensions of the project by a wide range of community groups, I will confine my comments to one area, Traffic Impacts on the regional transportation infrastructure, which does not attract as much public comment as it deserves. These observations and comments are drawn from my participation on the Chula Vista Growth Management Oversight Commission 2003-2008 and observation of actions of Chula Vista, Sandag, and other organizations over the past several years. I speak on my own behalf and not representing GMOC.

Please do not hesitate to contact me if I can be of assistance.

Sincerely yours,

*David W. Krogh*  
Resident, Chula Vista



AQ-1

Response to Comment Letter AQ

David W. Krogh  
August 7, 2008

**AQ-1** This comment summarizes the author's opinion on the project. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

<p><b>Comment Letter AQ (Page 2)</b></p>	
<p>Krogh, 8/7/08 <span style="float: right;">Page 2 of 4</span></p> <p><u>Comments of David W. Krogh regarding Chula Vista Bayfront Revised Draft EIR:</u></p> <p>The Revised Draft Environmental Impact Report (RDEIR) provides information regarding the adverse impact of the project of traffic impacts on the regional transportation infrastructure, namely Interstate 5. Briefly, the RDEIR:</p> <ul style="list-style-type: none"> <li>- Indicates traffic is currently operating at a level that constitutes failure, significantly and adversely affecting quality of life.</li> <li>- Indicates that during the life of the project this condition will grow significantly worse, and that the subject project will contribute a significant proportion of the traffic volume causing that worsening.</li> <li>- Concludes that this is Significant and Unmitigable.</li> </ul> <p>The RDEIR does represent an improvement over the original DEIR in that it replaces the original and inadequate limited mitigation measures which had no binding commitments to enforcement with improved measures with some enforceability. Thank you for responding in that way to my January 2007 public comments to the original DEIR. Specific improvements noted among mitigation measures (a)-(i) are:</p> <ul style="list-style-type: none"> <li>- Indication of Port, City, other cities along I-5, Sandag and Caltrans all as responsible entities</li> <li>- Facilities and financing plan with identified responsibilities allocated</li> <li>- Inclusion of fair-share funding contribution by project sponsors</li> <li>- Cooperation pledges</li> <li>- Contribution of fair share contributions before occupancy or building permits.</li> </ul> <p>However, the expanded mitigation measures (Mitigation Measure 4.2-8) still lead to the conclusion of Significant and Unmitigated project impacts on the affected freeway segments.</p> <p>However, because implementation of the physical improvements needed to reduce significant impact to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, The Port and the City cannot ensure that the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's impacts to freeway segments are considered significant and unmitigated.</p> <p>This statement embodies the viewpoint that Port is EIR lead agency, and City and Caltrans are key responsible agencies. This viewpoint is erroneous. Key responsible agencies should include City, Caltrans, AND SANDAG, since Sandag is the regional transportation planning authority.</p> <p>Sandag has both planning authority and transportation facility construction resources at its disposal. Although some of its transportation financing resources (e.g. TransNet) may have been planned and developed at a period of time before the current project was</p> <div style="position: absolute; right: 0; top: 315px;"> <p><b>AQ-2</b></p> </div> <div style="position: absolute; right: 0; top: 475px;"> <p><b>AQ-3</b></p> </div> <div style="position: absolute; right: 0; top: 695px;"> <p><b>AQ-4</b></p> </div>	<p><b>AQ-2</b> This comment summarizes traffic impacts as described in the Revised DEIR, but it does not address the adequacy of the Revised DEIR. No further response is warranted.</p> <p><b>AQ-3</b> This comment summarizes information as described in the Revised DEIR, but it does not address the adequacy of the Revised DEIR. No further response is warranted.</p> <p><b>AQ-4</b> The commenter is correct. SANDAG is a responsible agency with regard to regional transportation planning efforts and funding; however, Caltrans would act as the lead agency for actual implementation of such improvements and has direct control over ROW, environmental review, etc. As provided in <b>Mitigation Measure 4.2-8</b>, the Port and the City will participate in a study of regional transportation needs conducted by SANDAG and will participate on a fair share basis in the construction of needed improvements.</p>

## Comment Letter AQ (Page 3)

Krogh, 8/7/08

Page 3 of 4

conceived and its reality became likely, a project of this magnitude of impact on regional transportation patterns/needs merits consideration by that agency at this time of its previously planned scope and timing of construction of expanded regional transportation infrastructure, e.g. I-5 in the project area.

The Summary of Impacts and Mitigation (Table 1-9) lists the following significant and unmitigated impacts:

Impact #	Phase	I-5 Location	LOS
4.2-12	I	From SR-54 to E Street	F
4.2-29	II	From SR-54 to E Street	F
4.2-30	II	From E Street to F Street	F
4.2-35	III	From SR-54 to E Street	F
4.2-36	III	From E Street to H Street	F
4.2-37	III	From H Street to J Street	F
4.2-46	IV	From SR-54 to E Street	F
4.2-47	IV	From E Street to H Street	F
4.2-48	IV	From H Street to J Street	F
4.2-49	IV	From J Street to L Street	F
4.2-50	IV	From L Street to Palomar Street	F

Level of Service F deteriorating to worse and worse levels for greater and greater stretches of I-5 in the project area is not an acceptable level of service to the residents of Chula Vista.

The following additional mitigations are suggested and recommended:

- 1) Mitigation measure 4.2-8 (g) should be expanded to include similar degree of commitment (seek adoption of Plan, reporting) of **Sandag**.
- 2) Mitigation measure 4.2-8 (j) should be added stipulating that projects shall not proceed to completion of planning and construction until (g) is satisfied by **actual** adoption by Port, City, and Sandag.
- 3) Mitigation measure 4.2-8 (k) should be added stipulating that in view of the uncertainties of Caltrans and even Sandag accomplishing an actual, complete mitigation of the identified adverse impacts on freeway segments, the following **de minimus mitigations** be required (to be both completed and operational) before certificates of occupancy are issued: addition of one additional lane, each way, on I-5 in the segments identified as significantly impacted and unmitigated. Also, because City of Chula Vista traffic LOS standards deemed acceptable are in the LOS C, D, E range, the RDEIR focus on LOS F is deemed inadequate, the proposed de minimus mitigations should in each case be extended one freeway segment past the segments specifically identified as likely to be LOS F. Specifically, this would comprise:

AQ-4  
(Cont.)

AQ-5

AQ-6

AQ-7

AQ-8

**AQ-5** This comment provides a summary of all significant and unmitigable impacts and expresses concern with allowing level of service (LOS) F on I-5. Please see the response to comment AQ-4.

**AQ-6** The comment makes recommendations to **Mitigation Measure 4.2-8(g)** to involve SANDAG. The plan that is adopted pursuant to **Mitigation Measure 4.2-8** will be a SANDAG plan. While SANDAG does have the unique ability to coordinate long-range and regional transportation planning efforts, it is not responsible for ensuring that mitigation measures attributed to this project are implemented. The Port and City are the jurisdictions in which the land uses will ultimately be developed; therefore, they have the ability to withhold permits and approvals if the mitigation measures are not implemented.

**AQ-7** This comment recommends a mitigation measure requiring actual adoption of an I-5 South Corridor Plan before any projects can proceed to completion of planning or construction. The I-5 South Corridor Plan involves the participation of a number of public agencies, and the completion of this plan is outside the jurisdiction of the Port or the City. Before the I-5 Corridor Plan is completed, the Proposed Project mitigates freeway impacts to the extent feasible through payment of impact fees pursuant to the WTDIF. As stated in **Mitigation Measure 4.2-8(i)**, all fair-share payment (WTDIF) toward the I-5 Corridor Plan and related improvements as identified as such will occur "prior to the issuance of certificates of occupancy or building permits," for any development within the Bayfront.

# Comment Letter AQ (Page 4)

Krogh, 8/7/08

Page 4 of 4

Impact #	Phase	I-5 Location	LOS	De minimus mitigation
4.2-12	I	From SR-54 to E Street	F	From SR-54 to H Street
4.2-29	II	From SR-54 to E Street	F	From SR-54 to H Street
4.2-30	II	From E Street to F Street	F	"
4.2-35	III	From SR-54 to E Street	F	From H Street to L Street
4.2-36	III	From E Street to H Street	F	"
4.2-37	III	From H Street to J Street	F	"
4.2-46	IV	From SR-54 to E Street	F	From L Street to Main St.
4.2-47	IV	From E Street to H Street	F	"
4.2-48	IV	From H Street to J Street	F	"
4.2-49	IV	From J Street to L Street	F	"
4.2-50	IV	From L Street to Palomar Street	F	"

These degrees of de minimus mitigation completed prior to occupancy of facilities comprising respective phases will provide the residents of the City of Chula Vista and the region some assurance of a sufficient level of minimum mitigation in view of the RDEIR's conclusion of Significant and Unmitigated due to certain uncertainties.

\* \* \* \* \*

Finally, I would like to point out that:

- Sandag should not only be included in NOP but also formal response received and documented in the Final EIR.
- Final EIR should specifically recognize and document the Chula Vista general plan policies that City cooperate and coordinate with regional transportation agencies, e.g. LUT 24, 14, 19, 21, etc, and that those policies are recognized as binding on City's participation in this bay front plan as a key responsible agency.
- City of Chula Vista should be commended for adopting policies such as City's Western Traffic Development Impact Fee which recognize the need and appropriateness and begin to implement the concept of transportation development impact fees including regional transportation infrastructure. (cf MM 4.2-8 (i))

\* \* \* \* \*

This public comment to Chula Vista Bay Front Revised Draft Environmental Impact Report respectfully submitted August 2008 by David W. Krogh, 712 East J Street, Chula Vista, CA 91910, david.krogh@cox.net.

AQ-8  
(Cont.)

AQ-9

AQ-10

AQ-11

**AQ-8** The comment suggests "de minimus" mitigation measures to ensure some level of mitigation should Caltrans and SANDAG not complete their studies. Neither the Port nor the City have the authority to require such improvements because Caltrans has exclusive jurisdiction and control over all actions related to I-5. The commitment as described in the Revised DEIR in **Mitigation Measure 4.2-8** is that all project developments shall pay their fair share toward project and cumulative impacts to the I-5 South Corridor. The development of the WTDIF ensures that the fees shall be collected and applied to the appropriate areas that warrant mitigation based on traffic studies.

**AQ-9** SANDAG did indeed comment on both the original Draft EIR and the Revised DEIR (see comment letter K). All comments have been formally responded to and shall be made part of the Final EIR before it goes to the City and Port for certification.

**AQ-10** This comment recommends that the Revised DEIR address City of Chula Vista General Plan objectives regarding cooperation and coordination with regional transportation agencies. The Proposed Project's consistency with LUT 14, 19, and 21 is addressed in *Table 4.1-9*. The Final EIR has been revised to include the other recommended objective, LUT 24, in *Table 4.1-9*.

**AQ-11** The comment expresses commendation regarding the WTDIF.



Comment Letter AR	Response to Comment Letter AR
<p><b>Lesley Nishihira - Chula Vista Bayfront</b></p> <hr/> <p><b>From:</b> &lt;baccv@aol.com&gt;  <b>To:</b> &lt;lnishihira@portofsandiego.org&gt;  <b>Date:</b> 8/7/2008 10:21 AM  <b>Subject:</b> Chula Vista Bayfront</p> <hr/> <p>To Whom It May Concern:</p> <p>The Bayfront Project in Chula Vista, as it now stands, is unacceptable.  The density, environmental, design &amp; lack of complete planning for this project make it undesirable &amp; a negative for those of us who live in the area.  Money for the developer should not be the first concern. This is a project that will have permanent impact on the area. It needs to be well thought out &amp; properly executed initially to be a community asset.  As as it stands, the proposed design is hideous, crowded, has no real solutions for traffic or infrastructure. What is passed for answers to these questions is merely a pacifying band-aid. This is insulting to the residents. You must do better.  A very concerned citizen of Southwest Chula Vista, Bettie Lupi</p> <hr/> <p>It's time to go back to school! Get the latest trends and gadgets that make the grade on AOL Shopping.</p>	<p><b>Bettie Lupi</b>  <b>August 7, 2008</b></p> <p><b>AR-1</b> This comment expresses an opinion about the project. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.</p> <p><b>AR-2</b> This comment expresses an opinion about the project. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.</p> <p><b>AR-3</b> This comment expresses an opinion about the project. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.</p> <p><b>AR-4</b> This comment expresses an opinion about the project. The Revised DEIR evaluates traffic (<i>Section 4.2</i>), public utilities (<i>Section 4.14</i>), and aesthetics (<i>Section 4.4</i>). The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.</p>

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Comment Letter AS

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Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)

COMMENTS

PLEASE PRINT CLEARLY

NAME: Bettie Lupi

ORGANIZATION: SWCPCA

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS: EXCEV@aol.com

*design is inappropriate, the hotel architecture  
does not fit into the area. Keep a high  
density, height, parking - all are big  
concerns, along with overall quality of life.  
Development of the area is fine - inappropriate  
use of this land is not.*

AS-1  
AS-2  
AS-3

Comments will be accepted in writing until 5:00 pm on Tuesday, July 8, 2008.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter AS

Bettie Lupi  
June 24, 2008

- AS-1 The comment expresses the commenter's opinion that the design for the hotel does not fit into the existing setting. The compatibility of the hotel design is discussed in *Section 4.1, Land/Water Use Compatibility*, and *Section 4.4, Aesthetics/Visual Quality*.
- AS-2 This comment states the commenter's concern regarding building height, density, parking, and the quality of life in Chula Vista. Building heights and density are discussed in *Section 4.4, Aesthetics/Visual Quality*, and parking is discussed in *Section 4.3, Parking*.
- AS-3 This commenter supports development of the Chula Vista Bayfront area, but emphasizes that inappropriate use of the land is not acceptable. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

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Comment Letter AT



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

PLEASE PRINT CLEARLY

NAME: ANTONIO MACIAS  
 ORGANIZATION: SOUTHWEST CHULA VISTA CIVIC ASSOC.  
 MAILING ADDRESS: 1590 INDUSTRIAL BLVD. CHULA VISTA, CA 91911  
 EMAIL ADDRESS: ANTONIOMACIAS@COX.NET

THE CHULA VISTA BAYFRONT PROJECTS WILL CREATE  
 TOO MUCH DENSITY AND TRAFFIC AND POLLUTION, KEEP  
 OUR BAYFRONT AS IT IS AND DEVELOP THE OLD ROHR  
 LAND MODESLY.

AT-1  
 AT-2

Comments will be accepted in writing until 5:00 pm on ~~Tuesday, July 8, 2008~~ Thursday August 7, 2008.  
 Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
 San Diego Unified Port District  
 Land Use Planning Department  
 3165 Pacific Highway  
 San Diego, CA 92101

Thursday  
 August  
 7

Response to Comment Letter AT

**Antonio Macias  
 July 29, 2008**

- AT-1** This comment expresses an opinion about the project. Building heights and density are discussed in *Section 4.4, Aesthetics/Visual Quality*, and parking is discussed in *Section 4.3, Parking*. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.
- AT-2** This comment expresses opinion about the project but does not address the adequacy of the Revised DEIR, and no further response is warranted. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

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**Comment Letter AU**

Lesley Nishihira - EHC's Green Bayfront

**From:** "M. Dan McKirnan" <mckirnan@yahoo.com>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 8/7/2008 1:25 PM  
**Subject:** EHC's Green Bayfront

August 7, 2008

Ms. Leslie Nishihira  
 Associate Redevelopment Planner  
 San Diego Unified Port District  
 PO Box 120488  
 3165 Pacific Highway  
 San Diego, CA 92101-1128

By EMAIL: [lnishihira@portofsandiego.org](mailto:lnishihira@portofsandiego.org)

Dear Ms. Nishihira:

I would like to register my strong support for development of the Bayfront in a responsible way. I strongly support action on all the issues addressed in the Environmental Health Coalition's Green Bayfront recommendations. I want to make sure that the Bayfront is for everyone, especially existing residents of Chula Vista who have been denied access to our beautiful bayfront for so long. The South Bay has a National Wildlife Refuge that must be protected to enhance the quality of life for all San Diegans. The Bayfront development can benefit the entire region if it is done in a responsible way.

AU-1

Please adopt the Green Bayfront recommendations as soon as possible.

Sincerely,

M. Dan McKirnan, Ph.D.  
 1404 Law St.  
 San Diego, CA 92109

**Response to Comment Letter AU**

**M. Dan McKirnan, PhD**

**August 7, 2008**

**AU-1** This comment expresses the author's support of the Environmental Health Coalition's recommendations. Please see the responses to comments Q-1 through Q-35.

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Comment Letter AV



Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)

COMMENTS

PLEASE PRINT CLEARLY

NAME: Marcia Morris

ORGANIZATION: SWC/CA

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

*This Gaylord Hotel is ugly  
What makes you think "high" will bring success?  
Look at La Jolla, CA. San Marcos, etc. These communities  
are and the Highball community. Why not decrease  
the height to make the bayfront more enjoyable  
by all Chula Vista, not just by redevelopment.*

AV-1

Comments will be accepted in writing until 5:00 pm on Tuesday, July 8, 2008.  
Please submit via fax to: 619.586.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Response to Comment Letter AV

Marcia Morris

June 24, 2008

AV-1 This comment expresses the commenter's opinion regarding the aesthetic appeal of the proposed Gaylord hotel. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168 (14 CCR 15000 et seq.).

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**Comment Letter AW**

**Lesley Nishihira - Green Bayfront**

**From:** Georgina Moya <georgiegirl91@hotmail.com>  
**To:** <lnishihira@portofsandiego.org>  
**Date:** 8/7/2008 5:30 PM  
**Subject:** Green Bayfront

Dear Ms. Nishihira,

On the part of myself and my family, I would like to register my strong support for development of the bayfront in a responsible way. We support all the actions included in the Environmental Health Coalition's Green Bayfront recommendations. We want to make sure the Bayfront is for everyone, especially existing residents of Chula Vista who have denied access to our beautiful bayfront for so long.

Please adopt the Green Bayfront recommendations as soon as possible.

Sincerely,  
 Georgina Moya

Your PC, mobile phone, and online services work together like never before. See [how Windows® fits your life](#)

AW-1

**Response to Comment Letter AW**

**Georgina Moya**  
**August 7, 2008**

**AW-1** This comment expresses the author's support of the recommendations of the Environmental Health Coalition. Please see the responses to comments Q-1 through Q-35.

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## Comment Letter AX

Lesley Nishihira - Bayfront Development

**From:** "Manny" <manny@moya@cox.net>  
**To:** <lnishihira@portofsan-diego.org>  
**Date:** 8/7/2008 5:37 PM  
**Subject:** Bayfront Development

Dear Ms. Nishihira,

On the part of myself and my family, I would like to register my strong support for development of the Bayfront in a responsible way. We support all the actions included in the Environmental Health Coalition's Green Bayfront recommendations. We want to make sure that the Bayfront is for everyone, especially existing residents of Chula Vista who have been denied access to our beautiful bayfront for so long.

Please adopt the Green Bayfront recommendations as soon as possible.

Sincerely,  
 Manuel Moya

AX-1

## Response to Comment Letter AX

**Manuel Moya**  
**August 7, 2008**

**AX-1** This comment expresses the author's support of the recommendations of the Environmental Health Coalition. Please see the responses to comments Q-1 through Q-35.

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Comment Letter AY



**Chula Vista Bayfront Master Plan  
Revised Draft Environmental Impact Report (DEIR)**

COMMENTS

PLEASE PRINT CLEARLY

NAME: STEVEN C PAVKA

ORGANIZATION: \_\_\_\_\_

MAILING ADDRESS: 630 ARTHUR AVE CV

EMAIL ADDRESS: \_\_\_\_\_

WHO PAYS OFF THIS 300+ MILLION  
DOLLAR BOND IF CALFORD JUST SAYS  
THEY DON'T HAVE THE MONEY.

AY-1

Comments will be accepted in writing until 5:00 pm on ~~Friday July 8, 2008~~.  
Please submit via fax to: 619.686.6508, OR via personal delivery or mail service to:  
San Diego Unified Port District  
Land Use Planning Department  
3165 Pacific Highway  
San Diego, CA 92101

Thursday  
August  
7

Response to Comment Letter AY

**Steven C. Pavka**

**July 29, 2008**

**AY-1** This comment questions the financing of the bond. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.

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## Comment Letter AZ

Lesley Nishihi - Bay Front Master Plan Commentaries

**From:** Isabel Tutiven <itupks@yahoo.com>  
**To:** Leslie Nishihi <lnishihi@portofsandiego.org>  
**Date:** 8/7/2008 2:01 PM  
**Subject:** Bay Front Master Plan Commentaries

San Diego Port District  
 Land Use Planning Department  
 3165 Pacific Highway  
 San Diego, CA 92101  
 FAX (619) 686-6508

RE: DEIR for Bay front Master Plan

Dear Ms Nishihi:

After reviewing the Master Plan for the Bay Front, I need to make some commentaries about this un-adequate project. I am not agreeing with a "cement wall" of buildings that may be building up in a natural conservation area like the estuary and wetland. **This project will block the view to the natural beauty surrounding** and as the study showed in the DEIR, impacts will occur not only to the salt marsh but also in the estuary and wetlands. This project is too close to a natural conservation area. **This project is not suitable for the natural beauty surrounding. The buildings not only need to be decrease in high but, they need to be build way back from the coastal zone** and not where initially had been proposed. The mitigations proposed were to make a buffer area, but this 100 un-touch zone and 200 picnic area, will be enough to avoid these ecosystems to be perturbed from hotel, traffic, and pollution from these activities?

AZ-1

Also, due to the location of this project in the coastal zone and due to the magnitude of this project, **it had been omitted completely an study "type projection" about the possible impact that a global warming will have on the ecosystem** if this project is build the way that is proposed. This is a 25 years construction project, which mean that during those years the project still will be under construction. As we should be aware, some of the consequences of these global warming will be a sea level rise and increase of the water temperature. Making worse, to those mentioned above, Gylord's propose, intent to realign the access channel to north San Diego Bay by filling the old channel and dredging the entrance channel in a ecosystem that is continually changing like it is, an estuary. Estuaries are ecosystems that, because of the variables that shape them (fresh water flow, tidal range, sediments distribution, weather), they are constantly Physically and Geo-Chemically changing. Some estuaries may never reach a steady-state Dyer K., 1996.

AZ-2

AZ-3

file://C:\Documents and Settings\lnishihi\Local Settings\Temp\XPgrprwise\489B003BPORT... 8/7/2008

## Response to Comment Letter AZ

Isabel Tutiven-Shogren

August 7, 2008

**AZ-1** The comment expresses the commenter's concern regarding the height and vicinity to wetlands of buildings proposed as part of the project. The concerns identified in the comment are discussed throughout the Revised DEIR (*Chapter 3.0, Project Description; Section 4.4, Aesthetics/Visual Quality; Section 4.8, Terrestrial Biological Resources; and Section 4.9, Marine Biological Resources*). Project design features and mitigation measures are provided to reduce the impacts to visual quality resulting from the Proposed Project, as well as potential impacts to biological resources.

The project has been designed with a 400-foot buffer adjacent to the majority of the sensitive habitats, both on and off site. A few areas have a reduced buffer based on sensitivity of resources and specific project design features, such as the need for circulation roads or ability to provide some developable land on a parcel. The Port will maintain the first 200 feet, or full width in the case of reduced buffer areas, as a "no-touch" buffer, which will not contain any trails, boardwalks, or overlooks. The remaining area of buffer will include some passive recreation features, such as trails, boardwalks, and overlooks. Fencing will be incorporated in to the design features of the project to protect the sensitive habitat areas from trespassing and other intrusions. The buffer areas will include restoration of native habitats and will provide a significant increase in habitat value compared to existing conditions. In response to this and other comments on the Revised DEIR in regard to fencing to protect sensitive coastal habitats, the Final EIR has been revised to include 6-foot-high, vinyl-coated chain-link fence within the buffer area to prevent unauthorized access. **Mitigation Measure 4.8-6H** has been revised to reflect this requirement.

## Comment Letter AZ

Lesley Nishihi - Bay Front Master Plan Commentaries

**From:** Isabel Tutiven <itupks@yahoo.com>  
**To:** Leslie Nishihi <lnishihi@portofsandiego.org>  
**Date:** 8/7/2008 2:01 PM  
**Subject:** Bay Front Master Plan Commentaries

San Diego Port District  
 Land Use Planning Department  
 3165 Pacific Highway  
 San Diego, CA 92101  
 FAX (619) 686-6508

RE: DEIR for Bay front Master Plan

Dear Ms Nishihi:

After reviewing the Master Plan for the Bay Front, I need to make some commentaries about this un-adequate project. I am not agreeing with a "cement wall" of buildings that may be building up in a natural conservation area like the estuary and wetland. **This project will block the view to the natural beauty surrounding** and as the study showed in the DEIR, impacts will occur not only to the salt marsh but also in the estuary and wetlands. This project is too close to a natural conservation area. **This project is not suitable for the natural beauty surrounding. The buildings not only need to be decrease in high but, they need to be build way back from the coastal zone** and not where initially had been proposed. The mitigations proposed were to make a buffer area, but this 100 un-touch zone and 200 picnic area, will be enough to avoid these ecosystems to be perturbed from hotel, traffic, and pollution from these activities?

AZ-1

Also, due to the location of this project in the coastal zone and due to the magnitude of this project, **it had been omitted completely an study "type projection" about the possible impact that a global warming will have on the ecosystem** if this project is build the way that is proposed. This is a 25 years construction project, which mean that during those years the project still will be under construction. As we should be aware, some of the consequences of these global warming will be a sea level rise and increase of the water temperature. Making worse, to those mentioned above, Gylord's propose, intent to realign the access channel to north San Diego Bay by filling the old channel and dredging the entrance channel in a ecosystem that is continually changing like it is, an estuary. Estuaries are ecosystems that, because of the variables that shape them (fresh water flow, tidal range, sediments distribution, weather), they are constantly Physically and Geo-Chemically changing. Some estuaries may never reach a steady-state Dyer K., 1996.

AZ-2

AZ-3

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**AZ-2** The Revised DEIR provides a thorough analysis of potential adverse impacts resulting from global warming in *Section 4.6, Air Quality* (page 4.6-47 through 4.6-61), including a rise in sea levels, which is discussed in greater detail in *Section 4.5, Hydrology and Water Quality*. The Revised DEIR describes project features and recommends mitigation for impacts resulting from global warming (**Mitigation Measure 4.6-6**).

**AZ-3** This comment expresses an opinion regarding the realignment of the navigation channel. Impacts to marine biological resources as a result of the Navigation Channel realignment are discussed in *Section 4.9, Marine Biological Resources*, and impacts to water quality are discussed in *Section 4.5, Hydrology and Water Quality*.

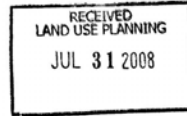
<p><b>Comment Letter AZ (Page 2)</b></p>	
<p>I believe, that Gaylord proposal should be changed to satisfy not only the economical need of small local business, and take advantage of the International border, but also, San Diego Bay need a proposal that will be in concordance with the beauty of the ecosystem taking advantage of it.</p> <p>As a person that live in this area, I won't like that my family, friend and visitors to be private of the freshness and beauty of nature, with a project that not only will keep this area of Chula Vista in a low range of income and stimulate the illegal immigration (with the lower wage of jobs available) but also that will open doors to lost money with people that came crossing the international border to work here but that live out side of USA.</p> <p>Sincerely,</p> <p>Isabel Tutiven-Shogren</p> <p>Correo Yahoo! Espacio para todos tus mensajes, antivirus y antispam ¡gratis! Regístrate ya - <a href="http://correo.yahoo.com.mx/">http://correo.yahoo.com.mx/</a></p> <p>file://C:\Documents and Settings\Inishihi\Local Settings\Temp\XPgrpwisw489B003BPORT... 8/7/2008</p>	<p><b>AZ-4</b> This comment expresses an opinion about the project. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.</p> <p><b>AZ-5</b> This comment expresses an opinion. The comment will be included in the Final EIR so that the Board of Port Commissioners may consider it in making its decision whether or not to approve the Proposed Project.</p>

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Comment Letter BA

July 28, 2008

San Diego Unified Port District  
Land Use Planning Department  
P. O. Box 120488  
San Diego, CA 92112-0488



Questions re: Chula Vista Bayfront Master Plan Draft E.I.R. (revised)

1. The Gaylord Hotel is to be built on fill. How deep will the pilings have to go to anchor the buildings? BA-1
2. In the area designated for the Pacifica condos, there was a creek where the Rohr employees used dump all their solvents and such. How deep will they go to clean and/or replace the dirt? BA-2
3. The traffic study showed many areas of Level Of Service (LOS) "F." What is the plan to mitigate the gridlock? BA-3

Peter Watry  
81 Second Avenue  
Chula Vista, CA 91910

Response to Comment Letter BA

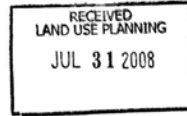
Peter Watry  
July 28, 2008

**BA-1** The commenter questions how deep the pilings will have to be to anchor the Gaylord hotel considering the placement of the buildings on fill. As described in the Preface to the Final EIR, the Gaylord development on Parcel H-3 is no longer proposed as there is currently no active developer pursuing development of this parcel. The RCC development on H-3 is a Phase I program-level component of the Proposed Project, for which no specific development proposal has been submitted to the Port for review and consideration. When specific development proposals are received for these parcels, the nature and extent of additional environmental review that may be required for the RCC on Parcel H-3 will be determined pursuant to CEQA Guidelines Section 15168 (14 CCR 15000 et seq.).

**BA-2** The comment questions the remediation of a creek where the Pacifica condos are planned to be built. **Mitigation Measure 4.12-1** (pages 4.12-70 and 4.12-71) discuss that the remediation of contaminated soil and/or groundwater in the areas of concern shall meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and shall be protective of human health with regard to future occupants of the areas of concern. **Mitigation Measure 4.12-11** (page 4.12-77) specifically addresses remediation within Parcel HP-5 where the L-Ditch is located. **Section 4.12.3.2** discusses the Cleanup and Abatement Order for all Goodrich properties, including HP-5. As disclosed in *Section 4.12, Hazards and Hazardous Materials*, in the Revised DEIR, investigation of sediment in and soil beneath the L-ditch found that solvent compounds (referred to herein as volatile organic compounds (VOCs)) were not

**Comment Letter BA**

July 28, 2008



San Diego Unified Port District  
Land Use Planning Department  
P. O. Box 120488  
San Diego, CA 92112-0488

Questions re: Chula Vista Bayfront Master Plan Draft E.I.R. (revised)

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Peter Watry  
81 Second Avenue  
Chula Vista, CA 91910

detected in sediment or soil of the ditch. While disposal of solvents to the ditch may have occurred in the past, because of their volatility and solubility, they would likely have been transported out of the ditch in water. The contaminants of concern identified in the investigation were metals. Remedial alternatives to address metals impacts have not been published. However, if removal of metals-impacted sediment is determined to be the preferred remedial alternative, the depth of removal would likely be no greater than 6 feet, which was the maximum depth of the sediment in the ditch. In most areas the sediment thickness was approximately 1 to 2 feet.

**BA-3** As described in *Section 4.2, Traffic and Circulation*, and specifically *Section 4.2.5, Mitigation Measures*, 30 individual mitigation measures are proposed specifically to reduce traffic-related impacts caused by the Proposed Project. They include construction of necessary roads to provide access and frontage for proposed developments, widening of existing roads where necessary to provide adequate capacity, and fair share contribution to the WTDIF and participation in the Caltrans/SANDAG I-5 South Corridor Plan.

Z	Ned Ardagna, August 6, 2008	RTC-431
AA	Jovita Ayala Aleman, August 7, 2008	RTC-443
AB	Alan Brill, August 7, 2008	RTC-445
AC	Robert S. Carter, August 1, 2008	RTC-447
AD	KB Colclasure, June 24, 2008	RTC-449
AE	Kenn Colclasure, August 4, 2008	RTC-451
AF	Lilyane M. Cowherd, August 4, 2008	RTC-455
AG	Melvin Cowherd, July 29, 2008	RTC-457
AH	David Danciu, July 6, 2008	RTC-459
AI	David Danciu, August 7, 2008	RTC-461
AJ	Sharon Floyd, June 24, 2008	RTC-463
AK	Sharon Floyd, June 24, 2008	RTC-465
AL	Sharon Floyd, August 7, 2008	RTC-467
AM	Lynda Gilgun, August 7, 2008	RTC-471
AN	James N. Headland, August 4, 2008	RTC-473
AO	Eduardo "Ed" Herrera, July 29, 2008	RTC-475
AP	Jasso, May 30, 2008	RTC-477
AQ	David W. Krogh, August 7, 2008	RTC-479
AR	Bettie Lupi, August 7, 2008	RTC-483
AS	Bettie Lupi, June 24, 2008	RTC-485
AT	Antonio Macias July 29, 2008	RTC-487
AU	M. Dan McKirnan, PhD, August 7, 2008	RTC-489
AV	Marcia Morris, June 24, 2008	RTC-491

AW Georgina Moya, August 7, 2008 RTC-493

AX Manuel Moya, August 7, 2008 RTC-495

AY Steven C. Pavka, July 29, 2008 RTC-497

AZ Isabel Tutiven-Shogren, August 7, 2008 RTC-499

AAA Peter Watry, July 28, 2008 RTC-503



Re Chula Vista Bayfront Master Plan            ]  
and Port Master Plan Amendment:            ]  
Certification of Final Environmental            ]  
Impact Report (UPD # 83356-EIR-658;            ]  
SCH # 2005081077); Adoption of Findings            ]  
of Fact and Statement of Overriding            ]  
Considerations; Adoption of Mitigation            ]  
Monitoring and Reporting Program            ]  
\_\_\_\_\_]

RESOLUTION 2010-78

WHEREAS, the San Diego Unified Port District ("Port District") has proposed the Chula Vista Bayfront Master Plan and Port Master Plan Amendment ("Proposed Project"); and

WHEREAS, the Proposed Project represents a collaborative planning effort between the Port District and the City of Chula Vista ("City") to create a master plan for the approximately 556-acre Chula Vista Bayfront, which consists of amendments to the Port Master Plan and to various City plans to allow the development of commercial recreation and public recreation land uses, as well as improvements to coastal access and additional protection of natural resources and the environment throughout the project area, an exchange of land between the Port District and North CV Waterfront LP, and a development proposal known as the Pacifica Project; and

WHEREAS, the property which is subject to the Proposed Project is located in the Port District's Planning District 7, Chula Vista Bayfront, and is bounded on the north by the Sweetwater Marsh National Wildlife Reserve, the mouth of the Sweetwater River and the City of National City, on the east by Interstate 5 and the commercial development along Bay Boulevard, on the south by Palomar Street and the South Bay Unit of the San Diego Bay National Wildlife Refuge on the south, and on the west by San Diego Bay; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000, et seq., and its implementing regulations, 14 California Code of Regulations Section 15000, et seq. ("CEQA Guidelines"), the Port District prepared a Draft Program Environmental Impact Report ("Draft EIR") for the Proposed Project and circulated the Draft EIR for public comment as required by law; and

WHEREAS, pursuant to CEQA Guidelines section 15088.5, the Port District prepared a Revised Draft Program Environmental Impact Report ("Revised Draft EIR") for the Proposed Project and re-circulated the Revised Draft EIR for public comment as required by law; and

WHEREAS, the Port District received and responded to public comments on the Revised Draft EIR and has prepared a Final Environmental Impact Report ("Final EIR"), which consists of three volumes and includes all of the information required by CEQA Guidelines section 15132, including revisions to the Revised Draft EIR, public comments and the responses to public comments on the Revised Draft EIR, the technical appendices, and the Errata to the Final EIR, which has been filed with the Clerk of the Board of Port Commissioners ("Board"); and

WHEREAS, pursuant to CEQA, the Port District has prepared a Mitigation Monitoring and Reporting Program, which has been filed with the Clerk of the Board; and

WHEREAS, pursuant to Resolution 2010-11, adopted 5 January 2010, the Board authorized the Executive Director or his authorized representative to execute a Real Estate Exchange Agreement and Joint Escrow Instructions ("Agreement") with San Diego Gas & Electric Company ("SDG&E") (said Agreement is on file in the office of the District Clerk as Document No. 56143) transferring approximately 12.42 acres of property located in the City of Chula Vista, as described in the Quitclaim Deed, Easement Reservation and Covenant Agreement between SDG&E and the Port District, on file in the office of the Port District Clerk as Document No. 38357, as amended; and

WHEREAS, an approximately 6.08 acres portion of Parcel OP-3, directly adjacent to the above-referenced approximately 12.42 acres of transferred property, will not be included in the Proposed Project, thereby reducing the total acreage of the Otay District of the Proposed Project by approximately 18.5 acres; and

WHEREAS, pursuant to Resolution 2010-33, adopted 2 March 2010, the Board authorized the Executive Director of the Port District to issue a Coastal Development Permit for L-Ditch Sediment Remediation and Habitat Project, located on Parcel HP-5 in the Harbor District and the work plan authorized in said permit is consistent with the development plan for the Pacifica Project proposed in the Alternate L-Ditch Remediation Alternative in the Final EIR; and

WHEREAS, the Clerk of the Board has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and affidavit of mailing on file with the Clerk of the Board; and

WHEREAS, all materials with regard to the Proposed Project were made available to the Board for its review and consideration of the Proposed Project including, but not limited to, the following:

1. The Final EIR, dated May 2010, Volumes 1 through 3;
2. The Errata to the Final EIR, dated May 2010;
3. The Staff Report and Agenda Sheet, dated May 14, 2001;

4. The Port Master Plan Amendment, dated May 2010;
5. The proposed Findings of Fact and Statement of Overriding Considerations, dated May 2010;
6. The proposed Mitigation Monitoring and Reporting Program, dated May 2010;
7. All documents and records filed in this proceeding by interested parties;

and

WHEREAS, a duly noticed public hearing was held on May 18, 2010, before the Board, at which the Board received public testimony and gave direction to Port District staff regarding the Proposed Project; and

WHEREAS, having reviewed and considered all testimony and materials made available to the Board, including but not limited to the Final EIR, the staff reports and all the testimony and evidence in the record of the proceedings with respect to the Proposed Project, the Board took the actions hereinafter set forth, **NOW, THEREFORE,**

**BE IT RESOLVED** by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

1. The Board finds the facts recited above are true and further finds that this Board has jurisdiction to consider, approve and adopt the subject of this Resolution.
2. The Board finds and determines that the applicable provisions of CEQA and the CEQA Guidelines and Port District guidelines have been duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto.
3. The Board finds and determines that (a) the Final EIR is complete and adequate in scope and has been completed in compliance with CEQA and the State and Port District guidelines for implementation thereof, (b) the Final EIR was presented to the Board and the Board has fully reviewed and considered the information in the Final EIR prior to approving the Proposed Project, (c) the Final EIR reflects the Port District's independent judgment and analysis, and, therefore, the Final EIR is hereby declared to be certified in relation to the subject of this Resolution.
4. The Board hereby adopts the Alternate L-Ditch Remediation Alternative as the development plan for Parcels H-13, H-14 and HP-5 in place of the plan for the development of said parcels proposed in Chapter 3, *Project Description (Section 3.4.4.1(b)(I) Project Description: Harbor District Project Level (Phase I) Components)* of the Final EIR, and hereby approves the Proposed Project as amended to incorporate said alternative.

5. The Proposed Project is approved despite the existence of certain significant environmental effects identified in the Final EIR and, pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, the Board hereby makes and adopts the findings with respect to each significant environmental effect as set forth in the Findings of Fact, appended hereto as Exhibit "A" and made a part hereof by this reference, and declares that it considered the evidence described in connection with each such finding.

6. The Proposed Project is approved despite the existence of certain unavoidable significant environmental effects identified in the Final EIR and, pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines Section 15093, the Board hereby makes and adopts the Statement of Overriding Considerations, appended hereto as Section 8.0 of Exhibit "A" and made a part hereof by this reference, and finds that such effects are considered acceptable because the benefits of the Proposed Project outweigh the unavoidable environmental effects.

7. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d), the Board hereby adopts and approves the Mitigation Monitoring and Reporting Program, which is appended hereto as Exhibit "B" and is made a part hereof by this reference, with respect to the significant environmental effects identified in the Final EIR, and hereby makes and adopts the provisions of the Mitigation Monitoring and Reporting Program as conditions of approval for the proposed project.

8. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15094, the Clerk of the Board shall cause a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research. Unless the project is declared exempt herein and a Certificate of Filing Fee Exemption is on file, the proposed project is not operative, vested or final until the filing fees required pursuant to Fish and Game Code Section 711.4 are paid to the Clerk of the County of San Diego.

9. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

ADOPTED this 18th day of May, 2010.

5/18/10  
 attachments

San Diego Unified Port District

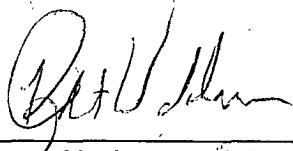
Office of the Clerk

**CERTIFICATION OF VOTE**

Passed and adopted by the Board of Port Commissioners of the San Diego Unified Port District on May 18, 2010, by the following vote:

<u>Commissioners</u>	<u>Yeas</u>	<u>Nays</u>	<u>Excused</u>	<u>Absent</u>	<u>Abstained</u>
Michael Bixler	X				
Lee Burdick	X				
Stephen P. Cushman			X		
Stephen C. Padilla	X				
Scott H. Peters	X				
Lou Smith	X				
Robert Valderrama	X				

**AUTHENTICATED BY:**



Chairman of the Board of Port Commissioners

MARY ANN LINER

Clerk of the San Diego Unified Port District

By:



District Clerk

(Seal)

Resolution Number: 2010-78

OR

Ordinance Number: \_\_\_\_\_

Adopted: May 18, 2010

2010-78

**EXHIBIT A**  
**FINDINGS OF FACT**  
**AND**  
**STATEMENT OF OVERRIDING CONSIDERATIONS**

*for the*  
**CHULA VISTA BAYFRONT MASTER PLAN**  
**UPD #83356-EIR-658**  
**SCH #2005081077**

*Prepared for:*  
**SAN DIEGO UNIFIED PORT DISTRICT**  
3165 Pacific Highway  
San Diego, California 92101

*Prepared by:*  
**DUDEK**  
605 Third Street  
Encinitas, California 92024

**MAY 2010**

**EXHIBIT "A"**

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<b>1</b>	<b>Table 5.1-1 Comparison of Impacts between Proposed Project and Project Alternatives</b>



## ACRONYMS AND ABBREVIATIONS

---

AB	Assembly Bill
ACM	asbestos-containing materials
ADT	average daily traffic
AGU	air handling unit
APCD	Air Pollution Control District
AQIP	Air Quality Improvement Plan
Bay	San Diego Bay
Bayfront	Chula Vista Bayfront
BEPP	Business Emergency Plan
BMP	best management practice
Board	Board of Port Commissioners
CAC	Citizen Advisory Committee
Cal-IPC	California Invasive Plan Council
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CCC	California Coastal Commission
CD	compact disc
CDFG	California Department of Fish and Game
CDWR	California Department of Water Resources
CEC	California Energy Commission
CEQA	California Environmental Quality Act
City	City of Chula Vista
City Council	Chula Vista City Council
CNEL	community noise equivalent level
CO	carbon monoxide
COPC	contaminants of potential concern
County	County of San Diego
CPP	central power plant
CPUC	California Public Utilities Commission
CRHR	California Register of Historical Resources
CSS	coastal sage scrub
CVBMP	Chula Vista Bayfront Master Plan
CVESD	Chula Vista Elementary School District
CVOC	chlorinated volatile organic compound
CWA	Clean Water Act

dB	decibels
dB(A)	decibels adjusted
DEH	Department of Environmental Health
DEIR	draft environmental impact report
DR	demand reduction
EA	exposure area
EE	energy efficiency
EPA	U.S. Environmental Protection Agency
FAA	Federal Aviation Administration
FEIR	final environmental impact report
FHWA	Federal Highway Administration
GHG	greenhouse gas
Goodrich	The Goodrich Corporation
Goodrich Agreement	Second Amendment to Relocation Agreement
GPU	General Plan Update
Harbor Police	Port of San Diego Harbor Police
HCP	Habitat Conservation Plan
HHRA	human health risk assessment
HLIT	habitat loss incidental take
HMTS	Hazardous Materials Technical Study
HVAC	heating, ventilation, and air conditioning
I-5	Interstate 5
I-8	Interstate 8
IPM	integrated pest management policies
JPA	Joint powers authority
KHA	Kimley-Horn & Associates, Inc.
LBP	lead-based paint
LCP	local coastal program
LED	light emitting diode
LEED	U.S. Green Building Council's Leadership in Energy and Environmental Design
Leq	equivalent continuous noise level
LNG	liquefied natural gas
LOS	level of service
LUP	Land Use Plan
M&V Plan	measurement and verification plan
MBTA	Migratory Bird Treaty Act
Metro	City of San Diego Metropolitan Sewage System
MGD	million gallons per day

MLLW	Mean Low Low Water
MSCP	Multiple Species Conservation Program
MMRP	mitigation monitoring reporting plan
MSS	maritime succulent scrub
MWWD	Metropolitan Wastewater Department
NAAQS	National Ambient Air Quality Standards
NCCP	Natural Community Conservation Plan
NMFS	U.S. Department of Commerce National Marine Fisheries Service
NO <sub>x</sub>	nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
NRMP	national resources management plan
NWR	National Wildlife Reserve
PDF	project design feature
PFDIF	Public Facilities Development Impact Fee
PM	particulate matter
PMP	Port Master Plan
Port	San Diego Unified Port District
Project	Chula Vista Bayfront Master Plan
Proposed Project	Chula Vista Bayfront Master Plan
Pub. Res. Code	California Public Resources Code
PWC	personal watercraft
RAP	remedial action plan
RAQS	Regional Air Quality Standards
RCC	Resort Conference Center
RDA	City of Chula Vista Redevelopment Agency
ROG	reactive organic gases
ROW	right-of-way
RFP	Request for Proposal
RFQ	Request for Qualifications
RWQCB	Regional Water Quality Control Board
SANDAG	San Diego Association of Governments
SBPP	South Bay Power Plant
SCEMP	Southern California Eelgrass Mitigation Policy
SDAB	San Diego Air Basin
SDBNWR	San Diego Bay National Wildlife Refuge
SDCWA	San Diego County Water Authority
SDG&E	San Diego Gas & Electric
SIP	State Implementation Plan

STL	Sound Transmission Loss
SO <sub>2</sub>	sulfur dioxide
SR-54	State Route 54
SUHSD	Sweetwater Union High School District
SWMP	soil and water management plan
SWPPP	stormwater pollution prevention plan
TCM	transportation control measures
TIA	traffic impact analysis
TNM	traffic noise model
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
UST	underground storage tank
UWMP	Urban Water Management Plan
VMT	vehicle miles traveled
WTDIF	Western Traffic Development Impact Fee

**FINDINGS OF FACT AND STATEMENT OF OVERRIDING  
CONSIDERATIONS FOR THE  
CHULA VISTA BAYFRONT MASTER PLAN  
FINAL ENVIRONMENTAL IMPACT REPORT  
(UPD # 83356-EIR-658; SCH # 2005081077)**

## **INTRODUCTION**

The Board of Port Commissioners (Board) of the San Diego Unified Port District (Port) hereby makes the following Findings of Fact and Statement of Overriding Considerations concerning the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (Proposed Project or Project), pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq. (CEQA), and its implementing regulations, California Code of Regulations, Title 14, section 15000 et seq. (CEQA Guidelines).

The Proposed Project will involve the redevelopment of approximately 497 acres of land and 59 acres of water located at the southeastern end of San Diego Bay within the jurisdiction of the Port and the City of Chula Vista (City). The Project area is divided into three districts referred to as the Sweetwater District, the Harbor District, and the Otay District. Development within these three districts is expected to occur in four phases and involves amendments to the Port Master Plan (PMP), the City's General Plan and Local Coastal Program (LCP); a mapping change to the Multiple Species Conservation Program (MSCP) Chula Vista Subarea Plan; a land exchange between the Port and a private developer; redevelopment of the Sweetwater, Harbor, and Otay districts with a variety of uses, including parks, open space, ecological buffers, residential, resort conference center (RCC), hotel, retail, cultural, and recreational space; a reconfigured marina basin and boat slips; a new commercial harbor; and a realignment of the existing navigation channel. The Proposed Project also involves redevelopment of the existing roadway and infrastructure system to serve the proposed new uses, as well as the demolition and/or relocation of existing uses to allow for redevelopment to occur.

The Proposed Project, as approved, also involves two changes as a result of activities outside the scope of the Proposed Project as outlined in the FEIR.

- First, on January 6, 2010, the Port approved a Real Estate Exchange Agreement with San Diego Gas & Electric Company (SDG&E Agreement), which provides for the relocation of an existing SDG&E switchyard from Parcels O-1, O-3A, and O-3B to Parcels O-4 and OP-2A; the extinguishing of easements in favor of SDG&E on Parcels O-1, O-3A, and O-3B; and the transferring of ownership of the southerly portions of Parcels O-4 and OP-2A, totaling 12.42 acres, from the Port to SDG&E. In addition, the southern 6.08-acre portion of Parcel OP-3 directly adjacent to the transferred property will not be included in

the associated PMP Amendment. The switchyard relocation provides the benefit of furthering local land use goals and objectives for the beautification and redevelopment of the Chula Vista Bayfront (Bayfront). Although the SDG&E Agreement reduces the size of the Otay District and the overall Project site by 18.5 acres by excluding this area in its entirety from the PMP Amendment, this reduction does not result in a new significant environmental impact or a substantial increase in the severity of the environmental impacts evaluated in the FEIR, and therefore does not constitute significant new information that would require recirculation. Accordingly, the figures and acreage references for the Otay District (including portions of Parcels O-4, OP-2A, and OP-3) in the FEIR should be considered reduced by 18.5 acres.

- Second, at the time that the Draft Environmental Impact Report (DEIR) and the Revised Draft Environmental Impact Report (Revised DEIR) were prepared, the Port had not yet formulated a work plan for remediation of the existing contamination in the L-Ditch located on Parcel HP-5 in the Harbor District, which is considered a wetland and is subject to Cleanup and Abatement Order No. 98-08 issued by the California Regional Water Quality Control Board (RWQCB). The Revised DEIR therefore analyzed two potential scenarios for Parcel HP-5: the Proposed Project, which assumed that the existing contamination would be excavated and removed and that the L-Ditch would remain a wetland on which no development would occur; and the Alternate L-Ditch Remediation Alternative, which assumed that development would occur if the existing contamination were remediated in place by filling the L-Ditch and the L-Ditch were no longer considered a wetland. On March 2, 2010, the Port approved a work plan that proposes to fill the L-Ditch and remediate the existing contamination in place, as provided in the Alternate L-Ditch Remediation Alternative which was analyzed in *Section 5.7* of the Revised DEIR. Accordingly, the Port has determined to adopt the Alternate L-Ditch Remediation Alternative in the Project as approved.

Pursuant to CEQA Guidelines section 15132, the FEIR for the Proposed Project consists of the following components:

- Volume 1 includes a list of persons, organizations, and public agencies that commented on the Revised DEIR, copies of the written comment letters received by the Port concerning the Revised DEIR, and the Port's responses as the Lead Agency to significant environmental points raised in the public and agency comment, review, and consultation process;
- Volume 2 and Volume 3 include a revised version of the Revised DEIR, which identifies changes in the text of the Revised DEIR and other information added by the Port in response to public comments received on the Revised DEIR;

- Appendices to the FEIR, which comprised five volumes in the Revised DEIR, are included in electronic form on compact disc (CD) and enclosed in Volume 3 of the FEIR (hard copies of the appendices are available for public review during normal business hours at the Office of the District Clerk, located at 3165 Pacific Highway, San Diego, California); and
- Errata to the FEIR, which consist of minor corrections to the text of the FEIR and additional measures to protect natural resources and the environment above and beyond those required by CEQA and other applicable federal, state, and local laws and regulations.

The environmental effects, mitigation measures, and alternatives analyzed in the Revised DEIR, the public comments and responses thereto, the extensive public outreach and public participation described in the FEIR, and other activities that are not part of the Proposed Project have influenced the design of the Proposed Project as approved. These environmental documents and procedures reflect the Port's commitment to incorporate into final Project design the environmental considerations identified during the CEQA process.

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## **1.0 PROJECT DESCRIPTION**

### **1.1 Project Location**

The Chula Vista Bayfront Master Plan (Proposed Project or Project) site is located within San Diego Unified Port District (Port) tidelands and the City of Chula Vista (City) in San Diego County (County), situated on the southeastern edge of San Diego Bay (see *Figure 3-1* of the Final Environmental Impact Report (FEIR)) and located approximately 1.5 miles west of the City's downtown commercial area. The Project site encompasses approximately 556 acres and consists of 497 acres of land area and 59 acres of water area. The planning area is generally bordered by the Sweetwater Marsh National Wildlife Reserve (NWR), the mouth of the Sweetwater River, and the jurisdictional boundary of National City on the north. Interstate 5 (I-5) and the commercial development along Bay Boulevard are to the east. Palomar Street and the South Bay Unit of the San Diego Bay National Wildlife Refuge (SDBNWR), which includes the salt evaporation ponds at the southern end of San Diego Bay, border the Project site to the south and west. An aerial photograph of the Project site is provided in *Figure 3-2* of the FEIR.

### **1.2 Project Components**

The Proposed Project is described in detail in *Chapter 3.0, Project Description*, of the FEIR and is comprised of the following components:

- Amendments to the PMP, the City's General Plan, and the City's LCP (which includes the Land Use Plan and Bayfront Specific Plan), and a mapping change to the MSCP Chula Vista Subarea Plan.
- A land exchange between the Port and Pacifica (a private developer).
- Implementation of the CVBMP through redevelopment of the Sweetwater, Harbor, and Otay Districts with a variety of uses, including park, open space, ecological buffers, cultural, recreational, residential, hotel and conference space, mixed-use office/commercial recreation, and retail. The CVBMP includes a specific residential development proposed by Pacifica. In addition, CVBMP redevelopment may potentially include an RCC and proposed water uses, including a reconfigured marina basin and boat slips, a new commercial harbor, and realignment of the existing navigation channel.
- Redevelopment of the roadway and sewer and water infrastructure system to serve the Proposed Project area both on site and off site.
- Demolition and/or relocation of existing uses to allow for the above redevelopment to occur subject to existing Port lease agreements.

The planning area has been divided into three districts: the Sweetwater District, the Harbor District, and the Otay District. The Sweetwater District (approximately 130 acres) proposes the lowest intensity development of the three districts and focuses on lower-scale, environmentally sensitive, and environmentally themed uses, including a large ecological buffer, a signature park, a bike path, pedestrian trails, other open space areas, uses such as office/retail, a hotel, parking for the Chula Vista Nature Center, and roadway and infrastructure improvements.

The Harbor District is most directly accessible to downtown Chula Vista and would be redeveloped to provide a significant link from the City to the Chula Vista Bayfront (Bayfront). It is composed of approximately 223 acres of land and approximately 59 acres of water. The Harbor District proposes the highest intensity development of the Proposed Project and encourages an active, vibrant mix of uses: an RCC, hotels, and conference space; a bike path; park and other open space areas; a continuous waterfront promenade; residential uses; mixed-use retail, office, and cultural space; and new roadways and infrastructure. A reconfiguration of the existing harbor is also proposed to create a new commercial harbor and realign the navigation channel.

The Otay District is composed of approximately 144 acres and proposes medium-intensity development that will consist of industrial business park uses, low-cost visitor-serving recreational uses, other open space areas, an ecological buffer, stormwater retention basins, a bike path, pedestrian trails, and new roadways and infrastructure.

The Proposed Project will extend Chula Vista's traditional grid of streets to ensure pedestrian, vehicle, bicycle, transit, and water links. The Proposed Project also proposes a continuous open space system, fully accessible to the public, which would connect the Sweetwater, Harbor, and Otay districts through a shoreline promenade or baywalk and a bicycle path linking the parks. Significant park and other open space areas in each of the three districts are proposed, along with a Signature Park and the creation of an active commercial harbor with public space at the water's edge. The Proposed Project would also enhance existing physical and visual corridors while adding new ones. Although approximately 258 acres (46%) of the Project site are proposed for development, approximately 238 acres (43%) of the Project site are proposed for open space, either in the form of natural habitat or public parks. The remaining 59 acres (11%) of the Project site consist of water area for the marina basins and new commercial harbor. A map of the Proposed Project, depicting the Sweetwater, Harbor, and Otay districts and their individual parcels, is provided in *Figure 3.8A* of the FEIR.

Proposed development is planned to occur in four phases over an approximate 24-year period (approximately 5 years for Phases I and II, approximately 5 years for Phase III, and approximately 14 years for Phase IV). Phases I and II will consist of high-quality development and public improvements concentrated in the Sweetwater and Harbor districts that are intended

to be the catalyst for subsequent public and private development in the Proposed Project. The phasing schedule represents a best-case scenario and will be contingent upon many factors, such as availability and timing of public financing and construction of public improvements, the disposition of existing long-term leases, actual market demand for and private financing of proposed development, the relocation and/or demolition of existing uses, the approvals of new uses, and other future events and circumstances.

The Proposed Project, as approved, includes adoption of the Alternate L-Ditch Remediation Alternative, which proposes to construct the Pacifica residential development on a larger footprint that includes Parcel HP-5. Remediation and fill of approximately 8.0 acres of Parcel HP-5 would distribute the residential development for the Pacifica project over 23 acres, in lieu of the 14 acres allocated within Parcels H-13 and H-14. This increase in land area would allow for a reduction in height, bulk, and development density while simultaneously affording an increase in useable public open space. Because the wetlands would have been removed as a result of the remediation and fill required by Cleanup and Abatement Order No. 98-08, the 50-foot wetland buffer surrounding HP-5 would no longer be necessary.

### **1.3 Project Objectives**

The Bayfront has the potential to be a world-class visitor destination, which would serve not only local and regional needs but also the statewide public purposes of the public trust lands within the Port's jurisdiction. The shoreline and natural areas provide an excellent complement to the visitor-serving amenities that could be placed in the already-developed portions of the Project area. The Bayfront is also located within an ecologically sensitive area of South San Diego Bay. Comprised of rich biological resources, the surrounding marshes, mudflats, and open water provide important foraging habitat to many birds and mammal species. The waterfront parks also offer many public amenities for local residents. The Bayfront's setting on the western edge of Chula Vista offers an opportunity for cooperative planning combining public amenities, private development, ecological preservation, shoreline enhancement, and the preservation of open space. Up to this point, however, the Bayfront's potential has been largely unrealized. Therefore, the purposes of the Proposed Project are as follows:

- Create a vibrant, active, unified waterfront with strong connections to the rest of the City and region
- Create new public access, recreational amenities, and shoreline enhancements
- Protect biological resources in the vicinity of the Proposed Project
- Stimulate economic growth for the Port, the City, the South Bay area, and the San Diego region

- Improve land use compatibility (shift the power distribution facilities from active use areas and relocate residential development away from resources in the Sweetwater Marsh National Wildlife Refuge (NWR))
- Develop economically feasible land uses throughout the Bayfront to serve the local community and region, as well as serve the public trust purposes
- Develop property in a manner that minimizes environmental impacts and reinforces the public realm in a manner befitting the setting and regional significance of the area
- Balance the cost of public improvements with private development so that public costs can be paid for by the increased revenues from the private development.

The cooperative planning venture between the Port and the City embodied in the Proposed Project reflects an understanding of the potential of the Bayfront as a world-class waterfront district in the City and an appreciation for a coordinated, comprehensive vision for the area. Accordingly, the Port and City developed the following objectives during the master planning process with the ultimate goal of creating a world-class bayfront:

- Consistency with tidelands trust requirements and restrictions
- Broad community input into the planning process and support of the PMP
- Development of a PMP that protects and enhances environmental resources
- Seamless integration with adjoining properties
- Development of a visionary PMP that is economically sustainable, provides revenue generation, and will encourage private sector participation
- Development of a PMP that creates future market opportunities and defines the market rather than simply responding to the existing market
- Development of a PMP that eliminates or reduces barriers linking the Bayfront to the rest of western Chula Vista
- Development of a PMP that enhances a culturally diverse community and integrates the Bayfront with the rest of Chula Vista
- Development of a comprehensive funding program
- Development of a PMP that includes recreational, public art, and open space opportunities as significant components.

In addition, the Proposed Project's urban design consultants developed the following design principles, which provided a framework in developing the initial land use concepts for the Bayfront during the master planning process:

- Create one Chula Vista Bayfront
- Celebrate the serenity and Hispanic culture of Chula Vista's Bayfront setting
- Extend Chula Vista all the way to the Bayfront
- Take advantage of deep water at the harbor to create an active boating environment
- Create a Bayfront park system that marries ecological habitats and recreational needs of the community
- New development should reinforce the sense of place at the Bayfront.

Based on its review of the FEIR and other information and testimony received in connection with the Proposed Project, the Port finds these objectives to be acceptable and desirable from a policy standpoint. In choosing to approve the Proposed Project, the Port accords great weight to the above objectives when considering the feasibility of the alternatives analyzed in the FEIR and in invoking overriding considerations in approving the Proposed Project.

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## **2.0 ENVIRONMENTAL PROCEDURES**

### **2.1 Lead Agency**

The Proposed Project includes individual development projects that the Port and the City will carry out or approve. The Project site includes land and water areas located within the jurisdiction of the Port and the City. Pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15051(d), therefore, the Port and the City agreed to designate the Port as the Lead Agency for the purpose of preparing the environmental review required by CEQA. The environmental review prepared by the Port will be used by the Port, as Lead Agency, and by the City, as a Responsible Agency, for the discretionary actions necessary for implementation of the Proposed Project, which are identified in *Section 2.5, Intended Uses*, of the FEIR.

Other Responsible Agencies and Trustee Agencies may also use the information contained in the FEIR when considering issuance or authorization of the permits required for construction of the individual development projects that comprise the Project. Agencies expected to use the FEIR in their decision-making process include, but are not limited to, the California State Lands Commission, California Coastal Commission (CCC), California Department of Fish and Game (CDFG), California Department of Transportation (Caltrans), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), U.S. Department of Commerce (National Marine Fisheries Service), Regional Water Quality Control Board (RWQCB) Region 9, and the San Diego County Department of Environmental Health (DEH).

### **2.2 Environmental Impact Report**

The FEIR was prepared as a combined program and project EIR. The Proposed Project consists of amendments to the Port's PMP and the City's General Plan and LCP, and a mapping change to the MSCP Chula Vista Subarea Plan, which provide for future development and redevelopment of the Project area, as well as certain site-specific development projects that are expected to commence implementation upon approval of the Project. The site-specific development projects, which are analyzed in the FEIR at a project level of detail, consist of the following Phase I components: the Pacifica residential development on Parcels H-13, H-14, and HP-5; the new fire station on Parcel H-17; and proposed roadway and infrastructure improvements in the Sweetwater and Harbor districts (except the new F Street segment). The remainder of the Phase I components and all of Phases II through IV of the Project are analyzed at a more general program level of detail. With the exception of the site-specific development projects analyzed in the FEIR at a project level, the nature and extent of any additional environmental review that may be required for subsequent development projects will be determined pursuant to CEQA Guidelines section 15168.

### 2.2.1 Draft EIR

The Port prepared a Draft EIR (DEIR) (September 2006) which was circulated for a 60-day public review period from September 29, 2006, to November 27, 2006. In response to requests for additional review time, the Port extended the public review period for 45 days to January 11, 2007, bringing the total public review period for the DEIR to 105 days. The Port received 59 individual comment letters, many of which requested more information and project-specific data, specifically for the project-level components (i.e., the proposed RCC, Pacifica Residential Site, and the Signature Park).

### 2.2.2 Revised Draft EIR

In response to the numerous public comments on the DEIR and substantial additional information concerning the Proposed Project, the Port prepared and circulated a Revised DEIR. The Revised DEIR revised, updated, and expanded upon the original DEIR in a good faith effort to respond to the public comments, provide additional information concerning the design of specific development projects, and address changes that have been made to various aspects of the Proposed Project. Although revised and updated information was contained throughout the Revised DEIR, the most significant revisions to the original DEIR may be summarized as follows:

- Additional information was provided concerning the design of the resort hotel and conference center project proposed for development on Parcel H-3 in the Harbor District during Phase I.
- Additional information was provided concerning the design of the residential and ancillary retail project proposed for development on Parcels H-13 and H-14 in the Harbor District during Phase I.
- No residential development will occur in the Otay District. Residential development will occur only on Parcels H-13 and H-14 in the Harbor District and will be limited to 1,500 units. The proposed land exchange will not include any parcels in the Otay District.
- No new power plant will occur in the Otay District. Parcel O-4 in the Otay District will not be designated as an “Energy/Utility” zone, and the proposal to develop a new power plant, which was a separate project subject to the exclusive jurisdiction of the California Energy Commission (CEC), has been withdrawn.
- Parcel O-4 in the Otay District will be designated for “Industrial Business Park” use under the PMP, which would generally be consistent with the uses presently allowed by the existing “Industrial” use designation under the City’s LCP.



- The first 200 feet of the buffer zone proposed for Parcel SP-1 in the Sweetwater District has been designated a “no touch” zone.
- The phasing plan for implementation of the Proposed Project was expanded from three to four phases, and changes were made to the phases in which the development of various parcels is anticipated to occur.
- The range of alternatives to the Proposed Project was revised. The Modified Sweetwater Alternative, Reduced Residential Density Alternative, and Modified Land Exchange Alternative were eliminated in light of changes made to the project description. A new alternative (Alternate L-Ditch Remediation Alternative) was added to address the change in circumstances that would occur on Parcel HP-5 if the remediation of existing contamination under the jurisdiction of the RWQCB required filling, rather than removal and restoration, of the affected area.
- The discussion of many of the Proposed Project’s potential environmental impacts and feasible mitigation measures was revised, updated, and expanded in *Sections 4.1 through 4.17* of the Revised DEIR.
- The issue of global climate change, also known as global warming, became an important issue since the adoption of California Assembly Bill 32 and was analyzed in *Section 4.5, Hydrology/Water Quality*, and *Section 4.6, Air Quality*.
- Many of the technical reports and studies on which the analysis of potential environmental effects was based were revised, updated, and expanded. The revised technical reports and studies were identified in *Sections 4.1 through 4.17* of the Revised DEIR and were either attached as appendices to the Revised DEIR or were available for public review at the Port.

Because the revisions described above were substantial, the Port decided to recirculate the entire Revised DEIR for public review and comment. Public comments on the original DEIR are included in the administrative record, but the Port did not provide written responses to them in the Revised DEIR. Instead, pursuant to state CEQA Guidelines section 15088.5(f)(1), the Port advised that new comments must be submitted on the Revised DEIR and that the Port would respond in writing in the FEIR only to those comments submitted in response to the Revised DEIR. The Revised DEIR was made available for public review and comment for the period from May 23, 2008, to August 7, 2008.

### **2.2.3 Final EIR**

In response to recirculation of the Revised DEIR, the Port received numerous public comments and other information concerning the Proposed Project and its environmental review. The public comments on the Revised DEIR and the Port’s responses to them are provided in Volume 1 of

the FEIR. The Port and the City also continued public outreach concerning the Proposed Project and its environmental review after the close of the public comment period on the Revised DEIR (see *Section 2.1.1.3* of the FEIR). The Port prepared the FEIR in a good faith effort to respond to the significant environmental points raised in the public comments and outreach efforts, provide additional protection to the natural resources and environment in the project area above and beyond that required by CEQA and other applicable laws and regulations, and address changes that have been made to various aspects of the project.

In addition, a number of events occurred after the Revised DEIR was made available for public review that resulted in changes to the Revised DEIR. These events are reflected in the FEIR and include the following:

- In November 2008, Gaylord Entertainment withdrew its proposal to develop an RCC on Parcel H-3 in the Harbor District. The specific RCC proposed by Gaylord was analyzed in the Revised DEIR on a project level. Although the Gaylord RCC is no longer a part of the Proposed Project, Parcel H-3 retains its designation for use as an RCC, and the future development of an RCC on Parcel H-3 is analyzed in the FEIR at a program level. Project-level technical studies prepared for the former RCC project are still relied upon in the FEIR for the general program-level analysis of the proposed RCC on Parcel H-3. When the Port receives a specific proposal to develop an RCC on Parcel H-3, it will be subject to environmental review pursuant to CEQA Guidelines section 15168.
- The Proposed Project includes a proposed land exchange between the Port and North C.V. Waterfront L.P. (Pacifica), which was analyzed in the Revised DEIR. On February 2, 2010, the Port entered into a Land Exchange Agreement with Pacifica that provides for the transfer of approximately 97 acres of land in the Sweetwater District from Pacifica to the Port in exchange for the transfer of approximately 33 acres of land in the Harbor District from the Port to Pacifica. The specific parcels included in the exchange are depicted in *Figure 3-5* in *Chapter 3.0, Project Description* of the FEIR. Pursuant to state CEQA Guidelines section 15004, the exchange agreement conditioned the future use of the exchange parcels on the Port's compliance with CEQA in the FEIR.
- In response to comments received on the Revised DEIR, the Port and the City engaged in outreach efforts with Rohr, Inc., operating as Goodrich Aerostructures and a wholly owned subsidiary of The Goodrich Corporation (Goodrich), to address its concerns regarding the potential impacts of the Proposed Project on Goodrich's ongoing and future manufacturing operations and contamination remediation activities in and near the Project area. As a result of these outreach efforts, which are described more fully in *Section 2.1.1.3(b)* of the FEIR, the Port, the City, and the City's Redevelopment Agency (RDA) entered into a Second Amendment to Relocation Agreement (Goodrich

Agreement) with Goodrich on February 2, 2010, which addressed all of the concerns expressed by Goodrich to its satisfaction.

- In response to comments received on the Revised DEIR, the Port and the City engaged in public outreach efforts with interested persons and organizations, including representatives of the Bayfront Coalition and its member organizations: the Environmental Health Coalition, San Diego Audubon Society, San Diego Coastkeeper, Coastal Environmental Rights Foundation, Southwest Wetlands Interpretative Association, Surfrider Foundation (San Diego Chapter), and Empower San Diego, to address their concern that the Proposed Project and its component parts would be implemented in a manner that provides community benefits and preservation and protection of natural resources and the environment in the Project area. These outreach efforts resulted in a written agreement among the Port, the City, the RDA and the Bayfront Coalition and its member organizations, which provides for revisions to the Final EIR to incorporate additional design features and mitigation measures such as a natural resources management plan (NRMP); cooperative agreements with resource agencies for additional habitat management and protection, standards for public parks; and additional measures to reduce the effects of bird strikes and disorientation, stormwater and urban runoff, landscaping and vegetation, noise, lighting and illumination, boating impacts, hazardous waste removal, and energy conservation and efficiency. Although these additional project design features and mitigation measures are above and beyond those required by CEQA and other applicable laws and regulations, the Port agreed to include them in the FEIR and the Mitigation Monitoring and Reporting Program (MMRP) for all purposes under CEQA.

The FEIR reflects these events and responds to significant environmental points raised in the public and agency comments by providing written responses to the comments and making changes in the Revised DEIR. Pursuant to CEQA Guidelines section 15132, the FEIR consists of three volumes and the appendices to the Revised DEIR, which contain the comments and recommendations received by the Port on the Revised DEIR; a list of persons, organizations, and public agencies commenting on the Revised DEIR; the responses of the Port as the Lead Agency to significant environmental points raised in the review and consultation process; other information added by the Port; and the Errata to the FEIR.

#### **2.2.4 Finding Regarding Recirculation**

CEQA requires recirculation of an EIR when “significant new information” is added to an EIR after public notice has been given of the availability of the Draft EIR but prior to certification of a Final EIR. The term “information” can include changes in the project or environmental setting, as well as additional data or other information.

Pursuant to CEQA Guidelines section 15088.5, “significant new information” requiring recirculation includes, for example, a disclosure showing that (1) a new significant impact would result from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to below a level of significance; (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project but the project’s proponents decline to adopt it; and (4) the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

New information added to an EIR is not “significant,” and recirculation of an EIR is not required, unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent has declined to implement. Recirculation is not required where new information added to an EIR merely clarifies or amplifies or makes modifications to an adequate EIR. Recirculation under section 15088.5 is intended to be the exception, rather than a general rule, and is not intended to promote endless rounds of revision and recirculation of an EIR.

The FEIR incorporates information obtained since the DEIR and the Revised DEIR were completed and contains additions, clarifications, modifications, and other changes, including the additional measures to protect natural resources and the environment and to encourage future public participation that are above and beyond the requirements of CEQA and other applicable federal, state, and local laws and regulations. The Port has reviewed all of the changes to the Revised DEIR and the additional information that are included in the FEIR. Based on this review, the Port hereby finds that said changes and new information do not change any of the findings or conclusions of the Revised DEIR or FEIR and do not constitute “significant new information” within the meaning of CEQA Guidelines section 15088.5. Accordingly, the Port hereby finds that recirculation of the Revised DEIR and/or FEIR is not required.

## 2.3 Public Participation

Pursuant to CEQA Guidelines section 15201, the Port and the City implemented procedures and sponsored activities intended to promote wide public involvement, formal and informal, in order to receive and evaluate public reactions to environmental issues related to the Project. These public outreach efforts, which are described in *Section 1.2, Public Outreach and Participation*, and *Section 2.1.1, Public Participation in the Planning Process*, of the FEIR, are summarized below.

Public outreach and participation have been the cornerstones of the master planning process for the Proposed Project. The public outreach and participation program for the Chula Vista Bayfront Master Plan (CVBMP) was one of the most comprehensive public outreach efforts conducted to date by the Port and City and was recognized for excellence by the San Diego Section of the American Planning Association. The program occurred in three phases.

The first phase occurred during the initial master planning process, which began in January 2003 and ended in May 2004, when the Port and City engaged in an extensive public outreach and participation program. The program consisted of 15 Citizens Advisory Committee (CAC) meetings, 7 South Bay Power Plant (SBPP) working group meetings, 8 public workshops, joint Board of Port Commissioners (Board)/Chula Vista City Council (City Council) meetings, and other activities. The initial master planning process resulted in the development of two land use plans, then referred to as “Option C” (which evolved into the Harbor Park Alternative) and “Option B” (which evolved into the No Land Trade Alternative). Both plans were considered as alternatives to the Proposed Project and are discussed in *Chapter 5.0, Alternatives*, in the FEIR. In addition to the CAC and SBPP working group meetings, public workshops, and joint Board/City Council meetings, approximately 30 community presentations were made to interested stakeholders, agencies, and organizations.

Furthermore, three newsletters were published to keep the public apprised of the master planning progress. The first newsletter was issued in June 2003 and described the master planning site process; allowable uses on Port tidelands; a summary of the May 21, 2003, public workshop; the Port/City master plan objectives; and opportunities for public input. The second newsletter was issued in January 2004 and described the CAC formation, a master plan timeline, availability of the CVBMP webpage and online survey, and an article written by the CAC. The third newsletter was issued in May 2004 and provided an update on the master planning phase and a summary of the January CAC visioning exercise results.

The Port also kept the public apprised of the planning effort and solicited further public input by creating a webpage for the Proposed Project to make information available in electronic format on the Internet. The Port’s webpage contained a description of the Project area, planning process, and schedule; public input opportunities through public meetings; and access to major consultant deliverables. The webpage also allowed the public to register to be placed on the Proposed Project mailing list, which ultimately contained approximately 1,500 names, and provided an online survey in which the public could express concerns and provide ideas on the vision for the Bayfront, master plan alternatives, public outreach, and the planning process. Over 75 individuals completed the survey either online or in written format.

The Port and City also participated in various community events, such as “Celebrate Chula Vista,” to educate the public about the CVBMP planning process and encourage public

participation. Finally, the Port and City issued media releases and maintained contact with media representatives throughout the planning process.

The second phase of the Port and the City's public outreach program occurred during subsequent stages of the master planning process, which began in June 2004 and ended in August 2005. This phase built upon the initial master planning efforts and resulted in the development of three master plan alternatives with specific uses and locations, development program and height ranges, and phasing recommendations. The Port and City continued their public outreach and participation program by conducting the following activities: 16 CAC meetings, including 2 "charrette" workshops that enabled participants to review plan alternatives in three dimensions; 5 meetings on economics; a Bayfront tour; a public workshop; a joint Board/City Council meeting; 6 separate CVBMP-related Board/City Council meetings; and 15 community presentations.

The Port also issued a four-page color newsletter in January 2005 that discussed the CAC master planning process, summarized the two CAC charrettes, and provided a sampling of comments received from the public during the December 2004 public meeting. The Port continued to maintain the Proposed Project webpage during the master planning process to keep the public apprised of the planning effort. As in the initial master planning process, the Port and City also continued to participate in various community events during subsequent phases of the process to educate the public about the Proposed Project and to encourage their participation. Finally, the Port and City continued to provide additional information to the public through media releases and contact with media representatives throughout the master planning process.

The third phase of the Port and the City's public outreach and participation program occurred during the environmental review phase of the Project, which began on August 9, 2005, when the Port and the City directed staff to begin preparation of the environmental review of the Proposed Project, and continued through March 2010, when the Port completed preparation of the FEIR. During this phase, the Port and the City met on numerous occasions with interested persons, organizations, and public agencies to provide information concerning the Project and to receive and respond to concerns about environmental issues.

After the close of the public comment period for the Revised DEIR in August 2008, the Port and City continued an extensive public outreach and participation program. Over a period of approximately 9 months, the Port and the City met with interested individuals, organizations, and public agencies to address issues raised in public and agency comments on the Proposed Project and the Revised DEIR. The continuing public outreach and participation program was highly productive and resulted in a variety of specific recommendations for improving the design of the Proposed Project and increasing the protection of natural resources in and around the Project area. Although these recommendations provide for changes in the Proposed Project and for additional protection of natural resources and the environment above and beyond that required

by CEQA and other applicable federal, state, and local laws and regulations, the Port and the City have agreed to include them in the FEIR and the Mitigation Monitoring and Reporting Program (MMRP) as design features and mitigation measures.

The Port and the City appreciate the participation of the numerous individuals, organizations, and public agencies in the continuing public outreach and participation program. The following participants also engaged in outreach efforts that address specific concerns expressed during the public comment period for the Revised DEIR:

- a. The Port, the City, and the RDA met with representatives of the Bayfront Coalition and its member organizations, including the Environmental Health Coalition, San Diego Audubon Society, San Diego Coastkeeper, Coastal Environmental Rights Foundation, Southwest Wetlands Interpretative Association, Surfrider Foundation (San Diego Chapter), and Empower San Diego, to address their concern that the Proposed Project and its component parts would be implemented in a manner that provides community benefits, including but not limited to the preservation and protection of natural resources and the environment. Over a period of approximately 9 months, the Port, the City, and the RDA met with representatives of the Bayfront Coalition to address specific concerns and to develop specific recommendations for improvements in Project design and increased protection of natural resources in the Project area. As a result of these efforts, the parties entered into a written agreement which provides for a wide variety of measures, above and beyond those required by CEQA or other applicable laws and regulations, that have been incorporated in the Final EIR, including the creation and implementation of an NRMP; cooperative agreements with the USFWS or other appropriate agency for additional habitat management and protection; the design and timing of Phase I Signature Park improvements and minimum standards for the Sweetwater and Otay district public parks; and additional mitigation measures regarding bird strikes and disorientation, stormwater and urban runoff, landscaping and vegetation, lighting and illumination, noise, boating impacts, hazardous waste removal, and energy conservation and efficiency (see *Chapter 3.0, Project Description*, and Mitigation Measures 4.8-6, 4.8-7, 4.8-23, 4.12-4, 4.12-8, 4.12-9, 4.12-11, and 4.16-2 of the FEIR).
- b. The Port, the City, and the RDA met with representatives of Goodrich to address Goodrich's concerns regarding its potential costs and liabilities that could result from the proposed development of residential uses on Parcels H-13 and H-14 in close proximity to ongoing and future operations on the Goodrich property, and the remediation of existing soil and groundwater contamination. Over a period of approximately 7 months, the Port, the City, and the RDA met with Goodrich representatives to address these and other related concerns set forth in Goodrich's written comments (Letter R) on the Revised DEIR and to develop specific recommendations for resolving the concerns. As a result of

these efforts, the parties entered into a written agreement (the aforementioned Goodrich Agreement), which provides specific measures for the disclosure of information regarding Goodrich's operations to future occupants of the residential project proposed on Parcels H-13 and H-14, for a minimum distance between residential dwellings and the northern boundary of the Goodrich property; for development conditions for the residential parcels relating to foundation systems, grading requirements, development sequencing, vapor intrusion requirements, and interior noise levels; and for fencing, landscaping, screening, and buffer areas where appropriate. The Goodrich Agreement also provides specific measures to ensure cooperation among the Port, the City, the RDA, and Goodrich with respect to development and implementation of the Proposed Project and activities relating to the remediation of existing contamination, including measures designed to mitigate risks to human health and the environment, measures related to the placement and relocation of remediation facilities, measures to reduce the potential for lateral groundwater migration in utility corridors and vertical migration of contaminants, and measures to avoid the infiltration of hazardous substances into storm drain lines. The Port, the City, and the RDA have approved the Goodrich Agreement, and Goodrich agrees that the Port, the City, and the RDA have adopted significant and meaningful measures that adequately address all of the issues raised and concerns expressed in its written comments on the Revised DEIR (Comment Letter R). The Goodrich Agreement is a matter of public record and is available to the public during normal business hours in the office of the District Clerk, located at 1600 Pacific Highway, San Diego, California. Pursuant to CEQA Guidelines section 15150, the Goodrich Agreement is incorporated in this FEIR as though set forth in full.

## 2.4 Record of Proceedings

For the purposes of CEQA and the findings contained herein, the record of the administrative proceedings for the Board's decision concerning certification of the FEIR for the Project shall include, but is not limited to, the following documents:

- The DEIR and the Appendices to the DEIR
- The Revised DEIR and the Appendices to the Revised DEIR
- The FEIR and the Errata and Appendices to the FEIR
- The PMP
- The City of Chula Vista General Plan and the FEIR for the City of Chula Vista General Plan Update (GPU) (December 2005)
- The City of Chula Vista LCP Land Use Plan
- The City of Chula Vista MSCP



- The City of Chula Vista Bayfront Specific Plan and the FEIR for the Bayfront Specific Plan (RECON 1984)
- The Chula Vista Bayfront Master Plan Settlement Agreement, approved by the Board on May 4, 2010
- Board Resolution No. 2010-033, adopted on March 2, 2010, approving a work plan for remediation of the contamination on Parcel HP-5
- The Land Exchange Agreement between the Port and Pacifica, approved by the Port on February 2, 2010
- Second Amendment to Relocation Agreement among the Port, the City, the Redevelopment Agency of the City of Chula Vista, and Rohr, Inc. (operating as Goodrich Aerostructures, a wholly owned subsidiary of Goodrich), approved by the Port on February 2, 2010
- The Goodrich Agreement and the Mitigated Negative Declaration (Case No: IS-99-21), prepared and approved by the City of Chula Vista Redevelopment Agency (June 1999)
- The Chula Vista Business Park Expansion and PMP Amendment FEIR, certified by the Port (October 1997)
- The Real Estate Exchange Agreement and Joint Escrow Instructions between the Port and San Diego Gas & Electric Company (SDG&E), dated January 5, 2010
- San Diego Bay National Wildlife Refuge, Sweetwater Marsh, and South San Diego Bay Units Draft Comprehensive Conservation Plan and Environmental Impact Statement, USFWS (July 2005)
- San Diego Bay Integrated NRMP, U.S. Department of the Navy (September 2000)
- FEIR Midbayfront LCP Re-submittal No. 8, City of Chula Vista (July 1991)
- The MMRP for the Proposed Project
- Documents and other materials listed as references and/or incorporated by reference in the DEIR, the Revised DEIR, and the FEIR, and the appendices thereto
- Findings and resolutions adopted by the Port in connection with the Proposed Project
- Documents cited or referred to in the FEIR
- Reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by Port staff and consultants to the Port or City, which were before the Board as determined by the District Clerk

- Documents and other materials submitted to the Port by other public agencies or members of the public in connection with the Proposed Project through the close of the public hearing at which the Proposed Project was approved
- The minutes, recordings, and transcripts of public hearings held by the Port concerning the FEIR and the Proposed Project
- Documents or other materials submitted to the Port or City at the public hearings concerning the Proposed Project
- Matters of common knowledge to the Port
- Documents expressly cited or referenced in these findings, in addition to those cited above
- Other materials required to be included in the record of proceedings by California Public Resources Code section 21167.6(e).

The documents and materials that constitute the record of administrative proceedings are maintained at the Office of the District Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California, 92101. The custodian for these records is the District Clerk.

## **3.0 FINDINGS PURSUANT TO CEQA**

### **3.1 Purpose**

CEQA requires the Port to make written findings of fact for each significant environmental impact identified in the FEIR (Pub. Res. Code section 21081; CEQA Guidelines section 15091). The purpose of findings is to systematically restate the significant effects of the Proposed Project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the FEIR that would avoid or substantially lessen the significant effects. Once the Port has adopted sufficient measures to avoid or substantially lessen a significant impact, it is not required to adopt every mitigation measure identified in the FEIR or otherwise brought to its attention. If significant impacts remain after application of all feasible mitigation measures, the Port must review the alternatives identified in the FEIR and determine whether they are feasible. These findings set forth the reasons, and the evidence in support of, the Port's determinations.

### **3.2 Terminology**

A "finding" is a written statement made by the Port that explains how the Port dealt with each significant impact and alternative identified in the FEIR. Each finding identifies a significant impact and provides an ultimate conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation of how the evidence supports the conclusion.

For each significant impact identified in the FEIR, CEQA requires the Port to make a written finding reaching one or more of the following conclusions: (1) that changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effect; (2) that the changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or (3) that specific legal, economic, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR (Pub. Res. Code section 21081(a); CEQA Guidelines section 15091(a)).

A mitigation measure or an alternative is considered "feasible" if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors, as well as considerations for employment of highly trained workers (Pub. Res. Code section 21061.1; CEQA Guidelines section 15364).

### **3.3 Legal Effect**

To the extent that these findings conclude that mitigation measures identified in the FEIR are feasible and have not been modified, superseded, or withdrawn, the Port hereby binds itself to implement those measures. These findings are not merely informational, but constitute a binding set of obligations upon the Port and responsible agencies that take effect upon the Port's adoption of the resolutions certifying the FEIR and approving the Proposed Project.

### **3.4 Mitigation Monitoring and Reporting Program**

In adopting these findings, the Port also adopts an MMRP pursuant to Public Resources Code section 21081.6. This program is designed to ensure the Proposed Project complies with the feasible mitigation measures identified below during implementation of the Proposed Project. The program is set forth in the "Chula Vista Bayfront Master Plan Mitigation Monitoring and Reporting Program (MMRP)," which the Port adopts concurrently with these findings and is incorporated herein by this reference.

## **4.0 FINDINGS REGARDING DIRECT IMPACTS MITIGATED TO LESS THAN SIGNIFICANT**

The FEIR determined that the Project may result in direct significant environmental impacts with respect to land/water use compatibility, traffic and circulation, aesthetics/visual quality, hydrology/water quality, air quality, noise, terrestrial biological resources, marine biological resources, paleontological resources, hazards and hazardous materials/public safety, public services, public utilities, seismic/geology and energy. The FEIR also identified mitigation measures that will avoid or substantially lessen the significant environmental impacts to a less-than-significant level. The potentially significant impacts of the Proposed Project and the mitigation measures that will reduce them to below a level of significance are discussed in *Chapter 4.0, Environmental Analysis (Sections 4.1 through 4.17)* of the FEIR. In addition, the full suite of mitigation measures described and required within the FEIR is sufficient to mitigate the construction of 1,600 rooms and 415,000 net square feet of conference facilities on Parcel H-3 at the program level.

Set forth below are the findings regarding the direct significant impacts of the Proposed Project that can be mitigated to below a level of significance. These findings are based on the discussion of potential significant impacts and mitigation measures contained in *Chapter 4.0, Environmental Analysis* of the FEIR. Pursuant to Public Resources Code section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), therefore, the Port finds that changes or alterations have been required in, or incorporated into, the Proposed Project which will avoid or substantially lessen the following significant environmental impacts identified in the FEIR:

### **4.1 Land and Water Use Compatibility**

#### **4.1.1 Potential Significant Impact (4.1-1)**

The development within the Coronado Railroad right-of-way (ROW) may result in a significant impact to CCC wetlands on Parcel HP-7 during Phase II and to CCC wetlands on Parcel HP-13B during Phase III of the Proposed Project.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The potential significant impact to CCC wetlands on Parcels HP-7 and HP-13B will be avoided or reduced to below a level of significance with the incorporation of Mitigation Measure 4.1-1. The mitigation will require that prior to the issuance of the first grading permit for activities that could impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall consult with the CCC to determine if the proposed impact is allowed under the Coastal Act. If the impact is not allowed, then a design shall be developed that avoids impacts to CCC jurisdictional wetlands, thus eliminating any potential impacts to such resources.

In the event that the CCC concurs that the impact to CCC jurisdictional wetlands is allowed, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create and/or restore CCC wetlands to provide 2:1 mitigation for the impact to CCC wetlands on Parcels HP-7 and HP-13B; therefore, the mitigation would ensure that there would be no net loss to any CCC wetlands that may result from the Project.

The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process and propose site preparation techniques, planting palettes, implementation procedures, monitoring and maintenance practices, and establish a performance criteria for each mitigation site. Typical success criteria may include percent of canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum five-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within three months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Through either complete avoidance or the creation of like kind and quality wetlands for any CCC wetlands impacted on Parcels HP-13B, the potential significant impact, incorporation of Mitigation Measure 4.1-1 will reduce the potential impact resulting from development of a CCC jurisdictional wetland on Parcels HP-7 and HP-13B (Potential Significant Impact 4.1-1) to below a level of significance.

#### **4.1.2 Potential Significant Impact (4.1-2)**

The development of Parcel O-1 for Industrial Park uses during Phase III of the Proposed Project may result in a significant impact to a small seasonal pond located on Parcels O-1 and OP-3 in the Otay District that are considered CCC wetlands.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The potential significant impact to the small seasonal pond on Parcels O-1 and OP-3 during Phase III development would be less than significant with the incorporation of Mitigation Measure 4.1-2. The Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the drainages mapped as a potential CCC wetland falls under CCC jurisdiction. If this area is not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the final development design must mitigate impacts at a 2:1 ratio.

Prior to the issuance of the first grading permit for projects that could impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall consult with the CCC to determine if the proposed impact is allowed under the Coastal Act. If the impact is not allowed, then a design shall be developed that avoids impacts to CCC jurisdictional wetlands and no impact to such wetlands shall occur.

In the event that the CCC concurs that the impact to CCC jurisdictional wetlands is allowed, the Port or Port tenants, as appropriate, shall prepare a restoration plan to detail the measures needed to create and/or restore the CCC wetlands. This would ensure that direct impacts to the resource would be appropriately mitigated.

The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process and propose site preparation techniques, planting palettes, implementation procedures, monitoring and maintenance practices, and establish a performance criteria for each mitigation site. Typical success criteria may include percent of canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum five-year maintenance and monitoring period

would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within three months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Therefore, if CCC asserts jurisdiction over the drainages mapped as a potential CCC wetland, through either complete avoidance or appropriate measures as required under the wetlands restoration plan, the incorporation of Mitigation Measure 4.1-2 will reduce potentially significant impacts to the small seasonal pond on Parcel O-1 and OP-3 due to future development during Phase III (Potential Significant Impact 4.1-2) to below a level of significance.

#### **4.1.3 Potential Significant Impact (4.1-3)**

The development of Parcel O-1 and proposed Streets A and B may result in a significant impact to potential CCC jurisdictional resources if it is determined that these areas are subject to CCC jurisdiction.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The northern area of the Otay District, including proposed Parcels O-1, OP2-A, and Streets A and B, is the location of a former industrial facility that was part of the South Bay Power Plant (SBPP) site. Tanks 4, 5, and 6 as identified on the site plan for the SDG&E and SBPP facilities existed at this location. A depressed area exists that acted as an overflow detention basin for the adjacent tanks. The tanks have been removed, but the overflow detention basin remains. Prior to removal of the tanks, each of the three fuel oil tanks held a capacity of 375,000 barrels of stored No. 6 fuel oil. The facilities were entirely within a bermed area. Approximately 21,000 cubic yards of soil has been excavated and removed since removal of the tanks and piping as part of a decommissioning and remediation process. Prior to removal of the tanks, each of the three fuel oil tanks held a capacity of 375,000 barrels of stored No. 6 fuel oil. The facilities were entirely within a bermed area. Approximately 21,000 cubic yards of soil has been excavated and removed since removal of the tanks and piping as part of a decommissioning and remediation process. The



detention basin is an artificial basin with little wildlife value; however, during the extreme rainy season of 2005 (which received 12 inches more than average), large ponded areas were observed. The area supports small patches of hydrophytic vegetation, mainly grass poly. These seasonally ponded areas exist on fill soil. There are pipes leading from each of the tank sites to the detention basin. The detention basin outlet works on a valve system and must be opened and closed manually. Unless opened, this detention basin is not connected hydrologically to the adjacent waters. Moreover, contamination is present on site and remediation actions will occur.

In addition to the work conducted by RECON, CH2M Hill evaluated the biological resources in the same areas within the Otay District for a CEC Application prepared by LS Power (the CEC application has since been withdrawn). CH2M Hill identified the same areas in the Otay District as poorly drained depressions not subject to USACE jurisdiction. CH2M Hill noted that the soils typically contained small gravel, rocks, and marine snail shells (indicating fill material from the Bay). CH2M Hill concluded that although the depressions pond water in some years and contain marginal wetland plant species, they do not have distinct boundaries (except the depression outlined by dirt roads) or an ordinary high water mark, and do not connect to natural water bodies (bay or creeks) through swales or sheet flow. Furthermore, CH2M Hill noted that the 2004–2005 wet season was extraordinarily high with approximately 22 inches, and although standing water was observed during extremely high rainfall in 2004–2005, CH2M Hill observed little in November 2005 and only for a short period.

The work of RECON and the work of CH2M Hill both reflect similar observations. The differences in observation stem, in part, from the fact that RECON's investigation was completed during one of the wettest years on record, while CH2M Hill's analysis was done during a dry year.

Because the former tank sites and detention basin are not connected hydrologically to the adjacent waters and it is a previously developed site, the detention basin and associated tank sites are considered exempt from USACE jurisdiction. For these reasons, the former industrial facility site is also considered unlikely to be subject to CCC jurisdiction and therefore no impact would result from Phase III development of these areas.

However, if it is determined that these areas are subject to CCC jurisdiction, the development proposed at these locations on Parcel O-1 and Streets A and B would be significant and mitigation would be required. This impact would be less than significant with the incorporation of Mitigation Measure 4.1-2. The Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the tank sites and detention basin are a potential CCC wetland under CCC jurisdiction. If this area is not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the final development design must mitigate impacts at a 2:1 ratio.

As discussed under Potential Significant Impact 4.1-2, prior to the issuance of the first grading permit for projects that could impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall consult with the CCC to determine if the proposed impact is allowed under the Coastal Act. If the impact is not allowed, then a design shall be developed that avoids impacts to CCC jurisdictional wetlands and no impact to such wetlands shall occur.

In the event that the CCC concurs that the impact to CCC jurisdictional wetlands is allowed, the Port or Port tenants, as appropriate, shall prepare a restoration plan to detail the measures needed to create and/or restore the CCC wetlands. This would ensure that direct impacts to the resource would be appropriately mitigated (see discussion pursuant to Potential Significant Impact 4.1-2 above regarding details of the restoration plan).

Therefore, if CCC asserts jurisdiction over the tank sites and detention basin, through either complete avoidance or appropriate measures as required under the wetlands restoration plan, incorporation of Mitigation Measure 4.1-2 will reduce potentially significant impacts to future development during Phase III (Potential Significant Impact 4.1-3) to below a level of significance.

#### **4.1.4 Potential Significant Impact (4.1-6)**

The Proposed Project's development on Parcels H-13, H-14, H-15, and HP-5 would not conform to the adopted MSCP Subarea Plan and may result in a significant impact unless a Habitat Loss Incidental Take (HLIT) Permit is obtained.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The Proposed Project will require a mapping change to the MSCP Subarea Plan to adjust the boundaries of the plan to correspond to the change in land use jurisdictional boundaries. The amendment will change the designation of Parcels H-13, H-14, H-15, and HP-5 from "Other Agency—Preserve Planning Efforts" to "Development Area Outside of "Covered Projects," and will change the designation of lands within Parcels S-1, S-2, S-3, SP-1, SP-2 and SP-3 from "Development Area" to "Other Agency—Preserve Planning Efforts." The proposed amendment must be approved by the City, USFWS, and CDFG. None of the areas proposed for exchange are designated as Preserve, and as such are not proposed for conservation under the Subarea Plan. Mitigation ratios for affected habitats within the parcels proposed for exchange would not be

affected by the proposed exchange or amendment, since the mitigation ratios being applied to the affected resources within these parcels are consistent between the Port and City jurisdictions. Therefore, the biological effect of the proposed land exchange and MSCP mapping change would be less than significant.

However, as a result of the proposed amendment, development within the future City jurisdiction on Parcels H-13, H-14, H-15, and HP-5 will be subject to a HLIT Permit. Projects within the City of Chula Vista's jurisdiction are required to comply with the City of Chula Vista's MSCP Subarea Plan. This includes obtaining a HLIT permit pursuant to the HLIT Ordinance which is the implementing regulatory vehicle for the City of Chula Vista MSCP Subarea Plan. This Project is subject to this ordinance because, as stated in Section 5.2.2 Habitat Loss and Incidental Take Ordinance, the Subarea Plan requires issuance of an HLIT permit for "all development within the City's jurisdiction which is not located within the Development Areas of Covered Projects prior to issuance of any land development permit."

In order to approve an HLIT Permit, certain findings must be made by the City. *Table 4.1-10* in the FEIR summarizes the Project's conformity to MSCP Development Guidelines and Findings for the HLIT Ordinance. As shown on this table, the Project would not conform to the adopted MSCP Subarea Plan unless an HLIT Permit is obtained for the development on Parcels H-13, H-14, H-15, and HP-5.

As provided for in Mitigation Measure 4.1-4, prior to issuance of any permit for clearing, grubbing, or grading, the project applicant shall be required to obtain an HLIT Permit pursuant to Section 17.35 of the Chula Vista Municipal Code for impacts to Covered Species and Vegetation Communities protection under the City's MSCP Subarea Plan.

Incorporation of Mitigation Measure 4.1-4 will reduce impacts resulting from the Proposed Project's conflict with the City's MSCP (Potential Significant Impact 4.1-6) to below a level of significance.

## **4.2 Traffic and Circulation**

### **4.2.1 Potential Significant Impact (4.2-1)**

Without adequate access and frontage, the development of the Project during Phase I would result in a significant impact related to roadway design.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Mitigation Measure 4.2-1 will require that prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall:

- Construct H Street west of Marina Parkway as a 2-lane Class III Collector.
- Construct E Street as a two-lane Class III Collector along Parcel H-3. This would provide a connection to Lagoon Drive via Marina Parkway.
- Construct a traffic signal at H Street and RCC Truck Driveway.

Mitigation Measure 4.2-1 will also require that prior to the issuance of building permits for any development on H-13 or H-14 in Phase I, the applicant shall:

- Rebuild that portion of Marina Parkway fronting H-13 and H-14 between Sandpiper Way and J Street as a three-lane Class II Collector with excess ROW used for pedestrian facilities, or secure such construction to the satisfaction of the City engineer. Frontage improvements for the remaining segments of Marina Parkway, J Street, and Sandpiper Way will be constructed in conjunction with the development of the adjacent parcels to these frontages in subsequent phases.
- Construct Street A north of J Street would be constructed as a two-lane Class III Collector, or secure such construction to the satisfaction of the City Engineer.

This mitigation for access and frontage impacts includes construction of adjacent roadways and connection to the existing roadway network. The following discussion related to site access is based on the mitigated condition (i.e. roadways providing access and frontage are assumed to be constructed). Detailed site access alternative studies were conducted for the Pacifica Residential and Retail Project, and RCC developments. These studies analyzed driveway configurations for site access, which are described below.

***Pacifica Residential and Retail Project***

A detailed access analysis was prepared for the residential parcels H-13 and H-14. The access analysis looked at driveway configurations to provide access for the site bordered by Marina

Parkway to the west, Street C to the north, Street A to the east, and J Street to the south. The project distribution beyond the periphery of the site was kept constant.

This configuration assumes that the L-Ditch will not be filled, and that the 1,500 residential units will be divided into six residential buildings. Three driveways are assumed, two connecting to Marina Parkway and one connecting to Street A. The one driveway connecting to Street A will require a bridge to be constructed over the L-Ditch. *Figure 4.2-4b* in the FEIR shows the general location of each of the three driveways and the share of Project traffic using those driveways. Each of the driveways would operate at an acceptable LOS as one-way stop controlled intersections. A right-turn lane would be required on southbound Street A to and for access<sup>2</sup> to Access Driveway #3. Right-turn lanes are not necessary for either Marina Parkway driveway. None of the driveways, including the bridge, is required to be more than two lanes. No additional improvements are required at the adjacent intersections, and with the appropriate mitigation incorporated, no significant impacts related to hazards associated with roadway and driveway design would result.

#### ***Resort Conference Center (RCC)***

An in-depth site access analysis was performed for the RCC site at Parcel H-3. The area is bound by E Street to the west and north, the BF Goodrich site to the east, and H Street to the south. As part of this analysis, the four adjacent intersections were examined. These intersections are:

- E Street and RCC Secondary Driveway
- Main Exit and H Street
- Main Entrance and H Street
- Marina Parkway/ RCC Truck Driveway and H Street.

The location of the driveways, the geometry of the driveways, and the distribution of traffic using each driveway is shown in *Figure 4.2-4c* of the FEIR. Most of the parking would be accessed via the main driveway on H Street, west of Marina Parkway. Additional parking is accessible from the secondary driveway off of E Street.

Parking for the first 1,500 rooms to be constructed for the RCC is assumed to be on site at H-3. At buildout of the 2,000 rooms proposed for the RCC site, H-18 will provide 500 spaces to meet the parking requirements for H-3. Parking at H-18 may be used for RCC employees and during large RCC special events and a shuttle between H-3 and H-18 may be provided. The RCC is expected to require 2,816 parking spaces; 2,316 of those spaces will be provided on H-3. Thus, 18% of the total parking will be provided off site at H-18. Therefore, 82% of trips were distributed to H-3 and 18% of trips were distributed to H-18.

The RCC access analysis uses the year 2030 volumes from the July 2006 TIA. The exit driveway only allows movements exiting the site and the entrance driveway only allows movements entering the site. Both entering and exiting movements are allowed at the other driveways. The main entrance and exit driveways would not require signals, but operate at an acceptable LOS as one-way stop-controlled intersections. It is suggested but not required that the main exit driveway provide a dedicated left-turn and a dedicated right-turn. The Secondary RCC Driveway is required to provide separate left-turn and right-turn lanes in order to operate at an acceptable LOS as a one-way stop-controlled intersection. The RCC Truck Driveway intersection must be signalized. With the proposed access and frontage improvements in place, no significant impacts related to hazards associated with roadway and driveway design would result.

Incorporation of Mitigation Measure 4.2-1 will reduce impacts regarding adequate access and frontage related to roadway design (Potential Significant Impact 4.2-1) to below a level of significance.

#### **4.2.2 Potential Significant Impact (4.2-2)**

The development of the Project would result in a significant impact to the roadway segment of Lagoon Drive/F Street (from Marina Parkway to Bay Boulevard) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase I.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

All of the roadway improvements within the Sweetwater and Harbor Districts were evaluated at a project level, and roadway improvements in subsequent phases in the Otay District were analyzed at a program level. *Table 4.2-10* of the FEIR, provides a summary of trip generation in Phase I for the Proposed Project. The Proposed Project in Phase I is expected to generate a total of 30,842 daily trips, all of which would be generated by proposed land uses in Harbor District, except for the 900 trips per day that would be generated by the proposed signature park located in the Sweetwater District. This represents about 47% of the Proposed Project traffic generated by development occurring within the Harbor District.

Phase I traffic volumes are calculated by increasing the existing traffic volumes gathered in 2005 by annual growth over 7 years, which is the difference between year 2012 (Phase I) and year 2005 (Existing). Phase I Baseline traffic volumes are calculated as the increase in traffic volumes

resulting from 7 years of growth between 2005 and 2012 (as projected in the Chula Vista GPU) added to the existing baseline conditions. Phase I Plus Project volumes are calculated by adding the Phase I project trips (generated by proposed land uses) to the Phase I Baseline volumes and subtracting the trip credits associated with existing land uses to be redeveloped as part of Phase I (RV Park).

As discussed in the FEIR, *Table 4.2-15* provides the Phase I Conditions Roadway Level of Service summary and presents the LOS analysis results for the roadway segments under Phase I Baseline and Phase I Plus Project conditions. As shown in the table, the following segments will experience congested LOS D or worse conditions for segments outside of the Urban Core and LOS E conditions for segments inside of the Urban Core and will require mitigation:

- Lagoon Drive/F Street (Marina Parkway to Bay Boulevard) (LOS F)
- H Street (west of Marina Parkway)(LOS F)
- Marina Pkwy (Lagoon Drive to G Street) (LOS F)
- Bay Boulevard (E Street to F Street) (LOS F).

In order to mitigate for the level of service impact (LOS F) at Lagoon Drive/F Street (from Marina Parkway to Bay Boulevard), prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall construct H Street from I-5 to Marina Parkway as a four-lane Major Street. This mitigation is provided in lieu of widening of F Street due to environmental constraints associated with the widening of F Street in the vicinity of the F & G Street Marsh. At the completion of the H Street Extension, the Port or Port tenant, as appropriate, shall also restrict access along the segment of Lagoon Drive/F Street (between Parcel H-3 and the BF Goodrich access on F Street) to emergency vehicle access only.

Incorporation of Mitigation Measure 4.2-2 will ensure an appropriate level of service at the roadway segment of Lagoon Drive/F Street (from Marina Parkway to Bay Boulevard) and reduce Potential Significant Impact 4.2-2 to below a level of significance.

#### **4.2.3 Potential Significant Impact (4.2-3)**

The development of the Project would result in a significant impact to the roadway segment of H Street (west of Marina Parkway) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase I.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-2 above also apply to Potential Significant Impact 4.2-3. In order to mitigate the significant impact to roadway segment of H Street (west of Marina Parkway), prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, Port or Port tenants, as appropriate, shall widen H Street west of Marina Parkway from a 2-lane Class III Collector to a 3-lane Class II Collector.

Incorporation of Mitigation Measure 4.2-3 will ensure an appropriate level of service and reduce Potential Significant Impact 4.2-3 to below a level of significance.

**4.2.4 Potential Significant Impact (4.2-4)**

The development of the Project would result in a significant impact to the roadway segment of Marina Parkway (from Lagoon Drive to G Street) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase I.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-2 above also apply to Potential Significant Impact 4.2-4. In order to mitigate for the level of service impact (LOS F) at Marina Pkwy (from Lagoon Drive to G Street), prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall construct H Street from I-5 to Marina Parkway as a four-lane Major Street. This mitigation is provided in lieu of widening of F Street due to environmental constraints associated with the widening of F Street in the vicinity of the F & G Street Marsh. At the completion of the H Street Extension, the Port or Port tenant, as appropriate, shall also restrict access along the segment of Lagoon Drive/F Street (between Parcel H-3 and the BF Goodrich access on F Street) to emergency vehicle access only.



Incorporation of Mitigation Measure 4.2-2 will ensure an appropriate level of service at the roadway segment of Marina Parkway (from Lagoon Drive to G Street) and reduce Potential Significant Impact 4.2-4 to below a level of significance.

#### **4.2.5 Potential Significant Impact (4.2-5)**

The development of the Project would result in a significant impact to the roadway segment of Bay Boulevard (from E Street to F Street) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase I.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-2 above also apply to Potential Significant Impact 4.2-5. In order to mitigate for the level of service impact (LOS F) at Bay Boulevard (from E Street to F Street), prior to the issuance of certificates of occupancy for development on H-3 and building permits for any development on H-13 or H-14 in Phase I, the Port, Port tenants, or applicant, as appropriate, shall widen Bay Boulevard between E Street and F Street from a two-lane Class III Collector to a two-lane Class II Collector, or secure such widening to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of Project traffic.

Incorporation of Mitigation Measure 4.2-4 will ensure an appropriate level of service at the roadway segment of Bay Boulevard (from E Street to F Street) and reduce Potential Significant Impact 4.2-5 to below a level of significance.

#### **4.2.6 Potential Significant Impact (4.2-6)**

The development of the Project would result in a significant impact to the intersection of E Street and I-5 southbound off-ramps given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during PM peak hours under Phase I conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### Facts in Support of Finding

*Figures 4.2-8a through 4.2-8d* of the FEIR depict the Phase I Baseline Conditions Peak-Hour Traffic Volumes for intersections in the study area. Only the intersections that are constructed or those that will be constructed in Phase I are depicted. *Figures 4.2-9a through 4.2-9d* in the FEIR depicts the Phase I Plus Project Conditions Peak-Hour Traffic Volumes. Finally, *Table 4.2-16* summarizes the Phase I Conditions Peak-Hour Level of Service for intersections in the Project area.

As shown in the FEIR in *Table 4.2-16*, the following intersections will be characterized by LOS E or F conditions under Phase I Baseline Plus Project conditions and would result in direct impacts and would require mitigation:

- E Street/I-5 Southbound Off-Ramps (LOS F, PM peak hour)
- F Street/Bay Boulevard (LOS F, PM peak hour)
- J Street/Bay Boulevard (LOS F, both AM and PM peak hours)
- L Street/Bay Boulevard (LOS F, both AM and PM peak hours)
- I-5 Southbound Ramps/Bay Boulevard (LOS F, PM peak hour)
- J Street/Marina Parkway (LOS E, PM peak hour)

In order to mitigate for the level of service impact (LOS F during the PM peak hour) at the intersection of E Street and I-5 southbound off-ramps, prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall construct H Street from I-5 to Marina Parkway as a four-lane Major Street. This mitigation is provided in lieu of widening of F Street due to environmental constraints associated with the widening of F Street in the vicinity of the F & G Street Marsh. At the completion of the H Street Extension, the Port or Port tenant, as appropriate, shall also restrict access along the segment of Lagoon Drive/F Street (between Parcel H-3 and the BF Goodrich access on F Street) to emergency vehicle access only.

Incorporation of Mitigation Measure 4.2-2 will ensure an appropriate level of service at the intersection of E Street and I-5 southbound off-ramps during the PM peak hour and reduce Potential Significant Impact 4.2-6 to below a level of significance.

#### 4.2.7 Potential Significant Impact (4.2-7)

The development of the Project would result in a significant impact to the intersection of F Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during PM peak hours under Phase I conditions.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-6 above also apply to Potential Significant Impact 4.2-7. In order to mitigate for the level of service impact (LOS F during the PM peak hour) at the intersection of F Street and Bay Boulevard, prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall construct H Street from I-5 to Marina Parkway as a four-lane Major Street. This mitigation is provided in lieu of widening of F Street due to environmental constraints associated with the widening of F Street in the vicinity of the F & G Street Marsh. At the completion of the H Street Extension, the Port or Port tenant, as appropriate, shall also restrict access along the segment of Lagoon Drive/F Street (between Parcel H-3 and the BF Goodrich access on F Street) to emergency vehicle access only.

Incorporation of Mitigation Measure 4.2-2 will ensure an appropriate level of service at the intersection of F Street and Bay Boulevard during the PM peak hour and reduce Potential Significant Impact 4.2-7 to below a level of significance.

**4.2.8 Potential Significant Impact (4.2-8)**

The development of the Project would result in a significant impact to the intersection of J Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during both the AM and PM peak hours under Phase I conditions.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-6 above also apply to Potential Significant Impact 4.2-8. In order to mitigate for the level of service impact (LOS F during the AM and PM peak hour) at the intersection of J Street and Bay Boulevard, prior to the issuance of building permits for any development on H-13 or H-14 in Phase I, the applicant shall

construct a traffic signal at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer, as provided for in Mitigation Measure 4.2-5. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-5 will ensure an appropriate level of service at the intersection of J Street and Bay Boulevard during the AM and PM peak hours and reduce Potential Significant Impact 4.2-8 to below a level of significance.

#### **4.2.9 Potential Significant Impact (4.2-9)**

The development of the Project would result in a significant impact to the intersection of L Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during both the AM and PM peak hours under Phase I conditions.

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-6 above also apply to Potential Significant Impact 4.2-9. In order to mitigate for the level of service impact (LOS F during the AM and PM peak hour) at the intersection of L Street and Bay Boulevard, prior to the issuance of certificates of occupancy for development on H-3 or building permits on H-13 or H-14 for any development in Phase I, the Port, Port tenants, or applicants, as appropriate, shall construct a traffic signal at the intersection of L Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer, as provided for in Mitigation Measure 4.2-9. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-9 will ensure an appropriate level of service at the intersection of L Street and Bay Boulevard during the AM and PM peak hours and reduce Potential Significant Impact 4.2-9 to below a level of significance.

#### **4.2.10 Potential Significant Impact (4.2-10)**

The development of the Project would result in a significant impact to the intersection of the I-5 southbound ramps and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during the PM peak hour under Phase I conditions.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-6 above also apply to Potential Significant Impact 4.2-10. In order to mitigate for the level of service impact (LOS F during the PM peak hour) at the intersection of the I-5 southbound ramps and Bay Boulevard, prior to the issuance of certificates of occupancy for development on H-3 or building permits on H-13 or H-14 for any development in Phase I, the Port, Port tenants, or applicants, as appropriate, shall construct a traffic signal at the intersection of I-5 southbound ramps and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer, as provided for in Mitigation Measure 4.2-7. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-7 will ensure an appropriate level of service at the intersection of the I-5 southbound ramps and Bay Boulevard during the PM peak hour and reduce Potential Significant Impact 4.2-10 to below a level of significance.

**4.2.11 Potential Significant Impact (4.2-11)**

The development of the Project would result in a significant impact to the intersection of J Street and Marina Parkway given that, without sufficient mitigation, the intersection would be characterized by congested LOS E conditions during the PM peak hour under Phase I conditions.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 4.2-2 and 4.2-6 above also apply to Potential Significant Impact 4.2-11. In order to mitigate for the level of service impact (LOS E) at the intersection of J Street and Marina Parkway, prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall construct H Street from I-5 to Marina Parkway as a four-lane Major Street, as provided for in Mitigation Measure 4.2-2. This mitigation is provided in lieu of widening of F

Street due to environmental constraints associated with the widening of F Street in the vicinity of the F & G Street Marsh. At the completion of the H Street Extension, the Port or Port tenant, as appropriate, shall also restrict access along the segment of Lagoon Drive/F Street (between Parcel H-3 and the BF Goodrich access on F Street) to emergency vehicle access only.

Incorporation of Mitigation Measure 4.2-2 will ensure an appropriate level of service at the intersection of J Street and Marina Parkway and reduce Potential Significant Impact 4.2-11 to below a level of significance.

#### **4.2.12 Potential Significant Impact (4.2-13)**

With the closure of F Street, the extension of H Street, and the partial extension of E Street, the development of the Project would result in a significant impact to the intersection of H Street and RCC Driveway given that, without sufficient mitigation, the intersection would be characterized by congested LOS E conditions during the PM peak hour as a result of Phase I conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

*Table 4.2-19* in the FEIR displays the LOS analysis for the study intersections under the Proposed Project-Phase I conditions with the closure of F Street, the extension of H Street, and the partial extension of E street traffic volumes. As shown in *Table 4.2-19, Phase I Conditions with Closure of F Street, Extension of H Street, and Partial Extension of E Street Peak-Hour Intersection Level of Service Summary* in the FEIR, the following intersections will be characterized by LOS E or F conditions and would result in direct impacts and would require mitigation:

- H Street/RCC Driveway (LOS E, PM peak hour)
- J Street/Bay Boulevard (LOS F, PM peak hour)
- L Street/Bay Boulevard (LOS F, both peak hours)
- I-5 Southbound Ramps/Bay Boulevard (LOS F, PM peak hour)

In order to mitigate for the level of service impact (LOS E) at the intersection of H Street and RCC Driveway, prior to the issuance of certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall construct a westbound lane along H Street/

RCC Driveway, which would result in widening H Street west of Marina Parkway to a three-lane Class II Collector, as provided for in Mitigation Measure 4.2-9.

Incorporation of Mitigation Measure 4.2-9 will ensure an appropriate level of service at the intersection of H Street and RCC Driveway and reduce Potential Significant Impact 4.2-13 to below a level of significance.

#### **4.2.13 Potential Significant Impact (4.2-14)**

With the closure of F Street, the extension of H Street, and the partial extension of E Street, the development of the Project would result in a significant impact to the intersection of J Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during the PM peak hour as a result of Phase I conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-13 above also apply to Potential Significant Impact 4.2-14. In order to mitigate for the level of service impact (LOS F) at the intersection of J Street and Bay Boulevard, prior to the issuance of building permits for any development on H-13 or H-14 in Phase I, the applicant shall construct a traffic signal at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-5 will ensure an appropriate level of service at the intersection of J Street and Bay Boulevard and reduce Potential Significant Impact 4.2-14 to below a level of significance.

#### **4.2.14 Potential Significant Impact (4.2-15)**

With the closure of F Street, the extension of H Street, and the partial extension of E Street, the development of the Project would result in a significant impact to the intersection of L Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during both the AM and PM peak hours as a result of Phase I conditions.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-13 above also apply to Potential Significant Impact 4.2-15. In order to mitigate for the level of service impact (LOS F) at the intersection of L Street and Bay Boulevard, prior to the issuance of certificates of occupancy for development on H-3 or building permits on H-13 or H-14 for any development in Phase I, the Port, Port tenants, or applicants, as appropriate, shall construct a traffic signal at the intersection of L Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-6 will ensure an appropriate level of service at the intersection of L Street and Bay Boulevard during the Am and PM peak hours and reduce Potential Significant Impact 4.2-15 to below a level of significance.

### **4.2.15 Potential Significant Impact (4.2-16)**

The development of the Project would result in a significant impact to the intersection of the I-5 southbound ramps and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during the PM peak hour as a result of Phase I conditions with the closure of F Street, the extension of H Street, and the partial extension of E Street.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-13 also apply to Potential Significant Impact 4.2-16. In order to mitigate for the level of service impact (LOS F) at the intersection of the I-5 southbound ramps and Bay Boulevard, prior to the issuance of certificates of occupancy for development on H-3 or building permits on H-13 or H-14 for any development in Phase I, the Port, Port tenants, or applicants, as appropriate, shall construct a traffic signal at



the intersection of I-5 southbound ramps and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-7 will ensure an appropriate level of service at the intersection of the I-5 southbound ramps and Bay Boulevard during the PM peak hour and reduce Potential Significant Impact 4.2-16 to below a level of significance.

#### **4.2.16 Potential Significant Impact (4.2-20)**

Without adequate roadway access and frontage, the development of the Project during Phase II would result in a significant impact related to roadway design.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

In order to ensure there is adequate access and frontage related to roadway design during Phase II of the Proposed Project, the Project will implement Mitigation Measure 4.2-11. Prior to the issuance of certificates of occupancy for development on Parcel H-23, the Port, Port tenant, or applicant, as appropriate, shall construct Street A between H Street to Street C as a two-lane Class III Collector, and shall construct Street C between Marina Parkway and Street A as a two-lane Class II Collector. Implementation of this mitigation measure would reduce Potential Significant Impact 4.2-20 to below a level of significance and would ensure adequate access and frontage during Phase II of the Proposed Project.

Incorporation of Mitigation Measure 4.2-11 will reduce impacts regarding adequate access and frontage related to roadway design (Potential Significant Impact 4.2-20) to below a level of significance.

#### **4.2.17 Potential Significant Impact (4.2-21)**

The development of the Project would result in a significant impact to the roadway segment of H Street (from Street A to the I-5 ramps) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase II.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

As discussed in the FEIR, *Figure 4.2-4a* shows the existing ADTs for street segments in the Project area. *Figure 4.2-10* shows the Phase II Roadway Segment Trip Assignment for street segments in the Project area. *Figure 4.2-11* shows the Phase II Baseline Conditions ADT Volumes for street segments in the Project area. *Figure 4.2-12* shows the Phase II Plus Project Conditions ADT Volumes. *Table 4.2-21* provides the Phase II Conditions Roadway Level of Service summary.

*Table 4.2-21* in the FEIR depicts the Phase II Baseline roadway segment conditions and the Phase II Baseline Plus Project conditions. As shown in *Table 4.2-21*, the following segments will experience congested LOS D or worse conditions for segments outside of the Urban Core and LOS E or worse conditions for segments inside of the Urban Core and will require mitigation:

- H Street (Street A to I-5 ramps) (LOS F)
- J Street (Street A to Bay Boulevard to I-5 ramps) (LOS D)
- Street A (Street C to J Street) (LOS F)

Therefore, in order to mitigate for the level of service impact (LOS F) at the roadway segment of H Street (from Street A to the I-5 ramps), prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall widen H Street between Street A and I-5 ramps to a 5-lane Major Street, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of Project traffic.

Incorporation of Mitigation Measure 4.2-12 will ensure an appropriate level of service at the roadway segment of H Street (from Street A to the I-5 ramps) and reduce Potential Significant Impact 4.2-21 to below a level of significance.

### **4.2.18 Potential Significant Impact (4.2-22)**

The development of the Project would result in a significant impact to the roadway segment of J Street (from Street A to B Boulevard to the I-5 ramps) given that, without sufficient mitigation, the roadway segment would experience congested LOS D conditions during Phase II.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-21 above also apply to Potential Significant Impact 4.2-22. In order to mitigate for the level of service impact (LOS D) at the roadway segment of J Street (from Street A to Bay Boulevard to the I-5 ramps), prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall widen J Street between Street A to I-5 ramps to a 6-lane Major Street, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of Project traffic.

Incorporation of Mitigation Measure 4.2-13 will ensure an appropriate level of service at the roadway segment of J Street (from Street A to B Boulevard to the I-5 ramps) and reduce Potential Significant Impact 4.2-22 to below a level of significance.

**4.2.19 Potential Significant Impact (4.2-23)**

The development of the Project would result in a significant impact to the roadway segment of Street A (from Street C to J Street) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase II.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-21 above also apply to Potential Significant Impact 4.2-23. In order to mitigate for the level of service impact (LOS F) at the roadway segment of Street A (from Street C to J Street), prior to the issuance of certificates of occupancy for any development in Phase II of the development, the Port, Port tenant, or applicant, as appropriate, shall widen Street A between Street C and J Street to a 4-lane Class I Collector or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of Project traffic.

Incorporation of Mitigation Measure 4.2-14 will ensure an appropriate level of service at the roadway segment of Street A (from Street C to J Street) and reduce Potential Significant Impact 4.2-23 to below a level of significance.

#### **4.2.20 Potential Significant Impact (4.2-24)**

The development of the Project would result in a significant impact to the intersection of H Street and RCC Drive given that, without sufficient mitigation, the intersection would be characterized by congested LOS E conditions during the PM peak hour under Phase II conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Table 4.2-22 of the FEIR displays the LOS analysis results for the study area intersections under the Proposed Project–Phase II Conditions scenario. As shown in the table, the following intersections will be characterized by LOS E or F conditions under Baseline Plus Project conditions and will require mitigation:

- H Street/RCC Drive (LOS E, PM peak hour)
- J Street/Bay Boulevard (LOS E, PM peak hour)
- H Street/Street A (LOS F, PM peak hour)
- J Street/Marina Parkway (LOS F, PM peak hour)
- J Street/Street A (LOS F, both peak hours)

Therefore, in order to mitigate for the level of service impact (LOS E) at the intersection of H Street and RCC Drive, prior to the issuance of certificates of occupancy for any development in Phase II of the development, the Port, Port tenant, or applicant, as appropriate, shall construct a traffic signal and add an exclusive left-turn lane at each approach at the intersection of H Street and RCC Driveway, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-15 will ensure an appropriate level of service at the intersection of H Street and RCC Drive and reduce Potential Significant Impact 4.2-24 to below a level of significance.

#### **4.2.21 Potential Significant Impact (4.2-25)**

The development of the Project would result in a significant impact to the intersection of J Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS E conditions during the PM peak hour under Phase II conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-24 above also apply to Potential Significant Impact 4.2-25. In order to mitigate for the level of service impact (LOS E) at the intersection of J Street and Bay Boulevard, prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a westbound and eastbound through lane along J Street at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-16 will ensure an appropriate level of service at the intersection of J Street and Bay Boulevard and reduce Potential Significant Impact 4.2-25 to below a level of significance.

#### **4.2.22 Potential Significant Impact (4.2-26)**

The development of the Project would result in a significant impact to the intersection of H Street and Street A given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during the PM peak hour under Phase II conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-24 above also apply to Potential Significant Impact 4.2-26. In order to mitigate for the level of service impact (LOS F) at the intersection of H Street and Street A, prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a traffic signal at the intersection of H Street and Street A, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-17 will ensure an appropriate level of service at the intersection of H Street and Street A and reduce Potential Significant Impact 4.2-26 to below a level of significance.

**4.2.23 Potential Significant Impact (4.2-27)**

The development of the Project would result in a significant impact to the intersection of J Street and Marina Parkway given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during the PM peak hour under Phase II conditions.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-24 above also apply to Potential Significant Impact 4.2-27. In order to mitigate for the level of service impact (LOS F) at the intersection of J Street and Marina Parkway, prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a traffic signal at the intersection of J Street and Marina Parkway, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-18 will ensure an appropriate level of service at the intersection of J Street and Marina Parkway and reduce Potential Significant Impact 4.2-27 to below a level of significance.

#### **4.2.24 Potential Significant Impact (4.2-28)**

The development of the Project would result in a significant impact to the intersection of J Street and Street A given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during both the AM and PM peak hours under Phase II conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-24 above also apply to Potential Significant Impact 4.2-28. In order to mitigate for the level of service impact (LOS F) at the intersection of J Street and Street A, prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a traffic signal at the intersection of J Street and Street A and add an exclusive westbound right-turn lane along J Street and an exclusive southbound right-turn lane along Street A, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-19 will ensure an appropriate level of service at the intersection of J Street and Street A and reduce Potential Significant Impact 4.2-28 to below a level of significance.

#### **4.2.25 Potential Significant Impact (4.2-31)**

Without adequate site access and roadway frontage, the development of the Project during Phase III would result in a significant impact related to roadway design.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

In order to ensure there is adequate access and frontage related to roadway design during Phase III of the Proposed Project, the Project will incorporate Mitigation Measure 4.2-20. Prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenants, or

applicant, as appropriate shall construct the segment of Street A that would continue south from J Street, connecting to the proposed Street B in the Otay District, as a two-lane Class III Collector. In addition, prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenants, as appropriate shall construct the segment of Street B that would connect to the proposed Street A, bridge over the Telegraph Canyon Creek Channel, and continue south to Bay Boulevard, as a 2-lane Class III Collector.

Incorporation of Mitigation Measure 4.2-20 will reduce impacts regarding adequate access and frontage related to roadway design (Potential Significant Impact 4.2-31) to below a level of significance.

#### **4.2.26 Potential Significant Impact (4.2-32)**

The development of the Project would result in a significant impact to the roadway segment of Street A (from H Street to Street C) given that, without sufficient mitigation, the roadway segment would experience congested LOS D conditions during Phase III.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

*Table 4.2-12* of the FEIR summarizes the trip generation summary in Phase III for the Proposed Project. This phase is assumed to generate an additional 8,685 ADT, which will be distributed along roadway segments in the Project area. Development in Phase III would occur in the Harbor and Otay District. All of the development in the Otay District would occur in Phase III only. The Project traffic in Phase III would be distributed and assigned based on the actual location of the development. In situations where shared parking exists, Project traffic would be distributed and assigned based on the availability of parking. This distribution and assignment was done based on San Diego Association of Government's (SANDAG) Series 10 Select Zone model plots of zones within the Bayfront Redevelopment Area.

As shown in *Table 4.2-25* of the FEIR, Phase III Conditions Roadway Segment Level of Service Summary, the following roadway segments will experience congested LOS D or worse conditions for segments outside of the Urban Core and LOS E or worse conditions for segments inside the Urban Core and will require mitigation:

- Street A (H Street to Street C) (LOS D).



It should be noted that H Street between Street A to the I-5 ramps, would operate at LOS D under Phase III Plus Project Conditions. However, this impact would be considered a cumulative impact (cumulative impacts are discussed elsewhere in the Findings). Also, the segment of Street A between J Street and Street B and the segment of Street B between Street A and Bay Boulevard would be built (2-lane Class III Collector) with Phase III of the Project as required to provide site frontage.

In order to mitigate for the level of service impact (LOS D) at the roadway segment of Street A (from H Street to Street C), prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenant, or applicant, as appropriate, shall widen Street A between H Street and Street C to a 4-lane Class I Collector, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of Project traffic.

Incorporation of Mitigation Measure 4.2-21 will ensure an appropriate level of service at the roadway segment of Street A (from H Street to Street C) and reduce Potential Significant Impact 4.2-32 to below a level of significance.

#### **4.2.27 Potential Significant Impact (4.2-33)**

The development of the Project would result in a significant impact to the intersection of J Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS E conditions during the PM peak hour under Phase III conditions.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

*Figures 4.2-18a through 4.2-18d* of the FEIR depicts the Phase III Baseline Conditions Peak-Hour Traffic Volumes for intersections in the study area. *Figures 4.2-19a through 4.2-19d* of the FEIR depicts the Phase III Plus Project Conditions Peak-Hour Traffic Volumes. Finally, *Table 4.2-25* of the FEIR summarizes the Phase III Conditions Peak Hour Level of Service for intersections in the Project area.

As shown in *Table 4.2-25*, Phase III Conditions Peak-Hour Intersection Level of Service Summary, the following intersections will be characterized by LOS E or F conditions under Phase III Baseline Plus Project Conditions and will require mitigation:

- J Street/Bay Boulevard (LOS E, PM peak hour)
- J Street/I-5 Northbound Ramps (LOS E, PM peak hour)

The following intersections would operate at LOS E under Phase III Plus Project Conditions but would be considered cumulative impacts and as such, are discussed in a later section of the Findings.

- H Street/I-5 Southbound Ramps (LOS E, PM peak hour)
- J Street/I-5 Northbound Ramps (LOS E, AM peak hour)

In order to mitigate for the level of service impact (LOS E) at the intersection of J Street and Bay Boulevard, prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenant, or applicant, as appropriate, shall construct an exclusive eastbound right-turn lane along J Street at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-22 will ensure an appropriate level of service at the intersection of J Street and Bay Boulevard during the PM peak hour and reduce Potential Significant Impact 4.2-33 to below a level of significance.

#### **4.2.28 Potential Significant Impact (4.2-34)**

The development of the Project would result in a significant impact to the intersection of J Street and the I-5 northbound ramps given that, without sufficient mitigation, the intersection would be characterized by congested LOS E conditions during the PM peak hour under Phase III conditions.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant 4.2-32 above also apply to Potential Significant Impact 4.2-34. In order to mitigate for the level of service impact (LOS E) at the

intersection of J Street and the I-5 northbound ramps, prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenant, or applicant, as appropriate, shall construct an exclusive westbound right-turn lane along J Street at the intersection of J Street and I-5 northbound ramps, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-23 will ensure an appropriate level of service at the intersection of intersection of J Street and the I-5 northbound ramps during the PM peak hour and reduce Potential Significant Impact 4.2-34 to below a level of significance.

#### **4.2.29 Potential Significant Impact (4.2-38)**

The development of the Project would result in a significant impact to the roadway segment of H Street (from Street A to the I-5 ramps) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase III.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

In assessing the impacts of the Project on the Phase III network, it was determined that H Street between Street A and the I-5 ramps was already widened in Phase II to accommodate the growth in traffic and it would be difficult to widen more due to ROW constraints. Without additional improvements to H Street, conditions on H Street from Street A to I-5 would degrade to LOS F.

Therefore, in order to mitigate for the level of service impact (LOS F) on H Street between Street A and the I-5 ramps, prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenant, or applicant, as appropriate, shall construct E Street from the RCC Driveway to Bay Boulevard as a two-lane Class III Collector.

Incorporation of Mitigation Measure 4.2-24 will ensure an appropriate level of service at the roadway segment of H Street (from Street A to the I-5 ramps) and reduce Potential Significant Impact 4.2-38 to below a level of significance.

#### **4.2.30 Potential Significant Impact (4.2-39)**

Without adequate access and frontage, the development of the Project during Phase IV would result in a significant impact related to roadway design.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

In order to ensure there is adequate access and frontage related to roadway design during Phase IV of the Proposed Project, the Project will incorporate Mitigation Measure 4.2-25. Prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct a new F Street segment between the proposed terminus of the existing F Street and the proposed E Street extension, ending at the SP-3 Chula Vista Nature Center parking lot, as a two-lane Class III collector street, which shall also contain a Class II bike lane on both sides of the street.

Incorporation of Mitigation Measure 4.2-25 will ensure the availability of adequate access and frontage during Phase IV of the Proposed Project and reduce Potential Significant Impact 4.2-39 to below a level of significance.

### **4.2.31 Potential Significant Impact (4.2-40)**

The development of the Project would result in a significant impact to the roadway segment of E Street (from F Street to Bay Boulevard) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase IV.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

Phase IV traffic volumes are calculated by increasing the existing traffic volumes by an annual growth over 25 years, which is the difference between year 2030 (Phase IV) and year 2005 (Existing), and adding the Phases I, II, and III project trips. This sum becomes the baseline condition for Phase IV. Phase IV Plus Project volumes are calculated by adding the Phase IV project trips to the Phase IV Baseline volumes. Phase IV is expected to be complete in the year 2030.

*Table 4.2-13* of the FEIR summarizes the trip generation summary in Phase IV for the Proposed Project. This phase is assumed to generate an additional 14,600 ADT which will be distributed along roadway segments in the Project area. Development in Phase IV would occur in the Sweetwater and Harbor Districts.

The Project traffic in Phase IV would be distributed and assigned based on the actual location of the development. In situations where shared parking exists Project traffic would be distributed and assigned based on the availability of parking. This distribution and assignment was done based on SANDAG Series 10 Select Zone model plots of zones within the Bayfront Redevelopment Area.

As shown in *Table 4.2-30* of the FEIR, the following roadway segments will experience congested LOS D or worse conditions for segments outside of the Urban Core and LOS E or worse conditions for segments inside of the Urban Core under Phase IV Plus Project conditions and will require mitigation:

- E Street (F Street to Bay Boulevard) (LOS F)
- Bay Boulevard (E Street to F Street) (LOS D)
- H Street (I-5 ramps to Broadway) (LOS F)

In order to mitigate for the level of service impact (LOS F) at the roadway segment of E Street (from F Street to Bay Boulevard), prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port, Port tenant, or applicant, as appropriate, shall widen E Street between F Street and Bay Boulevard to a 4-lane Class I Collector, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of Project traffic. Also, the widening of this segment of E Street would facilitate the flow of Project traffic on Bay Boulevard between E Street to F Street.

Incorporation of Mitigation Measure 4.2-26 will ensure an appropriate level of service at the roadway segment of E Street (from F Street to Bay Boulevard) and reduce Potential Significant Impact 4.2-40 to below a level of significance.

#### **4.2.32 Potential Significant Impact (4.2-41)**

The development of the Project would result in a significant impact to the roadway segment of Bay Boulevard (from E Street to F Street) given that, without sufficient mitigation, the roadway segment would experience congested LOS D conditions during Phase IV.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-40 above also apply to Potential Significant Impact 4.2-41. In order to mitigate for the level of service impact (LOS D) at the roadway segment of Bay Boulevard (from E Street to F Street), prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port, Port tenant, or applicant, as appropriate, shall widen E Street between F Street and Bay Boulevard to a 4-lane Class I Collector, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of Project traffic. Also, the widening of this segment of E Street would facilitate the flow of Project traffic on Bay Boulevard between E Street to F Street.

Incorporation of Mitigation Measure 4.2-26 will ensure an appropriate level of service at the roadway segment of Bay Boulevard (from E Street to F Street) and reduce Potential Significant Impact 4.2-41 to below a level of significance.

**4.2.33 Potential Significant Impact (4.2-42)**

The development of the Project would result in a significant impact to the roadway segment of H Street (from the I-5 ramps to Broadway) given that, without sufficient mitigation, the roadway segment would experience congested LOS F conditions during Phase IV.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-40 above also apply to Potential Significant Impact 4.2-42. In order to mitigate for the level of service impact (LOS F) at the roadway segment of H Street (from the I-5 ramps to Broadway), prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port, Port tenant, or applicant, as appropriate, shall widen H Street between I-5 ramps and Broadway to a 6-lane Gateway Street. The additional roadway capacity would facilitate the flow of Project

traffic. While this mitigation would reduce Potential Significant Impact 4.2-42 to below a level of significance, the off-site traffic improvements described in this mitigation measure for direct traffic impacts would create secondary traffic impacts. Improvements associated with these secondary impacts would be required as a result of cumulative and growth-related traffic overall, of which the Proposed Project would be a component. The Western Chula Vista TDIF identifies these improvements in a cumulative context and attributes fair share contributions according to the impact. Therefore, the Proposed Project would be responsible for a fair share contribution and would not be solely responsible for implementation of necessary secondary impact improvements.

Incorporation of Mitigation Measure 4.2-27 will ensure an appropriate level of service at the roadway segment of H Street (from the I-5 ramps to Broadway) and reduce Potential Significant Impact 4.2-42 to below a level of significance.

#### **4.2.34 Potential Significant Impact (4.2-43)**

The development of the Project would result in a significant impact to the intersection of E Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during the PM peak hour under Phase IV conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

*Figures 4.2-23a through 4.2-23d* in the FEIR depicts the Phase IV Baseline Conditions Peak-Hour Traffic Volumes for intersections in the study area. *Figures 4.2-24a through 4.2-24d* in the FEIR depicts the Phase IV Plus Project Conditions Peak-Hour Traffic Volumes. Finally, *Table 4.2-31* of the FEIR summarizes the Phase IV Conditions Peak Hour Level of Service for intersections in the Project area.

As shown in *Table 4.2-31*, the following intersections will be characterized by LOS E or F conditions under Phase IV Plus Project conditions and will require mitigation:

- E Street/Bay Boulevard (LOS F, PM peak hour)
- J Street/Bay Boulevard (LOS E, PM peak hour)
- J Street/Street A (LOS F, PM peak hour)

In order to mitigate for the level of service impact (LOS F) at the intersection of E Street and Bay Boulevard, prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct an eastbound through lane and an exclusive eastbound right-turn lane along E Street at the intersection of E Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-28 will ensure an appropriate level of service at the intersection of E Street and Bay Boulevard during the PM peak hour and reduce Potential Significant Impact 4.2-43 to below a level of significance.

#### **4.2.35 Potential Significant Impact (4.2-44)**

The development of the Project would result in a significant impact to the intersection of J Street and Bay Boulevard given that, without sufficient mitigation, the intersection would be characterized by congested LOS E conditions during the PM peak hour under Phase IV conditions.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-43 above also apply to Potential Significant Impact 4.2-44. In order to mitigate for the level of service impact (LOS E) at the intersection of J Street and Bay Boulevard, prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct an exclusive southbound right-turn lane along Bay Boulevard at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-29 will ensure an appropriate level of service at the intersection of J Street and Bay Boulevard during the PM peak hour and reduce Potential Significant Impact 4.2-44 to below a level of significance.

#### **4.2.36 Potential Significant Impact (4.2-45)**

The development of the Project would result in a significant impact to the intersection of J Street and Street A given that, without sufficient mitigation, the intersection would be characterized by congested LOS F conditions during the PM peak hour under Phase IV conditions.



**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impact 4.2-43 above also apply to Potential Significant Impact 4.2-45. In order to mitigate for the level of service impact (LOS F) at the intersection of J Street and Street A, prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct a dual southbound left-turn lane along Street A, or secure such construction to the satisfaction of the City Engineer.

Incorporation of Mitigation Measure 4.2-30 will ensure an appropriate level of service at the intersection of J Street and Street A during the PM peak hour and reduce Potential Significant Impact 4.2-45 to below a level of significance.

**4.3 Aesthetics/Visual Quality****4.3.1 Potential Significant Impact (4.4-3)**

The development of the Project, including both the Pacifica Development and the RCC development, would result in a moderate cumulative significant impact to view quality.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The Proposed Project would affect two regionally important public viewing scenes: the view of the western tideland/water's edge from the Sweetwater Marsh NWR, and background views of the Bay from the Silver Strand. The Project also alters views of the San Diego Bay, a locally and regionally significant public resource, from within the Project boundary.

View corridors to the Bay from the Project site and its surroundings primarily occur across and over the local streets and the parcels of developed and undeveloped land. The primary viewing locations currently exist at E Street, near I-5, Bayside Park, Bayside Park Beach, the Chula Vista

Marina, Bayfront Park, Marina View Park, Portions of J Street, Marina Parkway, and Portions of I-5. View quality for public views from Chula Vista Marina are likely to increase along with public views from new parkland developed along the northwest shoreline of the Project site.

Although the Proposed Project will affect the viewing scene, it will not result in the actual removal of any visual resources currently contributing to the quality of the viewing scene. However, the overall Project, including both the Pacifica Development and the RCC development, would result in a moderate cumulative impact to view quality, which would be considered significant under State CEQA Guidelines. Therefore, in order to mitigate for the moderate cumulative impacts to view quality due to the Proposed Project, the Port and/or City, as appropriate, will implement Mitigation Measure 4.4-1, to include the following:

- A. **View Protection:** As a condition for issuance of Coastal Development Permits, buildings fronting H Street shall be designed to step away from the street. More specifically, design plans shall protect open views down the H Street corridor by ensuring that an approximate 100-foot ROW width (curb–curb, building setbacks, and pedestrian plaza/walkway zone) remains clear of buildings, structures, or major landscaping. Visual elements above 6 feet in height shall be prohibited in this zone if the feature would reduce visibility by more than 10%. Placement of trees should take into account potential view blockage. This mitigation should not be interpreted to not allow tree masses; however, trees should be spaced in order to ensure “windows” through the landscaping. Trees should also be considered to help frame the views and they should be pruned to increase the views from pedestrians and vehicles, underneath the tree canopy. In order to reduce the potential for buildings to encroach upon view corridors, and to address the scale and massing impact, buildings shall step back at appropriate intervals or be angled to widen the view corridor at the ground plane to the extent feasible. All plans shall be subject to review and approval by the Port. All future development proposals shall conform to Port design guidelines and standards to the satisfaction of the Port.
- B. **Height and Bulk:** Prior to issuance of Coastal Development Permits for projects within the Port’s jurisdiction, the Project developer shall ensure that design plans for any large-scale projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, stepping back of buildings, and varied color schemes to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for large project components to diminish imposing building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the Port.
- C. **Height and Bulk:** Prior to design review approval for properties within the City’s jurisdiction, the Project developer shall ensure that design plans for any large scale

projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, and varied color schemes to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for the large project components to diminish imposing building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the City of Chula Vista Planning Director.

- D. **Landscaping:** Prior to final approval of Phase I infrastructure design plans, the Port and City shall collectively develop a master landscaping plan for the Project's public components and improvements. The plan shall provide sufficient detail to ensure conformance to streetscape design guidelines and that future developers/tenants, as applicable, provide screening of parking areas.
- E. Streetscape landscaping shall be designed to enhance the visitor experience for both pedestrians and those in vehicles. Specifically, detailed landscaping plans shall be developed to enhance Marina Parkway, a designated scenic roadway and shall provide, where appropriate, screening of existing industrial uses and parking areas until such time as these facilities are redeveloped. Street landscaping design shall be coordinated with a qualified biologist or landscape architect to ensure that proposed trees and other landscaping are appropriate for the given location. For instance, vegetation planted adjacent to open water/shoreline areas must not provide raptor perches. Landscaping shall be drought tolerant or low-water use, and invasive plant species shall be prohibited.
- F. **Landscaping:** Prior to approval of a tentative map or site development plan for future residential development, the Project developer shall submit a landscaping design plan for on-site landscaping improvements that is in conformance to design guidelines and standards established by the City of Chula Vista. The plan shall be implemented as a condition of project approval.
- G. **Gateway Plan:** Concurrent with the preparation of Phase I infrastructure design plans for E and H Streets, a Gateway plan shall be prepared for E and H Streets. Prior to issuance of occupancy for any Projects within the Port's jurisdiction in Phase I, the E and H Street Gateway plan shall be approved by the Port and City's Directors of Planning and Building. The E and H Street Gateway plan shall be coordinated with the Gateway plan for J Street.
- H. **Gateway Plan:** Concurrent with development of Parcels H-13 and H-14, the applicant shall submit a Gateway plan for J Street for City Design Review consideration. Prior to issuance of any building permits, the J Street Gateway plan shall be approved by the Director of Planning and Building in coordination with the Port's Director of Planning.

The J Street Gateway plan shall be coordinated with the Gateway plan for E and H Streets.

- I. Incorporation of Mitigation Measure 4.4-1 as discussed above will reduce impacts related to moderate cumulative view quality impacts (Potential Significant Impact 4.4-3) to below a level of significance.

#### **4.3.2 Potential Significant Impact (4.4-4)**

The Project's overall increase in height and massing of the RCC over the existing structures would dominate the background and would adversely change the existing character of the viewing scene from the Sweetwater Marsh National Wildlife Refuge (NWR) and Chula Vista Nature Center and, with or without the incremental reduction to the overall bulk and mass of the RCC, would be a significant impact.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impact 4.4-3 above also apply to Potential Significant Impact 4.4-4. Visitors to the Sweetwater Marsh NWR/Chula Vista Nature Center have the highest sensitivity because they expect the visual environment within the refuge to be "natural." When viewing the Project site from this area, the built environment currently forms the background of the viewing scene, or scenic vista. The focal point of development near the water's edge is the existing industrial South Bay Boatyard/storage lot, which is generally low in scale but clearly visible. Views of this existing use create a negative aesthetic for the transition between water and land (see Public View Photograph 3 in *Figure 4.4-2b* in the FEIR). The Proposed Project replaces this use with a smaller retail/service structure. However, the building envelope for the much larger RCC on Parcel H-3 would be located significantly closer to the water's edge than any existing building structures on site. In addition, the overall increase in height and massing of the RCC over the existing structures would dominate the background and would adversely change the existing character of the viewing scene. Therefore, implementation of the Proposed Project, with or without the incremental reduction to the overall bulk and mass of the RCC, would be significant.

To mitigate for adverse impacts to the public viewing scene from the Sweetwater Marsh NWR and Chula Vista Nature Center, the Port and City shall implement Mitigation Measure 4.4-1, which, as discussed above, addresses view protection and height and bulk of proposed structures.

Incorporation of Mitigation Measure 4.4-1 will reduce impacts to view quality associated with views from the Sweetwater Marsh National Wildlife Refuge (NWR) and Chula Vista Nature Center (Potential Significant Impact 4.4-4) to below a level of significance.

#### **4.3.3 Potential Significant Impact (4.4-5)**

Implementation of the Project, with or without the incremental reduction to the overall bulk and mass of the RCC would result in a significant impact to background views from the Silver Strand.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.4-3 above also apply to Potential Significant Impact 4.4-5. The current viewing scene from the Silver Strand (across the Bay), is dominated by the Bay itself. The background scene is composed of nondescript, relatively low-lying structures viewed against an expansive sky (see Public View Photograph 17 in *Figure 4.4-2d* in the FEIR). The Proposed Project would substantially change existing background views. The built environment would become the major background focal point. Structures that were 30 feet in height would be increased to a maximum height of 240 feet, creating an irregular skyline where one did not exist before. Furthermore, the bulk and mass of the RCC on Parcel H-3 would dominate the waterfront. The result would be a dramatic scale imbalance between the existing landform and structures and proposed features such as the RCC and high rise residential and other large-scale elements. The design would not provide smaller interceding structures or an effective stepping back of the building from the wildlife refuge. Implementation of the Proposed Project, with or without the incremental reduction to the overall bulk and mass of the RCC would result in a significant impact.

To mitigate for adverse impacts to the public viewing scene from the Silver Strand, the Port and City shall implement Mitigation Measure 4.4-1, which addresses view protection and height and bulk of proposed structures.

Incorporation of Mitigation Measure 4.4-1 will reduce impacts related to view quality associated with views of the San Diego Bay, a locally and regionally significant public resource (Potential Significant Impact 4.4-5) to below a level of significance.

#### **4.3.4 Potential Significant Impact (4.4-6)**

The development of the Project would result in a moderate significant impact to views from new sources of light and glare.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Proposed Project elements would likely use significant amounts of artificial light during the evening and nighttime hours. Even though the existing site generates a noticeable amount of light, in the build-out scenario the amount of light produced by the Project would likely surpass existing levels. Given the future urban nature of most of the surrounding properties, adjacent development types will not likely be especially sensitive to light changes; however, the potential exists for spill over from artificial lighting sources. In addition, components of the Proposed Project are likely to include reflective materials such as glass and polished metal surfaces. These surfaces, when combined with daytime solar sources, could result in glare that might adversely affect adjacent uses. The potential for glare depends both on the reflective nature of the materials, solar angles, and the location of the sensitive receptor. Sensitive receptors would include those that are driving by the site, users of park and recreation facilities, and users in the area that are trying to enjoy a natural setting such as the Chula Vista Nature Center and the South Bay Wildlife Refuge. The Proposed Project may have a negative impact on sensitive light receptors or sensitive receptors potentially affected by high levels of glare. The light and glare that may be associated with the Project may affect the viewing scene as well as views of the site or of the area. A moderate significant impact to views associated with light and glare would be expected.

In order to mitigate for the introduction of new sources of light and glare associated with the Proposed Project, prior to design review approval, lighting design plans with specifications for outdoor lighting locations and other intensely lighted areas shall be submitted to the Port and City for review and approval. The specifications shall identify the lighting intensity needs and design light fixtures to direct light toward intended uses. Outdoor and parking lot lighting shall be shielded and directed away from adjacent properties, wherever feasible and consistent with

public safety. Consideration shall be given to the use of low-pressure sodium lighting or the equivalent. The lighting plan shall illustrate the location of the proposed lighting standards and type of shielding measures. The lighting plan shall incorporate specific design features including, but not limited to, the following:

- Where lighting must be used for safety reasons (FAA 2000 Advisory Circular), minimum intensity, maximum off-phased (3 seconds between flashes) white strobes shall be used.
- All event lighting shall be directed downward and shielded, unless directed downward or shielded to minimize light spill beyond the area for which illumination is required.
- Exterior lighting shall be limited to that which is necessary and appropriate to ensure general public safety and navigation, including signage for building identification and orientation.
- Exterior lighting shall be directed downward and shielded to prevent upward lighting and to minimize light spill beyond the area for which illumination is required.
- Office space, residential units, and hotel rooms shall be equipped with motion sensors, timers, or other lighting control systems to ensure that lighting is extinguished when the space is unoccupied.
- Office space, residential units, and hotel rooms shall be equipped with blinds, drapes, or other window coverings that may be closed to minimize the effects of interior night lighting.
- Reflective glass or the application of reflective coatings shall not be used on any glass surface.

Incorporation of Mitigation Measure 4.4-2 will reduce impacts to views from new sources of light and glare (Potential Significant Impact 4.4-6) to below a level of significance.

#### **4.3.5 Potential Significant Impact (4.4-7)**

The development of the Pacifica Residential and Retail Project would result in a moderate significant impact to visual character.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.4-3 above also apply to Potential Significant Impact 4.4-7. The Pacifica Residential and Retail Project will contrast with the scale of the surrounding development and the existing patterns of development in the surrounding area. The northernmost buildings associated with the Pacifica development will increase the scale issue. Existing structures will most likely be overpowered by the scale of the new buildings, and will have limited ability to blend with the proposed development. A moderate impact to visual character associated with height and massing would be expected for this Project.

Therefore, to mitigate for adverse impacts to visual character associated with the height and bulk of the Pacifica Residential and Retail Project, the Port and City shall implement Mitigation Measure 4.4-1, which, as discussed above, addresses height and bulk of proposed structures.

Incorporation of Mitigation Measure 4.4-1 will reduce impacts related to the height and bulk of the Pacifica Residential and Retail Project (Potential Significant Impact 4.4-7) to below a level of significance.

### **4.3.6 Potential Significant Impact (4.4-8)**

The development of the RCC will contrast with the existing patterns of development in the surrounding area and would result in a moderate impact to visual character.

### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.4-3 above also apply to Potential Significant Impact 4.4-8. Due to the disparity in scale between the proposed RCC development and the existing structures on the Project site, the Project will contrast with the existing patterns of development in the surrounding area. A moderate impact to visual character associated with height and massing would be expected for this Project and would be considered significant.

To mitigate for adverse impacts to visual character associated with the height and bulk of the RCC buildings, the Port and City shall implement Mitigation Measure 4.4-1, which, as discussed above, addresses height and bulk of the proposed structures.



Incorporation of Mitigation Measure 4.4-1 will reduce impacts related to visual character associated with the height and bulk of the RCC buildings (Potential Significant Impact 4.4-8) to below a level of significance.

#### **4.4 Hydrology/Water Quality**

##### **4.4.1 Potential Significant Impact (4.5-1)**

Wind-blown litter from pedestrian activity and debris-generating businesses on the waterfront has the potential to result in a significant impact on Bay water quality.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

In order to mitigate for the increased potential for trash and wind-blown litter to impact Bay water quality, as a condition of approval of a Tenant Design Plan for projects within the Port's jurisdiction and a condition of the approval of a Final Map for projects within the City's jurisdiction, the Project applicant shall include trash control measures that include animal-proof, covered and self-closing trash containers and trash control enclosures, with frequent servicing, to prevent litter from being wind blown off-site to the satisfaction of the Port/City as appropriate pursuant to their water quality technical reports. With implementation of Mitigation Measure 4.5-1, Potential Significant Impact 4.5-1 will be less than significant.

##### **4.4.2 Potential Significant Impact (4.5-2)**

The Project's potential to disturb contaminated soils and groundwater during construction activities would be a significant impact.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### Facts in Support of Finding

Contaminated soils are present on future development project parcels within the plan area, particularly in many of the former industrial use locations such as the former Goodrich South Campus site (Parcel H-23). In addition, historic industrial uses in the area have contaminated surface water and groundwater. Drilling for the placement of building footings, clearing, brushing, and grading activities during site preparation and future operations could increase the potential for spills or the spread of contamination via surface water or groundwater. The majority of the Proposed Project would be constructed in the first five years (Phases I and II). Development would continue to occur during Phases III and IV based on demand, but the amount of development would be proportionately less than in Phases I and II.

Construction-related dewatering (as required during the construction of utilities, excavation of the wet wells, and excavation for emergency storage vaults for the sewer lift stations; (see *Section 4.14.2.3, Public Utilities* in the FEIR) would withdraw water from the aquifer, which may be contaminated, depending on the location in the plan area. The potential to contaminate runoff conflicts with the Basin Plan and the water quality objectives for the Bay.

Therefore, in order to mitigate for the Project's potential to disturb contaminated soils and groundwater during construction activities, the Port and City will implement Mitigation Measure 4.5-2 to include the following:

- A. Prior to the issuance of a grading permit, the applicant shall notify the RWQCB of dewatering of contaminated groundwater during construction. If contaminated groundwater is encountered, the Project developer shall treat and/or dispose of the contaminated groundwater (at the developer's expense) in accordance with National Pollutant Discharge Elimination System (NPDES) permitting requirements, which includes obtaining a permit from the Industrial Wastewater Control Program to the satisfaction of the RWQCB.
- B. Prior to the discharge of contaminated groundwater for all construction activities, should flammables, corrosives, hazardous wastes, poisonous substances, greases and oils, and other pollutants exist on site, a pretreatment system shall be installed to pre-treat the water to the satisfaction of the RWQCB before it can be discharged into the sewer system.

Incorporation of Mitigation Measure 4.5-2 will ensure that the Proposed Project's potential to disturb contaminated soils and groundwater during construction activities is reduced to below a level of significance. With incorporation of Mitigation Measure 4.5-2, Potential Significant Impact 4.5-2 will be less than significant.

#### **4.4.3 Potential Significant Impact (4.5-3)**

Although not expected to occur, accidental spills or unintentional discharges of fuel, lubricants, or hydraulic fluid from construction equipment would result in significant impacts on water quality.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Adverse temporary impacts to water quality could result during accidents and unintentional discharges resulting from spills of fuel, lubricants, or hydraulic fluid from the equipment used during construction, including dredge and fill activities and construction of the H Street Pier. Potential impacts would depend on the amount and type of material spilled as well as specific conditions (e.g., currents, wind, temperature, waves, and vessel activity) at the site of the spill. In most cases, such spills would be small and could be cleaned up immediately, causing less than significant impacts in the short term. In addition, implementation of BMPs would reduce water quality impacts from pollutants carried by runoff. Although not expected to occur, a spill in a worst-case scenario would result in significant impacts on water quality.

In order to mitigate for the Project's potential adverse impacts to water quality resulting from accidental spills and unintentional discharges of fuel, lubricants, or hydraulic fluid from the equipment used during land-side and water-side construction activities, prior to the issuance of a grading, excavation, dredge/fill, or building permit for any parcel, the applicant shall submit a Spill Prevention/Contingency Plan for approval by the Port or City as appropriate. The plan shall:

- Ensure that hazardous or potentially hazardous materials (e.g., cement, lubricants, solvents, fuels, other refined petroleum hydrocarbon products, wash water, raw sewage) that are used or generated during the construction and operation of any project as part of the Proposed Project shall be handled, stored, used, and disposed of in accordance with NPDES permitting requirements and applicable federal, state, and local policies.
- Include material safety data sheets.
- Require 40 hours of worker training and education as required by the Occupational Safety and Health Administration.

- Minimize the volume of hazardous or potentially hazardous materials stored at the site at any one time.
- Provide secured storage areas for compatible materials, with adequate spill containment.
- Maintain all required records, manifest and other tracking information in an up-to-date and accessible form or location for review by the Port or City.
- Demonstrate that all local, state, and federal regulations regarding hazardous materials and emergency response have been or will be complied with.

With incorporation of Mitigation Measure 4.5-3, Potential Significant Impact 4.5-3 will be less than significant.

#### **4.4.4 Potential Significant Impact (4.5-4)**

The potential impacts from contaminants to be released during dredge and fill operations and in-water construction associated with the Proposed Project would be significant.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The potential exists for contaminants contained in the bottom sediment of the Bay to be released into the water column during the dredge and fill operations and the construction of docks, the ferry terminal, the H Street Pier, the existing South Bay Boatyard Marina, Chula Vista Marina, and the realignment of the navigation channel. Significant impacts to water quality and biological communities could result if contaminated sediments are exposed or redistributed as a result of dredge and fill operations and construction activities within and outside the Chula Vista Harbor and at the existing South Bay Boatyard site. The process of driving in the piles during Phase I construction of the H Street Pier would itself cause temporary direct impacts to water quality and marine resources. Excavated sediments and water may be released unintentionally, increasing turbidity and stirring up potentially contaminated soils. Advanced treatment systems, such as Baker Tanks, and coagulation agents for the removal of sediment and suspended solids from runoff during the construction phase would be implemented to reduce the potential for contaminated sediment entering the Bay. The potential impacts from contaminants to be released during dredge and fill operations and in-water construction would remain significant.

In order to mitigate for the Project's potential adverse impacts to water quality resulting from disturbance of contaminated sediment during in-water construction activities, including dredge and fill, on Parcels HW-1, HW-4, and HW-7, the Port will implement Mitigation Measure 4.5-4 to include the following:

- A. Prior to issuance of a permit by USACE for dredge and/or fill operations in the Bay or Chula Vista Harbor, the applicant shall conduct a focused sediment investigation and submit it to USACE and RWQCB for review and approval. The applicant shall then determine the amount of Bay sediment that requires remediation and develop a specific work plan to remediate Bay sediments in accordance with permitting requirements of the RWQCB. The work plan shall include but not be limited to: dredging the sediment, analyzing the nature and extent of any contamination, and allowing it to drain. Pending the outcome of the analytical results, the RWQCB and the Port/City shall prescribe the appropriate method for disposition of any contaminated sediment.
- B. Prior to issuance of a grading permit for marina redevelopment on HW-1 and HW-4, the developer shall submit a work plan for approval by the RWQCB and Port/City that requires the implementation of BMPs, including the use of silt curtains during in-water construction to minimize sediment disturbances and confine potentially contaminated sediment if contaminated sediment exists. If a silt curtain should be necessary, the silt curtain shall be anchored along the ocean floor with weights (i.e., a chain) and anchored to the top with a floating chain of buoys. The curtain shall wrap around the area of disturbance to prevent turbidity from traveling outside the immediate Project area. Once the impacted region resettles, the curtains shall be removed. If the sediment would be suitable for ocean disposal, no silt curtain shall be required. However, if contaminants are actually present, the applicant would be required to provide to the RWQCB and Port/City an evaluation showing that the sediment would be suitable for ocean disposal.

Incorporation of Mitigation Measure 4.5-4 will reduce water quality impacts from contaminants during dredge and fill operations and in-water construction (Potential Significant Impact 4.5-4) to below a level of significance.

#### **4.4.5 Potential Significant Impact (4.5-5)**

In-water construction activities would result in temporary significant impacts to Bay water quality.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The dredge and fill activities and pile driving necessary for navigation channel realignment and harbor construction as well as removal/placement of riprap, bulkheads, sheet pile, and construction of the H Street Pier would temporarily suspend bottom sediments in the water column. Suspension of sediments reduces water clarity, increases nutrients, and decreases dissolved oxygen available to marine organisms. Water clarity and dissolved oxygen concentrations would return to pre-construction conditions upon completion of these construction activities. These temporary impacts would be significant.

In order to mitigate for the Project's potential adverse impacts to water quality resulting from the suspension of sediments into the water column during in-water construction activities, prior to the commencement of in-water construction for all phases of development, the Port or Port tenants shall adhere to regulatory requirements including the use of BMPs, which shall include use of silt curtains during all sediment suspension activities.

Incorporation of Mitigation Measure 4.5-5 will reduce water quality impacts related to in-water construction activities (Potential Significant Impact 4.5-5) to below a level of significance.

**4.5 Air Quality****4.5.1 Potential Significant Impact (4.6-7)**

Development of the Project would conflict with and/or obstruct goals or strategies of the California Global Warming Solutions Act of 2006 (AB 32) or related Executive Orders, which would result in a significant impact.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

As stated above, the Pacifica Project includes a wide range of PDFs including energy efficiency, water conservation and efficiency, recycling, and development of mixed uses that are intended to be in line with sustainability and efficiency concepts that are also inherent in the goals and strategies of AB 32 and related Executive Orders. The Pacifica Project would result in approximately 14,675 metric tons of GHG emissions a year above existing conditions, compared to approximately 18,671 metric tons of GHG emissions a year above existing conditions that would result from implementation under business as usual. These PDFs result in a reduction in GHG emissions from business as usual of at least 20%. Therefore, the Pacifica Project would not be considered to contribute substantially to a cumulatively significant global climate change impact, because it would not contribute to a conflict with, or the obstruction of, the goals or strategies of AB 32 or related Executive Orders.

As a program-level component of the Proposed Project, the RCC has not reached the design stage that enables a project-specific calculation of GHG emissions; however, GHG emissions were estimated for the proposed RCC in order to evaluate potential global warming impacts. The proposed RCC project is expected to result in approximately 35,763 metric tons of GHG emissions a year above existing conditions, compared to approximately 47,528 metric tons of GHG emissions a year above existing conditions that would result from implementation under “business as usual”.

Although specific PDFs for the RCC project will be determined at a later date, a selection of potential PDFs that may be proposed by the RCC applicant are presented in *Table 4.6-27* in the FEIR, along with certain requirements for energy and water efficiency. Development of the RCC will be required to include a wide range of PDFs, including energy efficiency, water conservation and efficiency, recycling, and development of mixed uses that are intended to be consistent with the goals and strategies of AB 32 and related Executive Orders. The selection of PDFs discussed in the FEIR and provided in *Table 4.6-27* in the FEIR have been included in order to provide a menu of potential options that may be considered by the RCC applicant to reduce GHG emissions by 20% below business as usual. The potential PDFs identified in *Table 4.6-27* in the FEIR shall be considered by the Port when a project-specific development is proposed for the RCC on Parcel H-3. With implementation of GHG emission reduction measures included in *Table 4.6-27*, and outlined in Mitigation Measures 4.6-6, 4.16-1 and 4.16-2, the RCC is expected to achieve a 20% reduction in water use and exceed Title 24, Part 6 of the California Building Energy Efficiency Standards (Title 24) energy efficiency standards by 15%; therefore, the RCC development would not be considered to contribute substantially to a cumulatively significant global climate change impact or contribute to a conflict with or the obstruction of AB 32 or related Executive Orders.

Specific PDFs have not been assigned to Phase I through IV components of the Proposed Project (other than the Pacifica Residential and Retail Development). Program-level developments, including the RCC, will be required as conditions of approval to adopt GHG emission reduction measures similar to those adopted by the Pacifica Residential and Retail Development and to reduce anticipated consumption of energy pursuant to Mitigation Measures 4.16-1 and 4.16-2. New, more effective design features may become available prior to the initiation of these program-level components, however, and would be required of the projects and identified in subsequent environmental analyses.

In order to mitigate for the program-level components of the Proposed Project's potential to conflict with the goals or strategies of AB 32 or related Executive Orders, the development of program-level components of the Proposed Project (Phases I through IV) shall implement measures to reduce GHG emissions. As provided for in Mitigation Measure 4.6-6, specific measures may include, but are not limited to the following:

***Energy Efficiency***

- Design buildings to be energy efficient. Site buildings to take advantage of shade, prevailing winds, landscaping, and sun screens to reduce energy use.
- Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.
- Install light colored "cool" roofs, cool pavements, and strategically placed shade trees.
- Provide information on energy management services for large energy users.
- Install energy-efficient heating and cooling systems, appliances and equipment, and control systems.
- Install light emitting diodes (LEDs) for traffic, street, and other outdoor lighting.
- Limit the hours of operation for outdoor lighting.
- Use solar heating, automatic covers, and efficient pumps and motors for pools and spas.
- Provide education on energy efficiency.

***Renewable Energy***

- Install solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating ventilation and air conditioning. Educate consumers about existing incentives.
- Install solar panels on carports and over parking areas.
- Use combined heat and power in appropriate applications.



### *Water Conservation and Efficiency*

- Create water-efficient landscapes.
- Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.
- Use reclaimed water for landscape irrigation in new developments and on public property where appropriate. Install the infrastructure to deliver and use reclaimed water.
- Design buildings to be water efficient. Install water-efficient fixtures and appliances.
- Use gray water. (Gray water is untreated household wastewater from bathtubs, showers, bathroom wash basins, and water from clothes washing machines.) For example, install dual plumbing in all new development allowing gray water to be used for landscape irrigation.
- Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff.
- Restrict the use of water for cleaning outdoor surfaces and vehicles.
- Implement low-impact development practices that maintain the existing hydrologic character of the site to manage stormwater and protect the environment. (Retaining stormwater runoff on site can drastically reduce the need for energy-intensive imported water at the site.)
- Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.
- Provide education about water conservation and available programs and incentives.

### *Solid Waste Measures*

- Reuse and recycle construction and demolition waste (including but not limited to soil, vegetation, concrete, lumber, metal, and cardboard).
- Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.
- Recover byproduct methane to generate electricity.
- Provide education and publicity about reducing waste and available recycling services.

*Transportation and Motor Vehicles*

- Limit idling time for commercial, non-refrigerated vehicles, including delivery and construction vehicles. Refrigerated delivery trucks may remain idling while at loading docks.
- Use low or zero-emission vehicles, including construction vehicles.
- Promote ride sharing programs; e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling stations).
- Provide public transit incentives, such as free or low-cost monthly transit passes.
- For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting, including, e.g., locked bicycle storage or covered or indoor bicycle parking.
- Institute a telecommuter work program. Provide information, training, and incentives to encourage participation. Provide incentives for equipment purchases to allow high-quality teleconferences.
- Provide information on all options for individuals and businesses to reduce transportation-related emissions. Provide education and information about public transportation.

The increased efficiency demands associated with completion years beyond 2020 are not specified in terms of business as usual reductions, but would demand substantially greater reductions than 20% below business as usual. While the measures listed above would substantially reduce projects GHG emissions, the level to which they would achieve these reductions cannot be ascertained as they may be modified by any applicable standards that are adopted in the future. Furthermore, because of the increased demand for greater reductions for developments beyond the 2020 horizon year and the rapid development of better technology, the mechanism and technological applications that may be available and are necessary to avoid conflict with the goals or strategies of AB 32 or related Executive Orders identification of adequate and effective measures is not feasible at this time.

Incorporation of Mitigation Measure 4.6-6 will reduce impacts to climate change associated with potential conflicts of program-level components of the Proposed Project with the goals or strategies of AB 32 or related Executive Orders (Potential Significant Impact 4.6-7) to below a level of significance.

## **4.6 Noise**

### **4.6.1 Potential Significant Impact (4.7-1)**

Construction noise on the Pacifica Project site is expected to exceed the wildlife noise threshold of 60 dB(A) Leq during the breeding season for nesting birds at habitat in the J Street Marsh, which would be considered a significant impact.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The J Street Marsh is located to the south of the Pacifica Project site, on the other side of Marina Parkway. Noise from heavy construction equipment could adversely affect birds nesting in the J Street Marsh during breeding season, which is typically from January 15 to August 31. Loud noises may cause nesting birds to flush from their nests and draw attention to their nesting location, resulting in an increased potential for predation on eggs and young. Noise from project construction on the Pacifica Project site would be expected to exceed the wildlife noise threshold of 60 dB(A) Leq during the breeding season at habitat in the J Street Marsh, which could have an adverse affect on nesting birds within the marsh. This would be considered a significant impact.

In order to mitigate for the Project's construction noise impacts to nesting birds in the J Street Marsh, the City will limit construction-related noise adjacent to the J Street Marsh during the typical breeding season of January 15 to August 31. Construction activity adjacent to these sensitive areas must not exceed 60 dB(A) Leq at any active nest within the marsh. Prior to issuance of a building permit, the Project developer shall prepare and submit to the City for review and approval an acoustical analysis and nesting bird survey to demonstrate that the 60 dB(A) Leq noise level is maintained at the location of any active nest within the marsh. If the noise threshold is anticipated to be exceeded at the nest location, the Project developer shall construct noise barriers or implement other noise control measures to ensure that construction noise levels do not exceed the threshold.

Incorporation of Mitigation Measure 4.7-1 will reduce impacts associated with construction noise levels exposing nesting birds in the J Street Marsh to noise levels greater than 60 dB(A) Leq (Potential Significant Impact 4.7-1) to below a level of significance.

#### **4.6.2 Potential Significant Impact (4.7-2)**

Future noise levels associated with future exterior traffic noise at the outdoor usable areas at the Pacifica site could exceed 65 dB(A), resulting in a potentially significant impact.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Vehicular traffic noise would be the predominant external noise source affecting the Pacifica Project site. Future noise levels were predicted at outdoor usable areas and building façades. Outdoor usable areas on the site include roof-top usable areas, courtyards, and patios/balconies.

The Federal Highway Administration (FHWA) Traffic Noise Model (TNM) version 2.5 was used to calculate future on-site traffic noise levels. The model considered Project buildings, roadway alignments, estimated average vehicle speed, peak-hour traffic volume, and vehicle mix. The model assumed a default ground type of “hard soil.” Modeled roadways included Marina Parkway, Street A, Street C, J Street, and I-5.

The analysis used future (Phase IV plus Proposed Project) ADT volumes obtained from the Traffic Impact Analysis (TIA) addendum prepared by KHA (see *Appendix 4.2-1* of the FEIR). The peak-hour traffic volume was assumed to be 10% of the ADT for the local roadways. The TIA also indicated peak-hour traffic volumes for I-5. The speed limits on the roadway segments were obtained from the SANDAG Transportation Forecast Information Center. The vehicle mix for surface streets was estimated, while the vehicle mix for I-5 was obtained from Caltrans’ Traffic and Vehicle Data Systems Unit 2005 Truck Traffic. The ADT volumes, traffic mix, and speed for each modeled roadway segment are shown in *Table 4.7-8* of the FEIR.

Calculations show that future exterior traffic noise levels at outdoor usable areas on the Pacifica Project site would range from below 55 dB(A) CNEL to approximately 69 dB(A) CNEL for outdoor usable areas, as illustrated on *Figure 4.7-5* in the FEIR. Future noise levels at the outdoor usable areas could exceed 65 dB(A), resulting in a potentially significant impact.

In order to mitigate for the Project's future exterior traffic noise levels at outdoor usable areas on the Pacifica Project site, prior to the approval of Design Review for the Pacifica Project, the City shall require the applicant to submit a site plan for the Project demonstrating to the satisfaction of the Director of Planning and Building of the City that outdoor use areas are not exposed to noise levels in excess of 65 dB(A) CNEL. Applicants shall submit project plans demonstrating that outdoor usable residential areas conform to the standards set by the City of Chula Vista General Plan. Additionally, prior to the issuance of building permits, the developer shall install noise barriers that would reduce sound levels to 65 dB(A) CNEL or below at outdoor usable areas on the Pacifica site. To preserve a view, glass or Plexiglas with a minimum density of 3.5 pounds per square foot may be substituted for other construction materials. *Table 4.7-15* and illustrated on *Figure 4.7-10* of the FEIR summarizes barrier locations, heights, and lengths for the Pacifica development.

Incorporation of Mitigation Measure 4.7-2 will reduce impacts associated with exposing outdoor usable areas at the Pacifica site to exterior traffic noise levels greater than 65 dB(A) CNEL (Potential Significant Impact 4.7-2) to below a level of significance.

#### **4.6.3 Potential Significant Impact (4.7-3)**

Future traffic associated with the Pacifica Residential and Retail Project would result in significant impacts to future interior noise levels.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Future exterior traffic noise levels at building façades would range from below 40 dB(A) CNEL to approximately 70 dB(A) CNEL, as illustrated on *Figure 4.7-6* in the FEIR. Future noise levels at the building façades could exceed 60 dB(A) CNEL; therefore, interior noise levels due to exterior sources could exceed 45 dB(A) CNEL even with standard construction practices. This would result in a potentially significant impact.

In order to mitigate for the Project's future exterior traffic noise levels impact on interior noise levels (in excess of 45 dB (A) CNEL), prior to the issuance of building permits for residential units adjacent to circulation element roadways in the Harbor District, the City shall require the Project applicant to perform and submit an acoustical analysis to the City, demonstrating that the proposed building plans ensure that interior noise levels due to exterior sources are 45 dB(A)

CNEL or less in any habitable room. The analysis must also identify Sound Transmission Loss (STL) rates of each window.

Incorporation of Mitigation Measure 4.7-3 will reduce impacts associated with interior noise levels exceeding 45 dB(A) CNEL due to exterior sources (Potential Significant Impact 4.7-3) to below a level of significance.

#### **4.6.4 Potential Significant Impact (4.7-4)**

Noise levels from operation of mechanical equipment could exceed the sound level limits for noise sensitive receptors along Marina Parkway, Street C, J Street and Street A, resulting in a significant impact.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The mechanical equipment for the Pacifica development would include rooftop heating, ventilation, and air conditioning (HVAC) systems, a central power plant (CPP), air handling units (AGUs), and a garage ventilation system. The locations and models of this equipment have not been determined at this time.

The property line sound limit for multiple dwelling residential is 50 dB(A) Leq for the weekdays from 10:00 p.m. to 7:00 a.m. and the weekends from 10:00 p.m. to 8:00 a.m., and 60 dB(A) Leq for the weekdays from 7:00 a.m. to 10:00 p.m. and the weekends from 8:00 a.m. to 10:00 p.m. In addition, noise levels at the location of any active nest within the adjacent J Street Marsh shall not exceed 60 dB(A) Leq. Noise levels from operation of mechanical equipment could exceed the sound level limits for noise sensitive receptors along Marina Parkway, Street C, J Street and Street A, resulting in a potentially significant impact.

In order to mitigate for the Project's noise impacts associated with the operation of mechanical equipment for the Pacifica Project that could exceed the acceptable sound levels adjacent to sensitive receptors off of Marina Parkway, Street C, J Street, and Street A, the City will implement Mitigation Measure 4.7-4 to include the following:

- Prior to the approval of Design Review for the Pacifica Project, the applicant shall submit a design plan for the project demonstrating to the satisfaction of the City's Director of Planning and Building that the noise level from operation of mechanical equipment will

not exceed 50 dB(A) Leq at any property line. Noise control measures may include, but are not limited to, the selection of quiet equipment, equipment setbacks, silencers, and/or acoustical louvers. Such measures must be designed and installed so as to achieve a cumulative sound level from mechanical equipment that does not exceed 40 dB(A) at 50 feet from the building façades adjacent to Marina Parkway, Street C, and J Street or 54 dB(A) at 50 feet from the building façades facing Street A.

- Prior to the approval of Design Review for the Pacifica Project, the applicant shall prepare and submit to the City for review and approval an acoustical analysis and nesting bird survey to demonstrate that operation of mechanical equipment will not exceed the 60 dB(A) Leq noise level at the location of any active nest within the J Street Marsh. If the noise threshold is anticipated to be exceeded at the nest location, the Project developer shall construct noise barriers and/or implement noise control measures to maintain operational noise levels below the threshold.

Incorporation of Mitigation Measure 4.7-4 will reduce impacts associated with the operation of mechanical equipment for the Pacifica project that could exceed acceptable sound levels adjacent to sensitive receptors (Potential Significant Impact 4.7-4) to below a level of significance.

#### **4.6.5 Potential Significant Impact (4.7-5)**

Noise from construction of the Residential and Retail Project could significantly impact suitable noise-sensitive wildlife habitat located in the Sweetwater Marsh north of the parcel H-3 project site and in the F & G Street Marsh northeast of the H-3 project site.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Noise from project construction would primarily be generated by site preparation. Grading would require the use of heavy equipment such as bulldozers, loaders, and scrapers. No blasting would occur. Site preparation typically produces an hourly average noise level of approximately 84 dB(A) Leq at 50 feet.

Exceeding City of Chula Vista General Plan (Chula Vista, City of 1995) and noise ordinance exterior noise level standards as a result of the construction of the RCC will be temporary and therefore would not be considered significant. However, in order to minimize unnecessary annoyance from construction noise, the contractor will be required to follow construction noise

control measures that are required to reduce the level of significance from these temporary noise impacts.

Suitable noise-sensitive wildlife habitat is located in the Sweetwater Marsh to the north of the parcel H-3 project site and in the F & G Street Marsh to the northeast of the H-3 project site. The noise level of 84 dB(A) Leq at 50 feet would attenuate to 60 dB(A) Leq at a distance of approximately 800 feet from the source; therefore, unmitigated construction activity occurring over 800 feet from the habitat would not result in a significant impact. Construction activity occurring within 800 feet of the habitat during the breeding season would result in a significant impact.

In order to mitigate for the Project's noise impacts associated with the construction of the Residential and Retail Project, the Port and City will implement Mitigation Measure 4.7-5, to include the following:

- To avoid significant impacts to the F & G Street Marsh and reduce the construction noise level to 60 dB(A) or below, the developer of Parcel H-3 shall install and place a 20-foot-high temporary noise barrier or wall along the northeast project property line and returns along the east and west property lines. This mitigation would be necessary for construction activity occurring within 800 feet of the habitat during the extended breeding season. As demonstrated on *Figure 4.7-11* in the FEIR, the barrier must be of solid construction, with no gaps or cracks through or below the wall, and must have a minimum density of 3.5 pounds per square foot. The barrier must block line-of-sight between the source and receiver and be long enough to prevent flanking around the ends.
- Prior to the start of construction, upon selection of a contractor and once specific equipment models and locations, phasing, operational duration, etc. are known, a detailed analysis shall be conducted by the Project developer and approved by the Port and/or City to determine proper placement of the temporary noise barrier.

Incorporation of Mitigation Measure 4.7-5 will reduce noise impacts resulting from construction activity occurring within 800 feet of noise sensitive wildlife habitat (Potential Significant Impact 4.7-5) to below a level of significance.

#### **4.6.6 Potential Significant Impact (4.7-6)**

Future traffic associated with development of the Proposed Project would result in significant impacts to ground-level noise sensitive areas.



**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Future noise levels at land uses adjacent to project roadways were estimated using the FHWA TNM version 2.5. The Phase IV baseline plus Proposed Project traffic volumes were used in the traffic noise analysis (Chula Vista Bayfront Master Plan (CVBMP) Traffic Impact Analysis, KHA 2008). The model considered estimated average vehicle speed, peak-hour traffic volume, and vehicle mix. The model assumed a default ground type of “hard soil.”

The peak-hour traffic volume was assumed to be 10% of the ADT for the local roadways. The TIA indicated peak-hour traffic volumes for I-5. The speed limits on the roadway segments were obtained from the SANDAG Transportation Forecast Information Center. The vehicle mix for the surface streets was estimated. The vehicle mix for I-5 was obtained from Caltrans’ Traffic and Vehicle Data Systems Unit 2005 Truck Traffic.

Land uses along the roadway segments include manufacturing, office, retail, marina, and park. Marina land use is not considered noise sensitive. Existing land uses only were evaluated; any future projects in the influence area that would involve a land use designation change would be expected to evaluate compatibility and compliance with regard to noise as part of that project.

Noise levels were estimated at a distance of 50 feet from the centerline of each roadway segment, and the distances to the 60, 65, 70 and 75 dB(A) CNEL noise contours were estimated. The actual sound level at any receptor location is dependent upon such factors as the source-to-receptor distance and the presence of intervening structures, barriers, and topography. *Table 4.7-11* in the FEIR shows the Proposed Project traffic noise levels along Project roadway segments.

As shown in *Table 4.7-11* of the FEIR, traffic on area roadways would be expected to generate noise levels at ground-level sensitive receptors in excess of the City’s residential exterior standard of 65 dB(A) CNEL. Specifically, the residential units adjacent to the roadways proposed in the Harbor District would be exposed to noise levels greater than 65 dB(A) CNEL. Future noise levels at noise sensitive areas in excess of 65 dB(A) would result in a potentially significant impact.

In order to mitigate for the exposure of ground-level sensitive receptors to noise levels greater than 65 dB(A) CNEL, the Port and City will implement Mitigation Measure 4.7-6, to include the following:

- Prior to the approval of Design Review, the applicant shall submit a site plan for the Project demonstrating to the satisfaction of the Director of Planning and Building of the City and the Port, that outdoor use areas are not exposed to noise levels in excess of 65 dB(A) CNEL. As part of CEQA review for subsequent execution of actions associated with Project construction phases, applicants shall submit Project plans demonstrating that outdoor usable residential areas conform to the standards set by the City of Chula Vista General Plan.
- Prior to issuance of building permits or certificates of occupancy, the developer shall install noise barriers that would reduce sound levels to 65 dB(A) CNEL or below at ground-level noise sensitive receptors on the Project site. To preserve a view, glass or Plexiglas with a minimum density of 3.5 pounds per square foot may be substituted for other construction materials.

Incorporation of Mitigation Measure 4.7-6 will reduce impacts associated with ground-level sensitive receptors being exposed to noise levels greater than 65 dB(A) CNEL (Potential Significant Impact 4.7-6) to below a level of significance.

#### **4.6.7 Potential Significant Impact (4.7-7)**

Due to exterior sources, interior noise levels in the Harbor District could exceed 45 dB(A) CNEL, which would be a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.7-6 above also apply to Potential Significant Impact 4.7-7. As discussed, traffic on area roadways would be expected to generate noise levels at ground-level sensitive receptors in excess of the City's residential exterior standard of 65 dB(A) CNEL. Specifically, the residential units adjacent to the roadways proposed in the Harbor District would be exposed to noise levels greater than 65 dB(A) CNEL. As exterior noise levels at proposed residential sites would exceed 60 dB(A) CNEL, interior noise levels due to exterior sources could exceed 45 dB(A) CNEL even with standard construction practices. This would be a significant impact.

In order to mitigate for the exposure of the interior of buildings in the Harbor District to noise levels in excess of 45 dB(A) CNEL, prior to the issuance of building permits for residential units

adjacent to circulation element roadways in the Harbor District, the City shall require the Project applicant to perform and submit an acoustical analysis to the City, demonstrating that the proposed building plans ensure that interior noise levels due to exterior sources are 45 dB(A) CNEL or less in any habitable room. The analysis must also identify Sound Transmission Loss (STL) rates of each window.

Incorporation of Mitigation Measure 4.7-3 will reduce impacts associated with interior noise levels exceeding 45 dB(A) CNEL due to exterior sources (Potential Significant Impact 4.7-7) to below a level of significance.

#### **4.6.8 Potential Significant Impact (4.7-8)**

Future noise levels associated with the Project would exceed the wildlife noise threshold of 60 dB(A) Leq during breeding season at habitat in the F & G Street Marsh which would be significant.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The Proposed Project would contribute traffic to off-site roads as well as on-site roads. An increase of 3 dB is considered a perceptible increase in noise. For off-site roadways that currently generate noise levels in excess of applicable noise standards, a project-related increase of 3 dB would be significant. All off-site roadways affected by Project traffic currently generate noise levels in excess of 65 dB(A) (Chula Vista, City of 2004). *Table 4.7-12* in the FEIR shows the comparison of existing and future off-site traffic noise levels at 50 feet from the centerlines of Project roadway segments. In cases where existing roadways would be removed in the future, the closest future cross street was used for comparison; the existing roadway name is shown in parentheses in *Table 4.7-12* in the FEIR. In cases where the future roadway does not exist, quantification of a change in noise level is not applicable and was noted as such. Segments that would experience a delta of 3 dB(A) or more are shown in bold in *Table 4.7-12* in the FEIR.

As shown in *Table 4.7-12* in the FEIR, the segment of E Street between RCC Driveway and F Street would experience a future peak hour noise level of 64 dB(A) at 50 feet. The closest point of the F & G Street Marsh habitat to the roadway noise is approximately 90 feet from the centerline of E Street. The highest noise level at the habitat would be approximately 62 dB(A).

This noise level exceeds the wildlife noise threshold of 60 dB(A) Leq during breeding season at habitat in the F & G Street Marsh. This would be a significant impact.

In order to mitigate for the significant impacts to the F & G Street Marsh and reduce the noise level at habitat to 60 dB(A) or below, the Port and City shall require the developer to install a 3-foot-high noise barrier along the east ROW of E Street for the extent of the habitat, as shown on *Figure 4.7-12*. The barrier must be of solid construction, with no gaps or cracks through or below the wall, and must have a minimum density of 3.5 pounds per square foot. The barrier must block line-of-sight between the source and receiver and be long enough to prevent flanking around the ends.

Incorporation of Mitigation Measure 4.7-7 will reduce noise impacts to habitat in the F & G Street Marsh during breeding season (Potential Significant Impact 4.7-8) to below a level of significance.

#### **4.6.9 Potential Significant Impact (4.7-9)**

The construction of off-site improvements during Phase I of the Project could result in significant noise impacts that would affect residents.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Construction activities are exempt from the exterior noise standards specified in Section 19.68.060 of the City's Municipal Code. However, as discussed below, construction noise during all phases of the Proposed Project may create a nuisance for residential uses and for sensitive receptors using parks in the Project area.

Construction for each phase can be divided into two main categories: site preparation and building construction. Noise effects occur primarily during site preparation, with the grading of the site and construction of infrastructure. Actual building construction creates notably less noise. A variety of noise-generating equipment would be used during the construction phase of the Proposed Project. This construction equipment may include dump trucks, graders, loaders, and concrete mixers, along with others. Phase I site preparation would include the grading of the entire Project area, the construction of the major access roads, and sewer and water infrastructure. Grading in subsequent phases would be limited to modifying the rough grading

that occurred during the first phase. While it is anticipated that the development of all phases of the project could take 24 years, it is anticipated that site preparation in any given phase would last for 1 year or less. As with the air quality analysis, it was assumed that construction buildings within each phase would take between 1 and 4 years after site preparation.

*Table 4.7-13* in the FEIR indicates the types of construction equipment typically involved in construction projects and the approximate noise levels associated with each. This type of equipment can individually generate noise levels that range between 78 and 91 dB(A) at 50 feet from the source, as listed in *Table 4.7-13*. Ground-clearing activities typically generate the greatest average construction noise levels. These activities are estimated to generate average noise levels of 83 to 85 dB(A) Leq 50 feet from the site of construction (Bolt, Beranek, and Newman, Inc. 1971).

This value is based on empirical data on the number and types of equipment at a construction site and their average cycle of operation. As seen in *Table 4.7-13* above, a backhoe can produce 85 dB(A) during heavy working activity.

Construction activities such as grading would be distributed over the entire site and would not be situated at any one location. The closest existing sensitive land uses are the residential uses on the east side of I-5. These homes are minimally 900 feet from the edge of the Proposed Project site and about 1,500 feet from the center of the construction area within the Harbor District with the freeway in between. The average noise levels caused by traffic on the freeway at F Street and Interstate 8 (I-8), as reported in the General Plan Update EIR (Chula Vista, City of 2005a), was between 70 and 74 dB(A) over a 24-hour period. Noise levels with a source of 84 dB at 900 feet from a construction area would be 59 dB. At 1,500 feet from the center of the construction area the noise level would be 55 dB. The noise from the construction activities at the homes on the east side of the highway would be below the noise levels produced by the freeway.

The entire Project area needs to be graded in order to permit the construction identified in Phase I. Construction includes grading the site, paving the roads, and constructing the buildings along with the associated worker trips and equipment use.

The construction of off-site improvements, such as water mains, that could affect residences would also occur in Phase I. These improvements would occur within J Street between Bay Boulevard and Broadway, L Street between Bay Boulevard and Broadway, and Broadway between J Street and Main Street. Because the construction of off-site improvements could result in noise impacts that would affect residents in those areas, noise impacts would be considered significant

In order to mitigate for significant noise impacts on residents resulting from construction of off-site improvements, the Port and City will implement Mitigation Measure 4.7-8, to include the following:

- Construction activity shall be prohibited Monday through Friday from 10:00 p.m. to 7:00 a.m., and Saturday and Sunday from 10:00 p.m. to 8:00 a.m., pursuant to the Chula Vista Municipal Code Section 17.24.050 (Paragraph J).
- All stationary noise generating equipment, such as pumps and generators, shall be located as far as possible from noise sensitive receptors. Where practicable, noise generating equipment shall be shielded from noise sensitive receptors by attenuating barriers or structures. Stationary noise sources located less than 200 feet from sensitive receptors shall be equipped with noise reducing engine housings. Water tanks, equipment storage, staging, and warm-up areas shall be located as far from noise sensitive receptors as possible.
- All construction equipment powered by gasoline or diesel engines shall have sound control devices at least as effective as those originally provided by the manufacturer; no equipment shall be permitted to have an unmuffled exhaust.
- Any impact tools used during demolition of existing infrastructure shall be shrouded or shielded, and mobile noise generating equipment and machinery shall be shut off when not in use.
- Construction vehicles accessing the site shall be required to use the shortest possible route to and from I-5, provided the route does not expose additional receptors to noise.
- Construction equipment items shall be selected as those capable of performing the necessary tasks with the lowest sound level and the lowest acoustic height possible to perform the required construction operation.
- Construction equipment shall be operated and maintained to minimize noise generation. Equipment shall be kept in good repair and fitted with “manufacturer-recommended” mufflers.

Incorporation of Mitigation Measure 4.7-8 will reduce impacts on residents resulting from the construction of off-site improvements (Potential Significant Impact 4.7-9) to below a level of significance.

#### **4.6.10 Potential Significant Impact (4.7-10)**

Subsequent phases of development could result in significant noise impacts that would affect uses created during Phase I of development.

**Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.7-9 above also apply to Potential Significant Impact 4.7-10. The construction activities in the Harbor District would occur between an area as far away from the refuge as 1,400 feet to a location adjacent to the marina. Using the geometric mean of the near and far construction distances, the projected noise levels at the marina could be as high as 74 dB(A). In the City of Chula Vista, construction noise is exempt from the noise ordinance although construction activities must comply with the hours set by the City's Municipal Code. Pursuant to the Municipal Code, construction would be prohibited Monday through Friday from 10:00 p.m. to 7:00 a.m., and from 10:00 p.m. to 8:00 a.m. on Saturdays and Sundays. The potential for a 74 dB(A) hourly Leq for construction noise at the marina would be a significant impact. In Phase I, the project would construct residential and park uses near the center of the project site and the RV park would remain open. During Phases II through IV, these uses could be exposed to construction noise levels of 85 dB(A) Leq, depending upon the location of the construction relative to the sensitive user. Therefore, construction noise during these subsequent phases of the project could affect the sensitive uses established through the development of Phase I. Subsequent analysis of construction noise impacts would be needed during the CEQA review process of Phases I through IV program-level components. Because subsequent phases of development could result in noise impacts that would affect uses created during Phase I of development, noise impacts are significant.

In order to mitigate for the impact on uses created during Phase I due to subsequent phases of development, the Port and City will implement Mitigation Measure 4.7-8. As discussed above, Mitigation Measure 4.7-8 prohibits construction activities between Monday through Friday from 10:00 p.m. to 7:00 a.m., and Saturday and Sunday from 10:00 p.m. to 8:00 a.m., specifies that stationary noise generating equipment be located away from nearby sensitive noise receptors, requires sound control devices on all gasoline and diesel powered construction equipment, and requires the use of shielded or shrouded noise generating equipment and equipment generating low sound levels.

*Incorporation of Mitigation Measure 4.7-8 will reduce impacts on uses created during Phase I development resulting from construction noise during subsequent phases of development (Potential Significant Impact 4.7-10) to below a level of significance.*

#### **4.6.11 Potential Significant Impact (4.7-11)**

Construction activities in the Sweetwater District would have the potential to significantly impact nesting birds in the Sweetwater Marsh National Wildlife Refuge.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Construction and operational noise would have the potential to adversely affect birds nesting and foraging in the Sweetwater Marsh National Wildlife Refuge (NWR) located north of the Proposed Project site. Noise levels are not to exceed 60 dB(A) Leq during breeding season. With a noise source of 84 dB during construction, a noise level of 60 dB is achieved with a direct line of sight to the noise source, when the receiver is approximately 800 feet from the source.

There is the likelihood that pile driving would be required for the construction of the improvements associated with the RCC, Pacifica Residential and Retail Project, marina development, and the improvements at the existing South Bay Boatyard site. Pile driving can cause noise levels between 82 and 105 dB(A) (Easton 2000). As there are no existing sensitive receptors in the Project area, however, the impacts will be less than significant.

The construction activities in the Sweetwater District would occur between an area as far away from the refuge as 1,320 feet to a location adjacent to the refuge. Using the geometric mean of the near and far construction distances, the projected noise levels at the edge of the refuge could be as high as 77 dB. During the breeding season, this would be a significant impact.

In order to mitigate for the impact associated with construction activities and nesting birds at the Sweetwater Marsh National Wildlife Refuge, the Port and City will require that construction-related noise be limited during the typical breeding season of January 15 to August 31 adjacent to the Sweetwater Marsh NWR and F & G Street Marsh. The current accepted noise threshold is 60 dB(A) Leq; thus construction activity shall not exceed this level, or ambient noise levels if higher than 60 dB(A) during the breeding season. If construction does occur within the breeding season or adjacent to the marshes, the Project developer shall prepare and submit an acoustical analysis to the Port and/or City that shall determine whether noise barriers would be required to reduce the expected noise levels below the threshold. If noise barriers, construction activities, or other methods are unable to result in a level of noise below the threshold, construction in these areas shall be delayed until the end of the breeding season.



Incorporation of Mitigation Measure 4.7-9 will reduce impacts related to construction activities affecting nesting birds during the breeding season in the Sweetwater Marsh NWR (Potential Significant Impact 4.7-11) to below a level of significance.

## **4.7 Terrestrial Biological Resources**

### **4.7.1 Potential Significant Impact (4.8-1)**

Construction activities would have the potential to significantly impact on-site nesting raptors.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

There is the potential for raptors to nest on site during the nesting season of January 15 to July 31 within all districts, during all phases of construction. All active raptor nests, regardless of state or federal listing status, are protected under the California Fish and Game Code Section 3503.5. Direct impacts to nesting raptors due to the removal of an active nest would be significant.

In order to mitigate for the direct significant impact to nesting raptors, the Port and City will implement Mitigation Measure 4.8-1, to include the following:

Prior to construction in any areas with suitable nesting locations for raptors (such as trees, utility poles, or other suitable structures) and, if grading or construction occurs during the breeding season for nesting raptors (January 15 through July 31), the Project developer(s) within the Port's or City's jurisdiction shall retain a qualified, Port- or City-approved biologist, as appropriate, who shall conduct a pre-construction survey for active raptor nests. The pre-construction survey must be conducted no more than 10 calendar days prior to the start of construction, the results of which must be submitted to the Port or City, as appropriate, for review and approval. If an active nest is found, an appropriate setback distance will be determined in consultation with the applicant, Port or City, USFWS, and CDFG. The construction setback shall be implemented until the young are completely independent of the nest or the nest is relocated with the approval of the USFWS and CDFG. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall

define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint.

Incorporation of Mitigation Measure 4.8-1 will reduce potential impacts to nesting raptors during construction activities (Potential Significant Impact 4.8-1) to below a level of significance.

#### **4.7.2 Potential Significant Impact (4.8-2)**

Grading and construction activities during development of the Otay District could significantly impact the western burrowing owl or any burrowing owl nests.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Impacts to the western burrowing owl or any burrowing owl nests may occur during implementation of program-level components in the Otay District on parcels in both the Port's and City's jurisdiction (see *Figure 4.8-18* in the FEIR). The impacts would consist of the loss of burrowing owls and/or their nests which may result from grading and construction activities during development of the Otay District. The potential loss of western burrowing owls and/or their nests would be a significant impact.

In order to mitigate for the impact to western burrowing owls and burrowing owl burrows, the Port and City will implement Mitigation Measure 4.8-2, to include the following:

Prior to construction in any areas with suitable nesting habitat for burrowing owl and, if grading or construction occurs during the breeding season for the burrowing owl (January 15 through July 31), the Project developer(s) within the Port's or City's jurisdiction, as appropriate, shall retain a qualified biologist, who shall be approved by the Port or City, respectively, to conduct a pre-construction survey within all suitable habitat prior to any grading activities. The pre-construction survey must be conducted no more than 10 calendar days prior to the start of construction, the results of which must be submitted to the Port or City, as appropriate, for review and approval. If an active burrow is detected during the breeding season of January 15 to July 31, construction setbacks of 300 feet from occupied burrows shall be implemented until the young are completely independent of the nest. If an active burrow is found outside of the

breeding season, or after an active nest is determined to no longer be active by a qualified biologist, the burrowing owl would be passively relocated according to the guidelines provided by CDFG (1995) and in coordination with CDFG. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint.

Incorporation of Mitigation Measure 4.8-2 will reduce potential direct impacts to burrowing owls and their nests (Potential Significant Impact 4.8-2) to below a level of significance.

#### **4.7.3 Potential Significant Impact (4.8-3)**

Grading and construction activities during development of the Port and City jurisdictional areas could significantly impact birds protected by the Migratory Bird Treaty Act (MBTA).

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

There is the potential for a number of birds protected by the MBTA to nest within the open space and trees in the Port's and City's jurisdiction. Destruction or removal of active nests during the breeding season could occur during construction or grading activities. These impacts would be significant.

In order to mitigate for the potential impacts to birds protected by the MBTA due to the Proposed Project, the Port and City will implement Mitigation Measure 4.8-3, to include the following:

If grading or construction occurs during the breeding season for migratory birds (January 15 through August 31), the project developer(s) shall retain a qualified biologist, approved by the Port/City (depending on the jurisdiction), to conduct a pre-construction survey for nesting migratory birds. The pre-construction survey must be conducted no more than 10 calendar days

prior to the start of construction, the results of which must be submitted to the Port or City, as appropriate, for review and approval. If active nests are present, the Port will consult with USFWS and CDFG to determine the appropriate construction setback distance. Construction setbacks shall be implemented until the young are completely independent of the nest or relocated with the approval of the USFWS and CDFG. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint.

Incorporation of Mitigation Measure 4.8-3 will reduce potential direct impacts to nesting migratory birds (Potential Significant Impact 4.8-3) to below a level of significance.

#### **4.7.4 Potential Significant Impact (4.8-4)**

Construction activities near the F & G Street Marsh inlet would potentially impact light-footed clapper rails.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

During Phase I of the Project, impacts would occur to the inlet of the F & G Street Marsh as a result of the construction of the extension of E Street. In addition, development of the Sweetwater Park could directly affect the light-footed clapper rail through loss of foraging habitat. Direct impacts to the light-footed clapper rail and loss of foraging habitat for the species could occur (see *Figure 4.8-18* in the FEIR). The mouth of the marsh, located within the Sweetwater and Harbor Districts, falls within both the Port's and City's jurisdiction. Construction activity within the inlet would potentially impact clapper rails directly if circumstances prevented the birds from escaping back to the protected marsh habitat during construction. Therefore, impacts to the inlet would reduce the amount of available foraging habitat and could directly impact the light-footed clapper rail.

In order to mitigate for the potential significant impact to the light-footed clapper rail, the Port and City will implement Mitigation Measure 4.8-4, to include the following:

Prior to construction or grading in any areas of suitable nesting or foraging habitat for light-footed clapper rail and, regardless of the time of year, the Project developer(s) shall retain a qualified biologist who shall be approved by the Port or City, as appropriate, and shall be present during removal of southern coastal salt marsh vegetation within the inlet to the F & G Street Marsh to ensure that there are no direct impacts to foraging light-footed clapper rails. If a light-footed clapper rail is encountered, construction will be temporarily halted until the bird leaves the area of construction. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint. The Project developer(s) shall consult with the U.S. Fish and Wildlife Service prior to impacting any areas of suitable nesting or foraging habitat for light-footed clapper rail so as not to prevent any unauthorized take of the light-footed clapper rail. Any take must be authorized by U.S. Fish and Wildlife Service.

Incorporation of Mitigation Measure 4.8-4 will reduce potential direct impacts to the light-footed clapper rail (Potential Significant Impact 4.8-4) to below a level of significance.

#### **4.7.5 Potential Significant Impact (4.8-5)**

Project construction within the City's jurisdiction would potentially impact the northern harrier, Cooper's hawk, and western burrowing owl.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Project construction would potentially impact the following MSCP-covered species within the City's jurisdiction during all phases of development: salt marsh skipper, orange-throated whiptail, northern harrier, Cooper's hawk, peregrine falcon, light-footed clapper rail, long-billed

curlew, western burrowing owl, and Belding's savannah sparrow. Of these species, only the northern harrier, Cooper's hawk, and western burrowing owl were observed on or directly adjacent to City jurisdiction during the current surveys. The remaining species are either known from the vicinity or have potential to occur, due to presence of suitable habitat. Impacts to northern harrier, Cooper's hawk, and western burrowing owl would be significant.

In order to mitigate for the potential significant impact to the northern harrier, Cooper's hawk, and western burrowing owl, the City will implement Mitigation Measure 4.8-5, to include the following:

- Prior to issuance of any clearing and grubbing or grading permits within the jurisdiction of the City, the Project applicant within the City's jurisdiction shall be required to obtain a HLIT permit pursuant to Section 17.35 of the Chula Vista Municipal Code for impacts to Covered Species and Vegetation Communities protected under the City's MSCP Subarea Plan. In addition, the MSCP requires additional protective measures for the western burrowing owl, as identified in Mitigation Measure 4.8-2 above (see analysis under Potential Significant Impact 4.8-2).
- Incorporation of Mitigation Measure 4.8-5 will reduce potential impacts to MSCP Covered Species in the City's jurisdiction (Potential Significant Impact 4.8-5) to below a level of significance.

#### **4.7.6 Potential Significant Impact (4.8-6)**

The Project could result in indirect impacts to all sensitive birds located within the project boundary, as well as the adjacent marshes and the City's designated Preserve lands.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The Proposed Project could result in indirect impacts to all sensitive birds located within the project boundary, as well as the adjacent marshes and the City's designated Preserve lands. Potential construction and operation impacts would occur during all phases of the project within the City's and the Port's jurisdictions. These include impacts to breeding birds from construction noise and lighting, impacts to sensitive birds through a potential increase in perches for raptors that prey on birds, impacts to the birds and their habitat from post-development lighting and

operational noise, intrusion into the habitat by pets and humans (public access), increased drainage, and exposure to additional toxins from runoff from streets and landscaping.

Tall perching structures are not common in the relatively treeless marshlands of the coastal region. Thus, power-line structures and buildings can give raptors a competitive advantage over grassland and marsh prey species. This is of greatest concern where special-status bird species are present and constitute prey for raptors. This artificially provided perch advantage can lead to higher than normal raptor numbers in the area, resulting in increased predation pressure (Oles 2007). Large structures also enable the encroachment of traditional tree-nesting and perch-hunting raptors, such as the red-tailed hawk (*Buteo jamaicensis*). Because of these effects, projects that provide such additional perch features can fragment the open habitat and possibly contribute to lower populations of special-status prey species (Oles 2007).

Raptor perch-deterrent devices have long been used by power companies to discourage raptors from using dangerous parts of power structures. However, they have not traditionally been used to prevent perching on entire structures to reduce secondary effects on prey species.

Because of the proximity of the Proposed Project to the F & G Street Marsh and the Sweetwater Marsh NWR, there is the potential for impact to special-status bird species, including California least tern, light-footed clapper rail, and western snowy plover. This impact could result from the man-made creation of potential perch sites for raptors that could prey on bird species native to the wetlands. Although predation on these species by raptors is a naturally occurring event, the artificial increase in perches for predators has the potential to alter the relationship between the species. Increased predation on special-status bird species as a result of the creation of perch sites in areas that do not naturally contain such vantage points is a significant impact. Areas of concern are light posts, palm trees, building parapets, decorative eaves, and other projecting architectural elements, especially on the north side of the buildings proposed within Parcel H-3, which faces the marsh habitat.

Indirect effects would be significant because they would potentially result in increased predation, abandonment of nests, or degradation of nesting and foraging habitat for the light-footed clapper rail, Belding's savannah sparrow, all raptor species, and migratory birds, which can ultimately cause a drop in population numbers of these species.

In order to mitigate for the indirect impacts to all sensitive birds located within the project boundary, as well as the adjacent marshes and the City's designated Preserve lands due to the Proposed Project, the Port and City will implement Mitigation Measure 4.8-6, to include the following:

- A. *Construction-related noise.*** Construction-related noise shall be limited adjacent to the Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Refuge, F & G Street Marsh, the mudflats west of the Sweetwater District, and the J Street Marsh during the general avian breeding season of January 15 to August 31. During the avian breeding season, noise levels from construction activities must not exceed 60 dB(A) Leq, or ambient noise levels if higher than 60 dB(A). The project developer(s) shall prepare and submit to the Port/City for review and approval an acoustical analysis and nesting bird survey to demonstrate that the 60 dB(A) Leq noise level is maintained at the location of any active nest within the marsh. If noise attenuation measures or modifications to construction activities are unable to reduce the noise level below 60 dB(A), either the developer(s) must immediately consult with the Service to develop a noise attenuation plan or construction in the affected areas must cease until the end of the breeding season. Because potential construction noise levels above 60 dB(A) Leq have been identified at the F & G Street Marsh, specific noise attenuation measures have been identified and are addressed in *Section 4.7* of the EIR.
- B. *Perching of raptors.*** To reduce the potential for raptors to perch within the landscaping and hunt sensitive bird species from those perches, the following design criteria shall be identified in the CVBMP master landscape plan and incorporated into all building and landscape plans with a line of site to the City's MSCP Preserve, buffer zones, and on-site open space:
- Light posts shall have anti-perching spike strips along any portions that would be accessible to raptors.
  - The top edge of buildings shall be rounded with sufficient radius to reduce the amount of suitable perching building edges.
  - If building tops are hard corners, spike strips shall be used to discourage raptors from perching and building nests.
  - Decorative eaves, ledges, or other protrusions shall be designed to discourage perching by raptors.
  - To the extent practicable, buildings on Parcels S-1 and S-4 will be oriented to reduce raptor perches within the line of sight to adjacent sensitive habitats.
- C. *Raptor management and monitoring.*** Prior to the issuance of a Coastal Development Permit, the Project developer shall prepare a raptor nest management plan to be implemented once the project is built. A biologist retained by the project developer and approved by the Port and/or City shall be responsible for monitoring the buildings and associated landscaping to determine whether raptor nests have been established on Port



or City lands within 500 feet of the Preserves. If a nest is discovered, the nest would be removed in consultation with USFWS, CDFG, and the Port/City, outside of the raptor breeding season of January 15 to July 31.

- D. *Lighting.*** The following mitigation measure is required during all phases of development to ensure that outdoor lighting throughout the project area is minimized upon any of the habitat buffers, Preserve areas, habitats, or open water.

Prior to issuance of a building permit, each applicant within the Port's or City's jurisdiction shall prepare a lighting design plan, including a photometric analysis, to be reviewed by the Port or City, as appropriate. Each plan shall include the following features, as appropriate to the specific locations:

- All exterior lighting shall be directed away from the habitat buffers, Preserve Areas, habitats, or open water, wherever feasible and consistent with public safety. Where necessary, lighting of all developed areas adjacent to the habitat buffers, Preserve Areas, habitats, or open water shall provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the habitat buffers, Preserve Areas, habitats, or open water and sensitive species from night lighting. The light structures themselves shall have shielding (and incorporate anti-raptor perching criteria); but the placement of the light structures shall also provide shielding from wildlife habitats and shall be placed in such a way as to minimize the amount of light reaching adjacent habitat buffers, Preserve Areas, habitats, or open water. This includes street lights, pedestrian and bicycle path lighting, and any recreational lighting.
- All exterior lighting immediately adjacent to habitat buffers, Preserve Areas, habitats, or open water shall be low-pressure sodium lighting or other approved equivalent.
- No sports field lights shall be planned on the recreation fields near the J Street Marsh or the Sweetwater Marsh.
- All roadways will be designed, and where necessary edges bermed, to ensure automobile light penetration in the Wildlife Habitat Areas, as defined in Mitigation Measure 4.8-7 in the FEIR, will be minimized, subject to applicable City and Port roadway design standards.
- Explicit lighting requirements to minimize impacts to Wildlife Habitat Areas will be devised and implemented for all Bayfront uses including commercial, residential, municipal, streets, recreational, and parking lots. Beacon and exterior flood lights are prohibited where they would impact a Wildlife Habitat Area and use of this lighting should be minimized throughout the project. All street and walkway lighting should be shielded to minimize sky glow.

- To the maximum extent feasible, all external lighting will be designed to minimize any impact to Wildlife Habitat Areas, and operations and maintenance conditions and procedures will be devised to ensure appropriate long-term education and control. To the maximum extent feasible, ambient light impacts to the Sweetwater or J Street Marshes will be minimized.
- In Sweetwater and Otay District parks, lighting will be limited to that which is necessary for security purposes. Security lighting will be strictly limited to that required by applicable law enforcement requirements. All lighting proposed for the Sweetwater and Otay District parks and the shoreline promenade will be placed only where needed for human safety. Lights will be placed on low-standing bollards, shielded, and flat bottomed, so the illumination is directed downward onto the walkway and does not scatter. Lighting that emits only a low-range yellow light will be used since yellow monochromatic light is not perceived as natural light by wildlife and minimized eco-disruptions. No night lighting for active sports facilities will be allowed.
- Sweetwater and Otay District parks will open and close in accordance with Port park regulations.
- Laser light shows will be prohibited.
- Construction lighting will be controlled to minimize Wildlife Habitat Area impacts.

**E. Noise.**

- **Construction Noise.** Mitigation Measure 4.8-6 and the measures outlined in *Section 4.7*, Noise in the FEIR, shall be implemented in order to reduce potential indirect construction-noise impacts to sensitive species within the F & G Street Marsh and the J Street Marsh. In order to further reduce construction noise, equipment staging areas shall be centered away from the edges of the project, and construction equipment shall be maintained regularly and muffled appropriately. In addition, construction noise must be controlled to minimize impacts to Wildlife Habitat Areas.
- **Operational Noise.** Noise levels from loading and unloading areas; rooftop heating, ventilation, and air conditioning facilities; and other noise-generating operational equipment shall not exceed 60 dB(A) Leq. at the boundaries of the F & G Street Marsh and the J Street Marsh during the typical breeding season of January 15 to August 31.
- **Fireworks.** A maximum of three (3) fireworks events can be held per year, all outside of Least Tern nesting season except 4<sup>th</sup> of July, which may be allowed if in full regulatory compliance and if the nesting colonies are monitored during the event and

any impacts reported to the Wildlife Advisory Committee so they can be addressed. All shows must comply with all applicable water quality and species protection regulations. All shows must be consistent with policies, goals, and objectives in the Natural Resource Management Plan (NRMP), described in Mitigation Measure 4.8-7.

- F. *Invasives.*** All exterior landscaping plans shall be submitted to the Port or City, as appropriate, for review and approval to ensure that no plants listed on the California Invasive Plant Council (Cal-IPC) List of Exotic Pest Plants of Greatest Ecological Concern in California (*Appendix 4.8-7* of this Final EIR), the California Invasive Plant Database, Appendix N of the City's MSCP Subarea Plan, or any related updates shall be used in the Proposed Project area. Any such invasive plant species that establishes itself within the Proposed Project area will be removed immediately to the maximum extent feasible and in a manner adequate to protect further distribution into Wildlife Habitat Areas.

The following landscape guidelines will apply to the Proposed Project area:

- Only designated native plants will be used in No Touch Buffer Areas, habitat restoration areas, or in the limited and transitional zones of Parcel SP-1 adjacent to Wildlife Habitat Areas.
- Non-native plants will be prohibited adjacent to Wildlife Habitat Areas and will be strongly discouraged and minimized elsewhere where they will provide breeding of undesired scavengers.
- Landscaping plans for development projects adjacent to ecological buffers and/or the MSCP Preserve shall include native plants that are compatible with native vegetation located with the ecological buffers and/or MSCP Preserve.
- No trees will be planted in the No Touch Buffer Areas or directly adjacent to a National Wildlife Refuge, J Street Marsh, or SP-2 areas where there is no Buffer Area.

- G. *Toxic Substances and Drainage.*** Implementation of general water quality measures outlined in Mitigation Measures 4.5-2 through 4.5-4, identified in *Section 4.5, Hydrology/Water Quality* of the FEIR, would reduce impacts associated with the release of toxins, chemicals, petroleum products, and other elements that might degrade or harm the natural environment to below a level that is significant, and would provide benefits to wetland habitats. As a reference, these mitigation measures are repeated below and apply to the Port and City:

#### 4.0 FINDINGS REGARDING DIRECT IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

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If contaminated groundwater is encountered, the project developer shall treat and/or dispose of the contaminated groundwater (at the developer's expense) in accordance with NPDES permitting requirements, which include obtaining a permit from the Industrial Wastewater Control Program to the satisfaction of the RWQCB. The project developer(s) shall demonstrate satisfaction of all permit requirements prior to issuance of a grading permit.

Prior to the discharge of contaminated groundwater for all construction activities, should flammables, corrosives, hazardous wastes, poisonous substances, greases and oils, and other pollutants exist on site, a pre-treatment system shall be installed to pre-treat the water to the satisfaction of the RWQCB before it can be discharged into the sewer system.

Prior to the issuance of a grading, excavation, dredge/fill, or building permit for any parcel, the applicant shall submit a Spill Prevention/Contingency Plan for approval by the Port or City as appropriate. The plan shall:

- Ensure that hazardous or potentially hazardous materials (e.g., cement, lubricants, solvents, fuels, other refined petroleum hydrocarbon products, wash water, raw sewage) that are used or generated during the construction and operation of any project as part of the Proposed Project shall be handled, stored, used, and disposed of in accordance with NPDES permitting requirements and applicable federal, state, and local policies
- Include material safety data sheets
- Require 40 hours of worker training and education as required by the Occupational Safety and Health Administration
- Minimize the volume of hazardous or potentially hazardous materials stored at the site at any one time
- Provide secured storage areas for compatible materials, with adequate spill contaminant
- Maintain all required records, manifest and other tracking information in an up-to-date and accessible form or location for review by the Port or City
- Demonstrate compliance with all local, state, and federal regulations regarding hazardous materials and emergency response.

Prior to issuance of a permit by USACE for dredge and/or fill operations in the Bay or Chula Vista Harbor, the applicant shall conduct a focused sediment investigation and submit it to USACE, EPA, and RWQCB for review and approval. The applicant shall

then determine the amount of bay sediment that requires remediation and develop a specific work plan to remediate bay sediments in accordance with permitting requirements of the RWQCB. The work plan shall include but not be limited to dredging the sediment, analyzing the nature and extent of any contamination, and allowing it to drain. Pending the outcome of the analytical results, the RWQCB and the Port shall prescribe the appropriate method for disposal of any contaminated sediment.

Prior to issuance of a grading permit for marina redevelopment on Parcels HW-1 and HW-4, the developer shall submit a work plan for approval by the RWQCB and Port/City that requires the implementation of BMPs, including the use of silt curtains during in-water construction to minimize sediment disturbances and confine potentially contaminated sediment if contaminated sediment exists. If a silt curtain should be necessary, the silt curtain shall be anchored along the ocean floor with weights (i.e., a chain) and anchored to the top with a floating chain of buoys. The curtain shall wrap around the area of disturbance to prevent turbidity from traveling outside the immediate Project area. Once the impacted region resettles, the curtains shall be removed. If the sediment would be suitable for ocean disposal, no silt curtain shall be required. However, if contaminants are actually present, the applicant would be required to provide to the RWQCB and Port/City an evaluation showing that the sediment would be suitable for ocean disposal.

In addition, the following measures will apply:

- Vegetation-based storm water treatment facilities, such as natural berms, swales, and detention areas are appropriate uses for Buffer Areas so long as they are designed using native plant species and serve dual functions as habitat areas. Provisions for access for non-destructive maintenance and removal of litter and excess sediment will be integrated into these facilities. In areas that provide for the natural treatment of runoff, cattails, bulrush, mulefat, willow, and the like are permissible.
- Storm water and non-point source urban runoff into Wildlife Habitat Areas must be monitored and managed so as to prevent unwanted ecotype conversion or weed invasion. A plan to address the occurrence of any erosion or type conversion will be developed and implemented, if necessary. Monitoring will include an assessment of stream bed scouring and habitat degradation, sediment accumulation, shoreline erosion and stream bed widening, loss of aquatic species, and decreased base flow.
- The use of persistent pesticides or fertilizers in landscaping that drains into Wildlife Habitat Areas is prohibited. Integrated Pest Management must be used in all outdoor, public, buffer, habitat, and park areas.

- Fine trash filters (as approved by the agency having jurisdiction over the storm drain) are required for all storm drain pipes that discharge toward Wildlife Habitat Areas.

**H. Public Access.** In addition to site-specific measures designed to prevent or minimize the impact to adjacent open space preserve areas from humans and domestic animals, the following would prevent or minimize the impact to adjacent open space preserve areas from humans and domestic animals.

**Buffers.** All buffers shall be established and maintained by the Port/City. Appropriate signage will be provided at the boundary and within the buffer area to restrict public access. Within the western 200-foot width of Parcel SP-1, a portion of the buffer areas would be re-contoured and restored to provide habitat consistent with the native vegetation communities in the adjacent open space preserve areas and to provide mitigation opportunities for project impacts. *Appendix 4.8-8* in the FEIR provides more specific detail of the mitigation opportunities available within the buffer area included within the Proposed Project. *Table 4.8-5* provides a breakdown of the available maximum mitigation acreage that is available within the buffer. *Figure 4.8-23* depicts the conceptual mitigation opportunities within the Sweetwater District. *Figures 4.8-24* and *4.8-25* display the cross section of the buffer zones in the Sweetwater District indicated on the conceptual illustration. *Figure 4.8-26* depicts the conceptual mitigation opportunities within the Otay District. The proposed restoration includes creating and restoring coastal salt marsh and creating riparian scrub vegetation communities. In addition, the coastal brackish marsh, disturbed riparian habitat, and wetland would be enhanced.

The first 200 feet of buffer areas adjacent to sensitive habitats, or full width in the case of reduced buffer areas, will be maintained as a “no touch” buffer and will not contain any trails or overlooks. Contiguous fencing, consisting of a 6-foot-high vinyl-coated chain link fence will be installed within the buffer area to prevent unauthorized access. Fencing in Parcel SP-1 will be installed prior to occupancy of the first buildings constructed in Phase I. District enforcement personnel will patrol these areas and be trained in the importance of preventing human and domestic animal encroachment in these areas. In addition, signs will be installed adjacent to these sensitive areas that provide contact information for the Harbor Police to report trespassing within the sensitive areas.

Impacts to disturbed coastal sage scrub would be mitigated by the restoration of a coastal sage scrub/native grassland habitat also within this buffer. There is the potential to provide a maximum of 20.71 acres of mitigation credit for impacts to wetland habitats and 22.21 acres for impacts to upland habitats. This would exceed the required mitigation needed for impacts within the Port’s and City’s jurisdiction.

A detailed coastal sage scrub (CSS) and maritime succulent scrub (MSS) restoration plan that describes the vegetation to be planted shall be prepared by a Port- or City-approved biologist and approved by the Port or City, as appropriate. The City or Port shall develop guidelines for restoration in consultation with USFWS and CDFG.

The restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish success criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions are expected. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months from the date the report is submitted.

The project developer(s) shall be responsible for implementing the proposed mitigation measures and ensuring that the success criteria are met and approved by the City or Port, as appropriate, and other regulatory agencies, as may be required.

##### ***Strategic Fencing***

- *Temporary Fencing.* Prior to issuance of any clearing and grubbing or grading permits, temporary orange fencing shall be installed around sensitive biological resources on the project site that will not be impacted by the Proposed Project. Silt fencing shall also be installed along the edge of the SDBNWR during grading within the western portion of the ecological buffer. In addition, the applicant must retain a qualified biologist to monitor the installation and ongoing maintenance of this temporary fencing adjacent to all sensitive habitats. This fencing shall be shown on both grading and landscape plans, and installation and maintenance of the fencing shall be verified by the Port's or City's Mitigation Monitor, as appropriate.
- *Permanent Fencing.* Prior to approval of landscape plans, a conceptual site plan or fencing plan shall be submitted to the Port or City, as appropriate, for review and approval to ensure areas designated as sensitive habitat are not impacted. Fencing shall be provided within the buffer area only, and not in sensitive habitat areas.

***Domestic Animals.*** In all areas of the Chula Vista Bayfront, especially on the foot path adjacent to the marsh on the Sweetwater District property, mandatory leash laws shall be

enforced. Appropriate signage shall be posted indicating human and domestic animal access is prohibited within the designated Preserve areas.

**Trash.** Illegal dumping and littering shall be prohibited within the Preserve areas. Throughout the Proposed Project site, easily accessible trash cans and recycling bins shall be placed along all walking and bike paths, and shop walkways. These trash cans shall be “animal-proof” and have self-closing lids to discourage scavenger animals from foraging in the cans. The trash cans shall be emptied daily or more often if required during high use periods. Buildings and stores shall have large dumpsters in a courtyard or carport that is bermed and enclosed. This ensures that, if stray trash falls to the ground during collection, it does not blow into the Bay or marshes.

**Training.** Pursuant to permitting requirements of the Resource Agencies, pre-construction meetings will take place with all personnel involved with the project, to include training about the sensitive resources in the area.

**I. Boating Impacts.** All boating, human, and pet intrusion must be kept away from F & G Street channel mouth and marsh.

- Water areas must be managed with enforceable boating restrictions. The Port will exercise diligent and good faith efforts to enter into a cooperative agreement with the Resource Agencies and Coast Guard to ensure monitoring and enforcement of no-boating zones and speed limit restrictions to prevent wildlife disturbances.
- No boating will be allowed in the vicinity of the J Street Marsh or east of the navigation channel in the Sweetwater District during the fall and spring migration and during the winter season when flocks of birds are present.
- All rentals of jet-skis and other motorized personal watercraft (PWCs), as defined in Harbors and Navigations Code Section 651(s), will be prohibited in the Proposed Project area.
- Use of PWCs will be prohibited in Wildlife Habitat Areas, subject to applicable laws.
- A five (5) mile per hour speed limit will be enforced in areas other than the navigation channels.
- Nothing in this mitigation measure shall preclude bona fide research, law enforcement, or emergency activities.

Furthermore, Mitigation Measure 4.8-7 is intended to provide additional measures to reduce the indirect impacts to biological resources addressed in and reduce to below a level of significance by Mitigation Measure 4.8-6. These additional measures provide for the



creation, implementation, funding, and enforcement of a Natural Resources Management Plan (NRMP), good faith efforts to enter into a cooperative management agreement with the USFWS or other appropriate agency or organization, restoration priorities, the creation of a South Bay Wildlife Advisory Group, and education, as follows:

**A. Natural Resources Management Plan:** In recognition of the sensitivity of the natural resources and the importance of protection, restoration, management and enforcement in protecting those resources, the Port, City and RDA will cause an NRMP to be prepared in accordance with this mitigation measure. The NRMP will be designed to achieve the Management Objectives (defined below) for the Wildlife Habitat Areas (defined below). The NRMP will be an adaptive management plan, reviewed and amended as necessary by the Port and City in compliance with the process described in Section 4.8-7D of this measure.

a. *“Wildlife Habitat Areas”* are defined as:

- i. All National Wildlife refuge lands, currently designated and designated in the future, in the South San Diego Bay and Sweetwater Marsh National Wildlife Refuge Units. National Wildlife Refuge lands are included in the definition of Wildlife Habitat Areas for the sole purpose of addressing adjacency impacts and not for the purpose of imposing affirmative resource management obligations with respect to the areas within the National Wildlife Refuge lands.
- ii. All Port designated lands and open water areas in the Conservation Land Use Designations of Wetlands, Estuary, and Habitat Replacement as depicted in the Draft Precise Plan for Planning District 7.
- iii. Parcels 1g and 2a from the City’s Bayfront Specific Plan.
- iv. The Wildlife Habitat Areas are depicted on Exhibit 1 to the MMRP.
- v. No Touch Buffer areas as depicted on Exhibit 2 to the MMRP.

b. *NRMP Management Objectives for Wildlife Habitat Areas:* Taking into consideration the potential changes in functionality of Wildlife Habitat Areas due to rising sea levels, the NRMP will promote, at a minimum, the following objectives (Management Objectives) for the Wildlife Habitat Areas:

- i. Long-term protection, conservation, monitoring, and enhancement of:
  1. Wetland habitat, with regard to gross acreage as well as ecosystem structure, function, and value.
  2. Coastal sage and coastal strand vegetation.

3. Upland natural resources for their inherent ecological values, as well as their roles as buffers to more sensitive adjacent wetlands. Upland areas in the Sweetwater and Otay Districts will be adaptively managed to provide additional habitat or protection to create appropriate transitional habitat during periods of high tide, taking into account future sea level rise.
  - ii. Preservation of the biological function of all Bayfront habitats serving as avifauna for breeding, wintering, and migratory rest stop uses.
  - iii. Protection of nesting, foraging, and rafting wildlife from disturbance.
  - iv. Avoidance of actions within the Proposed Project area that would adversely impact or degrade water quality in San Diego Bay or watershed areas or impair efforts of other entities for protection of the watershed.
  - v. Maintenance and improvement of water quality where possible and coordination with other entities charged with watershed protection activities.
- c. *Implementation of NRMP Management Objectives:* NRMP will include a plan for achieving Management Objectives as they related to the Buffer Areas and Wildlife Habitat Areas and the Proposed Project area, which will:
- i. Ensure the Port, City, and RDA are not required to expend funds for NRMP implementation until project-related revenues are identified and impacts initiated.
  - ii. Require coordination with the Resource Agencies of the Port's City's and Resource Agencies' respective obligations with respect to the Buffer Areas and Wildlife Habitat Areas.
  - iii. Designate "No Touch" Buffer Areas as that term is defined and described in the FEIR. Such areas will contain contiguous fencing designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g., dogs, cats, skunks, opossums and other small terrestrial animals [collectively, "Predators"]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be at a minimum 6-foot-high, black vinyl chain link fence or other suitable barrier (built to the specifications described in the FEIR). Fence design may include appropriate locked access points for maintenance and other necessary functions. Installation of the fence will include land contouring to minimize visual impacts of the fence. The installation of such fencing in the Sweetwater and Harbor Districts must be completed prior to the issuance of Certificates of Occupancy for development projects on either Parcel H-3 or H-23 and in conjunction with the development or road improvements in the Sweetwater District, with the exception of Parcel S-4 which will retain the

existing fencing until that parcel is redeveloped and the fencing of the No-Touch buffer installed.

- iv. Prohibit active recreation, construction of any road (whether paved or not), within No Touch Buffer Areas, Limited Use Buffer Areas, and Transition Buffer Areas as that term is defined and described in the FEIR, with the exception of existing or necessary access points for required maintenance.
  - v. Result in the fencing of No Touch Buffer Areas including, without limitation, fencing necessary to protect the Sweetwater Marsh and the Sweetwater parcel tidal flats, the J Street Marsh next to the San Diego Bay Refuge and the north side of Parcel H-3.
  - vi. Include additional controls and strategies restricting movement of humans and Predators into sensitive areas beyond the boundaries of the designated Buffer Areas.
  - vii. Require the Recreational Vehicle Park to install fencing or other barriers sufficient to prevent passage of Predators and humans into sensitive adjacent habitat.
  - viii. Require all dogs to be leashed in all areas of the Proposed Project at all times except in any designated and controlled off-leash areas.
  - ix. Impose and enforce restrictions on all residential development to keep cats and dogs indoors or on leashes at all times. Residential developments will be required to provide education to owners and/or renters regarding the rules and restrictions regarding the keeping of pets.
- d. *Walkway and Path Design:* Detail conditions and controls applicable to the walkways, paths, and overlooks near Wildlife Habitat Areas and outside of the No Touch Buffer Areas in accordance with the following:
- i. Alignment, design, and general construction plans of walkways and overlooks will be developed to minimize potential impacts to Wildlife Habitat Areas.
  - ii. Path routes will be sited with appropriate setbacks from Wildlife Habitat Areas.
  - iii. Paths running parallel to shore or marsh areas that will cause or contribute to bird flushing will be minimized throughout the Proposed Project.
  - iv. Walkways and overlooks will be designed to minimize and eliminate, where possible, perching opportunities for raptors and shelter for skunks, opossums, or other Predators.
  - v. Walkways and overlooks that approach sensitive areas must be blinded, raised, or otherwise screened so that birds are not flushed or frightened. In general,

walkway and overlook designs will minimize visual impacts on the Wildlife Habitat Areas of people on the walkways.

- e. *Predator Management:* The NRMP will include provisions designed to manage Predator impacts on Wildlife Habitat Areas, which will include and comply with the following:
  - i. Year-round Predator management will be implemented for the life of the Proposed Project with clearly delineated roles and responsibilities for the Port, City and Resources Agencies. The primary objective of such provisions will be to adequately protect terns, rails, plovers, shorebirds, over-wintering species, and other species of high management priority as determined by the Resource Agencies.
  - ii. Predator management will include regular foot patrols and utilize tracking techniques to find and remove domestic or feral animals.
  - iii. Address Predator attraction and trash management for all areas of the Proposed Project by identifying clear management measures and restrictions. Examples of the foregoing include design of trash containers, including those in park areas and commercial dumpsters, to be covered and self-closing at all times, design of containment systems to prevent access by sea gulls, rats, crows, pigeons, skunks, opossums, raccoons, and similar animals and adequate and frequent servicing of trash receptacles.
  - iv. All buildings, signage, walkways, overlooks, light standards, roofs, balconies, ledges, and other structures that could provide line of sight views of Wildlife Habitat Areas will be designed in a manner to discourage their use as raptor perches or nests.
- f. *Miscellaneous Additional Requirements of the NRMP:* In addition to the standards described above, the NRMP will include:
  - i. All elements which address natural resource protection in the MMRP including but not limited to those which assign responsibility and timing for implementing mitigation measures consistent with the City's MSCP Subarea Plan;
  - ii. Pertinent sections of the MSCP Subarea Plan;
  - iii. References to existing Port policies and practices, such as Predator management programs and daily trash collections with public areas and increase service during special events.
  - iv. Establishment of design guidelines to address adjacency impacts, such as storm water, landscape design, light and noise and objectives, as discussed below;

- v. Establishment of baseline conditions and management objectives; and
  - vi. Habitat enhancement objectives and priorities.
- g. *Creation, Periodic Review, and Amendment of the NRMP*: The NRMP will be a natural resource adaptive management and monitoring plan initially prepared in consultation with the Wildlife Advisory Group, and reviewed and amended in further consultation with the Wildlife Advisory Group one year following adoption of the NRMP and annually thereafter for the first five (5) years after adoption, after which it will be reviewed and amended as necessary every other year for the first 6 years, then once every 5 years thereafter. If the RCC is not pursued in the first five (5) years after certification of the FEIR, this schedule will be amended to ensure that NRMP is evaluated every year for five years after the development of the RCC. The periodic review of the NRMP described in the preceding sentences is hereinafter called "Periodic Review." A material revision of the NRMP is hereinafter called an "NRMP Amendment". However, nothing in this schedule will be interpreted to preclude a speedy response or revision to the NRMP if necessary to abate an emergency condition or to accommodate relevant new information or necessary management practices consistent with the NRMP management objectives. Preparation of the NRMP will begin within six months of the filing of the Notice of Determination for the Final EIR by the Port and will be completed prior to the earlier of: (a) Development Commencement; (b) issuance of a Certificate of Occupancy for the residential development; or (c) three years. The adaptive management components of the NRMP Periodic Review will address, among other things, monitoring of impacts of development as it occurs and monitoring the efficacy of water quality improvement projects (if applicable) and management and restoration actions needed for resource protection, resource threats, management (i.e., sea-level rise, trash, window bird strikes, lighting impacts, bird flushing, water quality, fireworks, human-wildlife interface, education and interpretation programs, public access, involvement, and use plan, management of the human-wildlife interface, wildlife issues related to facilities, trails, roads, overlooks planning, and watershed coordination), and other issues affecting achievement of NRMP Management Objectives.
- i. The Port and City will cause the preparation, consideration negotiation and approval of the NRMP including, staff and administrative oversight and engagement of such consultants as are reasonable and necessary for their completion, approval and amendment in accordance with this mitigation measure.
  - ii. The Port and City will each provide a written notice of adoption to the Wildlife Advisory Group upon their respective approval of the NRMP.

- h. *Dispute Resolution For Plan Creation And Amendment.* The NRMP and any material amendments to the NRMP will require submission, review, and approval by the CCC after final adoption by the Port and City. Nonetheless, the participants would benefit if the NRMP is developed through a meaningful stakeholder process providing for the resolution of as many disagreements as possible prior to NRMP submission to the CCC. This section provides a process by which the Coalition can participate in the creation and amendment of the NRMP.
- i. Plan Creation and Amendment. Where this mitigation measure contemplates the creation of the NRMP following the Effective Date or an NRMP Amendment, this section will provide a non-exclusive mechanism for resolution of disputes concerning the content of the NRMP and such NRMP Amendments. The standard of review and burden of proof for any disputes arising hereunder shall be the same as those under the California Environmental Quality Act.
1. Plan Creation and Amendment Informal Negotiations. Any dispute that arises with respect to the creation or amendment of the NRMP will in the first instance be the subject of informal negotiations between the parties to the dispute. A dispute will be considered to have arisen when one (1) party (the "Disputing Party") sends the other party a written Notice of Dispute. During the informal negotiations, the Disputing Party will identify in writing and with specificity the issue, standard, or proposed requirement which is the subject of the dispute (the "Notice of Dispute"). The period for informal negotiations will not exceed thirty (30) days from the date the Notice of Dispute is received.
  2. Plan Creation and Amendment Formal Dispute Resolution, Phase I. In the event the Parties cannot resolve a dispute by informal negotiations, the Disputing Party may invoke formal dispute resolution procedures by providing the other parties a written statement of position on the matter in dispute, including, but not limited to, any facts, data, analysis or opinion supporting that position and any supporting documentation relied upon by the Disputing Party (the "Position Statement"). The Position Statement must be transmitted (via electronic mail or verifiable post) within thirty (30) days of the end of informal negotiations, and will be provided to the other parties and to each member of the Wildlife Advisory Group. If informal negotiations are unsuccessful, and the Disputing Party does not invoke formal dispute resolution within thirty (30) days, the position held by the Port, City or Agency (the respective public agency involved in such dispute is hereinafter called "Managing Agency") will be binding on the Disputing Party, subject to submission, review, and approval by the CCC.

- a. The other parties will submit their position statements (“Opposition Statements”), including facts, data, analysis or opinion in support thereof, to the Disputing Party and the Wildlife Advisory Group members within thirty (30) days of transmission of the Position Statement.
  - b. Within twenty-one (21) days after transmission of the Opposition Statement(s), the Wildlife Advisory Group will convene, consider and, within a reasonable period of time thereafter, render its proposed resolution of the dispute. The Wildlife Advisory Group’s decision will not be binding upon the Disputing Party, but rather, will be considered purely advisory in nature. The proposed resolution of the Wildlife Advisory Group will be that comprehensive recommendation supported by a majority of Wildlife Advisory Group members after vote, with each member entitled to one vote. The Wildlife Advisory Group’s proposal will be transmitted to all parties by an appointed Wildlife Advisory Group member via electronic mail.
3. Plan Creation and Amendment Formal Dispute Resolution, Phase I: If any party does not accept the advisory decision of the Wildlife Advisory Group, it must invoke the second phase of formal dispute resolution by presenting the dispute to the governing board (“Governing Board”) of the Managing Agency (i.e., Board of Port Commissioners or City Council). This phase of the dispute resolution process is initiated by such party providing written notice to the other parties within thirty (30) days of receipt of the Wildlife Advisory Group proposal (“MA Notice”). The MA Notice will include the Position Statement, Opposition Statement, the Wildlife Advisory Group proposal, and any other information such party desires to include. Any supplement to the Opposition Statement will be filed with the Managing Agency within fourteen (14) days. The Governing Board of the Managing Agency will review the transmitted information and within sixty (60) days from receipt of the MA Notice will schedule a public hearing to consider the dispute and within ten (10) days of such public hearing, render a decision. The decision of the Governing Board of the Managing Agency will be final and binding on the Managing Agency but will not bind the members of the Coalition. If the members of the Coalition accept the decision of the Governing Board of the Managing Agency, the decision will dictate the manner in which the dispute is resolved in the NRMP or amendment to the NRMP. Nothing herein will preclude such party from publicly opposing or supporting the Governing Board’s decision before the CCC.

- i. *Dispute Resolution Regarding NRMP Implementation and Enforcement.* Once the CCC approves the NRMP or any NRMP Amendment, the Governing Board will issue a Notice of Adoption with respect to the NRMP or NRMP amendment. Once a Notice of Adoption is issued with respect to the NRMP or NRMP Amendment, this section will be the exclusive mechanism for the parties to resolve disputes arising under, or with respect to implementation or enforcement of, the NRMP including when the NRMP is reviewed during an Adaptive Management Review or Periodic Review and such review does not require an NRMP Amendment. This provision will not be used to challenge the adequacy of the NRMP or an NRMP Amendment after the issuance of a Notice of Adoption with respect thereto. The standard of review and burden of proof for any disputes arising hereunder shall be the same as those under CEQA.
  - i. *Plan Enforcement Informal Negotiations.* Any dispute that arises with respect to implementation or enforcement of the NRMP will in the first instance be the subject of informal negotiations between the parties to the dispute. A dispute will be considered to have arisen when one Disputing Party sends the other party a written Notice of Dispute. During the informal negotiations, the Disputing Party will send a written Notice of Dispute to the other parties specifying the aspect of the NRMP it believes is not being implemented properly and the way in which the Disputing Party believes the NRMP should be implemented according to its terms (the "Notice of Dispute"). The period for informal negotiations will not exceed forty-five (45) days from the date such Notice of Dispute is received.
  - ii. *Plan Enforcement Formal Dispute Resolution, Phase I.* In the event the Parties cannot resolve a dispute by informal negotiations under the preceding section, the Disputing Party may invoke a formal dispute resolution procedure by presenting the dispute to the Governing Board of the Managing Agency by providing the other parties a written statement of position on the matter in dispute, including, but not limited to, any facts, data, analysis or opinion supporting that position and any supporting documentation relied upon by the Disputing Party (the "Position Statement"). The Position Statement must be transmitted (via electronic mail or verifiable post) within thirty (30) days of the end of informal negotiations, and will be provided to the other parties, to each member of the Wildlife Advisory Group. If informal negotiations are unsuccessful, and the Disputing Party does not invoke formal dispute resolution within thirty (30) days, the Managing Agency's position will be binding on the Disputing Party subject to any periodic review and/or approval by the CCC, if required by law.
    1. The other parties will submit their position statements ("Opposition Statements"), including facts, data, analysis, or opinion in support thereof, to the Disputing Party, the Wildlife Advisory Group members, and the



Governing Board within thirty (30) days of transmission of the Position Statement.

2. Within forty-five (45) days after transmission of the Opposition Statement(s), the Disputing Party will provide a written notice ("MA II Notice") to the other parties, the Wildlife Advisory Group and the Governing Board. The MA II Notice will include the Position Statement, Opposition Statement, the Wildlife Advisory Group proposal, and any other information the Disputing Party desires to include. Any supplement to the Opposition Statement will be filed with the Managing Agency within fourteen (14) days following receipt of the MA II Notice. The Governing Board will review the transmitted information and within sixty (60) days from receipt of the MA II Notice will schedule a public hearing to consider the dispute and within ten (10) days of such public hearing, render a decision. The decision of the Governing Board will be final and binding on the Managing Agency but will not bind the members of Coalition. If the members of the Coalition accept the decision of the Governing Board of the Managing Agency, the decision will dictate the manner in which the dispute is resolved in the NRMP. If any member of the Coalition disagrees with the decision of the Governing Board, it shall have the right to seek a petition for writ of mandate from the Superior Court of California, San Diego Division.

- iii. Waiver of Defense. To the extent permitted by law, the Port, City and RDA agree that lack of funds shall not be a defense to any claim of failure to adequately fund implementation and enforcement of the adopted NRMP.

#### **B. Additional Habitat Management and Protection**

- a. The Port will exercise diligent and good faith efforts to enter into the following cooperative agreements with the USFWS or other appropriate agency or organization:
  - i. An agreement providing for the long-term protection and management of the sensitive biological habitat running north from the South Bay Boatyard to the Sweetwater River Channel (known as the Sweetwater Tidal Flats) and addressing educational signage, long-term maintenance, and additional protection measures such as increased monitoring and enforcement, shared jurisdiction and enforcement by District personnel with legal authority to enforce applicable rules and regulations ("District Enforcement Personnel"), shared jurisdiction and enforcement by District Enforcement Personnel and other appropriate Resource Agencies of resource regulations by Harbor Police and other appropriate Resource Agencies, and placement of enforcement signage. Subject to the cooperation of the applicable Resource Agency, such cooperative agreement will

be executed prior to the Development Commencement of any projects subject to Port's jurisdiction within the Sweetwater or Harbor Districts.

- ii. An agreement for the long-term protection and management of the J Street Marsh and addressing additional protective measures such as educational signage, long-term maintenance, and monitoring and enforcement by District Enforcement Personnel, shared jurisdiction and enforcement of resource regulations by District Enforcement Personnel and other Resource Agencies, and placement of enforcement signage. Subject to the cooperation of the applicable Resource Agency, such cooperative agreement will be executed prior to the Development Commencement within the Otay District.
  - iii. If either of the cooperative agreements contemplated above are not achievable within three (3) years after Final EIR certification, the Port will develop and pursue another mechanism that provides long-term additional protection and natural resource management for these areas.
- b. The Port will include an analysis of the appropriate level and method for wetland and marine life habitat restoration of the intake/discharge channels associated with the South Bay Power Plant in the environmental review document for the demolition of the South Bay Power Plant.
- c. As a future and separate project, the Port will investigate, in consultation with the USFWS, the feasibility of restoring an ecologically meaningful tidal connection between the F & G Street Marsh and the upland marsh on parcel SP-2 consistent with USFWS restoration concepts for the area. At a minimum, the investigation will assess the biological value of tidal influence, the presence of hazardous materials, necessary physical improvements to achieve desired results, permitting requirements, and funding opportunities for establishing the tidal connection. This investigation will be completed prior to the initiation of any physical alteration of SP-2, F Street, and/or the F & G Street Marsh. In addition, once emergency access to the Proposed Project area has been adequately established such that F Street is no longer needed for public right-of-way for vehicular use, but may reserve it for pedestrian and bicycle use if ecologically appropriate.

**C. Restoration Priorities:** The following will supplement the description of the conceptual mitigation opportunities in the Final EIR (including Appendix 4.8-8 Mitigation Opportunities). The following restoration priorities will not be included in the NRMP but rather will be applicable (i) if and only to the extent that Port or City are required to restore degraded habitat in accordance with the terms of the MMRP or (ii) to establish priorities for Port's pursuit of grant funding.

- a. Restoration priorities for the Proposed Project are those mitigation opportunities in the Final EIR as depicted in the conceptual mitigation opportunities (Figures 4.8-23 and 4.8-26) and the projects located in the South Bay in the Port's Adopted Restoration and Enhancement Plan.
  - b. With the exception of the restoration described in Section (d) below, shoreline/marsh interface restorations in the Sweetwater and Otay Districts should be natural and gradually sloped and planted with salt marsh and upland transition plants in a manner that will stabilize the bank without the need for additional riprap areas. Upland slopes should be contoured to provide a very gentle grade so as to maximize tidal elevation of mudflats, salt marsh habitat and upland transition areas. This area should be wide enough to encourage or allow wildlife to move between the Sweetwater Marsh and the F & G Marsh and between the J Street and the South San Diego Bay Unit of the NWR. The shoreline should be improved and restored to facilitate a more effective upland refuge area for species during high tides and to accommodate the impacts from global sea rise.
  - c. The Telegraph Creek should be improved to be a more natural channel as part of the redevelopment of the Otay District. Efforts to naturalize and revegetate the creek will be maximized as is consistent with its function as a storm water conveyance.
  - d. The Port will perform an analysis of the appropriate level and method for environmental restoration of the intake/discharge channels associated with the South Bay Power Plan in the environmental review document for the demolition of the power plant.
- D. South Bay Wildlife Advisory Group:** A South Bay Wildlife Advisory Group ("Wildlife Advisory Group") will be formed to advise the Port and City in the creation of the NRMP, cooperative management agreements, Adaptive Management Review (defined below) and any related wildlife management and restoration plans or prioritizations. The Wildlife Advisory Group will also address management issues and options for resolution. The Wildlife Advisory Group will initiate and support funding requests to the Port and City, identify priorities for use of these funds and engage in partnering, education, and volunteerism to support the development of the Proposed Project in a manner that effectively protects and enhances the fish, wildlife, and habitats of the area and educates and engages the public.
- a. Port and City will provide such administrative and staff support to the Wildlife Advisory Group as is necessary to perform the functions and achieve the goals described herein.
  - b. The Wildlife Advisory Group will be comprised of the following: one (1) representative from each the Environmental Health Coalition, San Diego Audubon

Society, San Diego Coastkeeper, Coastal Environmental Rights Foundation, Southwest Wetlands Interpretative Association, Surfrider Foundation (San Diego Chapter), and Empower San Diego; two (2) representatives from the Chula Vista Natural Center (one from educational programs and one from programs/operations); up to three (3) representatives from major developers or tenants with projects in the CVBMP (including one from Pacifica Companies, which on completion, may be succeeded by a representative of its homeowner association); one (1) representative from the City's Resource Conservation Commission; one (1) from either Harborside or Mueller elementary school or the School District; Western and Eastern Chula Vista residents selected by the City (one from Northwest one from the Southwest and one from east of I-805); one (1) representative from eco-tourism based business; two (2) individuals appointed by Port; and 6 representatives from Resources Agencies (two from the USFWS, one from Refuges and one from Endangered Species and one (1) each from California Department of Fish and Game, National Marine Fisheries Service, Regional Water Quality Control Board and CCC).

- c. The Wildlife Advisory Group will meet as needed, but at a minimum of every six months for the first ten (10) years and annually thereafter. The Wildlife Advisory Group will be formed within six months of the filing of the Notice of Determination for the FEIR by the Port.
- d. The Wildlife Advisory Group will meet at the intervals described above to review the NRMP to: (i) determine the effectiveness of the NRMP in achieving the Management Objectives; (ii) identify any changes or adjustments to the NRMP required to better achieve the Management Objectives; (iii) identify any changes or adjustments to the NRMP required to respond to changes in the man-made and natural environments that are affecting or, with the passage of time may affect, the effectiveness of the NRMP in achieving the Management Objectives; and (iv) review priorities relative to available funding. At its periodic meetings, the Wildlife Advisory Group may also consider and make recommendations regarding (x) implementation of the NRMP as needed, (y) Adaptive Management Review and (z) NRMP Amendments.
- e. The Wildlife Advisory Group will advise the joint powers authority (JPA) on the expenditure of the Community Benefits Fund, subject to the applicable law.

**E. Education:** An environmental education program will be developed and implemented and will include the following:

- a. The program will continue for the duration of the Proposed Project and will target both residential and commercial uses as well as park visitors.
- b. The program's primary objective will be to educate Bayfront residents, visitors, tenants and workers about the natural condition of the Bay, the ecological importance

of the Proposed Project area and the public's role in the restoration and protection of wildlife resources of the Bay.

- c. The program will include educational signage, regular seminars and interpretive walks on the natural history and resources of the area, regular stewardship events for volunteers (shoreline and beach cleanups, exotic plant removal, etc.).
- d. Adequate annual funding for personnel or contractor/consultant and overhead to ensure implementation of the following functions and activities in collaboration with the Chula Vista Nature Center or USFWS:
  - i. Coordination of Volunteer programs and events;
  - ii. Coordination of Interpretive and educational programs;
  - iii. Coordination of Tenant, resident and visitor educational programs;
  - iv. Docent educational; and
  - v. Enhancements and restoration.

**F. Personnel and Funding:** Funding for the implementation of the NRMP will be provided by the Port, City and RDA. To meet these obligations, the Port, City and RDA will commit revenues or otherwise provide funding to a JPA formed pursuant to the California Marks-Roos Act, Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code. Port, City and RDA will ensure the JPA is specifically charged to treat the financial requirements of this Agreement as priority expenditures that must be assured as project-related revenues are identified and impacts initiated. The Port, City and RDA expressly acknowledge the funding commitments contemplated herein will include, but not be limited to, funding for personnel and overhead or contractor(s)/consultant(s) to implement and ensure the following functions and activities:

- a. On-site management and enforcement for parks and Wildlife Habitat Areas as necessary to enforce restrictions on human and Predator access regarding Wildlife Habitat Areas;
- b. Enforcement of mitigation measures including, but not limited to, trash collection, noise restrictions, removal of invasive plants, habitat restoration, and park use restrictions;
- c. Coordination, development, implementation and evaluation of effectiveness of education and mitigation programs, including implementation of NRMP.
- d. Evaluation of effectiveness of bird strike mitigation and design measures;

- e. Water quality protections; and,
- f. Coordination of injured animal rehabilitation activities.

Incorporation of Mitigation Measure 4.8-6 will reduce indirect impact to biological resources (Potential Significant Impact 4.8-6) to below a level of significance. Incorporation of Mitigation Measure 4.8-7 provides additional measures to reduce further the indirect impacts to biological resources already addressed in and reduced to below a level of significance by Mitigation Measure 4.8-6.

#### **4.7.7 Potential Significant Impact (4.8-7)**

The Project would result in potential impacts associated with lighting, noise, invasives, toxic substances, and public access where development is adjacent to MSCP preserve areas.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant 4.8-6 also apply to Potential Significant Impact 4.8-7. The City MSCP Subarea Plan addresses Adjacency Management Issues in order to reduce indirect impacts associated with development adjacent to the Preserve areas. As described in *Chapter 3.0, Project Description* of the FEIR, a 400-foot-wide ecological buffer would be established within the Sweetwater District, and a 170- to 200-foot-wide ecological buffer would be established in the Otay District as part of the Proposed Project design. In the eastern Portion of the buffers, a foot path would be provided for pedestrian use. A series of staggered berms within the Sweetwater District would serve as a barrier between the human users of recreation facilities and the sensitive wildlife in the nearby marsh habitat. The berms within the ecological buffers would also serve to reduce the amount of noise that may be disruptive to the sensitive species within the marshes.

The first 200 feet of buffer areas adjacent to sensitive habitats, or full width in the case of reduced buffer areas, will be maintained as a “no touch” buffer and will not contain any trails or overlooks. This No Use Zone would be off limits to pedestrians, with signs posted stating that access into the sensitive habitat areas is prohibited and trespassing laws will be strictly enforced.

Fencing, consisting of a 6-foot-high vinyl-coated chain link fence will be installed within the buffer area to prevent unauthorized access. Fencing in Parcel SP-1 will be installed prior to

occupancy of the first buildings constructed in Phase I. To protect the wetlands and resources within the Refuge, the SP-1 buffer would be established in Phase I.

District enforcement personnel will patrol these areas and be trained in the importance of preventing human and domestic animal encroachment in these areas. In addition, signs will be installed adjacent to these sensitive areas that provide contact information for the Harbor Police to report trespassing within the sensitive areas.

In order to discourage human and domestic animals from crossing over the berms into the native habitat and preserve areas, permanent fencing would be strategically placed in areas at Parcels SP-1 and OP-2A where human activity may encroach on the preserves. In addition, appropriate signage would prohibit access into the sensitive habitat and would direct public access to appropriate locations and ensure that native habitat and restoration areas are not disturbed.

All new development must adhere to the guidelines provided in the MSCP Subarea Plan, which address six issues associated with potential indirect impacts on the Preserve from lighting, noise, drainage, use of invasives, toxic substances, and public access. The Proposed Project includes design features and regulatory compliance that reduce potential impacts on the adjacent preserve from drainage. However, impacts from lighting, noise, invasives, toxic substances, and public access would be significant and are discussed in detail below.

#### ***Lighting***

Lighting associated with construction and operation of the Proposed Project may result in indirect impacts to the wildlife located adjacent to Sweetwater, F & G Street, and J Street marshes. Artificial lighting at night could illuminate nearby roost sites and nests, thus increasing the potential for disruption to breeding patterns and detection by nocturnal predators. In addition, artificial lighting and reflective glare may contribute to bird strikes against buildings. These impacts would be significant.

#### ***Noise***

Construction Noise. Noise from heavy construction equipment would adversely affect birds nesting and foraging in the Preserve areas. As discussed in Section 4.7 of the FEIR, construction noise adjacent to the F & G Street Marsh would exceed 60 dB(A) and therefore could have adverse effects on nesting birds within the marsh. Loud noises may cause nesting birds to flush from their nests and draw attention to their nesting location, thereby increasing the potential of predation on eggs and young. Construction noise may also decrease the use of the area by foraging bird species. These impacts would be significant.

*Operational Noise.* As discussed in Section 4.7, traffic noise along E Street, adjacent to the Sweetwater Marsh and the F & G Street Marsh, would exceed 60 dB(A) and therefore could have adverse effects on nesting birds within the marsh. These impacts would be significant.

#### *Drainage*

Urban runoff and drainage can be harmful to the Preserve if not appropriately treated and managed. Potential problems include increased erosion and transfer of toxic substances and exotic plant material into the Preserve from the adjacent development. The Proposed Project would be required to comply with and implement the NPDES permit, City grading ordinances, and other relevant BMPs and codes during the planning, construction, and maintenance phases of the project and would reduce water quality impacts associated with runoff. These various ordinances and regulations assure that water quality impacts associated with runoff, erosion, and sedimentation would be minimized by the preparation and implementation of an SWPPP, an urban runoff management plan, and a monitoring program. Therefore, impacts would be less than significant.

#### *Invasives*

Planting non-native, invasive species adjacent to the Preserve (F & G Street Marsh) and the Sweetwater Marsh NWR may impact the native habitats in the Preserve if the invasive species begin to encroach upon the Preserve. This impact would be significant.

#### *Toxic Substances*

The release of toxins, chemicals, petroleum products, and other elements that might degrade can be harmful to the natural environment and can degrade the natural ecosystem processes within the preserve. This impact would be significant.

#### *Public Access*

Public access into the open space and Preserve areas would potentially result in indirect impacts to sensitive biological resources. People and pet intrusion could disrupt nesting behaviors of sensitive wildlife. A higher incidence of trash or trampling of vegetation along the edges of the sensitive habitats could also result in degradation of the habitat, which would be a significant impact.

In order to mitigate for impacts related to lighting, noise, invasives, toxic substances, and public access in areas where development is adjacent to MSCP preserve areas, the Port and City will implement Mitigation Measures 4.8-6 and 4.8-7 (see above). As discussed in the analysis under Potential Significant Impact 4.8-6, measures including (but not limited to) limiting construction-



related noise, requiring buildings located within 500 feet of a preserve conform to a specific design criteria, establishing raptor management and monitoring, preparing lighting design plans to ensure lighting is directed away from preserve areas, preparing a landscaping plan to ensure invasive plants are not used, implementing general water quality measures, and establishing buffers adjacent to preserves area will reduce impacts related to lighting, noise, invasives, toxic substances, and public access to below a level of significance.

Incorporation of Mitigation Measure 4.8-6 will reduce impacts to MSCP Preserve areas from lighting, noise, use of invasives, toxic substances, and public access,(Potential Significant Impact 4.8-7) to below a level of significance. Mitigation Measure 4.8-7 provides additional measures to reduce further the indirect impacts to biological resources already addressed in and reduced to below a level of significance by Mitigation Measure 4.8-6.

#### **4.7.8 Potential Significant Impact (4.8-8)**

The construction of the H Street Pier could reduce surface water foraging habitat for birds in the Bay and would be a significant impact.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Foraging birds use their vision to locate and capture prey. Surface water habitats are used for foraging by terns, pelicans, and skimmers. Any loss of surface water habitat would be a significant impact, based on the USFWS policy of no-net-loss of habitat. Within the Port's jurisdiction, the construction of the H Street Pier could reduce surface water foraging habitat in the Bay by approximately 36,000 square feet, or 0.8 acre, which would result in the reduction of foraging area for birds. This impact would be significant based on the USFWS policy of no-net-loss of habitat.

In order to mitigate for the loss of surface water foraging habitat in the Bay during construction of the H Street Pier, the Port will implement Mitigation Measure 4.8-8, as follows:

Prior to construction of the H Street Pier, the Port shall create 0.96 acre of eelgrass habitat to mitigate for the loss of surface water foraging habitat in accordance with the Southern California Eelgrass Mitigation Policy. The creation of eelgrass habitat shall be conducted in accordance

with Mitigation Measures 4.9-1 and 4.9-2 in *Section 4.9, Marine Biological Resources* of the FEIR.

Incorporation of Mitigation Measure 4.8-8 will reduce potential impacts resulting from the loss of surface water foraging habitat during program phases (Potential Significant Impact 4.8-8) to below a level of significance.

#### **4.7.9 Potential Significant Impact (4.8-9)**

The modification of the Marina and several additional Project components would result in the loss of surface water foraging habitat and intertidal mudflat at the South Bay Boatyard Marina. This would be a significant impact.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Modification of the Marina at the existing South Bay Boatyard (Parcel HW-6) to include 200 new boat slips to the existing 50 boat slips would result in the loss of approximately 1.61 acres of surface water foraging habitat and intertidal mudflat, which would be a significant impact.

Several related program-level components on Parcels HW-1, HW-3, HW-4, and H-12—the removal of 14,400 square feet of riprap, installation of 540 square feet of bulkhead, and development of a 35,284 square foot ferry terminal—would result in a net loss of approximately 19,424 square feet, or 0.45 acre, of surface water foraging habitat in the Marina.

In addition, the project proposes to increase the dock area in the Marina, which would result in a net loss of approximately 6,740 square feet (or 0.2 acre) of surface water foraging habitat.

Detailed plans are not available for program-level components, such as reconfiguration of the marinas, or for dredging and filling of the navigation channels. Removal of some existing facilities and construction of new facilities would result in changes to existing surface water habitat. Proposed new development would be expected to result in impacts to surface water foraging habitat. Once design plans are available and prior to any development of proposed program-level uses, additional project-level environmental review pursuant to State CEQA Guidelines, section 15168, would be required to identify specific impacts and mitigation. The impacts to surface water foraging habitat for sight foraging birds would be similar to those identified for Phase I. Prior to commencement of work for program-level in-water components,

appropriate location and acreage for mitigation would be identified for short-term construction and long-term direct and indirect impacts of these later phases.

The above impacts from program-level components would result in a total net loss of approximately 1.61 acres of surface water foraging habitat and would be significant based on the USFWS policy of no-net-loss.

In order to mitigate for the impact associated with program-level components at the South Bay Boatyard Marina and with the harbor reconfiguration which would result in the loss of surface water foraging habitat, the Port will implement Mitigation Measure 4.8-9 to include the following:

- A. Prior to completion of in-harbor work in Phase IV, the Port shall create 1.93 acres of eelgrass habitat. The creation of eelgrass habitat shall be conducted in accordance with Mitigation Measure 4.9-2 in *Section 4.9, Marine Biological Resources* in the FEIR.
- B. When project-specific designs are proposed for the remaining project components affecting 1.61 acres of surface water foraging habitat and intertidal mudflats, the mitigation of impacts shall be re-evaluated by the Port during subsequent environmental review pursuant to State CEQA Guidelines Section 15168 to determine accurate net loss and mitigation for the loss of foraging habitat.

Incorporation of Mitigation Measure 4.8-9 will reduce potential impact to surface water foraging habitat (Potential Significant Impact 4.8-9) to below a level of significance.

#### **4.7.10 Potential Significant Impact (4.8-10)**

Within the jurisdiction of the Port, grading for Phase I development would result in project-level significant impacts to riparian habitat and several vegetation communities.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Project impacts to vegetation communities and land cover types are depicted in *Figure 4.8-19* of the FEIR. *Table 4.8-3A* of the FEIR summarizes the proposed vegetation communities for project-level and program-level development in the Port and the City areas of jurisdiction. *Table*

4.8-3B contains a parcel-by-parcel summary of these impacts on the project level, and *Tables 4.8-3C and 4.8-3D* contain a parcel-by-parcel summary of these impacts on the program level.

The grading for project-level Phase I elements within the Port jurisdiction would impact 0.79 acre of disturbed coastal sage, 2.14 acres of non-native grassland, 0.07 acre of mulefat scrub/riparian scrub, and 0.03 acre of southern coastal salt marsh associated with road impacts. These impacts are significant.

In order to mitigate for impacts related to grading activities during Phase I project-level development within the jurisdiction of the Port, the Port will implement Mitigation Measure 4.8-10, to include the following:

- A. Prior to the commencement of grading for development in each phase that impacts riparian habitat or sensitive vegetation communities, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a restoration plan for impacts to riparian habitat and sensitive vegetation communities in accordance with the mitigation requirements presented in *Table 4.8-6* of the FEIR.

Prior to the commencement of Phase I grading that impacts riparian habitat or sensitive vegetation communities, the Port shall coordinate with the wildlife agencies for the preparation and approval of a detailed restoration plan within the Port's jurisdiction. The restoration plan shall be prepared by a qualified biologist, and the plan shall be approved by the Port. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies.

- B. Prior to initiating any construction activities in each phase that would affect riparian habitat or sensitive vegetation communities, including clearing and grubbing associated with program-level phases, an updated project-level assessment of potential impacts shall be made based on a specific project design. The Port or project developer(s), as appropriate, shall retain a qualified, Port-approved biologist to update appropriate surveys, identify the existing conditions, quantify impacts, and provide adequate mitigation measures to reduce impacts to below a level of significance. This updated assessment shall be submitted to the Port for review and approval.

Incorporation of Mitigation Measure 4.8-10 will reduce potential impacts to riparian habitat and sensitive vegetation communities resulting from Phase I project-level development (Potential Significant Impact 4.8-10) to below a level of significance.

#### **4.7.11 Potential Significant Impact (4.8-11)**

Within the jurisdiction of the Port, the Project would result in program-level significant impacts to several vegetation communities.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-10 above also apply to Potential Significant Impact 4.8-11. The grading for Phase I program-level components within the Port jurisdiction would impact 3.44 acres of disturbed coastal sage and 8.02 acres of non-native grassland. Phases II through IV program-level impacts include approximately 3.42 acres of disturbed coastal sage scrub, 34.44 acres of non-native grassland, and 3.08 acres of disturbed riparian. Approximately 9.12 acres of disturbed seasonal pond would be impacted by the grading within the Otay District on the program level. These impacts are significant.

As discussed above under the analysis for Potential Significant Impact 4.8-10, in order to mitigate for the resulting loss of sensitive vegetation communities due to the Proposed Project in the jurisdiction of the Port, the Port shall prepare and initiate implementation of a restoration plan for impacts to riparian habitat and sensitive vegetation communities in accordance with the mitigation requirements presented in *Table 4.8-6* of the FEIR. Additionally, prior to initiating any construction activities in each phase that would affect riparian habitat or sensitive vegetation

communities, the Port shall require the preparation of an updated project-level assessment of potential impacts based on specific project designs.

Incorporation of Mitigation Measure 4.8-10 will reduce potential impacts to sensitive vegetation communities resulting from program-level development (Potential Significant Impact 4.8-11) to below a level of significance.

#### **4.7.12 Potential Significant Impact (4.8-12)**

The Project would result in significant impacts to southern coastal salt marsh.

##### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding Potential Significant Impact 4.8-10 above also apply to Potential Significant Impact 4.8-12. As shown in *Tables 4.8-3C* and *4.8-3D* of the FEIR, approximately 1.52 acres of southern coastal salt marsh would be impacted during program-level activities. These impacts are significant.

In order to mitigate for the impact to southern coastal salt marsh during program-level activities, the Port shall implement Mitigation Measure 4.8-10 to include implementation of a restoration plan for impacts to riparian habitat and sensitive vegetation communities and the preparation of an updated project-level assessment of potential impacts based on specific project designs prior to initiating any construction activities in any phase of development that would affect riparian habitat or sensitive vegetation communities.

Incorporation of Mitigation Measure 4.8-10 will reduce potential impacts to southern coastal salt marsh from program-level development (Potential Significant Impact 4.8-12) to below a level of significance.

#### **4.7.13 Potential Significant Impact (4.8-13)**

During Phase I of project-level development in the Harbor District, the Project would significantly impact non-native grassland vegetation.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-10 above also apply to Potential Significant Impact 4.8-13. As shown in *Table 4.8-3B* of the FEIR, approximately 19.13 acres of non-native grassland would be impacted in the Harbor District during Phase I project-level activities. These impacts are significant.

In order to mitigate for the impact to non-native grasslands during Phase I project-level development within the Harbor District, the City will implement Mitigation Measure 4.8-11, to include the following:

- A. Prior to issuance of any clearing and grubbing or grading permits within the City's jurisdiction that would affect riparian habitat or sensitive vegetation communities, the project developer(s) shall acquire mitigation credits or prepare and initiate implementation of a restoration plan for impacts to riparian habitats and sensitive vegetation communities in accordance with the acreages identified in *Table 4.8-7* of the FEIR.

Mitigation credits shall be secured in a City-approved mitigation bank or land acquisition shall be provided at an approved location. Verification of mitigation credits or a restoration plan shall be provided to the City for review and approval prior to issuance of any clearing and grubbing or grading permits.

The project developer(s) shall prepare and implement a detailed restoration plan to the satisfaction of the City and the regulatory agencies. As previously addressed in *Section 4.8.6, Mitigation Measures* of the FEIR, the guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is

successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season.

- B. Prior to issuance of any clearing and grubbing or grading permits within the City's jurisdiction that affect riparian habitat or sensitive vegetation communities associated with the program-level development phases, an updated assessment of potential impacts shall be made based on a specific project design. The project developer(s) shall retain a City-approved biologist to update appropriate surveys, identify the existing conditions, quantify impacts, and provide adequate mitigation consistent with the City's MSCP Subarea Plan. This updated assessment shall be submitted to the City for review and approval.
- C. Prior to issuance of any clearing and grubbing or grading permits within the City's jurisdiction that affect riparian habitat or sensitive vegetation communities, the Project applicant shall be required to obtain an HLIT permit pursuant to Section 17.35 of the Chula Vista Municipal Code for impacts to Covered Species and Vegetation Communities protected under the City's MSCP Subarea Plan.

Incorporation of Mitigation Measure 4.8-11 will reduce direct impacts to non-native grassland resulting from Phase I project-level development in the Harbor District within the City's jurisdiction (Potential Significant Impact 4.8-13) to below a level of significance.

#### **4.7.14 Potential Significant Impact (4.8-14)**

During Phase I of development in the Harbor District, the Project would significantly impact southern coastal salt marsh vegetation.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding Potential Significant Impact 4.8-10 above also apply to Significant Impact 4.8-14. As shown in *Table 4.8-3B* of the FEIR, approximately 1.07 acres of southern coastal salt marsh would be permanently impacted within the Harbor District during project-level activities. These impacts are significant.



In order to mitigation for the impact to southern coastal salt marsh vegetation during Phase I of development within the Sweetwater District, the City will implement Mitigation Measure 4.8-11 which requires the project developer(s) to acquire mitigation credits or prepare and initiate implementation of a restoration plan for impacts to riparian habitats and sensitive vegetation communities. Mitigation credits shall be secured in a City-approved mitigation bank or land acquisition shall be provided at an approved location and verification of mitigation credits or a restoration plan shall be provided to the City for review and approval prior to issuance of any clearing and grubbing or grading permits. Restoration plans shall be prepared to the satisfaction of the City and the regulatory agencies.

Additionally, prior to the issuance of any clearing and grubbing or grading permits within the City's jurisdiction that affect riparian habitat or sensitive vegetation communities, the project applicant shall be required to obtain an HLIT permit pursuant to Section 17.35 of the Chula Vista Municipal Code for impacts to Covered Species and Vegetation Communities protected under the City's MSCP Subarea Plan.

Incorporation of Mitigation Measure 4.8-11 will reduce direct impacts to southern coastal salt marsh resulting from Phase I project-level development in the Harbor District within the City's jurisdiction (Potential Significant Impact 4.8-14) to below a level of significance.

#### **4.7.15 Potential Significant Impact (4.8-15)**

Grading and construction activities during development of the Proposed Project within the Sweetwater District will significantly impact scrub vegetation communities.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

As shown in *Tables 4.8-3C and 4.8-3D* of the FEIR, approximately 0.03 acre of mulefat scrub/riparian scrub would be permanently impacted within the Sweetwater District during program-level activities. The Proposed Project would permanently impact a total of 0.25 acre of disturbed coastal sage scrub (Tier II – uncommon uplands) in program-level activities of the Sweetwater District.

Impacts to mulefat scrub/riparian scrub and disturbed coastal sage scrub would be significant. Grading and construction activities during development of the Proposed Project will directly remove these sensitive vegetation communities.

In order to mitigate for impacts to mulefat scrub/riparian scrub and disturbed coastal sage scrub within the Sweetwater District during program-level activities, the City will implement Mitigation Measure 4.8-11 which, in addition to requiring the project developer to prepare a restoration plan or acquire mitigation credits for impacts to riparian habitats and sensitive vegetation communities, requires that prior to issuance of any clearing and grubbing or grading permits within the City's jurisdiction that affect riparian habitat or sensitive vegetation communities associated with the program-level development phases, an updated assessment of potential impacts shall be made based on a specific project design. The project developer(s) shall retain a City-approved biologist to update appropriate surveys, identify the existing conditions, quantify impacts, and provide adequate mitigation consistent with the City's MSCP Subarea Plan. This updated assessment shall be submitted to the City for review and approval.

Incorporation of Mitigation Measure 4.8-11 will reduce program-level impacts to mulefat scrub/riparian scrub and disturbed coastal sage scrub within the Sweetwater District to below a level of significance.

#### **4.7.16 Potential Significant Impact (4.8-16)**

Project-level construction within the jurisdiction of the Port would significantly impact USACE jurisdictional resources.

##### **Finding**

To State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The Proposed Project would impact a total of 64.34 acres of USACE jurisdictional waters within all three districts and both the Port and City of Chula Vista's jurisdiction. The majority of that impact would occur during program-level activities when wetlands and non-wetland waters of the U.S. would be permanently impacted by the proposed redesign of the marina within the Harbor District.

The circulation roads and bridges proposed in the Sweetwater and Harbor Districts would permanently impact 0.55 acre of USACE wetlands and non-wetland waters of the U.S. These impacts would be significant.

In order to mitigate for impacts to USACE jurisdictional resources within the jurisdiction of the Port, the Port and City will implement Mitigation Measure 4.8-12, to include the following:

- A. The Port or Port tenants, as appropriate, shall mitigate for permanent and temporary impacts to USACE jurisdictional waters at the following ratios: 1:1 for permanent impacts to non-wetland waters of the U.S.; 4:1 for impacts to wetlands; and 1:1 for all temporary impacts. A minimum of 1:1 mitigation must be created in order to achieve the no-net-loss requirement of the Clean Water Act (CWA). *Table 4.8-8* of the FEIR provides a breakdown of the required mitigation acreages for all USACE impacts within the Port's jurisdiction. Mitigation for impacts from the Bay and Marina components of the Proposed Project will be established through USACE regulations once final designs for this work in Phases II through IV are finalized.

Prior to the commencement of grading activities for any projects that impact USACE jurisdictional waters, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a restoration plan detailing the measures needed to achieve the necessary mitigation. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies.

- B. Prior to the issuance of the first clearing and grubbing or grading permit for activities that impact USACE jurisdictional waters, the project developer(s) within the City's jurisdiction shall prepare a restoration plan detailing the measures needed to

create/restore impacts to USACE jurisdictional waters within the City's jurisdiction in accordance with the acreage identified in *Table 4.8-9* of the FEIR. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The project developer(s) shall be required to implement the restoration plan subject to the oversight and approval of the City.

- C. Prior to issuance of the first clearing and grubbing or grading permit, for activities that impact USACE jurisdictional waters, the Port or Port tenants, as appropriate, and project developer(s) within the City's jurisdiction shall obtain a Section 404 permit from USACE. The permit application process would also entail approval of the restoration plan from the USACE as described above, with regard to areas that fall under the jurisdiction of USACE.

Incorporation of Mitigation Measure 4.8-12 will reduce project-level impacts to USACE jurisdictional resources within the jurisdiction of the Port (Potential Significant Impact 4.8-16) to below a level of significance.

#### **4.7.17 Potential Significant Impact (4.8-17)**

Program-level construction within the jurisdiction of the Port would significantly impact USACE jurisdictional resources.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-16 above also apply to Potential Significant Impact 4.8-17. Program-level development would disturb a total of 1.17 acres of non-wetland waters of the U.S. and would impact 0.42 acre of USACE wetlands. These impacts would be significant.

In order to mitigate for the program-level impacts to USACE jurisdictional resources within the jurisdiction of the Port, the Port and City will implement Mitigation Measure 4.8-12. As discussed above, Mitigation Measure 4.8-12 includes the appropriate mitigation ratios for temporary and permanent impacts to USACE jurisdictional resources, requires the preparation of a restoration plan prior to the commencement of grading activities for any projects that impact USACE jurisdictional waters, and requires that any projects that impact USACE jurisdictional waters obtain a Section 404 permit from USACE.

Incorporation of Mitigation Measure 4.8-12 will reduce program-level impacts to USACE jurisdictional resources within the jurisdiction of the Port (Potential Significant Impact 4.8-17) to below a level of significance.

**4.7.18 Potential Significant Impact (4.8-18)**

Program-level restoration activities within the jurisdiction of the Port would temporarily impact USACE jurisdictional resources.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-16 above also apply to Potential Significant Impact 4.8-18. The establishment of an ecological buffer on Parcel OP-2A would result in temporary impacts to 0.03 acre of non-wetland waters of the U.S. through restoration activities.

In order to mitigate for temporary impacts to non-wetland waters of the U.S. as a result of restoration efforts within the jurisdiction of the Port, the Port and City will implement Mitigation Measure 4.8-12. As discussed above, Mitigation Measure 4.8-12 includes the appropriate mitigation ratios for temporary impacts to USACE jurisdictional resources, requires the preparation of a restoration plan prior to the commencement of grading activities for any projects

that impact USACE jurisdictional waters, and requires that any projects that impact USACE jurisdictional waters obtain a Section 404 permit from USACE.

Incorporation of Mitigation Measure 4.8-12 will reduce temporary impacts to non-wetland waters of the U.S. as a result of restoration efforts within the jurisdiction of the Port (Potential Significant Impact 4.8-18) to below a level of significance

#### **4.7.19 Potential Significant Impact (4.8-19)**

Program-level activities within the Harbor District could significantly impact USACE jurisdictional waters.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-16 above also apply to Potential Significant Impact 4.8-19. The reconfiguration of the harbor and marina could impact an additional 61.96 acres of USACE jurisdictional waters within the Harbor District during program-level activities. This impact would be significant.

In order to mitigate for impacts to USACE jurisdictional waters within the Harbor District resulting from the reconfiguration of the harbor and marina, the Port and City will implement Mitigation Measure 4.8-12. As discussed above, Mitigation Measure 4.8-12 includes the appropriate mitigation ratios for permanent impacts to USACE jurisdictional resources, requires the preparation of a restoration plan prior to the commencement of grading activities for any projects that impact USACE jurisdictional waters, and requires that any projects that impact USACE jurisdictional waters obtain a Section 404 permit from USACE.

Incorporation of Mitigation Measure 4.8-12 will reduce impacts to USACE jurisdictional waters within the Harbor District during program-level activities resulting from the reconfiguration of the harbor and marina (Potential Significant Impact 4.8-19) to below a level of significance.

#### **4.7-20 Potential Significant Impact (4.8-21)**

Program-level activities within the jurisdiction of the Port would significantly impact CDFG jurisdictional resources.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-16 above also apply to Potential Significant Impact 4.8-21. The Proposed Project would disturb a total of 1.1 acres of CDFG streambed and associated riparian habitat during program-level activities in the Harbor and Otay Districts within the Port's jurisdiction. This includes permanent impacts to 0.14 acre within the Harbor District and permanent (0.72 acre) and temporary (0.23 acre) impacts in the Otay District. Permanent and temporary removal of riparian habitat is a significant impact.

In order to mitigate for impacts to CDFG jurisdictional resources due to program-level activities within jurisdiction of the Port, the Port will implement Mitigation Measure 4.8-13, to include the following:

The Port or Port tenants, as appropriate, shall mitigate for permanent and temporary impacts to CDFG jurisdictional areas at a 2:1 ratio. *Table 4.8-8* of the FEIR provides a breakdown of the required mitigation acreages for all CDFG impacts within the Port's jurisdiction.

Prior to the issuance of the first grading permit that may impact CDFG jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a restoration plan detailing the measures needed to achieve the necessary mitigation. The plan shall outline the timeline and procedures for restoring/enhancing the potential enhancement/mitigation sites, which include the native buffer areas and the F & G Street Marsh. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The

Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including CDFG.

Prior to issuance of the first grading permit that may impact CDFG jurisdictional areas, the Port or Port tenants, as appropriate, shall obtain permits from CDFG. The permit application process would also entail approval of the restoration plan as described above, with regard to areas that fall under the jurisdiction of CDFG. Pursuant to Fish and Game Code 1602, the Port and other applicants are required to obtain a Streambed Alteration Agreement for impacts to streambeds and associated riparian habitat that fall within CDFG's jurisdiction.

Incorporation of Mitigation Measure 4.8-13 will reduce impacts to CDFG jurisdictional resources due to program-level activities within the jurisdiction of the Port (Potential Significant Impact 4.8-21) to below a level of significance.

#### **4.7.21 Potential Significant Impact (4.8-22)**

Project-level activities within the jurisdiction of the Port would significantly impact CCC jurisdictional resources.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Impacts to CCC wetlands have been avoided to the maximum extent practicable. The project would extend and realign E Street, resulting in removal of mulefat scrub at the existing terminus of E Street, and would also indirectly impact the inlet channel to the F & G Street Marsh through shading caused by a proposed bridge crossing. These impacts are not feasibly avoided, due to the location and configuration of the tie-in location to the existing E Street and due to the fact that a crossing of the inlet channel is necessary to connect E Street to the Marina area. As noted in *Section 4.8.1* of the FEIR, Coastal Act policies provide for the balancing of potentially conflicting policy provisions. In this case, although the E Street Extension results in impacts on CCC jurisdictional wetlands, the extension of the road provides for improved public access and pedestrian facilities to the shoreline. Currently, access to the Marina and its associated parks and shoreline access, from F Street is constrained by an existing 2-lane road with no curb, gutter, sidewalk or bike lane. The proposed E Street Extension would provide pedestrian and bicycle access from F Street and Bay Boulevard to the Marina, and public coastal access points. In addition, the proposed bridge over the F & G Street Marsh inlet would remove an existing



culvert crossing and would widen and restore the inlet such that improved tidal flushing would be provided to the F & G Street Marsh. Therefore, while significant impacts are identified, mitigation measures are provided and additional public and environmental benefits are proposed that provide support for balancing of Coastal Act policies.

Some of the mapped waterways have been identified as potential CCC wetlands that may be under the jurisdiction of the Coastal Commission. Identification of these areas as CCC wetlands require documentation of ponding for a minimum of 7 consecutive days, and there is currently no indication that ponding of that duration occurs; therefore, identification of CCC jurisdiction has not been made. In addition, the Otay District contains areas formerly occupied by an industrial facility that may be exempt from CCC jurisdiction. These areas are discussed in more detail below. The CCC has jurisdiction to make determination of these areas regarding project impacts.

The E Street road improvements proposed in the Sweetwater District would directly and permanently impact 0.07 acre of CCC wetland located within the road easement and Parcel S-1 adjacent to the roadway at Bay Boulevard and E Street (near Soil Test Pits 22 and 23). This wetland is composed of mulefat scrub. Development at this location would result in a significant impact.

In order to mitigate for the indirect and direct impacts to CCC wetlands from circulation road/bridge construction and improvement during Phase I within both the Port's and City's jurisdiction, the Port and City, as appropriate, will implement Mitigation Measure 4.8-14, to include the following:

- A. Mitigation for permanent direct and indirect (from bridge shading) impacts would be at a 2:1 ratio as detailed in *Table 4.8-8* of the FEIR.

Prior to the commencement of grading activities for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative

assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

- B. Mitigation for permanent direct and indirect (from bridge shading) impacts would be at a 2:1 ratio as detailed in Table 4.8-9 of the FEIR.

Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the project applicants within the City's jurisdiction shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The City shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the City in consultation with the regulatory agencies, including the CCC.

Incorporation of Mitigation Measure 4.8-14 will reduce impacts to CCC jurisdictional resources due to project-level activities within the jurisdiction of the Port (Potential Significant Impact 4.8-22) to below a level of significance.

#### **4.7.22 Potential Significant Impact (4.8-23)**

Project-level construction of a bridge on E Street over the F & G Street Marsh within jurisdiction of the Port would indirectly impact CCC wetlands.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-2 above also apply to Potential Significant Impact 4.8-23. The Port would construct a bridge on E Street over the inlet to the F & G Street Marsh as part of the circulation element. The bridge would span the wetland and would indirectly impact approximately 0.01 acre of CCC wetland through shading. This impact would be significant.

In order to mitigate for the indirect impact to CCC wetlands due to bridge shading, the Port and City shall implement Mitigation Measure 4.8-14, as described above, which includes a mitigation ratio of 2:1 for indirect impacts resulting from bridge shading. Additionally, Mitigation Measure 4.8-14 requires that prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, Project applicants within the City's jurisdiction shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands.

Incorporation of Mitigation Measure 4.8-14 will reduce indirect impacts to CCC wetlands as a result of bridge shading (Potential Significant Impact 4.8-23) to below a level of significance.

**4.7.23 Potential Significant Impact (4.8-24)**

Program-level construction of bridges in the Otay District within jurisdiction of the Port would indirectly impact CCC wetlands.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-24. During implementation of program-level components, the Port/City would construct two additional bridges in the Otay District. This includes the Street A Bridge over the J Street Channel and the Street B Bridge over the Telegraph Canyon Channel.

These bridges would result in indirect permanent impacts from shading to 0.05 acre of CCC wetland. These impacts would be significant.

In order to mitigate for the indirect impact to CCC wetland due to Program-level construction of bridges in the Otay District, the Port will implement Mitigation Measure 4.8-15, to include the following:

Mitigation for permanent direct and indirect (from bridge shading) impacts from circulation road construction/improvements and the riprap removal and bulkhead replacement totaling 0.51 acre would be at a 2:1 ratio as detailed in *Table 4.8-8* of the FEIR. This would require a total mitigation of 1.02 acres. Mitigation for temporary impacts within Parcel OP-2B from the re-channelization of the Telegraph Canyon Channel would require mitigation at a ratio of 1:1 as detailed on *Table 4.8-8* for a total of 0.16 acre.

Additionally, prior to the commencement of grading activities, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Lastly, prior to approval of grading permits for projects impacting CCC wetlands, the Port or Port tenants, as appropriate, shall obtain permits and/or approvals from CCC.

Incorporation of Mitigation Measure 4.8-15 will reduce indirect impacts to CCC wetlands resulting from program-level bridge construction in the Otay District within the jurisdiction of the Port (Potential Significant Impact 4.8-24) to below a level of significance.

**4.7.24 Potential Significant Impact (4.8-25)**

Program-level Chula Vista Marina improvements within the Harbor District and within jurisdiction of the Port would significantly impact CCC wetlands.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-25. The riprap removal and bulkhead placement proposed as a component to the Chula Vista Marina improvements would permanently impact approximately 0.46 acre of CCC wetlands on Parcels HW-1, HW-3, and H-12 within the Harbor District. Impacting CCC wetlands for the purpose of improving navigation and harbor access would be consistent with the Coastal Act; however, the biological impacts would be significant.

In order to mitigate for the impact to CCC wetlands due to Chula Vista Marina improvements, the Port will implement Mitigation Measure 4.8-15. As described above, Mitigation Measure 4.8-15 specifies that impacted CCC wetlands resulting from riprap removal and bulkhead replacement shall be mitigated at a ratio of 2:1. Additionally, Mitigation Measure 4.8-15 states that prior to the commencement of grading activities, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands and that prior to approval of grading permits for projects impacting CCC wetlands, the Port or Port tenants, as appropriate, shall obtain permits and/or approvals from CCC.

Incorporation of Mitigation Measure 4.8-15 will reduce impacts to CCC wetlands resulting from improvements to the Chula Vista Marina (Potential Significant Impact 4.8-25) to below a level of significance.

**4.7.25 Potential Significant Impact (4.8-26)**

Re-channelization of the Telegraph Canyon Channel during Program-level activities would significantly temporarily impact CCC wetlands.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-26. The Telegraph Canyon Channel in the Otay District would be re-channelized within the program-level phases of development. This would temporarily impact 0.16 acre of CCC wetland. This would be significant. This temporary impact to re-contour a pre-existing channelized drainage would be allowed under the Coastal Act.

In order to mitigate for temporary impacts to CCC wetlands resulting from the re-channelization of the Telegraph Canyon Channel, the Port will implement Mitigation Measure 4.8-15. As described above, Mitigation Measure 4.8-15 states that mitigation for temporary impacts within Parcel OP-2B from the re-channelization of the Telegraph Canyon Channel would require mitigation at a ratio of 1:1 as detailed on *Table 4.8-8* of the FEIR for a total of 0.16 acre. Additionally, Mitigation Measure 4.8-15 requires that prior to the commencement of grading activities, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands and that prior to approval of grading permits for projects impacting CCC wetlands, the Port or Port tenants, as appropriate, shall obtain permits and/or approvals from CCC.

Incorporation of Mitigation Measure 4.8-15 will reduce temporary impacts to CCC wetlands as a result of the re-channelization of the Telegraph Canyon Channel within the program-level phases of development (Potential Significant Impact 4.8-26) to below a level of significance.

**4.7.26 Potential Significant Impact (4.8-27)**

Habitat restoration activities on Parcel OP-2A in the Otay District would temporarily impact CCC wetlands.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-27. The establishment of an ecological buffer on Parcel OP-2A would result in temporary impacts to 0.05 acre of CCC wetland, 0.04 acre of potential CCC wetlands, and 1.50 acres of former industrial areas in the process of remediation. Impacts to the 0.05 acre of CCC wetlands would be significant. The impacts to the 1.54 acres of areas of former industrial areas in the process of remediation would only be significant if the CCC asserts jurisdiction. Impacts for restoration purposes are allowed under the Coastal Act.

In order to mitigate for the temporary impacts to CCC wetlands resulting from habitat restoration activities on Parcel OP-2A, the Port shall implement Mitigation Measure 4.8-16, to include the following:

Mitigation for temporary impacts from the restoration of the ecological buffer would require that mitigation at a ratio of 1:1 as detailed on *Table 4.8-8* in the FEIR. The ecological buffer area supports 0.05 acre that has been mapped as a CCC wetland and will require 0.05 acre of mitigation. There is an additional 0.04 acre that is mapped as a potential CCC wetland and 1.50 acres that are former industrial areas in the process of remediation. The Port or Port tenants, as appropriate, will need to confer with CCC in order to determine whether the areas of potential jurisdiction, totaling 1.54 acres, actually fall under CCC jurisdiction. If these areas are not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the restoration will need to include the creation/enhancement of an additional 1.54 acres of CCC wetlands.

Prior to the issuance of the first grading permit for activities that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the

annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Incorporation of Mitigation Measure 4.8-16 will reduce temporary impacts to CCC wetlands resulting from the creation of an ecological buffer on Parcel OP-2A in the Otay District (Potential Significant Impact 4.8-27) to below a level of significance.

#### **4.7.27 Potential Significant Impact (4.8-28)**

Program-level road improvements within the Otay District could significantly impact CCC wetlands.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-28. Additional road extensions are proposed in the Otay District. This includes Street A improvements, which would permanently impact 0.55 acre of the former industrial site in the process of remediation, and Street B improvements, which would impact 0.03 acre of potential CCC wetland. If CCC claims jurisdiction over these two areas, impacts would be significant. If CCC does not assert jurisdiction over these areas, these impacts would not be significant.

In order to mitigate for impacts to CCC wetlands resulting from road improvements within the Otay District, the Port will implement Mitigation Measure 4.8-17, to include the following:

The Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the 0.58 acre of areas fall under CCC jurisdiction. If these areas are not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the Port will need to mitigate the impacts at a ratio of 2:1 as detailed in *Table 4.8-8* of the FEIR for a total mitigation of 1.16 acres.

Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid



and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Mitigation Measure 4.8-17 requires the Port of Port tenants to confer with the CCC to determine whether the area affected by road improvements in the Otay District falls under CCC jurisdiction. The measure states that if these areas are not subject to CCC jurisdiction, no additional mitigation would be required but if these areas are subject to CCC jurisdiction they shall be mitigated at a ratio of 2:1 by the Port or the Port tenants. If mitigation is found to be necessary, mitigation will be successful through adherence to the mitigation standards utilized by the Port.

Incorporation of Mitigation Measure 4.8-17 will reduce permanent impacts to potential CCC wetlands from roadway improvements in the Otay District during program-level activities within the Port's jurisdiction (Potential Significant Impact 4.8-28) to below a level of significance.

#### **4.7.28 Potential Significant Impact (4.8-29)**

Program-level construction within the Coronado Railroad ROW on Parcels HP-7 and HP-13B would significantly impact CCC wetlands.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-29. The Port could impact 0.14 acre of CCC wetland on Parcel HP-13B, through construction within the Coronado Railroad ROW, and 0.02 acre of CCC wetland on HP-7. These impacts would be significant.

In order to mitigate for impacts to CCC wetlands resulting from program-level construction within the Coronado Railroad ROW, the Port will implement Mitigation Measure 4.8-18, to include the following:

Prior to the issuance of the first grading permit for activities that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands to provide 0.32 acre of mitigation for the 0.16 acre impact to CCC wetlands on Parcels HP-13B and HP-7. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Mitigation Measure 4.8-18 requires that the 0.16 acre impact to CCC wetlands be mitigated at a ratio of 2:1 and that a 5-year maintenance and monitoring period be implemented to ensure that each mitigated area is successful. To be deemed successful, mitigation efforts shall meet the mitigation standards of the Port. Incorporation of Mitigation Measure 4.8-18 will reduce impacts to CCC wetlands resulting from program-level construction within the Coronado Railroad ROW on Parcels HP-13B and HP-7 (Potential Significant Impact 4.8-29) to below a level of significance.

4.7.29 **Potential Significant Impact (4.8-30)**

Program-level development of a park on Parcel OP-1B could significantly impact CCC wetlands.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-30. The development of a park on Parcel OP-1B would impact 0.16 acre of a drainage that has been mapped as a CCC potential wetland site. If the Coastal Commission asserts jurisdiction, the development proposed on Parcel OP-1B in the Otay District would be significant.

In order to mitigate for impacts to CCC wetlands resulting from development of a park on Parcel OP-1B, the Port will implement Mitigation Measure 4.8-19, to include the following:

The Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the 0.16 acre of areas identified as potentially CCC jurisdictional actually fall under CCC jurisdiction. If these areas are not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the Port will need to mitigate the impacts at a ratio of 2:1 as detailed in *Table 4.8-8* of the FEIR for a total mitigation of 0.32 acre.

Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation

standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Mitigation Measure 4.8-19 requires that the impacted wetlands are mitigated for at a ratio of 2:1 and that a 5-year maintenance and monitoring period be implemented to ensure that each mitigated area is successful. To be deemed successful, mitigation efforts shall meet the mitigation standards of the Port. If the 0.16 acre of land on Parcel OP-1B mapped as a CCC potential wetland is found to be under the jurisdiction of the CCC, incorporation of Mitigation Measure 4.8-19 will reduce the impact to CCC wetlands during program-level development of a park on Parcel OP-1B within the Port's jurisdiction (Potential Significant Impact 4.8-30) to below a level of significance.

#### **4.7.30 Potential Significant Impact (4.8-31)**

Program-level component development in the Otay District could significantly impact CCC wetlands.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-22 above also apply to Potential Significant Impact 4.8-31. There is a small (0.14 acre) seasonal pond that is considered a CCC wetland, and there is a drainage (0.13 acre) that is a potential CCC wetland located on Parcels OP-3 and O-1 in the Otay District near Soil Test Pits 9 and 10 (see *Figure 4.8-14* of the FEIR). These features are located within an SDG&E ROW. Program component development could result in significant impacts to the 0.14-acre pond. Impacts to the 0.13-acre potential wetland would only be significant if CCC asserts jurisdiction over the drainage. There is also a previously developed area located on Parcel O-4, the proposed Industrial Business Park site near Soil Test Pits 29, 2, and 1 identified on *Figure 4.8-14* of the FEIR. There is a small 0.10-acre pond that is mapped as a CCC wetland. There is also a 1.95-acre depressed area that exists where the Liquefied Natural Gas (LNG) plant was formerly located. This area experiences the ponding of water during periods of heavy rainfall. Like the former tank sites and detention basin located in the northern area of the Otay District, the site is not connected hydrologically to the adjacent waters and it is a previously developed site. For these same reasons, this area may also not be

subject to CCC jurisdiction. In addition there is 0.42 acre of small potential CCC wetlands in the southeast corner of this parcel. Program component development on Parcel O-4 could result in significant impacts to the 0.10-acre pond. Impacts to the 2.37-acre potential wetland (where the previous LNG plant was located) would only be significant if CCC asserts jurisdiction.

In order to mitigate the impact to CCC wetlands on Parcel O-4 during program-level phase development within the Port's jurisdiction, the Port will implement Mitigation Measure 4.8-20, to include the following:

The Port or Port tenants, as appropriate, will need to mitigate impacts to the 0.10-acre seasonal pond, mapped as a CCC wetland, at a 2:1 ratio.

Additionally, the Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the 2.37-acre depressed area that exists where the LNG plant was formerly located, mapped as a potential CCC wetland, falls under CCC jurisdiction. If this area is not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the final Phase II design of this parcel must mitigate impacts the 2.37-acre depressed area at a 2:1 ratio.

Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.

Mitigation Measure 4.8-20 requires that the impacted .10-acre seasonal pond be mitigated at a ratio of 2:1. Additionally, if the CCC asserts jurisdiction of 2.37-acre depressed area that exists

where the LNG plant was formerly located (mapped as potential CCC wetland), the area must be mitigated at a ratio of 2:1. Lastly, for any impacts to wetlands, a restoration plan shall be prepared and a 5-year maintenance and monitoring period be implemented to ensure that each mitigated area is successful. To be deemed successful, mitigation efforts shall meet the mitigation standards of the Port. Incorporation of Mitigation Measure 4.8-20 will reduce impacts to CCC wetlands resulting from program-level component development in the Otay District (Potential Significant Impact 4.8-31) to below a level of significance.

#### **4.7.31 Potential Significant Impact (4.8-32)**

Project-level improvements to the existing E Street along the road easement and Parcel SP-4 in the Sweetwater District within the City's jurisdiction would significantly impact CCC wetlands.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 4.8-22 and 4.8-23 above also apply to Potential Significant Impact 4.8-32. There would be 0.03 acre of permanent impacts in the Sweetwater District during Phase I from improvements to the existing E Street along the road easement and Parcel SP-4. These impacts would be significant.

In order to mitigate for impacts to CCC wetlands resulting from project-level component development in the Sweetwater District, the Port and City will implement Mitigation Measure 4.8-14. As described above, Mitigation Measure 4.8-14 requires that permanent direct and indirect impacts from circulation road improvements be mitigated at a 2:1 ratio as detailed in *Table 4.8-9* of the FEIR. Additionally, prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the Project applicants within the City's jurisdiction shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would

be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The City shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the City in consultation with the regulatory agencies, including the CCC.

Mitigation Measure 4.8-14 requires that as a result of project-level circulation road improvements, impacted wetlands shall be mitigated for at a ratio of 2:1 and that a restoration plan requiring a 5-year maintenance and monitoring plan to ensure mitigation success be prepared. Also, mitigation must meet the mitigation standards utilized by the City and regulatory agencies such as the CCC. Incorporation of Mitigation Measure 4.8-14 will reduce impacts to CCC wetlands resulting from improvements to the existing E Street along the road easement and Parcel SP-4 (Potential Significant Impact 4.8-32) to below a level of significance.

#### **4.7.32 Potential Significant Impact (4.8-34)**

Within Port and City jurisdiction, the Proposed Project would significantly impact RWQCB jurisdictional wetlands.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

RWQCB has jurisdiction over all waters of the U.S and isolated waters of the state as mandated by both the federal CWA and the California Porter-Cologne Water Quality Control Act. RWQCB will verify the extent of area under their jurisdiction as part of the permitting process. Impacts to waters under the jurisdiction of RWQCB are significant.

In order to mitigate for the impact to RWQCB jurisdictional waters due to the Proposed Project, the Port and/or City, as appropriate, will implement Mitigation Measure 4.8-21, to include the following:

- A. Prior to the commencement of grading activities for project components impacting RWQCB jurisdictional waters, the Port or Port tenants, as appropriate, shall prepare and

implement a restoration plan detailing the measures needed to create/restore RWQCB jurisdictional waters in accordance with the acreage identified in *Table 4.8-8*.

- B. Prior to the issuance of the first grading permit for project components impacting RWQCB jurisdictional waters, the Project developer(s) within the City's jurisdiction shall prepare and implement a restoration plan detailing the measures needed to create/restore RWQCB jurisdictional waters in accordance with the acreage identified in *Table 4.8-8* to the satisfaction of the City. The guidelines for this plan will be developed in consultation with the regulatory agencies
- C. Prior to the commencement of grading activities for project components impacting RWQCB jurisdictional waters, the Port or Port tenants, as appropriate, and applicants within the City's jurisdiction shall obtain permits from RWQCB. The permit application process would also entail approval of the restoration plan as described above. Pursuant to the CWA, the Port and other applicants are required to obtain a Section 401 Water Quality Certification permit from RWQCB.
- D. Prior to the commencement of grading activities for project components impacting RWQCB jurisdictional waters, including clearing and grubbing, the Port or Port tenants, as appropriate, and the project developer(s) within the City's jurisdiction shall consult with the RWQCB to determine whether Waste Discharge Requirements from the RWQCB shall be required for impacts to isolated waters of the State of California.

Mitigation Measure 4.8-21 requires that impacted RWQCB jurisdictional waters are mitigated through the restoration or creation of RWQCB jurisdictional waters. A restoration plan will be prepared and will detail the measures needed to create/restore RWQCB jurisdictional waters to the satisfaction of the City (in consultation with regulatory agencies including RWQCB). Additionally, prior to activities that may impact RWQCB jurisdictional waters, the Project developers must obtain permits from the RWQCB (Section 401 Water Quality Certification) and must consult with the RWQCB to determine whether Waste Discharge Requirements from the RWQCB will be required for impacts to isolated waters of the State of California.

Incorporation of Mitigation Measure 4.8-21 will reduce impacts to RWQCB jurisdictional waters (Potential Significant Impact 4.8-34) to below a level of significance.

#### **4.7.33 Potential Significant Impact (4.8-35)**

Within City jurisdiction, Phase I roadway improvements in the Sweetwater District would significantly impact wetland resources protected under the City's MSCP Subarea Plan.



**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Impacts to wetland communities within the City of Chula Vista's jurisdiction are subject to the City's Wetlands Protection Program, which (1) evaluates the project's wetlands avoidance and minimization measures, and (2) ensures compensatory mitigation for unavoidable impacts consistent with a "no-net-loss to wetlands" policy. This process provides for an evaluation of wetlands avoidance and minimization and ensures compensatory mitigation for unavoidable impacts to wetlands in order to achieve a no-net-loss of wetland functions or values. Impacts to wetlands will be avoided or minimized to the maximum extent practicable pursuant to the Wetlands Protection Program, Section 5.2.4 of the Subarea Plan, as discussed previously. Implementation of the Wetlands Protection Program would be achieved through the HLIT process.

There would be 0.11 acre of permanent impacts in the Sweetwater District during Phase I from improvements to the existing E Street. This consists of impacts to 0.06 acre of mulefat/riparian scrub and 0.02 acre of southern coastal salt marsh from development within the road easement and 0.02 acre of mulefat/riparian scrub on Parcel SP-4. These impacts would be significant.

In order to mitigate for impacts to wetland communities within the City of Chula Vista (subject to the City's Wetlands Protection Program), the City will implement Mitigation Measure 4.8-22, to include the following:

- A. Prior to issuance of any clearing and grubbing or grading permits for projects that impact City of Chula Vista designated wetlands, the project developer(s) shall acquire mitigation credits or prepare and initiate implementation of a restoration plan for Phase I impacts to mulefat scrub/riparian scrub at a ratio of 2:1 and southern coastal salt marsh at a ratio of 4:1. Mitigation credits shall be secured in a City-approved mitigation bank or other approved location. Verification of mitigation credits or an approved restoration plan shall be provided to the City prior to issuance of any clearing and grubbing or grading permits. Alternatively, completion of Mitigation Measure 4.8-11 will satisfy this mitigation measure as well.

The project developer(s) shall prepare and implement a detailed restoration and enhancement plan to the satisfaction of the City for impacts to wetland resources protected under the City's MSCP Subarea Plan. The guidelines for this plan will be

developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The City shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the City in consultation with the regulatory agencies.

- B. Prior to issuance of clearing and grubbing or grading permits for areas that impact jurisdictional waters, the project developer(s) shall provide evidence to the City that all required regulatory permits, such as those required under Section 1602 of the California Fish and Game Code and Section 13260 of the California Water Code, have been obtained.

Mitigation Measure 4.8-22 requires that impacts to wetland resources protected under the City's MSCP Subarea Plan be mitigated at the following ratios: 2:1 for mulefat scrub/riparian scrub and 4:1 for southern coastal salt marsh. Mitigation may be provided through the purchase of mitigation credits or through habitat restoration. If mitigation is provided through habitat restoration then a restoration plan detailing the site selection process, site preparation techniques, planting palettes, implementation procedures, monitoring and maintenance practices, and the performance criteria for each mitigation site will be prepared. The City, in consultation with regulatory agencies, will ensure that mitigation has met success criteria.

Incorporation of Mitigation Measure 4.8-22 will reduce impacts to wetland resources protected under the City's MSCP Subarea Plan (Potential Significant Impact 4.8-35) to below a level of significance.

#### **4.7.34 Potential Significant Impact (4.8-36)**

Project-level construction within the jurisdiction of the Port and the City may result in a potentially significant increase in bird strikes within the Project area.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Numerous studies have documented extensive avian collision mortality associated with buildings and similar structures, including smokestacks and monuments, and typically these fatalities are a result of collisions with tall buildings or with windows located in the structure (Erickson et al. 2005). These studies provide information that can be used as a basis for evaluating potential effects of bird collisions from new development. However, little research is available for the particular conditions of the Project site; specifically, no studies were identified from west coast cities in North America. However, information from available published literature is presented in this discussion. The number of bird collisions with buildings per year is estimated to comprise over 50% of the total annual bird mortality (Erickson et al. 2005). Tall structures (greater than 400 feet in height) appear to be especially susceptible to resulting in bird strikes.

The City of Toronto's Fatal Lights Awareness Program indicates that nighttime collisions seem to stem from night migrants that become confused by buildings or towers that are lit at night, especially with red light. Red light has been suspected of interfering with the night-migrating birds' ability to track geomagnetic cues (City of Toronto 2007; O'Connell 2001). Other evidence from tall night-lit towers indicates that birds are attracted to the lit areas on cloudy nights regardless of the light color (Avery et al. 1976). The collisions with tall buildings appear to be predominantly migratory birds, and the mortalities show peaks during both spring and fall. Although many species of migrants have been documented to migrate at high altitudes, from 500 to 2000 feet (Williams 1950), most migrants flying over or near the ocean migrate at lower altitude, below 300 feet (Huppopp et al. 2006). Birds migrating over terrestrial locations appear to migrate at higher altitudes, but do not frequently exceed 1,500 feet (Cooper and Ritchie 1995). Buildings close to waterfront areas on important migration pathways can be especially problematic to nocturnal migrant birds.

Daytime collisions or "strikes" occur with both tall buildings and low structures, including residential homes. In general, lower buildings are less likely to cause fatal bird strikes than taller buildings, but there is little specific research that establishes specific bird collision incidents at varied building heights to validate this assumption (Erickson et al. 2005). The daytime strikes at tall buildings can occur from daytime migrants or local residents striking reflective glass, because birds cannot interpret that the images observed in glass are reflections and thus fly into windows that they think are trees or sky. Collisions with lower height buildings or homes appear

to be associated with birds using feeders or with resident and migrant birds colliding with windows that reflect the surrounding landscape (Klem 1990). These collisions are greatest at ground level and at heights above 10 feet (Klem 1989). Reflection of vegetation within windows provides a cue to birds that they can pass through the area. As the distance of the vegetation or other bird attractant exceeds 30 feet from the windows, birds are able to obtain enough speed in flight to result in a fatal strike if they hit the window (Klem 1990). For glass on a structure positioned above the height of or remote from vegetation, there is no evidence of significant bird collision issues (Klem 1989). The presence of permanent water also may serve as an attractant for birds during migration and, in combination with mirrored glass exteriors and a forested corridor, shows increases in fatal collisions (O'Connell 2001). The primary condition of concern with daytime collisions is caused by exterior landscaping or other bird attractants that are located 30 feet or more from reflective glass surfaces (Klem et al. 2004).

Thus the factors involved in potentially fatal bird strikes with buildings include: migrants striking a lit building at night at the elevation at which they are migrating; daytime migrants striking windows of a tall structure, most likely due to the reflection of the sky or nearby reflected vegetation in the windows; and migrants or residents striking windows at lower elevations that reflect the surrounding vegetation, which they interpret to be vegetation in front of them.

The location of the Proposed Project is adjacent to the Sweetwater Marsh NWR, an area that provides habitat for a number of special-status bird species. The Proposed Project is also located along the coastline and includes a Portion of a bird migration corridor and likely includes important migratory stopover habitat. The Proposed Project also includes construction of buildings up to 300 feet tall. Due to the proximity to open water as a bird attractant, the location within a migration corridor, adjacency to native vegetation, and building heights that may extend into the altitude of migrating birds, the Proposed Project may result in significant impacts to migrating or special-status bird species due to an increase in bird strikes. The areas of concern with respect to bird strikes include night lighting, glass, vegetation, and building configuration as discussed below.

Night lighting has the greatest potential impact to night-migrating birds, especially during periods of cloudy, foggy, or inclement weather when lighting may cause confusion and result in bird strikes to buildings. Although many terrestrial migrants may fly at an altitude greater than the maximum 300 feet proposed for some buildings within the Proposed Project, there are migrants that may be at the altitude of the buildings, especially if they are coming to the Refuge as part of a migratory stopover or as their final destination (Harmata et al. 2000). Impacts of bird strikes from the proposed buildings due to night lighting are potentially significant due to the numbers of birds that may be involved and the special-status species that may be included as migrants.

Birds strikes to windows on buildings increase with increasing amounts of vegetation and glass, especially reflective glass, opposite the vegetation (Gelb and Delacratz 2006). Where reflective glass faces forested patches, there is a significant increase in bird strikes that can lead to several hundred collisions per year even for buildings that are not within an especially well-documented migration corridor (O'Connell 2001). Such bird strikes include migrants as well as resident bird species and occur during both daytime and nighttime periods. The impacts of bird strikes to the proposed buildings due to reflections in glass windows are potentially significant, due to the numbers of birds and the species composition, which may include special-status species that migrate through or are residents at the Refuge.

Localized movement between habitats by birds might be of concern because the movement happens at lower elevations. The Proposed Project is located adjacent to an area that is well documented to receive heavy use by bird species. These species may periodically move from one area to another and will likely be at lower elevations when in flight. Most of the buildings within the project are less than 100 feet tall; however, a number of them are proposed to be up to 300 feet in height. The Proposed Project includes provision of an ecological buffer 400 feet wide that will avoid impacts of local movements of birds striking buildings. Some impacts may occur especially with the taller buildings and with respect to the migration of bird species. These impacts are potentially significant due to the numbers that may be involved and the composition which may include special-status species migrating at the altitude of the taller buildings.

As discussed above in the section regarding bird strikes, the following Phase I project components in both Port and City jurisdiction would potentially impact avian flight patterns and habitat use along the project frontage: construction of the RCC up to 240 feet in height on Parcel H-3, construction of residential development on H-13 and H-14, construction of a hotel up to 300 feet in height on H-23, and construction of buildings between 90 and 130 feet high on Parcel H-15.

Although there is no research that has been identified specific to the West Coast with regard to bird strike impacts, studies conducted in other areas indicate that construction of buildings over 100 feet in height on a project of this size may result in a potentially significant increase in bird strikes within the Project area. This impact to both Port and City jurisdiction is significant.

In order to mitigate for impacts related to a potentially significant increase in bird strikes within the project area, the Port and City will implement Mitigation Measure 4.8-23 for any buildings that have an unobstructed line of sight to nearby open water or large areas of open space, to include the following:

Prior to issuance of any building permits, building plans shall be reviewed by a qualified biologist retained by the developer and approved by the Port or the City, to verify that the

proposed building has incorporated specific design features to avoid or to reduce the potential for bird strikes, including but not limited to the following:

***Lighting***

- No solid red or pulsating red lights shall be installed on or near the building unless required by the Federal Aviation Administration (FAA).
- Where lighting must be used for safety reasons (FAA 2000 Advisory Circular), minimum intensity, maximum off-phased (3 seconds between flashes) white strobes shall be used.
- No solid spot lights or intense bright lights shall be used during bird migration periods in the spring (from March to May) and Fall (from August to October). All event lighting shall be directed downward and shielded, unless such directed and shielded minimized light spills beyond the area for which illumination is required.
- Exterior lighting shall be limited to that which is necessary and appropriate to ensure general public safety and way finding, including signage for building identification and way finding.
- Exterior lighting shall be directed downward and shielded to prevent upward lighting and to minimize light spill beyond the area for which illumination is required.
- Office space, residential units, and hotel rooms shall be equipped with motion sensors, timers, or other lighting control systems to ensure that lighting is extinguished when the space is unoccupied.
- Office space, residential units, and hotel rooms shall be equipped with blinds, drapes, or other window coverings that may be closed to minimize the effects of interior night lighting.

***Glass and Reflection***

- Use of reflective coatings on any glass surface is prohibited.
- Buildings shall incorporate measures to the satisfaction of the Port or the City to indicate to birds that the glass surface is solid by creating visual markers and muting reflection.
- Project design standards will encourage window stenciling and angling.

These measures may include but are not limited to the following:

- Glass surfaces which are non-reflective
- Glass surfaces which are tilted at a downward angle
- Glass surfaces which use fritted or patterned glass

- Glass surfaces which use vertical or horizontal mullions or other fenestration patterns
- Glass surfaces which are fitted with screening, decorative grills, or louvers
- Glass surfaces which use awnings, overhangs, bris sole, or other exterior sun-shading devices
- Glass surfaces which use external films or coatings perceivable by birds
- Artwork, drapery, banners, and wall coverings that counter the reflection of glass surfaces or block “see through” pathways.

##### ***Building Articulation***

- Structure design features that reduce or avoid the potential for bird strikes, such as secondary and tertiary setbacks, stepped back building design, protruding balconies, recessed windows, and mullioned glazing systems, shall be incorporated to the extent feasible. Balconies and other elements will step back from the water’s edge.
- Design features that increase the potential for bird strikes, such as walkways constructed of clear glass and “see through” pathways through lobbies, rooms and corridors, shall be avoided to the extent feasible.
- Buildings will be sited and designed to minimize glass and windows facing Wildlife Habitat Areas to the maximum extent possible. Design for towers on Parcel H-3 should avoid east-west monolith massing and should include architectural articulation.
- The tallest buildings on Parcel H-3 will be located generally on the southern portion of the parcel with building heights decreasing towards the north and west. The foregoing will not be interpreted to preclude incorporating secondary and tertiary setbacks along public streets.
- Parcels containing surface parking, such as those depicted for the Sweetwater District, will be designed with parking lots nearer Wildlife Habitat Areas. Site plans on parcels adjacent to Wildlife Habitat Areas will maximum distance between structures and such areas.

##### ***Landscaping***

- Exterior trees and landscaping shall be located and glass surfaces shall incorporate measures so that exterior trees and landscaping are not reflected on building surfaces.
- In small exterior courtyards and recessed areas, the building’s edge shall be clearly defined with opaque materials and non-reflective glass.

- Interior plants shall be located a minimum of 10 feet away from glass surfaces to avoid or reduce the potential for attracting birds.

#### ***Public Education***

- The owner or operator of each building shall implement an ongoing procedure to the satisfaction of the Port or the City to encourage tenants, residents, and guests to close their blinds, drapes, or other window coverings to reduce or avoid the potential for bird strikes.
- The owner or operator of each building shall enroll in the Fatal Light Awareness Program's "Bird-Friendly Building Program" and shall implement ongoing tenant, resident, and guest education strategies, to the satisfaction of the Port or the City, to reduce or avoid the potential for bird strikes, such as elevator and lobby signage and educational displays, e-mail alerts and other bulletins during spring and fall migratory seasons, and other activities designed to enlist cooperation in reducing bird collisions with the building.

#### ***Monitoring***

- For Phase I projects, the Project applicant shall retain a qualified biologist to design a protocol and schedule, in consultation with USFWS and subject to the approval of the Port or City, as appropriate depending on jurisdiction, to monitor bird strikes which may occur during the first 12 months after the completion of construction. Within 60 days after completion of the monitoring period, the qualified biologist shall submit a written report to the Port or the City, which shall state the biologist's findings and recommendations regarding any bird strikes that occurred. Based on the findings of those reports, the Port or the City, as appropriate depending on jurisdiction, in coordination with USFWS, will evaluate whether further action is required, which may include further monitoring.
- Bird strikes must be monitored in accordance with the NRMP and measures developed to address persistent problem areas. Nighttime lighting in tower buildings must be addressed and evaluated through adaptive management. Minimization of impacts of buildings on birds and the Wildlife Habitat Areas will be a priority in the selection of window coverings, glass color, other exterior materials, and design of exterior lighting and lighting of signs.

To minimize the potential for bird strikes, Mitigation Measure 4.8-23 requires that prior to the issuance of building permits, building plans will be reviewed by a qualified biologist retained by the developer and approved by the Port or the City to verify that the proposed building has



incorporated specific design features related to lighting, glass and reflection, building articulation, landscaping, public education and monitoring.

Incorporation of Mitigation Measure 4.8-23 will reduce impacts related to a potentially significant increase in bird strikes within the Project area due to Phase I development of the Proposed Project (Potential Significant Impact 4.8-36) to below a level of significance.

#### **4.7.35 Potential Significant Impact (4.8-37)**

Program-level construction of buildings between 100 and 200 feet high within the jurisdiction of the City may result in a potentially significant increase in bird strikes within the Project area.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.8-36 above also apply to Potential Significant Impact 4.8-37. Construction of buildings between 100 and 200 feet high within the program-level phases of development would potentially impact avian flight patterns and habitat use along the project frontage, as well as result in a potential significant increase in the number of bird strikes within the Project area. These impacts would be significant.

In order to mitigate for the potential significant increase in bird strikes within the Project area (which would be a significant impact), as discussed above, the City shall require that building plans be reviewed by a qualified biologist retained by the developer and approved by City to verify that the proposed building has incorporated specific design features related to lighting, glass and reflection, building articulation, landscaping, public education and monitoring that would effectively minimize the potential for bird strikes within the Project area.

Incorporation of Mitigation Measure 4.8-23 will reduce impacts related to a potentially significant increase in bird strikes within the Project area due to Phase II through IV development of the Proposed Project (Potential Significant Impact 4.8-37) to below a level of significance.

## **4.8 Marine Biological Resources**

### **4.8.1 Potential Significant Impact (4.9-1)**

Program-level construction of the H Street Pier during Phase II would significantly impact eelgrass.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The project proposes construction of a recreational pier north of the Chula Vista Marina at H Street during Phases II and IV. During the first phase of the H Street Pier project (in Phase II), the Proposed Project would create impacts from the driving of piles for pier support into shallow subtidal benthic habitat where eelgrass is known to occur. Additionally, development of the pier deck would increase shading, possibly resulting in a loss of eelgrass habitat in the area. Shading affects an area greater than the footprint of the structure. As the height of the structure increases, shading impacts generally increase as well. At a minimum, shading from docks and piers are assumed to affect an area the size of the aerial footprint. Plans anticipate that the first phase portion (Phase II) of the H Street Pier would extend approximately 300 feet west of the base of H Street into the Bay and would be approximately 60 feet wide. In addition, the pier will be designed to be the maximum feasible height and have the maximum feasible space between pilings in order to minimize shading impacts. Construction and operation of the pier would result in a total impact to 0.4 acre of eelgrass habitat in South Bay. Impacts to eelgrass are significant.

In order to mitigate for impacts to eelgrass due to construction and operation of the H Street Pier, the Port will implement Mitigation Measure 4.9-1, to include the following:

- A. Prior to construction of the H Street Pier during Phases II and IV or work within Parcel HW-4, a pre-construction eelgrass survey shall be conducted by a qualified marine biologist to confirm the exact amount of eelgrass to be affected at the time of pile driving operations. The pre-construction survey must be conducted during the period of March through October and would be valid for a period of no more than 60 days, with the exception that surveys conducted in August through October would be valid until the following March 1.

- B. Prior to construction of the H Street Pier during Phases II and IV or work within Parcel HW-4, the Port shall establish and implement a plan to create new eelgrass habitat. The loss of eelgrass habitat must be mitigated at a 1.2:1 ratio as described in the SCEMP (NMFS 1991, Revision 11). Impacts to approximately 0.4 acre of eelgrass shall require the creation of approximately 0.48 acre of eelgrass to mitigate losses caused by construction of the H Street Pier.
- C. Prior to or concurrent with the completion of the H Street Pier or work within Parcel HW-4, the Port shall create new eelgrass habitat at a ratio of 1.2:1 for the actual amount of impacts. This shall be done by removing the existing eelgrass currently located at the proposed H Street Pier site and transplanting it at an appropriate location within the filled area of the existing navigation channel, to the satisfaction of a qualified marine biologist.
- D. Subsequent to construction of the H Street Pier during Phases II and IV or work within Parcel HW-4, a post-construction eelgrass survey shall be conducted by a qualified biologist. The post-construction survey shall be conducted within 30 days of the cessation of construction activities to confirm the exact amount of eelgrass affected. The difference between the pre-construction and post-construction eelgrass surveys shall determine the amount of required mitigation. In addition, the Port shall:
- Conduct transplant reports following construction (Initial Report).
  - Conduct monitoring reports at 6, 12, 24, 36, 48, and 60 months post-transplant. Specific milestones and criteria for success are directed in the SCEMP along with guidelines for remedial actions if the success criteria are not met (including presence of green sea turtles based on soundings from the existing tagging program), which would require (based on the absence of other mitigating environmental considerations) a Supplementary Transplant Area to be constructed and monitored for an additional 5 years.
  - Initiate mitigation within 135 days of project inception; projects requiring more than 135 days to complete would result in additional mitigation.
  - Coordinate with Sweetwater Authority to share monitoring reports, as necessary.

Mitigation Measure 4.9-1 requires that the loss of eelgrass habitat be mitigated at a ratio of 1.2:1. Further, the measure states that 83 acres of an existing navigational channel will be filled, creating shallow water habitat in which eelgrass habitat can be created. Additionally, pre- and post-construction eelgrass survey will be required in order to determine the exact location of eelgrass impact prior to in-water work on the channel realignment and to confirm the exact area of eelgrass affected after completion of construction. Monitoring of mitigation will be required.

Incorporation of Mitigation Measure 4.9-1 will reduce impacts to eelgrass habitat due to program-level construction of the H Street Pier during Phase II (Potential Significant Impact 4.9-1) to below a level of significance.

#### **4.8.2 Potential Significant Impact (4.9-2)**

Program-level construction of the H Street Pier during Phase IV would significantly impact eelgrass habitat.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.9-1 above also apply to Potential Significant Impact 4.9-2. Pier completion is planned in Phase IV and would include lengthening the pier an additional 300 feet. Although design plans have not been completed, the additional work would result in an increase of 18,000 square feet, or an additional 0.4 acre, of eelgrass impacts if constructed as currently planned. Combined total impacts from completion of Phases II and IV construction would result in a total loss of 0.8 acre of eelgrass habitat. The increased impact to 0.4 acre of eelgrass during Phase IV would be significant.

As discussed in the analysis under Potential Significant Impact 4.9-1 above, Mitigation Measure 4.9-1 requires that the loss of eelgrass habitat be mitigated at a ratio of 1.2:1 and a suitable location for eelgrass habitat creation will be within the existing Marina Access Navigation Channel that will be filled. Similar to impacts to eelgrass habitat during Phase II, impacts during Phase IV will require pre- and post-construction eelgrass surveys in order to determine the exact location of eelgrass impact prior to in-water work on the channel realignment and to confirm the exact area of eelgrass affected after completion of construction. Monitoring of mitigation will be required.

Incorporation of Mitigation Measure 4.9-1 will reduce impacts to eelgrass habitat due to program-level construction of the H Street Pier during Phase IV (Potential Significant Impact 4.9-2) to below a level of significance.

#### **4.8.3 Potential Significant Impact (4.9-3)**

Dredging and filling of the existing *Marina Access Navigation Channel* would significantly impact eelgrass and shallow-water habitat.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

During Phase IV of the Proposed Project, the existing access channel to the north bay would be realigned. Much of the access channel is too shallow for navigation; therefore, this area would be dredged to a deeper level. The material dredged from both the proposed navigation channel and the existing South Bay Boatyard would be used to fill approximately 83 acres of the existing channel from an approximate depth of -15 Mean Low Low Water (MLLW) to between -3 and -5.5 feet MLLW.

Channel dredging would temporarily affect approximately 62 acres of soft subtidal habitat. Although more than one-half of this area is unvegetated, as much as 24.3 acres of eelgrass and shallow-water habitat would be lost to dredging and approximately 21.6 acres of temporary impact would result from filling of the existing navigation channel, based on the cumulative maximum extent of eelgrass found in the Proposed Project area in surveys conducted in 1993, 1999, 2003, and 2004 (Merkel and Associates (Merkel) 2000; Tenera and Merkel 2004). This loss of eelgrass and shallow-water habitat would be significant.

In order to mitigate the impact to eelgrass and shallow-water habitat due to dredge and fill activities associated realigning the existing Marina Access Navigation Channel during Phase IV of the Proposed Project, the Port will implement Mitigation Measure 4.9-2, to include the following:

- A. An estimated 83 acres of the existing navigation channel shall be filled to -3 to -5.5 feet MLLW. The fill would modify deep and moderately deep open-water habitat to create approximately 83 acres of shallow-water habitat. This area would provide enough transplantable habitat at a depth ideal for eelgrass in this section of the Bay to mitigate for the loss of eelgrass from the channel realignment and completion of the H Street Pier.
- B. A mitigation plan with an implementation schedule shall be prepared 30 days prior to any construction or dredge activities. The loss of eelgrass habitat shall be mitigated at a 1.2:1 ratio as described in the SCEMP (NMFS 1991, Revision 11). Based on this formula, impacts to 45.9 acres of eelgrass would require approximately 55.1 acres of eelgrass restoration.
- C. Prior to the commencement of in-water work on the channel realignment, a pre-construction eelgrass survey shall be conducted to confirm the exact area of impact at the

time of dredging and fill operations. The pre-construction survey shall be conducted during the period of March through October and would be valid for a period of no more than 60 days, with the exception that surveys conducted in August through October would be valid until the following March 1.

- D. Subsequent to dredge and fill operations, a post-construction eelgrass survey shall be conducted by a qualified biologist. The post-construction survey shall be conducted within 30 days of the cessation of construction activities to confirm the exact area of eelgrass affected. The difference between the pre-construction and post-construction eelgrass surveys shall determine the amount of required mitigation. In addition, the Port shall:

***Conduct transplant reports following construction (Initial Report).***

Conduct monitoring reports at 6, 12, 24, 36, 48, and 60 months post-transplant. Specific milestones and criteria for success are directed in the SCEMP along with guidelines for remedial actions if the success criteria are not met (including presence of green sea turtles based on surroundings from the existing tagging program), which would require (based on the absence of other mitigating environmental considerations) a Supplementary Transplant Area to be constructed and monitored for an additional 5 years.

Initiate mitigation within 135 days of project inception; projects requiring more than 135 days to complete would result in additional mitigation.

Coordinate with Sweetwater Authority to share monitoring reports, as necessary.

Mitigation Measure 4.9-2 requires that the loss of eelgrass habitat be mitigated at a ratio of 1.2:1 and a suitable location for eelgrass habitat creation will be within the existing Marina Access Navigation Channel that will be filled. Similar to impacts to eelgrass habitat during Phase II, impacts during Phase IV will require pre- and post-construction eelgrass surveys in order to determine the exact location of eelgrass impact prior to in-water work on the channel realignment and to confirm the exact area of eelgrass affected after completion of construction. Monitoring of mitigation will be required.

Incorporation of Mitigation Measure 4.9-2 will reduce impacts to eelgrass and shallow-water habitat due to dredging and filling of the existing Marina Access Navigation Channel (Potential Significant Impact 4.9-3) to below a level of significance.

**4.8.4 Potential Significant Impact (4.9-4)**

Program-level harbor modifications on Parcel HW-4 would significantly impact eelgrass habitat.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Currently, approximately 162,600 square feet of riprap and bulkhead provide hard substrate intertidal and subtidal communities within the harbor. Approximately 14,400 square feet of the existing riprap and bulkhead would be removed and replaced with approximately 540 square feet of bulkhead. This modification would result in the permanent loss of approximately 13,863 square feet of hard substrate intertidal and subtidal habitat and communities. The hard substrate intertidal and subtidal communities provided by the riprap within the harbor are neither pristine nor degraded. The permanent loss of 13,863 square feet of hard substrate intertidal and subtidal habitat and communities would occur as a result. Although this would be a loss of 8.5% of the existing amount of hard intertidal substrate, this habitat does not support special-status species. Therefore, the incremental loss of this habitat would not be significant.

A small permanent loss of benthic habitat would occur in the footprint of the piles. Despite this loss, however, the piles would create hard substrate subtidal and intertidal habitat in excess of the area of benthic impacts. Sufficient habitat to mitigate for the loss of benthic habitat would be available in the channel realignment fill area.

Eelgrass would be significantly impacted by the harbor modifications. There would be a potential loss of up to 775 square feet, or approximately 0.02 acre, of eelgrass during construction of the harbor on Parcel HW-4.

In order to mitigate for impacts to eelgrass habitat due to harbor modifications, the Port will implement Mitigation Measure 4.9-1. As discussed in the analysis under Potential Significant Impact 4.9-1 above, Mitigation Measure 4.9-1 requires that the loss of eelgrass habitat be mitigated at a ratio of 1.2:1 and a suitable location for eelgrass habitat creation will be within the existing Marina Access Navigation Channel that will be filled. Similar to impacts to eelgrass habitat during Phase II, impacts during Phase IV will require pre- and post-construction eelgrass surveys in order to determine the exact location of eelgrass impact prior to in-water work on the channel realignment and to confirm the exact area of eelgrass affected after completion of construction. Monitoring of mitigation will be required.

Further, the measure states that 83 acres of an existing navigational channel will be filled, creating shallow water habitat in which eelgrass habitat can be created. Additionally, pre- and post-construction eelgrass survey will be required in order to determine the exact location of

eelgrass impact prior to in-water work on the channel realignment and to confirm the exact area of eelgrass affected after completion of construction. Monitoring of mitigation will be required.

Incorporation of Mitigation Measure 4.9-1 will reduce impacts to eelgrass habitat due to program-level harbor modifications on Parcel HW-4 (Potential Significant Impact 4.9-4) to below a level of significance.

#### **4.8.5 Potential Significant Impact (4.9-5)**

Bulkhead placement on Parcel HW-3 and on the northern side of the Chula Vista Marina during Phase IV would significantly impact intertidal mudflat and existing pickleweed.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.9-4 above also apply to Potential Significant Impact 4.9-5. Bulkhead placement on Parcel HW-3 would result in the loss of about 1,200 square feet (0.03 acre) of intertidal mudflat inside the Marina. In addition, bulkhead placement on the northern side of the Chula Vista Marina would impact approximately 53.82 square feet (less than 0.001 acre) of the existing pickleweed. These impacts would be significant.

In order to mitigate for impacts to intertidal mudflat and existing pickleweed due to bulkhead placement on Parcel HW-3 and on the northern side of the Chula Vista Marina during Phase IV, the Port will implement Mitigation Measure 4.9-3, to include the following:

- A. Prior to the commencement of harbor improvements on Parcel HW-3, which includes the placement of bulkheads, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a plan to create new habitat at a ratio of 2:1 for intertidal mudflat and 4:1 for pickleweed. Impacts to approximately 0.03 acre of intertidal mudflat shall require the in-kind creation of approximately 0.06 acre, and less than 0.001 acre of pickleweed shall require creation of approximately 0.004 acre of comparable habitat.
- B. Restoration shall occur in accordance with *Appendix 4.8-12*. At the time project specific designs are proposed for the Phase IV harbor reconfiguration, the mitigation for impacts to intertidal mudflat and pickleweed shall be re-evaluated by the Port during subsequent environmental review pursuant to State CEQA Guidelines section 15168 to identify the



total impact area and required mitigation for the loss of intertidal mudflat and pickleweed.

- C. Restoration shall occur in accordance with Mitigation Opportunities, *Appendix 4.8-12* of the FEIR, which includes the creation of additional mudflat through the removal of riprap on the Bay shore in the Sweetwater District. As detailed in Mitigation Opportunities, this created habitat would be dominated by pickleweed (*Salicornia virginica*) with subdominants including saltwort (*Batis maritima*), fleshy Jaumea (*Jaumea carnosa*), alkali heath (*Frankenia salina*), and others as listed in Table 4 of *Appendix 4.8-12*. Currently, the mitigation opportunities detailed in *Appendix 4.8-12* are anticipated to be implemented during Phase I. The Port shall verify that the creation of intertidal mudflat satisfies the required mitigation once the final impacts are verified.

Mitigation Measure 4.9-3 requires that impacts to intertidal mudflats and existing pickleweed be mitigated at a ratio of 2:1 through the creation of new habitat. When project specific Phase IV harbor reconfiguration design plans are proposed, impacts to intertidal mudflat and pickleweed will be re-evaluated to determine actual impacts. Once the total impact area is identified, mitigation will commence and may include the creation of additional mudflat through the removal of riprap on the Bay shore in the Sweetwater District. The created mudflat area will be dominated by pickleweed (*Salicornia virginica*) with subdominants including saltwort (*Batis maritima*), fleshy Jaumea (*Jaumea carnosa*), alkali heath (*Frankenia salina*), and others in order to mitigate for the loss of pickleweed due to harbor reconfiguration.

Incorporation of Mitigation Measure 4.9-3 will reduce impacts to intertidal mudflats and pickleweed during Phase IV harbor reconfiguration activities (Potential Significant Impact 4.9-5) to below a level of significance.

#### **4.8.6 Potential Significant Impact (4.9-6)**

Construction of phased improvements for the H Street Pier, the existing South Bay Boatyard Marina, Chula Vista Marina, and the realignment of the navigation channel would temporarily impact water quality and marine resources.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Temporary direct impacts to water quality and marine resources would occur through the unintentional release of excavated sediments and water into the local environment during construction of phased improvements for the H Street Pier, the existing South Bay Boatyard Marina, Chula Vista Marina, and the realignment of the navigation channel. The process of driving in the piles during the first phase of construction for the H Street Pier (in Phase II) would itself cause temporary direct impacts to water quality and marine resources. Excavated sediments and water may be released unintentionally, increasing turbidity and stirring up potentially contaminated soils.

In order to mitigate for impacts to water quality and marine resources due to the construction of phased improvements for the H Street Pier, the existing South Bay Boatyard Marina, Chula Vista Marina, and the realignment of the navigation channel, the Port will implement Mitigation Measure 4.9-4, to include the following:

- A. Prior to issuance of a permit by USACE for dredge and/or fill operations in the Bay or Chula Vista Harbor, the applicant shall conduct a focused sediment investigation and submit it to USACE and RWQCB for review and approval. The applicant shall then determine the amount of bay sediment that requires remediation and develop a specific work plan to remediate bay sediments in accordance with permitting requirements of the RWQCB. The work plan shall include but not be limited to: dredging the sediment, allowing it to drain, and analyzing the nature and extent of any contamination. Pending the outcome of the analytical results, a decision by RWQCB shall prescribe the requirements for disposition of any contaminated sediment.
- B. Prior to issuance of a grading permit for marina redevelopment on HW-1 and HW-4, the developer shall submit a work plan for approval by the RWQCB and Port/City that requires the implementation of BMPs, including the use of silt curtains during in-water construction to minimize sediment disturbances, and the confinement of potentially contaminated sediment if contaminated sediment exists. If a silt curtain should be necessary, the silt curtain shall be anchored along the ocean floor with weights (i.e., a chain) and anchored to the top with a floating chain of buoys. The curtain shall wrap around the area of disturbance to prevent turbidity from traveling outside the immediate Project area. Once the impacted region resettles, the curtains shall be removed. If the sediment would be suitable for ocean disposal, no silt curtain shall be required. However, if contaminants are actually present, the applicant would be required to provide to the RWQCB and the Port/City an evaluation showing that the sediment would be suitable for ocean disposal.

Mitigation Measure 4.9-4 requires the Project applicant to conduct and submit to the USACE and RWQCB a focused sediment investigation in order to determine the amount of bay sediment requiring remediation. Once that total amount of bay sediment requiring remediation is identified, the applicant will prepare a work plan focused on remediating the unintentional release of excavated sediments and water. After reviewing and approving the focused sediment investigation, the RWQCB will prescribe the requirements for disposition of any contaminated sediment. Additionally, construction for marina redevelopment on HW-1 and HW-4 will require the implementation of RWQCB-, Port-, and City-approved BMPs including the use of silt curtains during in-water construction to minimize sediment disturbances, and the confinement of potentially contaminated sediment if contaminated sediment is found to exist. If sediments are found to be suitable for ocean disposal, no BMPs will be required but the applicant must provide to the RWQCB and the Port/City an evaluation showing that the sediment would be suitable for ocean disposal.

Incorporation of Mitigation Measure 4.9-4 will reduce temporary direct impacts to water quality and marine resources due to construction of phased improvements for the H Street Pier, the existing South Bay Boatyard Marina, Chula Vista Marina, and the realignment of the navigation channel (Potential Significant Impact 4.9-6) to below a level of significance.

#### **4.8.7 Potential Significant Impact (4.9-7)**

Impacts resulting from Phase IV dredging in the existing South Bay Boatyard Marina prior to identifying a suitable storage site for the dredged material would be significant.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.9-6 above also apply to Potential Significant Impact 4.9-7. Turbid water from dredging can interfere with filter-feeding subtidal organisms, and introduced contaminants would potentially affect subtidal organisms. Construction of the South Bay Boatyard Marina (at Parcel HW-6) during Phase IV would require this area be dredged to a deeper level. Currently, no storage area for the dredged material, if contaminated, has been identified. This impact would be significant.

The amount of dredging shall be determined during final design of the marinas and harbor reconfiguration. In order to mitigate for impacts resulting from Phase IV dredging in the existing

South Bay Boatyard Marina prior to identifying a suitable storage site for the dredged material, prior to any dredging, the Port shall develop and implement a plan for the dredging and storage of material to the satisfaction of responsible resource agencies, including USACE. The storage and/or landside disposal of dredge material shall be performed in accordance with the provisions of Mitigation Measure 4.6-6 in *Section 4.6, Air Quality* in the FEIR and all applicable federal, state, and local regulations.

Once the amount of dredging for the South Bay Boatyard Marina is identified (but prior to dredging activities), Mitigation Measure 4.9-5 requires the Port to identify a suitable storage space for dredged materials. Storage and or landslide disposal of dredged materials will comply with all applicable federal, state and local laws in addition to the provisions identified in Mitigation Measure 4.6-6 in *Section 4.6, Air Quality*.

Incorporation of Mitigation Measure 4.9-5 will reduce impacts resulting from Phase IV dredging in the existing South Bay Boatyard Marina prior to identifying a suitable storage site for the dredged material (Potential Significant Impact 4.9-7) to below a level of significance.

#### **4.8.8 Potential Significant Impact (4.9-8)**

Impacts to marine resources related to lighting associated with construction and operation of the proposed marinas would be significant.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Construction and the driving of piles for the H Street Pier would have temporary adverse effects on marine resources. This would include a short-term increase in turbidity, a temporary loss of intertidal and subtidal benthic habitat in the construction zone, and noise and vibration disturbances of fish communities. However, the benthic community impacted would rapidly recolonize the area following pile driving. Although temporary noise and vibration from the pile driving may disturb fish species, the effect would not be significant because fish have a behavioral avoidance of high-intensity sound levels. Although noise disturbance would be temporary, the addition of hard substrate piles in the area of the H Street Pier would attract a wider variety of fish species than currently occur in the area.

Artificial light that alters the natural patterns of light and dark in ecosystems is known as “ecological light pollution” (Longcore and Rich 2004). Ecological light pollution includes direct glare, chronically increased illumination, and temporary, unexpected fluctuations in lighting. Sources of ecological light pollution include sky glow, lighted buildings and towers, streetlights, fishing boats, security lights, lights on vehicles, flares on offshore oil platforms, and even lights on undersea research vessels. Artificial night lighting is known to disrupt ecological systems. The demonstrable effects on the behavioral and population ecology of organisms in natural settings derive from changes in orientation, disorientation, or misorientation and attraction or repulsion from the altered light environment, which in turn may affect foraging, navigation, reproduction, migration, and communication (Longcore and Rich 2004). Artificial night lighting can also indirectly cause water quality impacts. For example, many aquatic invertebrates, such as zooplankton, move up and down within the water column during a 24-hour period. This “vertical migration” presumably results from a need to avoid predation during lighted conditions; therefore, many zooplankton forage near water surfaces only during dark conditions. It is hypothesized that, with fewer zooplankton migrating to the surface to graze, algae populations may increase. Such algal blooms would then have a series of adverse effects on water quality (Longcore and Rich 2004). Impacts to marine resources related to lighting associated with construction and operation of the proposed marinas would be significant.

In order to mitigate for impacts to marine resources related to lighting associated with construction and operation of the proposed marinas, the Port will implement Mitigation Measure 4.9-6, to include the following:

Prior to issuance of Coastal Development Permits, project applicants shall submit a lighting plan and photometric analysis to the Port for review and approval. Lighting of all developed areas adjacent to open water shall be directed away from the water, wherever feasible and consistent with public safety. Lighting fixtures shall provide adequate shielding to protect the aquatic habitat and marine life from night lighting. The lighting plan shall illustrate the location of the proposed lighting standards and type of shielding measures. Low-pressure sodium lighting or the equivalent shall be used if feasible and shall be subject to the approval of the Port.

Mitigation Measure 4.9-6 requires project applicants to prepare and submit for approval to the Port lighting plans illustrating that the lighting of all developed areas adjacent to open water will be directed away from the water, wherever feasible and consistent with public safety. To further minimize the potential for project lighting to impact the aquatic habitat and marine life, low-pressure sodium lighting or the equivalent will be required in developed areas adjacent to open water. Additionally, all lighting fixtures in developed areas adjacent to open water will provide shielding to protect the aquatic habitat and marine life from night lighting.

Incorporation of Mitigation Measure 4.9-6 will reduce indirect impacts to marine resources from lighting during project construction and operation (Potential Significant Impact 4.9-8) to below a level of significance.

## **4.9 Paleontological Resources**

### **4.9.1 Potential Significant Impact (4.11-1)**

Mass grading in the Sweetwater District proposed during Phase IV could produce direct and significant impacts to potential paleontological resources of the Bay Point Formation.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Development of the Chula Vista Nature Center parking lot and access road, proposed in Phase I, would not result in potential significant impacts to paleontological resources because the Bay Point Formation does not occur at the proposed location. However, development of the buildings proposed during Phase I could result in potential significant impacts to paleontological resources if the Bay Point Formation is penetrated during excavation activities required for structural support.

The sedimentary origin of the Bay Point Formation and its general fossiliferous character suggests that this rock formation has the potential to yield significant fossils. Because bedrock deposits of the Bay Point Formation occur in the northeastern Portion of the Sweetwater District, more precisely underlying the low coastal mesa adjacent to Bay Boulevard, there would be the potential for significant impacts to sensitive paleontological resources to occur during construction of this Portion of the Project site in Phase IV (see *Appendix 4.11-1* of the FEIR). Parcels that would be affected include S-3, S-4, S-5, SP-4, SP-5, SP-6, SP-7, the eastern Portion of the E Street extension, and the eastern Portion of S-1. The Bay Point Formation in this area consists of at least 40 feet of loosely consolidated Pleistocene-age sedimentary rocks divisible into an upper 22-foot-thick sandstone unit and a lower 18-foot-thick claystone unit.

Mass grading in the Sweetwater District is proposed during Phase IV. The destruction of buried fossil remains could occur during mass grading of the low coastal mesa in this area. If excavation activities penetrate to a depth sufficient to encounter unweathered deposits of the Bay Point

#### 4.0 FINDINGS REGARDING DIRECT IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

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Formation, then these development activities would produce direct and significant impacts to potential paleontological resources of the Bay Point Formation.

In order to mitigate for potential impacts to paleontological resources of the Bay Point Formation due to Phase IV mass grading in the Sweetwater District, the Port and City will implement Mitigation Measure 4.11-1, to include the following:

Prior to the issuance of any grading permit in the Sweetwater District, the applicant shall retain a qualified paleontologist (defined as an individual with an M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques) who shall carry out the following mitigation program. Fieldwork may be conducted by a qualified paleontological monitor (defined as an individual who has experience in the collection and salvage of fossil materials) who at all times shall work under the direction of the qualified paleontologist. Additional requirements of Mitigation Measure 4.11-1 are as follows:

The paleontologist shall attend all pre-grading meetings to inform the grading and excavation contractors of this paleontological resource mitigation program and shall consult with them with respect to its implementation.

The paleontological monitor shall be on site at all times during the original cutting of previously undisturbed sediments of highly sensitive geologic formations to inspect cuts for contained fossils in the low coastal mesa adjacent to Bay Boulevard in the northeastern Portion of the Sweetwater District. The paleontological monitor shall be on site during the original cuts in deposits with a moderate resource sensitivity.

If fossils are discovered, the paleontologist or monitor shall recover them. In instances where recovery requires an extended salvage time, the paleontologist or monitor shall be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner. Where deemed appropriate by the paleontologist or monitor, a screen-washing operation for small fossil remains shall be set up.

Recovered fossils, along with copies of all pertinent field notes, photographs, and maps, shall be deposited (with the applicant's permission) in a scientific institution with paleontological collections. A final summary report that outlines the results of the mitigation program shall be completed. This shall include discussion of the methods used, stratigraphy exposed, fossils collected, and significance of recovered fossils.

All work shall be completed to the satisfaction of the Port or the City of Chula Vista, as appropriate.

Mitigation Measure 4.11-1 requires that the Project applicant retain the services of a qualified paleontologist prior to the issuance of any grading permits within the Sweetwater District. The paleontologist will be required to attend all pre-grading meetings to inform the grading and excavation contractors of potential paleontological resources located within the Sweetwater District, and would ensure that a qualified paleontological monitor is on site at all times during grading and excavation activities located near highly sensitive geologic formations to inspect cuts for contained fossils in the low coastal mesa adjacent to Bay Boulevard in the northeastern Portion of the Sweetwater District. The paleontological monitor will be responsible for recovering any discovered fossils unearthed during grading and excavation. If fossils are unearthed, the paleontologist or monitor will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner and ultimately deposit fossils in a scientific institution with paleontological collections. A final summary report that outlines the results of the mitigation program will be completed by the paleontologist.

Incorporation of Mitigation Measure 4.11-1 will reduce potential impacts to paleontological resources in the Sweetwater District (Potential Significant Impact 4.11-1) to below a level of significance.

## **4.10 Hazards and Hazardous Materials/Public Safety**

### **4.10.1 Potential Significant Impact (4.12-1)**

Potential impacts associated with encountering contamination during excavation, demolition, and construction is considered significant impacts.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

During excavation, demolition and construction activities associated with the Proposed Project, hazardous materials will be encountered within or adjacent to the boundaries of the site in the vicinity of several on-site areas of concern and three off-site areas of concern as presented in *Table 4.12-1* of the FEIR.

On-site areas of concern include the areas identified within the boundaries of the former Goodrich South Campus facility (Harbor District) and the SBPP (Otay District), and the Sweetwater District. Several unauthorized releases of hazardous materials/wastes have occurred



at both the former Goodrich South Campus and SBPP. Residual soil and groundwater contamination associated with these unauthorized releases exists at these two facilities. The aerial extent of several unauthorized releases has not been fully delineated to date. The Sweetwater District, which was used extensively for agricultural purposes until the 1980s, is expected to contain residual concentrations of pesticides and herbicides. In general, many pesticides applied to soil are immobile and do not generally leach downward to groundwater. In addition, because most pesticides tend to persist in the upper 1 to 2 feet of topsoil, such contamination will be redistributed over the site during grading activities. There is also a possibility that other areas of contamination exist within the boundaries of the site that have not been identified to date.

Three off-site areas of concern have been identified located at the south end of the Goodrich North Campus facility identified as releases No. 11, 12, and 13. The aerial extent of this contamination associated with these three areas has not been fully delineated to date. Additional assessment would be required to determine the lateral and vertical extent of the contamination in these areas.

Although excavation, demolition, and construction activities are short-term, the potential to encounter contamination during such activities associated with the Proposed Project is considered a significant impact.

In order to mitigate for the potential impact associated with encountering contamination during excavation, demolition, and construction activities, the Port and City will implement Mitigation Measure 4.12-1, to include the following:

Prior to the issuance of any permit for excavation, demolition, grading, or construction activities in the area described in the relevant permit based on the planned future use, the following shall occur:

- A. The applicant shall contact the lead regulatory agency (RWQCB/DEH/DTSC) to discuss the appropriate course of action for the area of concern described in the permit based on the planned future site use. Remediation of contaminated soil and/or groundwater in these areas shall meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and shall be protective of human health with regard to future occupants of these areas. The applicant shall submit documentation showing that contaminated soil and/or groundwater in the area covered by the permit shall have been avoided or remediated to meet cleanup requirements established by the local regulatory agencies (RWQCB/DEH/DTSC).
- B. The applicant shall obtain written authorization from the regulatory agency (RWQCB/DEH/DTSC) confirming the completion of any remediation required for

development of the site, exclusive of any on-going monitoring obligations. A copy of the authorization shall be submitted to the Port and City to confirm meeting all requirements acceptable to the governing agency and that the proposed development parcel has been cleaned up or is in process to the satisfaction of the regulatory agency. In the situation where previous contamination has occurred on a site that has a previously closed case or on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, the DEH shall be notified of the proposed land use.

- C. A Soil and Water Management Plan (SWMP) for Phase I activities shall be developed to provide procedures for addressing unknown contamination and subsurface equipment (i.e., pipes, tanks) or debris encountered during construction and excavation. A SWMP for subsequent phases shall be prepared prior to construction and excavation or such development. The plan shall be developed by a qualified environmental consultant and shall identify notification, monitoring, sampling, testing, handling, storage, and disposal of contaminated media or substances (soil, groundwater) measures to avoid or reduce impacts associated with hazardous materials contamination to a less than significant impact. The SWMP shall be approved by the Port and/or City prior to commencement of excavation, grading, demolition or construction. A qualified environmental consultant shall monitor excavations, grading, and construction activities in accordance with the plan. Any excess soil generated by construction shall be characterized to determine disposal options.

If indications of contamination are encountered during construction, a qualified environmental consultant shall be retained to observe the contamination, consult with the regulatory oversight agency, perform environmental media (soil, soil gas, and groundwater) sampling and analysis as necessary, report the result, and provide recommendations or further action.

In areas that have been identified as being contaminated, appropriate observation by a qualified environmental professional and sampling is required to characterize soil prior to off-site disposal. Contaminated soil shall be properly disposed of at an off-site facility. Fill soils shall be sampled to ensure that imported soil is free of contamination.

Within one month of completion of cleanup activities, a report summarizing the results of monitoring shall be submitted by the applicant to the satisfaction of the Port and City.

- D. In the event that grading or construction activities result in the discovery of hazardous waste, the Port and/or City shall ensure compliance with State of California CCR Title 23 Health and Safety Regulation. Excavated soils impacted by hazardous materials or waste shall be characterized and disposed of in accordance with CCR Title 14 and 22. The San Diego RWQCB shall be contacted regarding provisions for possible reuse as backfill of

soils impacted by hydrocarbons. Excavated soils shall be lined and covered with an impermeable material to prevent spread of contaminated material.

The applicant must have an Industrial Hygienist registered in the State of California on site while working in areas where contamination is encountered. The responsibility of this professional would be to monitor the work site for contamination and to implement mitigation measures as needed to prevent exposure to the workers or public. These measures may include signage and dust control.

Dewatering activities during construction shall be limited to the extent practicable and water generated by dewatering shall be tested to determine treatment and disposal options in accordance with all applicable laws and regulations.

Prior to the issuance of any permit for excavation, demolition, grading, or construction activities, Project applicants will be required to consult with the lead regulatory agency (RWQCB/DEH/DTSC) to discuss the appropriate course of action for the area of concern described in the permit based on the planned future site use. Any remediation required due to construction activities will meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and shall be protective of human health with regard to future occupants of these areas. Once remediation is completed, the Project applicant will be required to obtain written authorization from the regulatory agency confirming the completion of any remediation required for development of the site, exclusive of any ongoing monitoring obligations. A copy of the authorization shall be submitted to the Port and City to confirm meeting all requirements acceptable to the governing agency and that the proposed development parcel has been cleaned up or is in process to the satisfaction of the regulatory agency. Additionally, a SWMP for Phase I activities will be prepared to identify procedures and addressing unknown contamination and subsurface equipment (i.e., pipes, tanks) or debris encountered during construction and excavation and demolition.

Incorporation of Mitigation Measure 4.12-1 will reduce potential impacts associated with encountering contamination during excavation, demolition, and construction (Potential Significant Impact 4.12-1) to below a level of significance.

#### **4.10.2 Potential Significant Impact (4.12-2)**

Although not expected to occur, a spill or unintentional discharge of fuel, lubricants, or hydraulic fluid from the transportation of construction materials and/or the equipment used during construction, including dredge and fill activities, would result in significant impacts on water quality in a worst-case scenario.

### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-1 above also apply to Potential Significant Impact 4.12-2. Excavation, demolition, and construction activities would temporarily involve the transportation, use, and/or disposal of hazardous materials. Relatively small amounts of hazardous substances such as gasoline, diesel fuel, lubricating oil, grease, solvents, caulking, paint, and welding gases would be used on site for construction activities. There is the potential for construction debris to accumulate and for hazardous materials to be contained in stockpiles on the Project site. Storage and use of such substances would be short term and would be subject to federal, state, and local health and safety requirements. The Proposed Project would include the proper removal and disposal of all construction debris as mandated by applicable regulations. Consequently, the Proposed Project would not have a significant hazardous materials impact associated with the transportation, use, and/or disposal of hazardous substances during excavation, demolition, and construction activities. Although not expected to occur, a spill or unintentional discharge of fuel, lubricants, or hydraulic fluid from the transportation of construction materials and/or the equipment used during construction, including dredge and fill activities, would result in significant impacts on water quality in a worst-case scenario.

In order to mitigate for potential impacts associated with a spill or unintentional discharge of fuel, lubricants, or hydraulic fluid from the transportation of construction materials and/or the equipment used during construction, including dredge and fill activities, the Port and City will implement Mitigation Measure 4.12-2, to include the following:

Prior to construction, all contractor and subcontractor project personnel shall receive training regarding the appropriate work practices necessary to effectively comply with the applicable environmental laws and regulations, including, without limitation, hazardous materials spill prevention and response measures.

Hazardous materials shall not be disposed of or released onto the ground, the underlying groundwater, or any surface water. Totally enclosed containment shall be provided for all trash. All construction waste, including trash and litter, garbage, other solid waste, petroleum products, and other potentially hazardous materials shall be removed to a hazardous waste facility permitted or otherwise authorized to treat, store, or dispose of such materials.

The Port of San Diego shall require that a Business Emergency Plan (BEPP) is prepared for the construction of the Proposed Project, if not covered under their approved SWPPP. The plan shall identify all hazardous materials (e.g., fuels, solvents) that would be present on any Portion of the construction area and Project site. Contingency analysis and planning shall be presented to identify potential spill or accident situations, how to minimize their occurrence, and how to respond should they occur. The plan shall also identify spill response materials (e.g., absorbent pads, shovels) to be kept at the construction site and their locations. Hazardous materials spill kits shall be maintained on site for small spills.

Mitigation Measure 4.12-2 requires that all contractor and subcontractor project personnel receive training regarding the appropriate work practices necessary to effectively comply with the applicable environmental laws and regulations, including, without limitation, hazardous materials spill prevention and response measures. This is to ensure that in the event of an accident involving hazardous materials, project personnel are aware of the appropriate response measures. The measure also states that trash be disposed of in enclosed containers and that all construction waste be removed to a hazardous waste facility permitted or otherwise authorized to treat, store, or dispose of such materials. Lastly, a BEPP is required so the project personnel are aware of all hazardous materials present on any Portion of the construction area and Project site. The BEPP will also discuss how to minimize occurrence of spills and other accident situations and how to respond should spills or accidents occur.

Incorporation of Mitigation Measure 4.12-2 will reduce impacts to water quality due to a spill or unintentional discharge of fuel, lubricants, or hydraulic fluid from the transportation of construction materials and/or the equipment used during construction, including dredge and fill activities (Potential Significant Impact 4.12-2) to below a level of significance.

#### **4.10.3 Potential Significant Impact (4.12-3)**

The potential for exposure to contaminated soils during dewatering activities is considered a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-1 above also apply to Potential Significant Impact 4.12-3. Groundwater level within the Project area varies and it is

likely that groundwater would be encountered during construction. Short-term water quality impacts during construction will be minimized by complying with federal and state regulations for groundwater discharge. All discharges will be in compliance with RWQCB requirements. If dewatering activities associated with trenching, boring, and excavation result in potential exposure to contaminated groundwater and/or soils, the Port of San Diego will ensure compliance with the State of California CCR Title 23 Health and Safety Regulations. The potential for exposure to contaminated soils during dewatering activities is considered a significant impact.

In order to mitigate for potential impacts associated with exposure to contaminated soils during dewatering activities and as discussed under the analysis for Potential Significant Impact 4.12-1 above, dewatering activities during construction shall be limited to the extent practicable and water generated by dewatering shall be tested to determine treatment and disposal options in accordance with all applicable laws and regulations. Additionally, the applicant must have an Industrial Hygienist registered in the State of California on site while working in areas where contamination is encountered. The responsibility of this professional would be to monitor the work site for contamination and to implement mitigation measures as needed to prevent exposure to the workers or public.

Mitigation Measure 4.12-1 requires that any water generated by dewatering and found to be contaminated will be treated and disposed of in accordance with all applicable laws and regulations. Additionally, an Industrial Hygienist will be required on site during construction activities in locations where contamination is encountered in order to monitor the work site for contamination and implement measures as needed to prevent exposure of workers and the public to contaminated waters.

Incorporation of Mitigation 4.12-1 will reduce potential impacts associated with exposure to contaminated soils during dewatering activities (Potential Significant Impact 4.12-3) to below a level of significance.

#### **4.10.4 Potential Significant Impact (4.12-4)**

The potential suspension and/or release of contaminants in the water during dewatering activities could significantly impact marine resources in the Bay and the Chula Vista Harbor.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-1 above also apply to Potential Significant Impact 4.12-4. Implementation of specific design measures will be required to avoid potential impacts from cross contamination of groundwater during dewatering activities. If contaminants have extended in the subtidal areas of the harbor basin, dredging fill and bay sediment would potentially upset and suspend or release hazardous contaminants into the marine environment. The suspension and/or release of contaminants in the water could create a significant hazard to the marine resources living at this location and in the surrounding area.

In order to mitigate for the potential impacts to marine resources associated with the suspension and/or release of contaminants in the water during dewatering activities in the Bay and the Chula Vista Harbor, the Port will implement Mitigation Measure 4.12-3, to include the following:

- A. Prior to issuance of a permit by USACE for dredge and/or fill operations in the Bay or Chula Vista Harbor, the applicant shall conduct a focused sediment investigation and submit it to USACE and RWQCB for review and approval. The applicant shall then determine the amount of bay sediment that requires remediation and develop a specific work plan to remediate bay sediments in accordance with permitting requirements of the RWQCB. The work plan shall include but not be limited to dredging the sediment, allowing it to drain, and analyzing the nature and extent of any contamination. Pending the outcome of the analytical results, a decision by RWQCB shall prescribe the requirements for disposition of any contaminated sediment.
- B. Prior to issuance of a grading permit for marina redevelopment on HW-1 and HW-4, the developer shall submit a work plan for approval by the RWQCB and Port/City that requires the implementation of BMPs, including the use of silt curtains during in-water construction to minimize sediment disturbances and confine potentially contaminated sediment if contaminated sediment exists. If a silt curtain should be necessary, the silt curtain shall be anchored along the ocean floor with weights (i.e., a chain) and anchored to the top with a floating chain of buoys. The curtain shall wrap around the area of disturbance to prevent turbidity for traveling outside the immediate Project area. Once the impacted region resettles the curtains shall be removed. If the sediment would be suitable for ocean disposal, no silt curtain shall be required. However, if contaminants are actually present, the applicant would be required to provide to the RWQCB and Port/City an evaluation showing that the sediment would be suitable for ocean disposal.

As discussed above, Mitigation Measure 4.12-3 requires that for construction activities in the Bay or the Chula Vista Harbor, Project applicants shall conduct a focused sediment investigation to determine the total amount of bay sediment that will require remediation as a result of dredging activities. The investigation must be approved by the USACE and RWQCB. Once the

total amount of bay sediment requiring remediation is identified the applicant is required to prepare a work plan detailing (in compliance with the permitting requirements of the RWQCB) remediation efforts. The RWQCB will prescribe the requirements for disposition of any contaminated sediment.

For marina redevelopment on Parcels HW-1 and HW-4, Project applicants are required to submit (and obtain approval of) a work plan to the RWQCB and Port/City that details BMPs to be implemented. BMPs to consider include the use of silt curtains during in-water construction to minimize sediment disturbances and confine potentially contaminated sediment if contaminated sediment exists. BMPs will ensure that if present, contaminated sediments will be confined and properly disposed of.

Incorporation of Mitigation Measure 4.12-3 will reduce impacts to marine resources resulting from the suspension and/or release of contaminants in the water during dewatering activities in the Bay and Chula Vista Harbor (Potential Significant Impact 4.12-4) to below a level of significance.

#### **4.10.5 Potential Significant Impact (4.12-5)**

During construction activities, both existing and undocumented Underground Storage Tanks (USTs) located throughout the Proposed Project site may be required to be removed and contaminated soils may be encountered. This would be a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-1 above also apply to Potential Significant Impact 4.12-5. Because of the previous uses throughout the Project site, both existing and undocumented USTs are located throughout the site and may require removal during construction activities. Any USTs that are removed during redevelopment activities should be removed under permit by DEH. The potential to encounter contaminated soils associated with removal of identified and unidentified USTs is considered a significant impact.

In order to mitigate for the potential impacts associated with encountering contaminated soils during removal of USTs, the Port and City will implement Mitigation Measure 4.12-4, to include the following:



In the even of removal of USTs, the soil and groundwater within the vicinity of the USTs shall be adequately characterized and remediated, if necessary, to a standard that would be protective of water quality and human health, based on future site use. In areas to be redeveloped, a geophysical survey shall be conducted by the applicant to evaluate if there are any previously unidentified USTs or piping still existing in areas to be redeveloped.

Additionally, in the event that USTs are not identified in the Hazardous Materials Technical Study (HMTS) prepared for the Project (Ninyo & Moore 2005) or undocumented areas of contamination are encountered during grading activities (as indicated by odors, discolored soil, etc.), all work shall cease until appropriate health and safety procedures are implemented pursuant to the applicant's contingency plan. The applicant shall prepare a contingency plan to address contractor procedures for such an event, to minimize the potential for construction delays. In addition, the lead regulatory agency (DEH or RWQCB, depending on the nature of the contamination) shall be notified regarding the contamination. Each agency and program within the respective agency has its own mechanism for initiating an investigation. The applicant shall conduct contamination remediation and removal activities in accordance with pertinent local, state, and federal regulatory guidelines, under the oversight of the appropriate regulatory agency. Parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment.

Mitigation Measure 4.12-4 requires that the Port and City ensure that soils and groundwater in the vicinity of USTs are appropriately characterized and, if necessary, remediated such that water quality and human health are protected. A required geophysical survey would identify any unknown USTs. If unknown USTs are identified for removal, all work in the area will cease until appropriate health and safety procedures are implemented to ensure that water quality and human health are protected. The DEH or RWQCB will be notified of any contamination associated with UST removal so that they may implement their own investigations. Contamination remediation and removal will occur in accordance with pertinent local, state, and federal regulatory guidelines, under the oversight of the appropriate regulatory agency.

Incorporation of Mitigation Measure 4.12-4 will reduce potential impacts associated with encountering contaminated soils during the removal of USTs (Potential Significant Impact 4.12-5) to below a level of significance.

#### **4.10.6 Potential Significant Impact (4.12-6)**

The potential for the release of asbestos-containing materials (ACMs), lead based paints (LBPs), and other hazardous materials during demolition activities within the Sweetwater, Harbor, and Otay Districts would be considered a significant impact.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-1 above also apply to Potential Significant Impact 4.12-6. Demolition of existing structures within the Sweetwater, Harbor, and Otay Districts would be necessary in order to construct the Proposed Project components. Based on the dates of construction of structures located within the boundaries of the Project sites (prior to 1980), there is a high likelihood that asbestos-containing materials (ACMs) and lead based paints (LBPs) are present within these structures. Other hazardous materials may also be encountered in site structures, such as mercury-containing thermostats, fluorescent light tubes, and Freon-containing refrigeration systems. Furthermore, the environmental database report determined that facilities at 596 Sandpiper Way, 997 G Street, and 979 G Street have permits to store hazardous materials on site. Demolition activities at these locations could result in a potential exposure to hazardous substances. The potential for exposure of ACMs, LBPs, and other hazardous materials during demolition activities is considered a significant impact.

In order to mitigate for potential impacts regarding the release of ACMs, LBPs, and other hazardous materials during demolition activities within the Sweetwater, Harbor, and Otay Districts, the Port and City shall implement Mitigation Measure 4.12-5, to include the following:

Prior to the issuance of a demolition permit for buildings scheduled for demolition that have not been surveyed to date for ACMs and LBPs, the applicant shall conduct a survey to determine the locations and amounts of ACMs and LBPs present, as well as other miscellaneous hazardous materials, such as potential mercury-containing thermostats and switches, light ballasts and switches that might contain PCBs, fluorescent light tubes that might contain mercury vapor, exit signs that might contain a radioactive source, air conditioning systems, lead-acid batteries and batteries associated with emergency lighting systems, and Freon™-containing refrigeration systems. Should ACMs, LBPs, or other miscellaneous hazardous building materials be encountered in the site structures, the applicant shall obtain a licensed abatement contractor to remove the hazardous materials in accordance with all applicable federal, state, and local laws, regulations, and permitting requirements prior to initiation of demolition activities.

Additionally, prior to any proposed demolition activities, the applicant shall conduct a thorough inspection of the facilities that have permits to store hazardous materials to confirm whether a release of hazardous materials at these facilities has impacted the underlying soil and/or groundwater. The facilities that currently store hazardous materials are located at 596 Sandpiper

Way, 997 G Street, and 979 G Street. If indications of contamination are encountered during demolition, a qualified environmental consultant shall be retained to observe the contamination, consult with the regulatory oversight agency, perform environmental media (soil, soil gas, and groundwater) sampling and analysis as necessary, report the result and provide recommendations for further action.

Mitigation Measure 4.12-5 requires the Project applicant to conduct building surveys to determine the presence of hazardous materials such as ACMs and LBPs in buildings that will be demolished. If hazardous materials are identified, the Project applicant will obtain a licensed abatement contractor to remove the hazardous materials in accordance with all applicable federal, state, and local laws, regulations, and permitting requirements prior to initiation of demolition activities. Also, the Project applicant is required to thoroughly inspect all buildings with permits to store hazardous materials to determine if hazardous materials had previously been released at these locations. If inspections determine that hazardous materials were released previously released, a qualified environmental consultant will be retained to observe the contamination, consult with the regulatory oversight agency, perform sampling, report the results of sampling, and ultimately provide recommendations for remediation.

Incorporation of Mitigation Measure 4.12-5 will reduce potential impacts associated with the release of asbestos-containing materials (ACMs), lead based paints (LBPs), and other hazardous materials during demolition activities within the Sweetwater, Harbor, and Otay Districts (Potential Significant Impact 4.12-6) to below a level of significance.

#### **4.10.7 Potential Significant Impact (4.12-7)**

Construction personnel working in proximity to hazardous materials and contaminated soils could potentially be exposed to contaminated soil, soil gas, and/or groundwater. Exposure to hazardous materials and contaminated substances would be considered a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-1 above also apply to Potential Significant Impact 4.12-7. Materials and contaminated soil conditions would be at a potential risk of exposure to these sources. The potential for construction workers to be exposed to contaminated soil, soil gas, and/or groundwater is considered a significant impact.

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In order to mitigate for potential impacts associated with construction personnel exposure to hazardous materials and contaminated substances, the Port and City will implement Mitigation Measure 4.12-1. As discussed within the analysis under Potential Significant Impact 4.12-1 above, Mitigation Measure 4.12-1 states that the Project applicant is required to consult with lead regulatory agency (RWQCB/DEH/DTSC) to determine the appropriate course of action regarding areas of concern described in the permit based on the planned future site use. Remediation of contaminated soil and/or groundwater in these areas will meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and will be protective of human health with regard to future occupants of these areas. The Project applicant will be required to provide documentation showing that remediation has met the requirements established by the local regulatory agencies.

Also, Mitigation Measure 4.12-1 states that in order to confirm the completion of any remediation required for development of the site, the Project applicant must obtain written authorization from the regulatory agency (RWQCB/DEH/DTSC) stating that all requirements acceptable to the governing agency have been met and that the proposed development parcel has been cleaned up or is in process to the satisfaction of the regulatory agency.

To address unknown contaminants, Mitigation Measure 4.12-1 requires that a Soil and Water Management Plan (SWMP) for Phase I activities be prepared. The SWMP will identify notification, monitoring, sampling, testing, handling, storage, and disposal of contaminated media or substances (soil, groundwater) measures to avoid or reduce impacts associated with hazardous materials contamination to a less than significant impact. The SWMP must be approved by the Port and/or City prior to commencement of excavation, grading, demolition or construction.

Lastly, to minimize impacts regarding exposure of construction personnel to hazardous materials and contaminated soils, Mitigation Measure 4.12-1 requires that if hazardous waste is discovered during construction activities the Port and/or City ensure compliance with State of California CCR Title 23 Health and Safety Regulation. Excavated soils impacted by hazardous materials or waste will be characterized and disposed of in accordance with CCR Title 14 and 22. The San Diego RWQCB will be contacted regarding provisions for possible reuse as backfill of soils impacted by hydrocarbons. Excavated soils will be lined and covered with an impermeable material to prevent spread of contaminated material. Also, the Project applicant is required to have an Industrial Hygienist registered in the State of California on site while working in areas where contamination is encountered. The responsibility of this professional would be to monitor the work site for contamination and to implement mitigation measures as needed to prevent exposure to the workers or the public.

In addition, Mitigation Measure 4.12-6 requires that prior to construction, remediation activities for known contamination shall be performed in order to be protective of construction workers on the project site, as required by Mitigation Measure 4.12-1.

Incorporation of Mitigation Measures 4.12-1 and 4.12-6 will reduce potential impacts regarding exposure of construction personnel to hazardous materials and contaminated substances (Potential Significant Impact 4.12-7) to below a level of significance.

#### **4.10.8 Potential Significant Impact (4.12-8)**

Fertilizers and landscape chemicals used for regular maintenance activities of the signature parks developed by the Proposed Project could potentially significantly impact surface waters and/or habitat areas.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Operation of the Proposed Project may involve the use and/or storage of hazardous materials. Toxic and/or caustic substances, including oil and gasoline, would be used by proposed land uses and water-related activities throughout the life of the project. Any facilities in the Proposed Project area that intend to transport, use, and dispose of hazardous materials must obtain the applicable regulatory permits and must comply with applicable laws and regulations. These laws, regulations, and permitting requirements have been adopted by federal, state, and local legislatures and are enforced by the regulatory agencies to prevent a significant hazard to the public or the environment. All activities would be in compliance with current regulations and strictly adhere to applicable guidelines pertaining to hazardous materials storage. Therefore, the Proposed Project would not have a significant hazardous materials impact associated with the use, storage, or routine transportation of hazardous substances during operation.

Leakages from vehicles using the parking structures and on-site parking at the residential development are another source of contamination associated with operation of the Proposed Project. Leakages from vehicles have the potential to be carried off in the stormwater runoff. This would be minimized via implementation of the Stormwater Pollution Prevention Plan (SWPPP), which would identify best management practices (BMPs) to prevent contamination of soils and groundwater (see *Section 4.5, Hydrology and Water Quality* of the FEIR). Therefore, impacts from vehicle leakages would be less than significant.

In regards to operation of the signature park throughout the site, fertilizers and landscape chemicals may be used for regular maintenance activities. The potential for hazardous irrigation runoff to contaminate surface waters and/or habitat areas is considered a significant impact.

In order to mitigate for potential impacts to surface waters and/or habitat areas resulting from maintenance activities of the signature parks, the Port and City will implement Mitigation Measure 4.12-7, to include the following:

Management of the parks throughout the Project site comply with the Port and City's Integrated Pest Management Policies (IPM). IPM shall be used on all landscaped areas. In addition, fertilizers must be minimized and only non-toxic products used. Runoff from irrigation sprinklers into surface waters must be minimized and use of mulching and drip irrigation, where needed, maximized. Measures shall be employed to ensure that landscape chemicals and wastes do not get into surface waters or habitat areas.

Mitigation Measure 4.12-7 requires that the use of fertilizers be minimized and that measures are implemented to ensure that landscape chemicals are contained onsite and do not get into surface water of habitat areas.

Incorporation of Mitigation Measure 4.12-7 will reduce impacts associated with the use of fertilizers and landscape chemicals entering surface waters and habitat areas (Potential Significant Impact 4.12-8) to below a level of significance.

#### **4.10.9 Potential Significant Impact (4.12-9)**

Given the existing hazardous materials conditions throughout the Sweetwater District, operation of the Proposed Project could result in exposure to residents and/or users of the site to health risks, depending on type of contamination and the proposed use of the site. This would be considered a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-8 above also apply to Potential Significant Impact 4.12-9. The human health risk associated with operation of the Project site was assessed in order to determine whether development would be acceptable for future site occupants/users and prevent exposure to the extent practicable. The Human Health

Screening Evaluation of the Harbor District (Ninyo & Moore 2006) provided a conservative worst-case scenario screening, finding a potentially significant hazard risk for one or more receptors in six parcels within the Harbor District. The report declared that the calculated risk values for the six parcels were inherently conservative and may overestimate actual risk. The report concluded that the uncertainties would be reduced in the planned Human Health Risk Assessment (HHRA) by using more realistic and current site characterization data, site-specific physical characteristics of the subsurface, a more accurate representation of the building siting and building features, and an improved estimate of the receptor exposure parameters. A HHRA of the South Campus Facility was completed by Haley & Aldrich in July 2007 as a project level analysis for Phase I development. The findings and recommendations of this report are discussed in greater detail below, at a project level analysis, and are summarized in Geocon's 2008 Phase I Report (see *Appendix 4.12-3* of the FEIR).

Results of a baseline HHRA of the SBPP indicated that the human health risk was acceptable for continued industrial uses of the site.

In the Sweetwater District, it would be necessary to prevent exposure to future site occupants from pesticides/herbicides in the soil and groundwater. Given the existing hazardous materials conditions throughout the Project site, operation of the Proposed Project could result in exposure to residents and/or users of the site to health risks, depending on type of contamination and the proposed use of the site. Methods of exposure can be via dermal exposure, ingestion, and/or inhalation. This impact would be considered significant.

In order to mitigate for impacts to residents and/or users of Project sites within the Sweetwater District due to existing hazardous materials conditions, the Port and City will implement Mitigation Measure 4.12-8, to include the following:

For development in the Sweetwater District that would result in exposure of any soil containing pesticides/herbicides, excavation and disposal of the contaminated soils at an appropriately licensed facility shall be conducted as required by applicable law, to reduce potential for future site occupants' exposure. Otherwise, soil capping shall be implemented. Capping could be performed by placement of a clean soil fill layer over the impacted soil, which in turn could be overlain by other surface covers (i.e., turf and other vegetative cover and pavement).

Mitigation Measure 4.12-8 requires that soils contaminated with pesticides/herbicides be excavated and properly disposed of at an appropriately licensed facility as required by applicable law, to reduce potential for future site occupants' exposure.

Incorporation of Mitigation Measure 4.12-8 will reduce potential impacts associated with exposure of future site occupants to existing hazardous materials conditions within the

Sweetwater District due to the Proposed Project (Potential Significant Impact 4.12-9) to below a level of significance.

#### **4.10.10 Potential Significant Impact (4.12-10)**

The potential for development in Phases II through IV of the Proposed Project to expose residents and/or users of the site to health risks would be a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 4.12-8 and 4.12-9 above also apply to Potential Significant Impact 4.12-10. An assessment of human health risk associated with future development in the Sweetwater, Harbor, and Otay Districts in subsequent phases has not been determined for all parcels and for all land use types. Regardless, the potential for development in Phases II through IV of the Proposed Project to expose residents and/or users of the site to health risks would be a significant impact.

In order to mitigate for potential impacts associated with the exposure of residents and/or users to health risks due to program-level development within the Sweetwater, Harbor, and Otay Districts, the Port and City will implement Mitigation Measure 4.12-9, to include the following:

At the time project specific designs are proposed for any development in Phases II through IV, a site assessment must be conducted by a qualified expert satisfactory to the City and/or Port to determine concentrations of contaminants in soil, soil gas, and groundwater on the parcel proposed for development. Further site assessment may be required as part of subsequent environmental review pursuant to State CEQA Guidelines.

Additionally, the Port and City will require the preparation of an HHRA or other means of evaluation for any new development in Phases II through IV. The HHRA must analyze each parcel proposed for development within the Proposed Project area. If the calculated risk from the HHRA (or other means of evaluation) is considered to be significant for a receptor in a parcel, mitigation measures shall be implemented to reduce the risk to below a level of significance. These measures may include one or both of the following:

- Remediating the contaminant sources and impacts in the respective media (i.e., soil, soil gas, groundwater) to levels below the health-based remediation criteria. Parcels



contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment.

- Implementing institutional and/or engineering controls to eliminate the pathway of concern or attenuate the contaminant exposure to levels below the health-based remediation criteria.

Mitigation Measure 4.12-9 requires Project applicants to conduct site assessments to determine the presence of contaminants in soil, soil gas, and groundwater on the parcel proposed for development. Further site assessment may be required a part of subsequent environmental review pursuant to State CEQA Guidelines. Further, for any new development in Phases II through IV, an HHRA must be prepared by the Project applicant and must analyze each parcel proposed for development within the Proposed Project area. If the risk for a parcel is considered significant, mitigation measures must be implemented to reduce risks to a level of less than significant. Mitigation can include remediation of contaminated substances or controls engineered to eliminate the pathway of concern or attenuate the contaminant exposure to levels below the health-based remediation criteria. Parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment.

Incorporation of Mitigation Measure 4.2-9 will reduce potential impacts regarding exposure of residents or users of any development constructed during Phases II through IV within the Sweetwater, Harbor, and Otay Districts to health risks (Potential Significant Impact 4.12-10) to below a level of significance.

#### **4.10.11 Potential Significant Impact (4.12-11)**

If it is determined that the RCC on Parcel H-3 would be affected by future migration of Chlorinated Volatile Organic Compounds (CVOCs) from the Goodrich North Campus beneath H-3, such CVOC migration would be considered a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

An assessment of the proposed Phase I project and program level components do not propose any features that would regularly emit hazardous materials into the water, ground, or air as part of its function. Operation of Phase I project and program level components may, however, involve the use and/or storage of hazardous materials. Operation on Parcels H-13 and H-14

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would include the use of typical household cleaning and maintenance products. Hazardous materials associated with the Signature Parks (Parcels S-2, H-8, and HP-1) may include fertilizers and landscape chemicals for regular maintenance activities. The potential for hazardous irrigation runoff to contaminate surface waters and/or habitat areas is considered a significant impact that must be addressed in all parks throughout the Project area.

Any facilities in the Proposed Project area which intend to transport, use, and dispose of hazardous materials must obtain the applicable regulatory permits and must comply with applicable laws and regulations. These laws, regulations, and permitting requirements have been adopted by federal, state, and local legislatures and are enforced by the regulatory agencies to prevent a significant hazard to the public or the environment. All activities would be in compliance with current regulations and would strictly adhere to applicable guidelines pertaining to hazardous materials storage. Therefore, the Proposed Project would not have a significant hazardous materials impact associated with the use, storage, or routine transportation of hazardous substances during operation.

Existing contamination in the soil and/or groundwater may pose a concern to future users of the project and program level component sites. An evaluation of the health risk associated with development of Phase I project and program level components, as well as one Phase II program level area, has been completed and is presented below for each project level parcel. Known concentrations of Contaminants Of Potential Concern (COPCs) in the soil and CVOCs associated with soil gas and groundwater that exceed health-based criteria, are greater than the cumulative cancer risk of 1 in 1 million and/or present uncertain conditions involving COPCs and CVOCs would result in a significant health risk and significant impact to public safety.

Ninyo & Moore completed a site-specific HHRA on the Parcel H-3 area in February 2006 (*Appendix 4.12-6* of the FEIR). No sources of contamination were identified on the H-3 area and the only direct exposure pathway identified was potential vapor intrusion into indoor air spaces of structures to be built on H-3. The report concluded that the risk to future site users from vapor intrusion is less than significant. Although the risk assessment concluded that the inhalation risk from intrusion of CVOC vapors into future building is less than significant, the uncertainty with regard to future migration of CVOCs from the Goodrich North Campus beneath H-3 presents a significant impact.

In order to mitigate for impacts regarding the future migration of CVOCs from the Goodrich North Campus beneath H-3 affecting the Goodrich North Campus, the Port and City will implement Mitigation Measure 4.12-10. to require that prior to the approval of Design Review for development on Parcels H-3, H-13, H-14, H-15, and HP-5, the applicant shall submit a design plan for the project demonstrating to the satisfaction of the City and/or Port that proposed buildings shall be designed so as to prevent a risk to human health associated with intrusion of

CVOC vapors into future buildings on these parcels. Such design measures may include vapor barriers or passive vent systems.

Mitigation Measure 4.12-10 requires the project applicant to demonstrate, to the satisfaction of the City and/or Port, that proposed building(s) on Parcel H-3 have incorporated measures such as vapor barriers or passive vent systems in order to prevent the intrusion of CVOC vapors associated with previous land uses, which would significantly impact human health.

Incorporation of Mitigation Measure 4.12-10 will reduce potential impacts associated with intrusion of CVOC vapors into future buildings on parcel H-3 (Potential Significant Impact 4.12-11) to below a level of significance.

#### **4.10.12 Potential Significant Impact (4.12-12)**

Short-term potential to encounter contamination during excavation, demolition, and construction activities associated with development of the RCC would be considered a significant impact.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-1 above also apply to Potential Significant Impact 4.12-12. Chemicals of potential concern were considered “non-detect” for all locations on Parcel H-3. Although excavation, demolition, and construction activities would be short-term, the potential to encounter contamination during such activities associated with development of the RCC is considered a significant impact.

In order to mitigate for short-term potential impacts associated with encountering contamination during excavation, demolition, and construction activities associated with development of the RCC, the Port and City will implement Mitigation Measure 4.12-1. As discussed within the analysis under Potential Significant Impact 4.12-1 above, Mitigation Measure 4.12-1 states that the project applicant is required to consult with lead regulatory agency (RWQCB/DEH/DTSC) to determine the appropriate course of action regarding areas of concern described in the permit based on the planned future site use. Remediation of contaminated soil and/or groundwater in these areas will meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and will be protective of human health with regard to future

occupants of these areas. The project applicant will be required to provide documentation showing that remediation has met the requirements established by the local regulatory agencies.

Also, Mitigation Measure 4.12-1 states that in order to confirm the completion of any remediation required for development of the site, the Project applicant must obtain written authorization from the regulatory agency (RWQCB/DEH/DTSC) stating that all requirements acceptable to the governing agency have been met and that the proposed development parcel has been cleaned up or is in process to the satisfaction of the regulatory agency.

To address unknown contaminants, Mitigation Measure 4.12-1 requires that a Soil and Water Management Plan (SWMP) for Phase I activities be prepared. The SWMP will identify notification, monitoring, sampling, testing, handling, storage, and disposal of contaminated media or substances (soil, groundwater) measures to avoid or reduce impacts associated with hazardous materials contamination to a less than significant impact. The SWMP must be approved by the Port and/or City prior to commencement of excavation, grading, demolition or construction.

Lastly, to minimize impacts regarding exposure of construction personnel to hazardous materials and contaminated soils, Mitigation Measure 4.12-1 requires that if hazardous waste is discovered during construction activities the Port and/or City ensure compliance with State of California CCR Title 23 Health and Safety Regulation. Excavated soils impacted by hazardous materials or waste will be characterized and disposed of in accordance with CCR Title 14 and 22. The San Diego RWQCB will be contacted regarding provisions for possible reuse as backfill of soils impacted by hydrocarbons. Excavated soils will be lined and covered with an impermeable material to prevent spread of contaminated material. Also, the Project applicant is required to have an Industrial Hygienist registered in the State of California on site while working in areas where contamination is encountered. The responsibility of this professional would be to monitor the work site for contamination and to implement mitigation measures as needed to prevent exposure to the workers or the public.

Incorporation of Mitigation Measure 4.12-1 will reduce short-term potential impacts regarding contamination encountered during excavation, demolition, and construction activities associated with development of the RCC (Potential Significant Impact 4.12-12) to below a level of significance.

#### **4.10.13 Potential Significant Impact (4.12-13)**

Dewatering activities associated with the construction of the RCC could expose construction personnel to contaminated soils. Although temporary, this impact would be significant.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 4.12-11 and 4.12-12 above also apply to Potential Significant Impact 4.12-13. In addition to impacts resulting from excavation, demolition, and construction activities, the potential for exposure to contaminated soils during dewatering activities is considered a significant impact.

In order to mitigate for temporary and significant impacts associated with dewatering activities exposing construction personnel to contaminated soils, the Port and City will implement Mitigation Measure 4.12-1 to ensure that dewatering activities during construction be limited to the extent practicable and water generated by dewatering be tested to determine treatment and disposal options in accordance with all applicable laws and regulations. Additionally, if contaminated materials are encountered on site during construction activities, the Project applicant must have an Industrial Hygienist registered in the State of California on site. The responsibility of this professional would be to monitor the work site for contamination and to implement mitigation measures as needed to prevent exposure to the workers or public. These measures may include signage and dust control.

Incorporation of Mitigation Measure 4.12-1 will reduce potential impacts resulting from dewatering activities exposing construction personnel to contaminated soils (Potential Significant Impact 4.12-13) to below a level of significance.

**4.10.14 Potential Significant Impact (4.12-14)**

The existence of soils within three exposure areas on Parcel HP-5 containing COPC concentrations in excess of health-based remediation criteria is considered a significant impact.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-11 above also apply to Potential Significant Impact 4.12-13. An HHRA prepared by Haley & Aldrich (July 2007) assesses the potential adverse health risks to future human receptors from exposures during and after redevelopment. These results are summarized in Geocon's April 2008 Phase I report (see *Appendix 4.12-3* in the FEIR). The HHRA shows three exposure areas (EAs) that are within or overlapping into HP-5 that have COPC concentrations in soil that exceed health-based remediation criteria. The EAs depicted in the HHRA are based on assumed "typical lot exposure areas" and "building footprint exposure areas." However, these areas are based on only one to three samples that exceed the health-based remediation criteria. The existence of soils on Parcel HP-5 that exceed health-based remediation criteria is considered a significant impact.

In order to mitigate for impacts associated with the existence of soils on Parcel HP-5 that contain COPC concentrations in excess of health-based remediation criteria, the Port and City will implement Mitigation Measure 4.12-11, to include the following:

- A. Remediation in soil locations identified as exceeding health-based remediation criteria shall be performed prior to redevelopment as targeted "hotspot" removal with confirmation sampling to demonstrate that the COPCs have been removed and concentrations in remaining soil are less than the remediation criteria.
- B. Remediation of the areas of HP-5 that contain COPCs at concentrations exceeding remediation criteria shall be completed prior to construction activities depending on the design of proposed development and the potential for workers to be exposed to contamination in these areas.
- C. Remediation of the areas of HP-5 that contain concentrations of CVOCs may be performed by various methods, including soil vapor extraction and treatment. Any required remediation shall be performed prior to construction activities in order to protect construction workers in these areas. This parcel shall be remediated to levels adequate to protect human health and the environment.

Mitigation Measure 4.12-11 requires that remediation of areas with contaminated soils exceeding health-based remediation criteria be performed prior to redevelopment and that confirmation sampling be provided by the Project applicant to demonstrate that the COPCs have been removed and concentrations in remaining soil are less than the remediation criteria. Additionally, remediation of the areas of HP-5 that contain COPCs at concentrations exceeding remediation criteria will be performed prior to construction activities in order to protect construction workers in these areas.

Incorporation of Mitigation Measure 4.12-11 will reduce impacts associated with risk of exposure to COPC concentrations on Parcel HP-5 (Potential Significant Impact 4.12-14) to below a level of significance.

#### **4.10.15 Potential Significant Impact (4.12-15)**

The existence of soil gas within three exposure areas on Parcel HP-5 containing CVOC concentrations in excess of health-based remediation criteria is considered a significant impact.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-14 above also apply to Potential Significant Impact 4.12-15. In addition to the three EAs discussed above that contain COPC concentrations in the soil that exceeds health-based remediation criteria, the HHRA also depicted three EAs near or overlapping onto HP-5 with concentrations of CVOCs in soil gas that exceed health-based remediation criteria. This would be considered a significant impact.

In order to mitigate for impacts associated with the existence of soil gas on Parcel HP-5 that contain COVC concentrations in excess of health-based remediation criteria, the Port and City will implement Mitigation Measure 4.12-11 to require that remediation of the areas of HP-5 that contain concentrations of CVOCs be performed by various methods, including soil vapor extraction and treatment. Any required remediation shall be performed prior to construction activities in order to protect construction workers in these areas.

Mitigation Measure 4.12-11 requires that areas in HP-5 containing concentration of CVOCs in excess of health-based remediation criteria be remediated. Various methods of remediation may be employed, however, remediation must occur prior to construction activities to ensure that the health of construction workers in these areas is protected.

Incorporation of Mitigation Measure 4.12-11 will reduce impacts associated with risk of exposure to COVC concentrations on Parcel HP-5 (Potential Significant Impact 4.12-15) to below a level of significance.

#### **4.10.16 Potential Significant Impact (4.12-16)**

CVOCs from the northeast corner of HP-5 could potentially migrate in the future and enter a Proposed Project building. This would be considered a significant impact.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 4.12-14 and 4.12-15 above also apply to Potential Significant Impact 4.12-16. According to the HHRA, groundwater is impacted with CVOCs beneath HP-5, H-13, and H-14. One EA on the northeast corner of HP-5 exceeds health-based remediation criteria. The location of CVOCs at this EA is relatively shallow (A zone). The route of exposure to CVOCs in shallow A zone is through volatilization to indoor air. The uncertainty with regard to future migration of CVOCs from the northeast corner of HP-5 presents a significant impact.

In order to mitigate for the potential future migration of CVOCs from the northeast corner of HP-5 into a Proposed Project building, the Port and City will implement Mitigation Measure 4.2-10 to require that prior to the approval of Design Review for development on Parcels H-3, H-13, H-14, H-15, and HP-5, the applicant shall submit a design plan for the project demonstrating to the satisfaction of the City and/or Port that proposed buildings shall be designed so as to prevent a risk to human health associated with intrusion of CVOC vapors into future buildings on these parcels. Such design measures may include vapor barriers or passive vent systems..

The incorporation of design measures such as vapor barriers and passive vent systems into developments proposed on HP-5 will ensure that migrating CVOCs from the northeast corner of HP-5 do not enter Proposed Project buildings and pose a significant threat to human health.

Incorporation of Mitigation Measure 4.12-10 will reduce potential migration of CVOCs from the northeast corner of HP-5 (Potential Significant Impact 4.12-16) to below a level of significance.

#### **4.10.17 Potential Significant Impact (4.12-17)**

Although excavation, demolition, and construction activities would be short-term, the potential to encounter contamination during such activities associated with development of Parcels H-13 or H-14 would be considered a significant impact.



**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-14 above also apply to Potential Significant Impact 4.12-17. The results of the L-Ditch sampling were not compared to human health screening criteria but were only evaluated with respect to potential effects on ecological receptors. The lack of a human health screening may be due to the limited access to and human use of the L-Ditch. A comparison of the sampling results against human health screening criteria suggests that the L-Ditch would not appear to be a significant source of contamination that would be a threat to human health under a commercial land use scenario. While the Haley & Aldrich report did not provide recommendations for further assessment or remedial action, a letter from the RWQCB to B.F. Goodrich, dated March 1, 2007, acknowledges and supports further study of potential remedial alternatives for the L-Ditch.

CVOCs and PCBs were not detected in soil samples from Parcels H-13 or H-14 and no exposure areas are known to exist on H-13 or H-14. Groundwater impacted with CVOCs beneath Parcels H-13 and H-14 did not exceed health-based remediation criteria. Although excavation, demolition, and construction activities would be short-term, the potential to encounter contamination during such activities associated with development of Parcels H-13 or H-14 would be considered a significant impact.

In order to mitigate for impacts associated with excavation, demolition, and construction activities encountering contamination during development of Parcels H-13 or H-14, the Port and City will implement Mitigation Measure 4.12-1, as described in the analysis for Potential Significant Impact 4.12-1 above.

Incorporation of Mitigation Measure 4.12-1 will reduce impacts associated with excavation, demolition, and construction activities encountering contamination during development of Parcels H-13 or H-14 (Potential Significant Impact 4.12-17) to below a level of significance.

**4.10.18 Potential Significant Impact (4.12-18)**

The potential for exposure to contaminated soils during dewatering activities associated with development of Parcels H-13 or H-14 would be considered a significant impact.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 4.12-14 and 4.12-17 above also apply to Potential Significant Impact 4.12-18. In addition to the potential impacts discussed under the analysis for Potential Significant Impact 4.12-17 above, the potential for exposure to contaminated soils during dewatering activities would be considered a significant impact.

In order to mitigate for impacts associated with excavation, demolition, and construction activities encountering contamination during development of Parcels H-13 or H-14, the Port and City will implement Mitigation Measure 4.12-1 to require that dewatering activities during construction be limited to the extent practicable and water generated by dewatering be tested to determine treatment and disposal options in accordance with all applicable laws and regulation. Additionally, in the event that grading or construction activities result in the discovery of hazardous waste, the Port and/or City shall ensure compliance with State of California CCR Title 23 Health and Safety Regulation. Excavated soils impacted by hazardous materials or waste shall be characterized and disposed of in accordance with CCR Title 14 and 22. The San Diego RWQCB shall be contacted regarding provisions for possible reuse as backfill of soils impacted by hydrocarbons. Excavated soils shall be lined and covered with an impermeable material to prevent spread of contaminated material.

The applicant must have an Industrial Hygienist registered in the State of California on site while working in areas where contamination is encountered. The responsibility of this professional would be to monitor the work site for contamination and to implement mitigation measures as needed to prevent exposure to the workers or public. These measures may include signage and dust control.

Incorporation of Mitigation Measure 4.12-1 will reduce impacts associated with dewatering activities during development of Parcels H-13 or H-14 (Potential Significant Impact 4.12-18) to below a level of significance.

**4.10.19 Potential Significant Impact (4.12-19)**

Two overlapping EAs with concentrations of CVOCs in soil gas that exceed health-based remediation criteria exist on Parcel H-15. Both of these EAs are near or overlap onto the adjacent

HP-5 parcel. The uncertainty with regard to future migration of CVOCs from the EAs on H-15 presents a potentially significant impact.

### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

Project level analysis for hazardous materials was conducted for Parcel H-15. Haley & Aldrich's HHRA depicts five EAs based on soil samples on H-15. The HHRA does not specify remediation based on findings of low or non-detected concentrations of COPCs in the soil on this parcel.

Two overlapping EAs with concentrations of CVOCs in soil gas that exceed health-based remediation criteria exist on Parcel H-15. Both of these EAs are near or overlap onto the adjacent HP-5 parcel. The uncertainty with regard to future migration of CVOCs from the EAs on H-15 presents a potentially significant impact.

In order to mitigate for impacts associated with risk of exposure to CVOC vapors beneath Parcel H-15, the Port and City will implement Mitigation Measure 4.12-10, requiring that prior to the approval of Design Review for development on Parcels H-3, H-13, H-14, H-15, and HP-5, the applicant shall submit a design plan for the project demonstrating to the satisfaction of the City and/or Port that proposed buildings shall be designed so as to prevent a risk to human health associated with intrusion of CVOC vapors into future buildings on these parcels. Such design measures may include vapor barriers or passive vent systems.

Incorporation of Mitigation Measure 4.12-10 will reduce impacts associated with risk of exposure to CVOC vapors beneath Parcel H-15 (Potential Significant Impact 4.12-19) to below a level of significance.

### **4.10.20 Potential Significant Impact (4.12-20)**

The uncertainty with regard to future migration of CVOCs in groundwater on Parcel H-15 presents a significant impact to future development on Parcel H-15.

### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.12-19 above also apply to Potential Significant Impact 4.12-20. Similar to the soil gas findings, groundwater beneath H-15 is also impacted with CVOCs, primarily beneath the southern Portion of former Building 30 and the northern half of former Building 5. The uncertainty with regard to future migration of CVOCs in groundwater on Parcel H-15 presents a significant impact.

In order to mitigate for potential impacts associated with future migration of CVOCs in groundwater on Parcel H-15, the Port and City will implement Mitigation Measure 4.12-10, requiring that prior to the approval of Design Review for development on Parcels H-3, H-13, H-14, H-15 and HP-5, the applicant shall submit a design plan for the project demonstrating to the satisfaction of the City and/or Port that proposed buildings shall be designed so as to prevent a risk to human health associated with intrusion of CVOC vapors into future buildings on these parcels. Such design measures may include vapor barriers or passive vent systems.

Incorporation of Mitigation Measure 4.12-10 will reduce impacts associated with risk of exposure to CVOC in groundwater on Parcel H-15 (Potential Significant Impact 4.12-20) to below a level of significance.

## **4.11 Public Services**

### **4.11.1 Potential Significant Impact (4.13.1-1)**

Construction of the new fire station (resulting from increased demand for services due to the change in land uses to that of an RCC, residential uses, and associated facilities) could result in potentially significant impacts to water quality, air quality, noise, hazards, and geology and soils.

### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Phase I project level components would increase the demand for fire protection services due to the change in land uses to that of an RCC, residential uses, and associated facilities. In order to meet the increased demand for fire protection services generated by the Proposed Project, a fire station is proposed as a Phase I project level component. As discussed in the FEIR, the proposed fire station shall be constructed, staffed, and operational prior to the issuance of any certificate of occupancy for the RCC and prior to issuance of the first building permit for development on Parcels H-13 and H-14.

Construction of the new fire station could cause temporary impacts to water quality, air quality, noise, and geology and soils resulting from construction-related activities. These impacts will be less than significant. Construction of the new fire station could result in potentially significant impacts to water quality, air quality, noise, hazards, and geology and soils unless mitigated.

In order to mitigate for impacts associated with the construction of a new fire station, mitigation measures discussed in several sections of the EIR will be implemented. The mitigation measures outlined in *Section 4.5, Hydrology and Water Quality*; *Section 4.6, Air Quality*; *Section 4.7, Noise*; *Section 4.12, Hazards and Hazardous Materials/Public Safety*; and *Section 4.15, Geology and Soils* of the FEIR are required to reduce Significant Impact 4.13.1-1 to below a level of significance. Specifically, Mitigation Measures 4.5-2, 4.5-3, 4.6-1, 4.7-5, 4.7-9, 4.12-1, 4.12-2, 4.12-4, 4.12-6, and 4.15-1 will reduce these impacts to below a level of significance. These mitigation measures are addressed in the appropriate sections of the findings and the FEIR. Impacts associated with construction of the new facility will therefore be less than significant.

**4.11.2 Potential Significant Impact (4.13.3-1)**

Development of the Proposed Project would result in temporary, short-term significant impacts to park and recreation levels of service due to temporary closure of existing area parks during project construction.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

Construction activity related to implementation of Phases II, III, and IV development includes the reconfiguration and reconstruction of the existing Bayfront Park and Marina View Park. The

reconstruction would result in the temporary closure of the parks and therefore would result in a short-term impact to the delivery of park and recreation levels of service. At the completion of Phases II, III, and IV, development of the reconstructed Bayfront Park and Marina View Park and the addition of South Park would be complete, resulting in the delivery of reconstructed and expanded parkland acreage and thereby mitigating the temporary, short-term impacts to park and recreation levels of service.

Development of the Proposed Project would result in temporary, short-term significant impacts to park and recreation levels of service due to temporary closure of existing area parks during project construction.

In order to mitigate for impacts associated with temporary closure of existing area parks, prior to the reconstruction and/or reconfiguration of existing parks within the Project, the Port shall post a public notice at each affected park site at least 30 days prior to commencement of construction activity and maintain the posting throughout reconstruction of each affected park. Said public notice shall identify the duration of park closure and information related to optional locations for public park and recreational facilities.

Mitigation Measure 4.13.3-1 would notify park users of temporary park closures and would also notify park users of optional locations for public park and recreational facilities. The Port would post a notice at each affected park site at least 30 days prior to the beginning of construction activities. Postings will remain throughout the duration of construction activities.

Incorporation of Mitigation Measure 4.13.3-1 will reduce impacts associated with temporary closure of existing area parks (Potential Significant Impact 4.13.3-1) to below a level of significance.

#### **4.11.3 Potential Significant Impact (4.13.3-2)**

The introduction of residential units and hotel rooms within the City's jurisdiction in the project area would result in potentially significant impacts due to an increase in demand for developed parkland and recreation facilities.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.13.3-1 above also apply to Potential Significant Impact 4.13.3-2. The introduction of residential units and hotel rooms within the City's jurisdiction in the project area during Phases II, III, and IV would result in potentially significant impacts due to an increase in demand for developed parkland and recreation facilities.

In order to mitigate for impacts associated with increased demand for park facilities due to the introduction of residential units and hotel rooms during Phases II, III, and IV of the Proposed Project, the City will implement Mitigation Measure 4.13.3-2 to require that prior to the approval of a building permit for any project within the City's jurisdiction, the applicant shall pay all applicable recreation and park fees, including those set forth in Chapters 3.50 and 17.10 in the City's Municipal Code.

Mitigation Measure 4.13.3-2 requires project applicants to pay all recreation and park fees prior to approval of a building permit. Recreation and park fees would be used to create new parks or maintain and expand existing parks.

Incorporation of Mitigation Measure 4.13.3-2 will reduce impacts associated with an increase in demand for developed parkland and recreation facilities (Potential Significant Impact 4.13.3-2) to below a level of significance.

**4.11.4 Potential Significant Impact (4.13.4-1)**

The addition of 819 students during Phase I of development would have a significant impact on Chula Vista Elementary School District (CVESD) and the Sweetwater Union High School District (SUHSD), requiring the construction of new facilities.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

At the present time, the existing elementary school in the Project vicinity (Mueller Elementary School) is operating very close to capacity, and the middle and high schools in the Project vicinity are operating at capacity. The SUHSD has not determined which schools would serve the Project but has requested that the applicant assist the district with expansion of school facilities, possibly through reservation of land and financing of new construction. As shown in

*Table 4.13-10* of the FEIR, the Proposed Project would generate approximately 525 elementary school students, 147 middle school students, and 147 high school students during Phase I, for a total of approximately 819 students. The addition of 525 new elementary school students would exceed the capacity of the CVESD; therefore, the CVESD would need new facilities to accommodate the additional elementary school students. Because the SUHSD is operating at capacity, the SUHSD would also need new facilities to serve the middle and high school students generated during Phase I development. Therefore, the addition of 819 students during Phase I would have a significant impact on CVESD and SUHSD.

In order to mitigate for impacts to CVESD and SUHSD resulting from 819 new students due to Phase I of the Proposed Project, the City will implement Mitigation Measure 4.13.4-1, requiring that prior to the issuance of building permits for any residential project, the applicant shall pay required school mitigation fees. As indicated above, the fees set forth in Government Code Section 65996 constitute the exclusive means of both “considering” and “mitigating” school facilities impacts of projects (Government Code Section 65996(a)). They are “deemed to provide full and complete school facilities mitigation” (Government Code Section 65996(b)). Once the statutory school mitigation fee (sometimes referred to as a “developer fee”) is paid, the impact would be deemed mitigated as a matter of law. Mitigation Measure 4.13.4-1 requires the payment of school mitigation fees to mitigate for the increased demand placed on school facilities within CVESD and SUHSD.

Incorporation of Mitigation Measure 4.13.4-1 will reduce impacts associated with increased demand to local school districts due to Phase I development of the Proposed Project (Potential Significant Impact 4.13.4-1) to below a level of significance.

#### **4.11.5 Potential Significant Impact (4.13.4-2)**

As a result of the increased demand on local school districts due to the Proposed Project, the construction of new school facilities is necessary.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The Proposed Project would require the construction of new school facilities. Provision of school facilities is the responsibility of the school district when additional demand warrants such new facilities. Potential school sites must be approved by the California Department of Education



following extensive environmental review. The California Department of Education has prepared a School Site Selection and Approval Guide to help school districts select school sites that provide both a safe and supportive environment for the instructional program and the learning process and to gain State approval for the selected sites. Selecting the most appropriate site for a school is an important consideration for a school district and the school community. The location, size, and shape of a school site can materially affect the educational program and opportunities for students. Safety is the first consideration in the selection of school sites. Certain health and safety requirements are governed by State regulations and the policies of the California Department of Education. In selecting a school site, the selection team should consider the following factors: (1) proximity to airports; (2) proximity to high-voltage power transmission lines; (3) presence of toxic and hazardous substances; (4) hazardous air emissions and facilities within a quarter-mile; (5) other health hazards; (6) proximity to railroads; (7) proximity to high-pressure natural gas lines, gasoline lines, pressurized sewer lines, or high-pressure water pipelines; (8) proximity to propane tanks; (9) noise; (10) proximity to major roadways; (11) results of geological studies and soils analyses; (12) condition of traffic and school bus safety; (13) safe routes to school; and (14) safety issues for joint-use projects. Because the location of a school site within the jurisdiction of the school district is currently unknown, the school district will take all of these factors into consideration prior to selecting a school site.

In order to mitigate for impacts associated with the unknown location of school sites to be constructed by the Proposed Project, the City will implement Mitigation Measure 4.13.4-1 as described above. Mitigation Measure 4.13.4-1 requires the payment of school mitigation fees to mitigate for the increased demand placed on school facilities within CVESD and SUHSD.

Incorporation of Mitigation Measure 4.13.4-1 will reduce impacts associated with increased demand to local school districts due to Phase I development of the Proposed Project (Potential Significant Impact 4.13.4-2) to below a level of significance.

## **4.12 Public Utilities**

### **4.12.1 Potential Significant Impact (4.14.1-1)**

Off-site improvement to public utilities could result in noise impacts that would affect residents. This would be a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The installation of major infrastructure for the Sweetwater and Harbor Districts would occur in Phase I and the major infrastructure for the Otay District would be constructed in future phases. As noted in *Section 4.7, Noise*, of the FEIR, construction for each phase can be divided into two main categories, site preparation and building construction. Noise effects occur primarily during site preparation with the grading of the site and construction of infrastructure.

Construction of the on-site water system will occur during the site preparation phase of the Project. As with the other site preparation activities, a variety of noise-generating equipment would be used during the construction phase of the Project. This construction equipment may include dump trucks, graders, loaders, and concrete mixers, along with others. Phase I site preparation would include grading within the Sweetwater and Harbor Districts, the construction of the major access roads, and sewer and water infrastructure. Grading in subsequent phases would be limited to modifying the rough grading that occurred during Phase I. While it is anticipated that the development of all phases of the project could take 24 years, it is anticipated that site preparation in any given phase would last for a year or less. It should be noted that construction requiring connections to existing water facilities, both on and off site, may need to occur between the hours of 10:00 p.m. and 6:00 a.m. in order to minimize impacts to existing customers who cannot experience flow restrictions during daytime hours.

For the construction of all major pipeline segments, a trench would be excavated off site in the existing streets to allow installation of the new water mains. After completion of the installation, the trench would be backfilled and resurfaced to match the existing pavement. All of the off-site water mains would be constructed within existing street rights-of-way (ROWs). No easements for the new facilities are expected to be necessary; however, should easements be required, they would be subject to final review by Sweetwater Authority. Additional details related to the construction of the off-site water infrastructure, such as precise alignment and grade and associated appurtenances such as blowoffs, air-vac valves, and fire hydrants, would be determined during final design.

The type of equipment that will be used in construction can individually generate noise levels that range between 77 and 91 decibels (dB(A)) at 50 feet from the source. Using empirical data on the number and types of equipment at a construction site and their average cycle of operation, an estimate of 84 dB(A) Leq 50 feet from the site of construction was used (Bolt, Beranek, and Newman, Inc. 1971). The estimated 84 dB noise level used for assessing construction impacts is based on the number of each item of equipment typically present at a site, the length of the duty cycles of the equipment, and the average noise levels during operation.

#### 4.0 FINDINGS REGARDING DIRECT IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

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The analysis presented in *Section 4.7, Noise* of the FEIR indicates that construction activities in the Harbor District would occur between an area as far away as 1,400 feet to a location adjacent to the Marina. The projected noise levels at the marina could be as high as 74 dB(A). The potential for a 74 dB(A) hourly Leq for construction noise at the marina would be a significant impact. In Phase I, the project would construct residential and park uses near the center of the Project site. During Phases II through IV, these uses could be exposed to construction noise levels of 85 dB(A) Leq, depending upon the location of the construction relative to the sensitive user.

In addition, the construction of off-site water system improvements during Phase I would affect residences. These improvements would occur within J Street between Bay Boulevard and 2nd Avenue. Because the construction of off-site improvements could result in noise impacts that would affect residents in those areas, noise impacts would be significant.

In order to mitigate for impacts associated with off-site improvement to public utilities resulting in noise impacts that would affect residents, the Port and City will implement Mitigation Measure 4.14.1-1, to include the following:

- Construction activity shall be prohibited Monday through Friday from 10:00 PM to 7:00 AM, and Saturday and Sunday from 10:00 PM to 8:00 AM, pursuant to the Chula Vista Municipal Code Section 17.24.050 (Paragraph J). It should be noted, however, that construction may require connections to existing water facilities, both on- and off-site, and may need to occur between the hours of 10:00 PM and 6:00 AM in order to minimize impacts to existing customers who cannot experience flow restrictions during daytime hours.
- All stationary noise generating equipment, such as pumps and generators, shall be located as far as possible from noise sensitive receptors. Where practicable, noise-generating equipment shall be shielded from noise sensitive receptors by attenuating barriers or structures. Stationary noise sources located less than 200 feet from sensitive receptors shall be equipped with noise reducing engine housings. Water tanks, equipment storage, staging, and warm-up areas shall be located as far from noise sensitive receptors as possible.
- All construction equipment powered by gasoline or diesel engines shall have sound control devices at least as effective as those originally provided by the manufacturer; no equipment shall be permitted to have an unmuffled exhaust.
- Any impact tools used during demolition of existing infrastructure shall be shrouded or shielded, and mobile noise generating equipment and machinery shall be shut off when not in use.

- Construction vehicles accessing the site shall be required to use the shortest possible route to and from I-5, provided the route does not expose additional receptors to noise.
- Construction equipment shall be selected as those capable of performing the necessary tasks with the lowest sound level and the lowest acoustic height possible to perform the required construction operation.

Mitigation Measure 4.14.1-1 will minimize the potential for noise impacts due to off-site improvements to public utilities by limiting construction activity to Monday through Friday from 10:00 PM to 7:00 AM, and Saturday and Sunday from 10:00 PM to 8:00 AM (pursuant to the Chula Vista Municipal Code Section 17.24.050), locating noise generating equipment away from sensitive receptors so as to not impact residents, requiring gasoline and diesel powered equipment to be equipped with effective sound control devices to muffle construction noise, requiring impact construction tools to be shielded or shrouded, requiring that construction vehicles to access Project sites use the shortest possible route to and from I-5 to limit construction vehicle noise, and requiring low sound level and low acoustic height construction equipment be selected to ensure that impacts from construction noises are minimized.

Incorporation of Mitigation Measure 4.14.1-1 will reduce impacts associated with off-site improvement to public utilities resulting in noise impacts that would affect residents (Potential Significant Impact 4.14.1-1) to below a level of significance.

#### **4.12.2 Potential Significant Impact (4.14.1-2)**

Because subsequent phases of development could result in noise impacts that would affect uses created during the Phase I of development, noise impacts would be significant.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.14.1-1 above also apply to Potential Significant Impact 4.14.1-2. In the City of Chula Vista, construction noise is exempt from the noise ordinance, although construction activities must comply with the hours set by the City's Municipal Code. Pursuant to the Municipal Code, construction would be prohibited Monday through Friday from 10:00 PM to 7:00 AM, and from 10:00 PM to 8:00 AM on Saturdays and Sundays. It should be noted, however, that construction may require connections to existing water facilities, both on and off site, and may need to occur between the hours of 10:00 p.m. and

6:00 a.m. in order to minimize impacts to existing customers who cannot experience flow restrictions during daytime hours.

Therefore, construction noise during these subsequent phases of the project could affect the sensitive uses established through the development of Phase I. Subsequent analysis of construction noise impacts would be needed during the CEQA review process of Phases II through IV. Because subsequent phases of development could result in noise impacts that would affect uses created during the Phase I of development, noise impacts would be significant

As stated under the analysis for Potential Significant Impact 4.14.1-1 above, Mitigation Measure 4.14.1-1 will minimize the potential for noise impacts due to off-site improvements to public utilities by limiting construction activity to Monday through Friday from 10:00 PM to 7:00 AM, and Saturday and Sunday from 10:00 PM to 8:00 AM (pursuant to the Chula Vista Municipal Code Section 17.24.050), locating noise generating equipment away from sensitive receptors so as to not impact residents, requiring gasoline and diesel powered equipment to be equipped with effective sound control devices to muffle construction noise, requiring impact construction tools to be shielded or shrouded, requiring that construction vehicles to access Project sites use the shortest possible route to and from I-5 to limit construction vehicle noise, and requiring low sound level and low acoustic height construction equipment be selected to ensure that impacts from construction noises are minimized.

Incorporation of Mitigation Measure 4.14.1-1 will reduce impacts to uses created during the Phase I of development resulting from construction noise associated with subsequent phases of development (Potential Significant Impact 4.14.1-2) to below a level of significance.

#### **4.12.3 Potential Significant Impact (4.14.1-3)**

Projected noise levels at the edge of the Sweetwater Marsh National Wildlife Refuge resulting from construction could be as high as 77 dB. During the breeding season, this would be a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.14.1-1 above also apply to Potential Significant Impact 4.14.1-3. Construction and operational noise would have the

potential to adversely affect birds nesting and foraging in the Sweetwater Marsh NWR located north of the Project site. Noise levels are not to exceed 60 dB(A) Leq during breeding season. With a noise source of 84 dB during construction, a noise level of 60 dB is achieved with a direct line of sight to the noise source, when the receiver is approximately 800 feet from the source.

Projected noise levels at the edge of the refuge resulting from construction could be as high as 77 dB. During the breeding season, this would be a significant impact.

In order to mitigate for impacts resulting from construction noise at the edge of the Sweetwater Marsh National Wildlife Refuge during the breeding season, the Port and City will implement Mitigation Measure 4.14.1-2 to require that construction-related noise from off-site water improvements be limited during the typical breeding season of January 15 to August 31 adjacent to the Sweetwater Marsh NWR, F & G Street Marsh, and the J Street Marsh. The current accepted noise threshold is 60 dB(A) Leq; thus construction activity shall not exceed this level, or ambient noise levels if higher than 60 dB(A) during the breeding season. If construction does occur within the breeding season or adjacent to the marshes, the Project developer shall prepare and submit an acoustical analysis to the Port and/or City, which shall determine whether noise barriers would be required to reduce the expected noise levels below the threshold. If noise barriers or construction activities are unable to result in a level of noise below the threshold, construction in these areas shall be delayed until the end of the breeding season.

Incorporation of Mitigation Measure 4.14.1-2 will reduce impacts associated with construction-related noise impacts from off-site water improvements on breeding birds in the adjacent wildlife refuge (Potential Significant Impact 4.14.1-3) to below a level of significance.

#### **4.12.4 Potential Significant Impact (4.14.1-4)**

Construction of major infrastructure on site and off site would also result in temporary significant traffic impacts for road segments and ROWs within the Project area and outside of the Project boundaries.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.14.1-1 above also apply to Potential Significant Impact 4.14.1-4. For the construction of all pipeline segments, a trench

would be excavated off site in the existing streets to allow installation of the new water mains. After completion of the installation, the trench would be backfilled and resurfaced to match the existing pavement. All major on-site and off-site pipelines would be installed in proposed and existing street ROWs. Additional details of the off-site water main construction such as precise alignment and grade and associated appurtenances such as blowoffs, air-vac valves, and fire hydrants would be determined during final design.

Construction of major infrastructure on site and off site would also result in temporary traffic impacts. Depending on the location (on site and off site), equipment, and type of work being performed, vehicular and pedestrian traffic may have to be rerouted, and/or slowed. This would be a temporary but significant impact for road segments and ROWs within the Project area and outside of the Project boundaries.

In order to mitigate for impacts associated with temporary construction-related traffic impacts in Phases I and II, the Port and City will implement Mitigation Measure 4.14.1-3, to include the following:

- A. Prior to commencement of grading activities for all Phase I projects, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).
- B. Prior to commencement of grading activities for all subsequent phases, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).

Mitigation Measure 4.14.1-3 requires the Project applicant to prepare and submit to the Port and City for approval a traffic control plan that will minimize traffic impacts associated with temporary construction related impacts. Traffic control plans specify the hours in which construction activities will occur, identify necessary road closures, exact locations of work zones, traffic control measures, and the location of traffic signal operation and equipment.

Incorporation of Mitigation Measure 4.14.1-3 will reduce impacts associated with temporary construction-related traffic impacts in Phases I and II (Potential Significant Impact 4.14.1-4) to below a level of significance.

#### **4.12.5 Potential Significant Impact (4.14.2-1)**

Because the City does not have capacity for future sewage generation, the City would not have adequate capacity to serve the additional 1.328 million gallons per day (MGD) generated by the Proposed Project. This would be a significant impact.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

The City anticipates a future sewage generation rate of 26.2 MGD, which would require an additional needed capacity of 5.336 MGD after 2031 (build-out). This results from all the projects envisioned in the current General Plan. Because the City does not have capacity for future sewage generation, the City would not have adequate capacity to serve the additional 1.328 MGD generated by the Proposed Project. Although additional capacity is being negotiated in the Metropolitan Wastewater Department (MWWD) sewer interceptor, the capacity is currently not available. This is a significant impact.

In order to mitigate for impacts associated with future sewer demand due to the Proposed Project, prior to the approval of a building permit for any development in Phases III and IV, the City shall verify that it has adequate sewer capacity to serve the proposed development. In the event the City does not have adequate sewer capacity to serve the proposed development, no building permit shall be approved for the proposed development until the City has acquired adequate sewer capacity to serve the proposed development.

Mitigation Measure 4.14.2-1 requires that prior to building permit approval, the City must verify that there is adequate sewer capacity to serve the proposed development. If adequate sewer capacity does not exist, then no building permit shall be approved.

Incorporation of Mitigation Measure 4.14.2-1 will reduce impacts associated with insufficient sewage capacity resulting from the Proposed Project (Potential Significant Impact 4.14.2-1) to below a level of significance.

#### **4.12.6 Potential Significant Impact (4.14.2-2)**

Construction of off-site water system improvements during Phases II through IV of development could result in significant noise impacts that would affect uses created during Phase I of development.



**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The installation of major sewer infrastructure for the Sweetwater and Harbor Districts would occur in Phase I and the major infrastructure for the Otay District would be constructed during Phase II. As noted in *Section 4.7, Noise* of the FEIR, construction for each phase can be divided into two main categories, site preparation and building construction. Noise effects occur primarily during site preparation with the grading of the site and construction of infrastructure.

Construction of the on-site sewer system would occur during the site preparation phase (Phase I) of the Proposed Project. As with the other site preparation activities, a variety of noise-generating equipment would be used during the construction phase of the project. This construction equipment may include dump trucks, graders, loaders, and concrete mixers, along with others. Phase I site preparation would include the grading of the entire Sweetwater and Harbor Districts, construction of the major access roads, and sewer and water infrastructure. Grading in subsequent phases would be limited to modifying the rough grading that occurred during Phase I. While it is anticipated that the development of all phases of the project could take 24 years, it is anticipated that site preparation in any given phase would last for a year or less.

For the construction of all major pipeline segments, a trench would be excavated off site in the existing streets to allow installation of the new sewer mains. After completion of the installation, the trench would be backfilled and resurfaced to match the existing pavement. All major sewer infrastructures would be installed in existing street ROWs. No easements for the new facilities would be required. Additional details related to the construction of the off site water infrastructure, such as precise alignment and grade would be determined during final design.

The type of equipment that will be used in construction can individually generate noise levels that range between 77 and 91 dB(A) at 50 feet from the source. Using empirical data on the number and types of equipment at a construction site and their average cycle of operation and estimate of 84 dB(A) Leq 50 feet from the site of construction was used (Bolt, Beranek, and Newman, Inc. 1971).

The estimated 84 dB noise level used for assessing construction impacts is based on the number of each item of equipment typically present at a site, the length of the duty cycles of the equipment, and the average noise levels during operation.

The analysis presented in the *Section 4.7, Noise*, of the FEIR indicates that construction activities in the Harbor District would occur between an area as far away as 1,400 feet to a location adjacent to the Marina. The projected noise levels at the marina could be as high as 74 dB(A). The potential for a 74 dB(A) hourly Leq for construction noise at the marina would be a significant impact. In Phase I, the Project would construct residential and park uses near the center of the Project site. During Phases II, III, and IV these uses could be exposed to construction noise levels of 85 dB(A) Leq, depending upon the location of the construction relative to the sensitive user.

In the City, construction noise is exempt from the noise ordinance, although construction activities must comply with the hours set by the City's Municipal Code. Pursuant to the Municipal Code, construction would be prohibited Monday through Friday from 10:00 PM to 7:00 AM, and from 10:00 PM to 8:00 AM on Saturdays and Sundays. Therefore, construction noise during these subsequent phases of the Project could affect the sensitive uses established through the development of Phase I. Subsequent analysis of construction noise impacts would be needed during the CEQA review process of Phases II through IV. Because subsequent phases of development could result in noise impacts that would affect uses created during Phase I of development, noise impacts would be significant.

In order to mitigate for impacts resulting from construction-related noise impacts of sewer system improvements in all phases of development, the Port and City will implement Mitigation Measure 4.14.2-2, to include the following:

- Construction activity shall be prohibited Monday through Friday from 10:00 PM to 7:00 AM, and Saturday and Sunday from 10:00 PM to 8:00 AM, pursuant to the Chula Vista Municipal Code Section 17.24.050 (Paragraph J).
- All stationary noise-generating equipment, such as pumps and generators, shall be located as far as possible from noise sensitive receptors. Where practicable, noise-generating equipment shall be shielded from noise sensitive receptors by attenuating barriers or structures. Stationary noise sources located less than 200 feet from sensitive receptors shall be equipped with noise reducing engine housings. Water tanks, and equipment storage, staging, and warm-up areas shall be located as far from noise sensitive receptors as possible.
- All construction equipment powered by gasoline or diesel engines shall have sound control devices at least as effective as those originally provided by the manufacturer; no equipment shall be permitted to have an unmuffled exhaust.
- Any impact tools used during demolition of existing infrastructure shall be shrouded or shielded, and mobile noise generating equipment and machinery shall be shut off when not in use.

- Construction vehicles accessing the site shall be required to use the shortest possible route to and from I-5, provided the route does not expose additional receptors to noise.
- Construction equipment shall be selected as those capable of performing the necessary tasks with the lowest sound level and the lowest acoustic height possible to perform the required construction operation.

Mitigation Measure 4.14.12-2 will minimize the potential for noise impacts due to off-site improvements to public utilities by limiting construction activity to Monday through Friday from 10:00 PM to 7:00 AM, and Saturday and Sunday from 10:00 PM to 8:00 AM (pursuant to the Chula Vista Municipal Code Section 17.24.050, Paragraph J), locating noise generating equipment away from sensitive receptors so as to not impact residents, requiring gasoline and diesel powered equipment to be equipped with effective sound control devices to muffle construction noise, requiring impact construction tools to be shielded or shrouded, requiring that construction vehicles to access Project sites use the shortest possible route to and from I-5 to limit construction vehicle noise, and requiring low sound level and low acoustic height construction equipment be selected to ensure that impacts from construction noises are minimized.

Incorporation of Mitigation Measure 4.14.2-2 will reduce impacts resulting from construction-related noise impacts of sewer system improvements in all phases of development (Potential Significant Impact 4.14.2-2) to below a level of significance.

#### **4.12.7 Potential Significant Impact (4.14.2-3)**

Construction and operational noise during the breeding season would have the potential to significantly impact birds nesting and foraging in the Sweetwater Marsh NWR located north of the Project site.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.14.2-2 above also apply to Potential Significant Impact 4.14.2-3. Construction and operational noise would have the potential to adversely affect birds nesting and foraging in the Sweetwater Marsh NWR located north of the Project site. Noise levels are not to exceed 60 dB(A) Leq during breeding season. With a noise source of 84 dB during construction, a noise level of 60 dB is achieved with a direct line of sight to the noise source, when the receiver is approximately 800 feet from the source.

Projected noise levels at the edge of the refuge resulting from construction could be as high as 77 dB. During the breeding season, this would be a significant impact.

In order to mitigate for impacts associated with construction-related noise impacts on breeding birds in the Sweetwater Marsh National Wildlife Refuge, the Port and City shall require that construction-related noise be limited during the typical breeding season of January 15 to August 31 adjacent to the Sweetwater Marsh NWR, F & G Street Marsh, and the J Street Marsh. The current accepted noise threshold is 60 dB(A) Leq; thus construction activity shall not exceed this level, or ambient noise levels if higher than 60 dB(A) during the breeding season. If construction does occur within the breeding season or adjacent to the marshes, the Project developer shall prepare and submit an acoustical analysis to the Port and the City, which shall determine whether noise barriers would be required to reduce the expected noise levels below the threshold. If noise barriers or construction activities are unable to result in a level of noise below the threshold, construction in these areas shall be delayed until the end of the breeding season.

Mitigation Measure 4.14.2-3 requires that construction-related noise be limited during the typical January 15 to August 31 breeding season for construction activities adjacent to the Sweetwater Marsh National Wildlife Center. Further, construction-related noise will not be allowed to exceed 60 dB (A) Leq during the breeding season. If construction does occur during the breeding season, Mitigation Measure 4.14.2-3 protects nesting birds by requiring Project developers to prepare and submit acoustical analysis to determine if noise barriers would be required to reduce construction-related noise to below 60 dB (A) Leq. If noise barriers are unable to reduce construction-related noise at the Sweetwater Marsh National Wildlife Refuge to below 60 dB (A) Leq, construction in areas adjacent to the refuge shall be delayed until after the breeding season.

Incorporation of Mitigation Measure 4.14.2-3 will reduce impacts associated with construction-related noise impacts on breeding birds in the Sweetwater Marsh National Wildlife Refuge (Potential Significant Impact 4.14.2-3) to below a level of significance.

#### **4.12.8 Potential Significant Impact (4.14.2-4)**

Construction of major infrastructure on and off site would result in construction-related traffic impacts in Phases I and II. These impacts would be considered significant.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.14.2-2 above also apply to Potential Significant Impact 4.14.2-4. Construction of major infrastructure on site and off site would also result in temporary traffic impacts. Depending on the location (on site and off site), equipment, and type of work being performed, vehicular and pedestrian traffic may have to be rerouted, and/or slowed. This would be a temporary but significant impact for road segments and ROWs within the Project area and outside of the Project boundaries.

In order to mitigate for impacts associated with utility construction-related traffic in Phases I and II, the Port and City will implement Mitigation Measure 4.14.2-4, to include the following:

- A. Prior to commencement of grading activities for all Phase I projects, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).
- B. Prior to commencement of grading activities for all Phase II–IV projects, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).

Mitigation Measure 4.14.2-4 requires the Project applicant to prepare and submit to the Port and City for approval a traffic control plan that will minimize traffic impacts associated with temporary construction related impacts. Traffic control plans specify the hours in which construction activities will occur, identify necessary road closures, exact locations of work zones, traffic control measures, and the location of traffic signal operation and equipment.

Incorporation of Mitigation Measure 4.14.2-4 will reduce impacts associated with utility construction-related traffic in Phases I and II (Potential Significant Impact 4.14.2-4) to below a level of significance.

**4.12.9 Potential Significant Impact (4.14.2-5)**

Temporary dewatering during construction could result in surface water and groundwater contamination and would be a significant impact.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.14.2-2 above also apply to Potential Significant Impact 4.14.2-5. Temporary dewatering during construction would be required during the excavation of the wet wells and emergency storage vaults for the sewer lift stations due to the close proximity to the Bay and high groundwater. Construction-related dewatering would withdraw water from the aquifer, which could be contaminated, depending on the location in the plan area. The potential to contaminate runoff conflicts with the Basin Plan and the water quality objectives for the Bay, as well as policies relating to the discharge of contaminated water to the sewer system. The Project's potential to disturb contaminated soils and groundwater during construction activities would be a significant impact.

In order to mitigate for impacts associated with surface water and groundwater contamination resulting from construction activities, the Port and City will implement Mitigation Measure 4.14.2-5, to include the following:

- A. Prior to the issuance of a Coastal Development Permit for Properties within the Port's jurisdiction and prior to the issuance of a grading permit for properties within the City's jurisdiction, the applicant shall notify the RWQCB of dewatering of contaminated groundwater during construction. If contaminated groundwater is encountered, the Project developer shall treat and/or dispose of the contaminated groundwater (at the developer's expense) in accordance with NPDES permitting requirements, which includes obtaining a permit from the Industrial Wastewater Control Program to the satisfaction of the RWQCB.
- B. Prior to the discharge of contaminated groundwater for all construction activities, should flammables, corrosives, hazardous wastes, poisonous substances, greases and oils and other pollutants exist on site, a pretreatment system shall be installed to pre-treat the water to the satisfaction of the RWQCB before it can be discharged into the sewer system.

Mitigation Measure 4.14.2-5 requires that the Project developer notify the RWQCB of dewatering of contaminated groundwater during construction and that contaminated groundwater be treated and/or disposed of in accordance with NPDES permitting requirements, which includes obtaining a permit from the Industrial Wastewater Control Program to the satisfaction of the RWQCB. Additionally, prior to discharging contaminated groundwater, a pretreatment system shall be installed to pre-treat the water to the satisfaction of the RWQCB before it can be discharged into the sewer system. A pretreatment system will minimize the potential for surface water and groundwater contamination during contaminated groundwater discharging.

Incorporation of Mitigation Measure 4.14.2-5 will reduce impacts associated with surface water and groundwater contamination resulting from construction activities (Potential Significant Impact 4.14.2-5) to below a level of significance.

### **4.13 Seismic/Geologic Hazards**

#### **4.13.1 Potential Significant Impact (4.15-1)**

There is potential for strong ground motions and lurching or cracking of the ground surface to occur at the site. These impacts would be considered significant during all phases of development.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

No active faults have been mapped or were observed within the Project site, nor is the site located within a State of California Earthquake Fault Zone (Alquist-Priolo Special Studies Zone). The potential for ground rupture due to faulting at the site is considered low. However, lurching or cracking of the ground surface as a result of a nearby seismic event is possible. According to the California Building Code, San Diego County is located within Seismic Zone 4. Thus, there is potential for strong ground motions to occur at the site. Therefore, impacts associated with strong motion and surface rupture is significant and applies to all development phases.

In order to mitigate for impacts associated with strong ground motions and surface rupture, the Port and City will implement Mitigation Measure 4.15-1, to include the following:

Prior to the grading of parcels for specific developments, the applicant shall provide a comprehensive site-specific geotechnical evaluation, including subsurface exploration and laboratory testing showing that individual parcels are suitable for proposed development work and that on-site fill materials and soils can support proposed structures. The applicant shall submit a geotechnical design report to the Port or City, depending on jurisdiction, for approval showing site-specific measures to be employed. As applicable, these measures shall include:

Conformance to the California Building Code Seismic Zone 4 Design Parameters, as detailed in Table 1 of the geotechnical study (see *Appendix 4.15-1* of the FEIR).

- Design capable of withstanding strong seismic accelerations.
- Earthwork procedures, including removal, moisture conditioning, and recompaction of existing fills on the site.
- Selective grading, densification of the subsurface soils, and/or deep foundations.
- Removal, moisture conditioning, and compaction of bay deposits/alluvial soils. Deep foundations shall be used for structural support in areas of relatively thick bay deposits/alluvium.
- Removal or deep burial of expansive soils during grading, moisture conditioning, or specially designed foundations and slabs.
- Removal, moisture conditioning, and compaction of the topsoil on site.

Mitigation Measure 4.15-1 requires Project developers to prepare a site-specific geotechnical evaluation that show individual parcels are suitable for proposed development work and that on-site fill materials and soils can support proposed structures. Additionally, a geotechnical design report will be prepared by the Project developer that will include a discussion of measures to be incorporated into the project to ensure that the Proposed Project complies with California Building Code Seismic Zone 4 Design Parameters and that the Project design is capable of withstanding strong seismic accelerations. Additionally, the geotechnical design will include selective grading, densification of the subsurface soils, and/or deep foundations, or deep burial of expansive soils during grading, and removal, moisture conditioning, or specially designed foundations and slabs.

Incorporation of Mitigation Measure 4.15-1 will reduce impacts associated with strong ground motion and surface rupture (Potential Significant Impact 4.15-1) to below a level of significance.

#### **4.13.2 Potential Significant Impact (4.15-2)**

Loose granular soils (i.e., fill materials and bay deposits/alluvium) underlie Portions of the Project site proposed for development in Phases I through III. Impacts associated with liquefaction and seismically induced settlement at these sites would be considered significant.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.



##### **Facts in Support of Finding**

As described in the Seismic/Geologic Hazards technical report, no landslides or indications of deep-seated slope instability were observed underlying the Project site. In addition, the site is relatively flat. Based on this, the Project site is generally not susceptible to landsliding or collapse hazards. Therefore, no significant impact is identified as it relates to on site or off site landslides and collapse.

Loose granular soils (i.e., fill materials and bay deposits/alluvium) underlie Portions of the site combined with a relatively shallow groundwater table. The Project proposes development on these areas during Phases I, II, and III. These soils have a moderate to high potential for liquefaction and settlement to occur during an earthquake and are not considered suitable for structural support. Adverse impacts associated with liquefaction include lateral spreading, ground rupture and/or sand boils, and settlement of the liquefiable layers. The potential of lateral spreading in the liquefiable soil below the groundwater table is not considered an adverse impact to the proposed development due to the relatively flat topography of the site, except for isolated locations such as the existing boat yard on G Street and the immediate vicinity of the Chula Vista Harbor. Therefore, impacts associated with liquefaction and seismically-induced settlement is significant.

In order to mitigate for impacts associated with liquefaction, lateral spreading, consolidation and settlement during all phases of development, the Port and City will implement Mitigation Measures 4.15-1 and 4.15-2. As stated within the analysis for Potential Significant Impact 4.15.1 above, Mitigation Measure 4.15-1 requires Project developers to prepare a site-specific geotechnical evaluation that show individual parcels are suitable for proposed development work and that on-site fill materials and soils can support proposed structures. Additionally, a geotechnical design report will be prepared by the Project developer that will include a discussion of measures to be incorporated into the Project including removal, moisture conditioning, and compaction of bay deposits/alluvial soils, removal or deep burial of expansive soils during grading, moisture conditioning, or specially designed foundations and slabs, and removal, moisture conditioning, and compaction of the topsoil on site.

Mitigation Measure 4.15-2 will be implemented by the Port and City to require that for all phases, the Project applicant shall prepare a site specific geotechnical study. Mitigation of potential hazards due to liquefaction may include the densification or removal of the potentially liquefiable soil and placement of surcharge fills within building areas, or the use of deep foundation systems and mat slabs which still provide acceptable structural support should liquefaction occur. Soil densification can be accomplished by surcharging, compaction grouting, vibrocompaction, soil mixing, and deep dynamic compaction. Deep foundation systems may be

used to transmit structural loads to bearing depths below the liquefiable zones and may consist of driven piles or drilled piles.

By removing, moisture conditioning, and compacting bay deposits/alluvial soils and removing expansive soils during grading, Mitigation Measure 4.15-1 will minimize the potential for liquefaction seismically-induced settlement at areas containing loose granular soils. Mitigation Measure 4.15-2 requires potential hazards due to liquefaction to be mitigated through the densification or removal of the potentially liquefiable soil and placement of surcharge fills within building areas, or the use of deep foundation systems and mat slabs which still provide acceptable structural support should liquefaction occur.

Incorporation of Mitigation Measures 4.15-1 and 4.15-2 will reduce impacts associated with liquefaction and seismically-induced settlement at sites containing loose granular soils (Potential Significant Impact 4.15-2) to below a level of significance.

#### **4.13.3 Potential Significant Impact (4.15-3)**

During Phase I development of the Pacifica Residential and Retail Project, a significant impact may result in that groundwater could be a factor in development in liquefaction remediation, deep foundation design and construction, design and construction of subterranean parking structures, and utility installation.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

During Phase I development of the Pacifica Residential and Retail Project, groundwater could be a factor in development in liquefaction remediation, deep foundation design and construction, design and construction of subterranean parking structures, and utility installation. This is a significant impact.

In order to mitigate for impacts associated with liquefaction, lateral spreading, consolidation and settlement during Phase I and II development of the Pacifica Project, the Port and City shall implement Mitigation Measure 4.15-1 and 4.15-3. As stated within the analysis for Potential Significant Impact 4.15.1 above, Mitigation Measure 4.15-1 requires Project developers to prepare site-specific geotechnical evaluation that show individual parcels are suitable for proposed development work and that on site fill materials and soils can support proposed

structures. Additionally, a geotechnical design report will be prepared by the Project developer that will include a discussion of measures to be incorporated into the project including removal, moisture conditioning, and compaction of bay deposits/alluvial soils, removal or deep burial of expansive soils during grading, moisture conditioning, or specially designed foundations and slabs, and removal, moisture conditioning, and compaction of the topsoil on site.

Mitigation Measure 4.15-3 will be implemented by the Port and City to require that prior to the grading of parcels for the Pacifica development, the applicant shall adhere to the site-specific geotechnical evaluation prepared for the Project or any amendment as approved by the Port/City (Geocon Preliminary Geotechnical Investigation prepared for Pacifica Companies (February 2008), Sections 7 and 8 Conclusions and Preliminary Recommendations) which outlines general requirements and specific recommendations regarding soil and excavation, seismic design criteria, grading, consolidation settlement, ground improvement methods, slope stability, temporary slopes and shoring, groundwater and dewatering, shallow and deep foundations, subterranean structures, concrete slabs-on-grade, concrete flatwork, retaining walls and lateral loads, pavement, and drainage and maintenance.

By removing, moisture conditioning, and compacting bay deposits/alluvial soils and removing expansive soils during grading, Mitigation Measure 4.15-1 will minimize the potential for liquefaction seismically-induced settlement at areas containing loose granular soils. Mitigation Measure 4.15-3 requires Project developers to adhere to measures discussed in a site specific evaluation prepared for the project and approved by the Port and/or City. Measures will likely include general requirements for groundwater and dewatering and temporary slopes and shoring. Compliance with the geotechnical evaluation prepared for the Pacifica development will minimize the potential for liquefaction, lateral spreading, consolidation and settlement.

Incorporation of Mitigation Measures 4.15-1 and 4.15-3 will reduce impacts associated with liquefaction, lateral spreading, consolidation and settlement during development of the Pacifica Project (Potential Significant Impact 4.15-3) to below a level of significance.

#### **4.13.4 Potential Significant Impact (4.15-4)**

Impacts as a result of seismically induced settlement in the western Portion of the Pacifica Project site are potentially significant.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.15-3 above also apply to Potential Significant Impact 4.15-4. Based on the Geocon investigation, there are layers of loose sand within the bay deposits in the western Portion of the subject site that have a potential for liquefaction which may result in seismically induced settlement. In general, these liquefiable soils are approximately 6 to 8 feet thick and are overlain by about 7 to 10 feet of non-liquefiable cover. A preliminary evaluation of liquefaction settlement indicates 2 to 3 inches of ground surface settlement may occur over Portions of the site. Therefore, impacts as a result of seismically induced settlement are potentially significant.

In order to mitigate for impacts associated with liquefaction, lateral spreading, consolidation and settlement during Phase I and II development of the Pacifica Project, the Port and City shall implement Mitigation Measure 4.15-1 and 4.15-3. As stated within the analysis for Potential Significant Impact 4.15-1 above, Mitigation Measure 4.15-1 requires Project developers to prepare site-specific geotechnical evaluation that show individual parcels are suitable for proposed development work and that on-site fill materials and soils can support proposed structures. Additionally, a geotechnical design report will be prepared by the Project developer that will include a discussion of measures to be incorporated into the project including removal, moisture conditioning, and compaction of bay deposits/alluvial soils, removal or deep burial of expansive soils during grading, moisture conditioning, or specially designed foundations and slabs, and removal, moisture conditioning, and compaction of the topsoil on site.

Mitigation Measure 4.15-3 will be implemented by the Port and City to require that prior to the grading of parcels for the Pacifica development, the applicant shall adhere to the site-specific geotechnical evaluation prepared for the project or any amendment as approved by the Port/City (Geocon Preliminary Geotechnical Investigation prepared for Pacifica Companies (February 2008), Sections 7 and 8 Conclusions and Preliminary Recommendations) which outlines general requirements and specific recommendations regarding soil and excavation, seismic design criteria, grading, consolidation settlement, ground improvement methods, slope stability, temporary slopes and shoring, groundwater and dewatering, shallow and deep foundations, subterranean structures, concrete slabs-on-grade, concrete flatwork, retaining walls and lateral loads, pavement, and drainage and maintenance.

By removing, moisture conditioning, and compacting bay deposits/alluvial soils and removing expansive soils during grading, Mitigation Measure 4.15-1 will minimize the potential for liquefaction seismically-induced settlement at areas containing loose granular soils. Mitigation Measure 4.15-3 requires Project developers to adhere to measures discussed in a site specific evaluation prepared for the project and approved by the Port and/or City. Measures will likely include general requirements for groundwater and dewatering and temporary slopes and shoring.

Compliance with the geotechnical evaluation prepared for the Pacifica development will minimize the potential for liquefaction, lateral spreading, consolidation and settlement.

Incorporation of Mitigation Measures 4.15-1 and 4.15-3 will reduce impacts associated with seismically induced settlement in the western Portion of the Pacifica Project site (Potential Significant Impact 4.15-4) to below a level of significance.

#### **4.13.5 Potential Significant Impact (4.15-5)**

Significant impacts associated with lateral spreading, ground rupture and/or sand boils, and settlement of the liquefiable layers could occur during development of the RCC.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

##### **Facts in Support of Finding**

Based on the Geocon investigation (see *Appendix 4.15-4* of the FEIR), there is a high potential for liquefaction to occur within scattered layers in the undocumented fill and bay deposits/alluvium below the groundwater table within a depth of 50 feet from the existing ground surface during construction of the RCC. Adverse impacts could include lateral spreading, ground rupture and/or sand boils, and settlement of the liquefiable layers.

In order to mitigate for impacts associated with liquefaction, lateral spreading, consolidation and settlement during Phase I and II development of the Pacifica Project, the Port and City shall implement Mitigation Measure 4.15-1 and 4.15-4. As stated within the analysis for Potential Significant Impact 4.15-1 above, Mitigation Measure 4.15-1 requires Project developers to prepare site-specific geotechnical evaluation that show individual parcels are suitable for proposed development work and that on-site fill materials and soils can support proposed structures. Additionally, a geotechnical design report will be prepared by the Project developer that will include a discussion of measures to be incorporated into the project including removal, moisture conditioning, and compaction of bay deposits/alluvial soils, removal or deep burial of expansive soils during grading, moisture conditioning, or specially designed foundations and slabs, and removal, moisture conditioning, and compaction of the topsoil on site.

Mitigation Measure 4.15-4 will be implemented by the Port and City to require that prior to the grading of parcels for the RCC development, the applicant shall adhere to the site-specific geotechnical evaluation prepared for the project or any amendment as approved by the Port/City

(Appendix 4.15-4, Geocon Geotechnical Investigation prepared for RCC Hotels (January 2008), Section 6. Conclusions and Recommendations), which outlines general requirements and specific recommendations regarding soil and excavation, seismic design criteria, grading, temporary slopes and shoring, groundwater and dewatering, hotel/convention center/parking structure/flex space foundation, ancillary structure foundation, concrete slabs-on-grade, retaining walls and lateral loads, preliminary pavements, and drainage and maintenance.

Incorporation of Mitigation Measures 4.15-1 and 4.15-4 will reduce impacts associated with lateral spreading, ground rupture and/or sand boils, and settlement of the liquefiable layers during development of the RCC (Potential Significant Impact 4.15-5) to below a level of significance.

## **4.14 Energy**

### **4.14.1 Potential Significant Impact (4.16-1)**

The increased demand for energy associated with the Proposed Project would be considered a significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR.

#### **Facts in Support of Finding**

Implementation of the proposed land uses identified in the Proposed Project has the potential to result in impacts to energy supply as a result of anticipated growth. Direct impacts would occur if, as a result of plan implementation, a substantial energy resource is reduced or eliminated, or if future demand outstrips available supply. The California Independent Systems Operation requires that SDG&E have sufficient on-system resources and import capability to serve the full adverse peak summer demand forecast when the largest generator and a single transmission circuit are out of service. To address long-term energy needs, SDG&E has filed a resource plan with the California Public Utilities Commission (CPUC), which proposes a mix of conservation, demand response, generation, and transmission to provide reliable energy for the next 20 years ([http://www.sdenergy.org/uploads/7-9-04SDG&E\\_LTRP.pdf](http://www.sdenergy.org/uploads/7-9-04SDG&E_LTRP.pdf)).

The project would implement the energy policies in the City of Chula Vista General Plan that seek to reduce energy consumption by optimizing traffic flow, directing higher density housing within walking distance of transit facilities, promoting use of alternatives to vehicular travel, and

generally reducing vehicle trip length through improved community design. Currently, there are only limited uses of electricity within the Project site. This electricity consumption represents a substantial increase in use over the existing use on the Project site. In light of SDG&E's Long-Term Resource Plan, this demand would not result in a direct need for new or expanded facilities. SDG&E assumes an annual average growth rate of 2% with respect to system peak load (Katsapis 2004), with the actual timing and quantity of resources to be procured based on near term circumstances (McClenahan 2004). SDG&E has indicated that without an increased import capacity of at least 500 MW there would be a long-term cumulative grid reliability deficiency (Brown 2004).

Currently, there are only limited uses of electricity within the Project site. Commercial uses along the marina, the RV Park, and the existing South Bay Boatyard are the main consumers of electricity on the Project site. When the Proposed Project is considered in light of the existing condition, the increase in energy demand would be substantial.

Average annual energy needs are substantially met by existing SDG&E resources, California Department of Water Resources (CDWR) contract allocations, and renewable purchases through 2010. In a high demand year, the additional energy would come from additional purchases from the market and from local generation added primarily for grid reliability. By 2011, approximately 25% of average-year energy would come from resource addition, including additional renewable purchases, on- and off-system generation, and purchases for the market, facilitated by the additional import capability provided by the added transmission interconnection (SDG&E 2004). To address long-term energy needs, SDG&E has filed a resource plan with CPUC, which proposes a mix of conservation, demand response, generation, and transmission to provide reliable energy for the next 20 years ([http://www.sdenergy.org/uploads/7-9-04SDG&E\\_LTRP.pdf](http://www.sdenergy.org/uploads/7-9-04SDG&E_LTRP.pdf)). The increased demand for energy is a significant impact.

In order to mitigate for impacts resulting from increased energy demands due to the Proposed Project, the Port and City will implement Mitigation Measure 4.16-1, to require that prior to the issuance of certificates of occupancy or building permits, the Project applicant shall demonstrate that the Proposed Project complies with Title 24 for Residential and Nonresidential Buildings. These requirements, along with the following measures, shall be incorporated into the final Project design to the satisfaction of the Port and the Director of Planning and Building for the City:

- Use of low nitrogen oxide (NOx) emission water heaters.
- Installation of energy-efficient and automated air conditioners when air conditioners are provided.

- Energy-efficient parking area lights.
- Exterior windows shall be double paned.

Implementation of these measures along with the SDG&E efforts for long-term energy supply as outlined in their filing with the CPUC that proposes a mix of conservation, demand response, generation, and transmission ([http://www.sdenergy.org/uploads/7-9-04SDG&E\\_LTRP.pdf](http://www.sdenergy.org/uploads/7-9-04SDG&E_LTRP.pdf)) would reduce the potential significant impact to below a level of significance. With incorporation of Mitigation Measure 4.16-1, Potential Significant Impact 4.16-1 associated with increased energy demand as a result of the Proposed Project will be less than significant.

Although the implementation of Mitigation Measure 4.16-1 will reduce energy impacts to below a level of significance, the Port has agreed to include additional guidelines in the Final EIR as a mitigation measure (Mitigation Measure 4.16-2) in order to provide for appropriate implementation and enforcement. The Port and City will implement Mitigation Measure 4.16-2, to include the following:

The following standards are intended to be interpreted broadly and with the flexibility to adapt to new energy technology and evolving building construction and design practices. They will apply to and govern development of all individual parcels within the Proposed Project area, except Parcels HP-5, H-13, H-14, and H-15. The term "Development" will mean the development of an individual parcel within the Proposed Project area.

- A. To help reduce the need for fossil-fueled power generation, reduce greenhouse gas emissions, and support the CEC's Loading Order for Electricity Resources, all Developments will achieve a minimum of a fifty (50) percent reduction in annual energy use as described below.
  1. Each building in each Development will perform at least fifteen (15) percent better than Title 24, in effect as of the date of this FEIR. The minimum energy efficiency performance standard adopted by the City is hereinafter described as its Energy Efficiency Requirement or EER. Should revised Title 24 standards be adopted by the State of California, the City's EER at the time a building permit application is submitted for such Development shall apply.
  2. The balance of the reduction in annual energy use required will be achieved through the use of any combination of the energy reduction measures described below. To achieve compliance, sponsors of Developments may select one of two paths. The first path is based on Title 24 (Title 24 Path) and the second is described in Energy and Atmosphere, Credit 1 "Optimize Energy Performance" (Credit EA-/c1) in the US Green Building Council's Leadership in Energy and Environmental Design (LEED) Version 3 system (LEED Path). The definition of the term "Baseline" against which



energy reduction will be measured will vary depending on the path selected and is further described in Exhibit 3 to the MMRP. Choosing the LEED Path does not require a Development to achieve LEED Certification, but simply uses the methodology of EA-/c1.

- a. Renewable Energy generated within the boundaries of the Development will be credited toward the energy reduction requirement. The term "Renewable Energy" will mean energy derived from the sources described in California Public Resources Code Section 25741 (b)1.
- b. Renewable Energy generated on one or more sites (Renewable Energy Sites) within the boundaries of the Proposed Project by the Port, City or other third party and fed to the electrical grid or to the Development will be credited toward the energy reduction requirement described above. Aggregate energy generated on Renewable Energy Sites may be allocated to an individual Development up to the amount necessary to achieve such Development's compliance with the energy reduction requirement described above. Once allocated to a Development, the amount of energy generated by Renewable Energy Sites so allocated may not be further allocated to another Development.
- c. Participation in a City of Chula Vista sponsored energy efficiency program provided that the resulting energy reduction may be calculated and verified. The methodology for calculating the amount of the credit toward the energy reduction requirement described above under the Title 24 Path and the LEED Path as described in Exhibit 3 to the MMRP.
- d. Each Development will develop, implement, and for the life of each Development, maintain a measurement and verification plan (M&V Plan). Such participation has been shown to increase the persistence of energy efficiency (EE) and also to provide a way of recognizing and encouraging the ongoing conservation efforts of occupants and facility managers and will be awarded a waiver for five (5) percent credit against the Baseline to determine compliance with the energy reduction requirement described above. The Port will include in all leases the requirement to perform an energy audit every three (3) years for the convention centers and hotel Developments over 300 rooms and five (5) years for all other Developments to ensure that all energy systems are performing as planned or corrective action will be taken if failing to meet EE commitments.
- e. Participation in one of SDG&E's manual or semiautomatic Demand Reduction (DR) utility rates will be awarded a waiver for three (3) percent credit against the Baseline to determine compliance with the energy reduction requirement described above.

#### 4.0 FINDINGS REGARDING DIRECT IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

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- f. Participation in one of SDG&E's automatic Demand Reduction (DR) utility rates will be awarded a waiver for five (5) percent credit against the Baseline to determine compliance with the energy reduction requirement described above.
  - g. Incorporation of natural ventilation into design such that at least 75% of the conditioned area is naturally ventilated according to the guidelines set forth in Exhibit 3 to the MMRP, and if this benefit was not included in the energy efficiency calculations, the project will be awarded either: a waiver for five (5) percent credit against the Baseline to determine compliance with the energy reduction requirement described above; or, a waiver for ten (10) percent credit will be awarded if the natural ventilation system is coupled with an energy or cooling system that does not draw from the grid if and when natural ventilation is not used. This may be prorated if less than 75% of the conditioned area is naturally ventilated.
- 3. The parties understand and acknowledge that the energy reduction measures described above for a Development or component of a Development may be phased in over time to achieve compliance with the energy reduction requirement provided such energy reduction measures are completed no later than thirty-six (36) months following issuance of a certificate of occupancy for such Development or such component thereof.
- 4. To further incent responsible and sustainable development practices within the boundaries of the Proposed Project, the Port, the City and the Redevelopment Agency will consider voluntary commitments to levels of energy reduction in excess of the energy requirements described above, commitment to achievement of a LEED Certification, and/or a "Living Building Challenge" in connection with the selection of respondents in RFP/RFQ processes for Developments within the Proposed Project area.
- 5. Within one year following the CCC's approval of a PMP amendment substantially consistent with the Proposed Project, the Port will in good faith consider adoption of an ordinance, in a public hearing process, that if approved by the Board, will require the following:
  - a. Within six (6) months following adoption of the ordinance and every three (3) years thereafter, the Port will conduct an energy efficiency and renewable energy analysis that will:
    - i. Assess the feasibility and cost-effectiveness of programs and options to reduce demand on the electric grid from all lands under Port's jurisdiction; and
    - ii. Include, but not be limited to, an assessment of the potential for reduction in energy use on all land under Port's jurisdiction through increases in energy

efficiency, demand response, clean renewable and distributed energy generation and other methods and technologies.

- b. Upon the completion of each analysis, the Port will consider good faith implementation of cost-effective programs and options as part of its commitment to greenhouse gas reductions and global climate change prevention activities consistent with Assembly Bill 32.
- c. The results of each analysis will be published on the Port's website and received by the Port's Board in a public forum.

Incorporation of Mitigation Measure 4.16-1 will reduce impacts associated with long-term energy consumption that would result from the Proposed Project (Potential Significant Impact 4.16-1) to below a level of significance. Although implementation of Mitigation Measure 4.16-1 will reduce energy impacts to below a level of significance, the incorporation of Mitigation Measure 4.16-2 will reduce energy impacts even further.

#### 4.0 FINDINGS REGARDING DIRECT IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

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## **5.0 FINDINGS REGARDING DIRECT SIGNIFICANT AND UNAVOIDABLE IMPACTS**

The FEIR also determined that the Project may result in direct significant environmental impacts with respect to land/water use compatibility, traffic and circulation, aesthetics/visual quality, air quality, and public services, which cannot be avoided or reduced to below significant even after the incorporation of all feasible mitigation measures. These significant and unavoidable impacts of the Project and the mitigation measures which will reduce them, but not to a less than significant level, are discussed in *Section 4.1, Land/Water Use Compatibility*; *Section 4.2, Traffic and Circulation*; *Section 4.4, Aesthetics/Visual Quality*; *Section 4.6, Air Quality*; and *Section 4.13, Public Services* of the FEIR.

Set forth below are the findings regarding the direct significant unavoidable impacts of the Project that cannot be mitigated to less than significant despite the incorporation of all feasible mitigation measures. These findings incorporate by reference the discussion of potential significant impacts and mitigation measures contained in *Chapter 4.0, Environmental Analysis* of the FEIR. Pursuant to Public Resources Code Section 21081(a)(1) and (2) and CEQA Guidelines section 15091(a)(1) and (2), therefore, the Port makes the following findings regarding the significant unavoidable environmental impacts identified in the FEIR:

### **5.1 Land and Water Use Compatibility**

#### **5.1.1 Potential Significant Impact (4.1-4)**

The Project would be inconsistent with the Land Use and Transportation Objective LUT 11 in the City's adopted General Plan in regard to aesthetics and visual resources and this inconsistency would be a significant impact.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, but not to below a level of significance; therefore, despite the incorporation of Mitigation Measure 4.4-1, the Project's impacts to Land/Water Use Compatibility are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.4-1 and 4.4-4 above also apply to Potential Significant Impact 4.1-4. Significant Impact 4.1-4 will remain significant.

Impacts to view quality resulting from a change in scale and character and substantial view blockage associated with the Pacifica Residential and Retail Project would not be reduced to below a level of significance even after the incorporation of Mitigation Measure 4.4-1. No feasible mitigation beyond redesign of the Project as identified as a Project alternative would reduce the impacts to view quality associated with the Pacifica Residential and Retail Project below significance. Pursuant to CEQA Guidelines section 15093, therefore, the Port has balanced the benefits of the Project against its unavoidable environmental risks and has determined that this impact is acceptable for reasons stated in the Statement of Overriding Considerations below.

#### **5.1.2 Potential Significant Impact (4.1-5)**

The Project would be inconsistent with the Public Facilities and Services objective PFS 11 in the City's adopted General Plan in regard to library services and facilities and this inconsistency would be a significant impact.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, but not to below a level of significance; therefore, despite the incorporation of Mitigation Measure 4.1-3, the Project's impacts to Land/Water Use Compatibility are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

Mitigation Measure 4.1-3 shall be implemented in Phase I of the Proposed Project in order to reduce Potential Significant Impact 4.1-5 to the extent feasible. Prior to the approval of a building permit for any residential project, the applicant shall pay a Public Facilities Development Impact Fee (PFDIF) or equivalent fee in an amount calculated according to the City's PFDIF program in effect at the time of permit issuance. Regardless of this mitigation, due to an existing library deficiency and inability to demonstrate that fees would fully mitigate all potential impacts, implementation of Mitigation Measure 4.1-3 would not reduce significant impact 4.1-5 to below a level of significance. Pursuant to CEQA Guidelines section 15093, therefore, the Port has balanced this benefits of the Project against its unavoidable environmental risks and has determined that this impact is acceptable for reasons stated in the Statement of Overriding Considerations below.

## 5.2 Traffic and Circulation

### 5.2.1 Potential Significant Impact (4.2-12)

The development of the Project during Phase I would result in a significant impact to the freeway segment of I-5 between State Route 54 (SR-54) and E Street given that, despite all feasible mitigation, the roadway segment would experience congested LOS F conditions during both the AM and PM peak hours.

#### Finding

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### Facts in Support of Finding

*Table 4.2-17* in the FEIR summarizes the LOS analysis for the freeway segments under Phase I conditions. As shown in the table, all freeway segments would operate at LOS F with or without the project, except for the northbound I-5 segment between SR-54 and E Street which would operate at LOS E. The addition of Phase I traffic would result in a direct project impact to the following freeway segment and would require mitigation:

- I-5 between SR-54 and E Street (LOS F, AM and PM peak hours)

The Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River (the I-5 South Corridor, hereafter referred to as the Plan). Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The Plan required by this mitigation shall include the following:

- a) The responsible entities (the Entities) included in this effort will include, but may not be limited to, the City, other cities along I-5, the Port, SANDAG, and Caltrans. Other entities will be included upon the concurrence of the foregoing Entities.
- b) The Plan will identify physical and operational improvements to I-5 adjacent to the Project area, relevant arterial roads and transit facilities (the Improvements), that are focused on regional impacts and specific transportation impacts from the project, and will also identify the fair share responsibilities of each Entity for the construction and financing for each Improvement. The Plan will include an implementation element that includes each Entity's responsibilities and commitment to mitigate the impacts created by Phases I, II, III and IV of the Proposed Project.
- c) The Plan will set forth a timeline and other agreed upon relevant criteria for implementation of each Improvement.
- d) The Plan will identify the total estimated design and construction cost for each Improvement and the responsibility of each Entity for both implementation and funding of such costs.
- e) The Plan will include the parameters for any agreed upon fair-share funding to be implemented, that would require private and/or public developers to contribute to the costs, in a manner that will comply with applicable law.
- f) In developing the Plan, the Entities shall also consider ways in which the Improvements can be coordinated with existing local and regional transportation and facilities financing plans and programs, in order to avoid duplication of effort and expenditure; however, the existence of such other plans and programs shall not relieve the Entities of their collective obligation to develop and implement the Plan as set forth in this mitigation measure. Nothing in the Plan shall be construed as relieving any Entity (or any other entity) from its independent responsibility (if any) for the implementation of any transportation improvement.
- g) The Port shall seek adoption of the Plan before the Port Board of Commissioners and the City shall seek adoption of the Plan before the City Council upon the completion of the multijurisdictional effort to develop the Plan. The Port and the City shall report, to their respective governing bodies regarding the progress made to develop the Plan within six months of the first meeting of the entities. Thereafter, the Port and the City shall report at least annually regarding the progress of the Plan, for a period of not less than five years, which may be extended at the request of the City Council and/or Board of Commissioners.
- h) The Plan shall also expressly include each Entity's pledge that it will cooperate with each other in implementing the Plan.



- i) Prior to issuance of certificates of occupancy or building permits for any development of individual projects within the Chula Vista Bayfront Master Plan, the Port and the City shall require Project applicants to make their fair share contribution toward mitigation of cumulative freeway impacts within the City's Portion of the I-5 South Corridor by participating in the City's Western Traffic Development Impact Fee or equivalent funding program.

The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the potential significant to freeway segments identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-12 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.2.2 Potential Significant Impact (4.2-17)**

With the closure of F Street, extension of H Street, and the partial extension of E Street, the addition of Phase I traffic would result in a significant impact to the freeway segment of I-5 between SR-54 and E Street given that, despite the incorporation of all feasible mitigation, the roadway segment would experience northbound LOS F conditions during the AM peak hours and southbound LOS F conditions during the PM peak hours.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the

physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

*Table 4.2-20* in the FEIR summarizes the LOS analysis results for freeway segments under the Proposed Project Phase I conditions with Closure of F Street, extension of H Street, and partial extension of E Street. As shown in *Table 4.2-20*, the following freeway segments of I-5 will be characterized by LOS E or F conditions and would result in direct impacts requiring mitigation:

- SR-54 to E Street (LOS F, AM peak hour northbound with the Proposed Project, LOS F in PM peak hour southbound with or without the Proposed Project)
- E Street to H Street (LOS F both AM and PM peak hours, both directions, with or without the Proposed Project)

The fact in support of the finding for Potential Significant Impact 4.2-12 above also apply to Potential Significant Impact 4.2-17. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-17 cannot be mitigated to below a level of significance. This significant

unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **5.2.3 Potential Significant Impact (4.2-18)**

With the closure of F Street, extension of H Street, and the partial extension of E Street, the addition of Phase I traffic would result in a significant impact to the freeway segment of I-5 between E Street and H Street given that, despite the incorporate of all feasible mitigation, the roadway segment would experience congested LOS F conditions during both AM and PM peak hours in both directions.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such change can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 4.2-12 above also apply to Potential Significant Impact 4.2-18. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings. Potential Significant Impact 4.2-18 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations.

#### **5.2.4 Potential Significant Impact (4.2-19)**

The E Street and H Street intersections affected by an at-grade trolley crossing would experience additional delay along the arterial and at adjacent intersections from between 17 and 40 seconds per vehicle (depending on the direction and time of day), causing a deterioration in the LOS by at least one level.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Implementation of Mitigation Measure 4.2-10 would not reduce Potential Significant Impact 4.2-19 concerning project related impacts on H Street and E Street intersections due to trolley delay, to below a level of significance, because implementation of the physical improvements needed to reduce significant impacts are within the jurisdiction and control of other entities and not the Port or City. The Port and the City cannot assure the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's impacts to E Street and H Street intersections affected by the trolley crossings are considered significant and unmitigated. Therefore, despite the incorporation of Mitigation Measure 4.2-10, the Project's impacts are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

As part the City of Chula Vista GPU transportation analysis, the effects of the trolley grade crossings at E Street and H Street were evaluated. The analysis replicated the effects of a trolley/rail crossing by simulating a traffic signal at the trolley crossing. The analysis assumed that a trolley would cross once every 5 minutes, using current trolley service, and once every 2 and a half minutes using an extremely conservative assumption of planned service increases. Field observations indicate that the trolley crossing guards stay down for approximately 54 seconds.

The General Plan analysis determined that with the trolley crossings gates down, queues would start to form in the east-west direction and would extend into adjacent intersections. This would cause additional delays and affect the operations at each impacted intersection. As such, delays shown in the respective intersection summary tables for the intersections affected by the at-grade trolley crossings may be increased between 17 and 40 seconds per vehicle, causing a drop in LOS.

In order to address potential impacts to adjacent trolley intersections, the City has identified E Street Grade Separation and H Street Grade Separation projects as part of the City's Western Traffic Development Impact Fee (WTDIF). Based on SANDAG's Concept Engineering Report for E Street and H Street Grade Separations, dated October 14, 2003, the preferred recommendation is for the roadways to stay at their current elevations (as an overpass), while constructing an LRT underpass at E Street and at H Street. The projects are listed in the City's General Plan Traffic Study, Appendix A. The LRT underpass option for both crossings is listed in the City's WTDIF table.

The following mitigation would substantially reduce impacts at intersections of E Street and H Street associated with trolley delays:

- Prior to issuance of certificates of occupancy for Parcel H-3 or building permits for any development within the City, the Port and the City shall require Project applicants to make their fair share contribution toward mitigation of intersection impacts at H Street and E Street within the City's jurisdiction by participating in the City's Western Traffic Development Impact Fee or equivalent funding program.
- The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.
- The City cannot ensure that the necessary improvements will be constructed as needed or that they will be constructed within any known time schedule. Accordingly, the Project's impacts to the E Street and H Street intersections affected by an at-grade trolley crossing are considered significant and unmitigated.

This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations.

### 5.2.5 Potential Significant Impact (4.2-29)

The development of the Project during Phase II would result in a significant impact to the freeway segment of I-5 between SR-54 and E Street given that, despite the incorporation of all feasible mitigation, the roadway segment would experience congested LOS F conditions in either direction during both the AM and PM peak hours.

#### Finding

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### Facts in Support of Finding

*Table 4.2-23* of the FEIR summarizes the LOS analysis for the freeway segments under the Proposed Project-Phase II Conditions scenario. As shown in the table, the following I-5 freeway segments would operate at LOS F with or without the Project and would therefore be considered direct impacts:

- SR-54 to E Street (LOS F, both directions, both peak hours)
- E Street to F Street (LOS F, both directions, both peak hours)

The remaining freeway segments would operate at LOS F with and without the Proposed Project and would be considered cumulative impacts.

The facts in support of the finding for Potential Significant Impact 4.2-12 above also apply to Potential Significant Impact 4.2-29. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share

contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's impacts to freeway segments are considered significant and unmitigated. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations.

#### **5.2.6 Potential Significant Impact (4.2-30)**

The development of the Project during Phase II would result in a significant impact to the freeway segment of I-5 between E Street and F Street given that, despite incorporation of all feasible mitigation, the roadway segment would experience congested LOS F conditions during both the AM and PM peak hours in either direction.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impacts 4.2-12 and 4.2-29 above also apply to Potential Significant Impact 4.2-30. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements

along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-30 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.2.7 Potential Significant Impact (4.2-35)**

The development of the Project during Phase III would result in a significant impact to the freeway segment of I-5 between SR-54 and E Street given that, despite the incorporation of all feasible mitigation, the roadway segment would experience congested LOS F conditions in both directions.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.



### Facts in Support of Finding

Table 4.2-26 of the FEIR summarizes the LOS analysis results for the freeway segments under the Proposed Project-Phase III Conditions. As shown in the table, all freeway segments would continue to operate at LOS F with or without the Proposed Project. The following segments of I-5 would experience a direct project impact:

- SR-54 to E Street (LOS F, both directions)
- E Street to H Street (LOS F, northbound and LOS F, southbound)
- H Street to J Street (LOS F, northbound and LOS F, southbound)

The facts in support of the finding for Potential Significant Impact 4.2-12 above also apply to Potential Significant Impact 4.2-35. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-35 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### 5.2.8 Potential Significant Impact (4.2-36)

The development of the Project during Phase III would result in a significant impact to the freeway segment of I-5 between E Street and H Street given that, despite the incorporation of all

feasible mitigation, the roadway segment would experience congested LOS F conditions in both directions.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impacts 4.2-12 and 4.2-35 above also apply to Potential Significant Impact 4.2-36. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential significant Impact 4.2-36 cannot be mitigated to below a level of significance. This significant

unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.2.9 Potential Significant Impact (4.2-37)**

The development of the Project during Phase III would result in a significant impact to the freeway segment of I-5 between H Street and J Street given that, despite incorporation of all feasible mitigation, the roadway segment would experience congested LOS F conditions in both directions.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Proposed Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impacts 4.2-12 and 4.2-35 above also apply to Potential Significant Impact 4.2-37. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-37 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations.

#### **5.2.10 Potential Significant Impact (4.2-46)**

The development of the Project during Phase IV would result in a significant impact to the freeway segment of I-5 between SR-54 and E Street given that, despite incorporation of all feasible mitigation, the roadway segment would experience congested LOS F conditions in both directions during the AM and PM peak hours.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

Table 4.2-32 of the FEIR displays the LOS analysis results for the freeway segments under the Project – Phase IV Conditions scenario. As shown in the table, the following I-5 freeway segments would continue to operate at LOS F with or without the Project and would experience direct impacts as a result of the Project:

- SR-54 to E Street (LOS F, both directions, both peak hours)
- E Street to H Street (LOS F, both directions, both peak hours)

- H Street to J Street (LOS F, both directions, both peak hours)
- J Street to L Street (LOS F, both directions, both peak hours)
- L Street to Palomar Street (LOS F, both directions, both peak hours)

The facts in support of the finding for Potential Significant Impact 4.2-12 above also apply to Potential Significant Impact 4.2-46. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-46 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.2.11 Potential Significant Impact (4.2-47)**

The development of the Project during Phase IV would result in a significant impact to the freeway segment of I-5 between E Street and H Street given that, despite the incorporation of all *feasible mitigation*, the roadway segment would experience congested LOS F conditions in both directions during the AM and PM peak hours.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such

changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impacts 4.2-12 and 4.2-46 above also apply to Potential Significant Impact 4.2-47. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-47 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **5.2.12 Potential Significant Impact (4.2-48)**

The development of the Project during Phase IV would result in a significant impact to the freeway segment of I-5 between H Street and J Street given that, despite incorporation of all

feasible mitigation, the roadway segment would experience congested LOS F conditions in both directions during the AM and PM peak hours.

### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Proposed Project's impacts to freeway segments are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impacts 4.2-12 and 4.2-46 above also apply to Potential Significant Impact 4.2-48. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-48 cannot be mitigated to below a level of significance. This significant

unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.2.13 Potential Significant Impact (4.2-49)**

The development of the Project during Phase IV would result in a significant impact to the freeway segment of I-5 between J Street and L Street given that, despite the incorporate of all feasible mitigation, the roadway segment would experience congested LOS F conditions in both directions during the AM and PM peak hours.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Proposed Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impacts 4.2-12 and 4.2-46 above also apply to Potential Significant Impact 4.2-29. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.



Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-49 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.2.14 Potential Significant Impact (4.2-50)**

The development of the Project during Phase IV would result in a significant impact to the freeway segment of I-5 between L Street and Palomar Street given that, despite incorporation of all feasible mitigation, the roadway segment would experience congested LOS F conditions in both directions during the AM and PM peak hours.

#### **Finding**

Pursuant to CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Proposed Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Impacts 4.2-12 and 4.2-46 above also apply to Potential Significant Impact 4.2-50. As discussed above, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other

mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.2-50 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **5.3 Aesthetics/Visual Quality**

#### **5.3.1 Potential Significant Impact (4.4-1)**

The scale and character of the Pacifica Residential and Retail Project would significantly impact the existing viewing scene.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which lessen the significant environmental effect identified in the FEIR, but not to below a level of significance; therefore, despite the incorporation of all feasible mitigation measures, the Project's impacts to Aesthetics/Visual Quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The Pacifica Residential and Retail Project (Pacifica Project) will change the scale and character of the waterfront as the proposed buildings exceed the scale of the existing waterfront development. As shown in Visual Simulations 1 through 4 (FEIR *Figures 4.4-5a* through *4.4-8b*), the proposed buildings are three to four times taller than the existing structures located to the north along the waterfront. Moreover, the existing structures do not extend beyond the horizontal plane formed by the eastern hillsides, whereas the proposed buildings will exceed beyond this

horizontal plane. A moderate impact to the character of the view scene would result and would be considered significant.

In order to mitigate the potential impacts to view quality, and character, the Port and City shall implement the following (Mitigation Measure 4.4-1):

- A. **View Protection:** As a condition for issuance of Coastal Development Permits, the project developer shall design buildings fronting H Street to step away from the street. More specifically, design plans shall protect open views down the H Street corridor by ensuring that an approximate 100-foot ROW width (curb–curb, building setbacks, and pedestrian plaza/walkway zone) remains clear of buildings, structures, or major landscaping. Visual elements above 6 feet in height shall be prohibited in this zone if the feature would reduce visibility by more than 10%. Placement of trees should take into account potential view blockage. This mitigation should not be interpreted to not allow tree masses; however, trees should be spaced in order to ensure “windows” through the landscaping. Trees should also be considered to help frame the views and they should be pruned to increase the views from pedestrians and vehicles, underneath the tree canopy. In order to reduce the potential for buildings to encroach upon view corridors, and to address the scale and massing impact, buildings shall step back at appropriate intervals or be angled to widen the view corridor at the ground plane to the extent feasible. All design plans shall be subject to review and approval by the Port. All future development proposals shall conform to Port design guidelines and standards to the satisfaction of the Port.
- B. **Height and Bulk:** Prior to issuance of Coastal Development Permits for projects within the Port’s jurisdiction, the Project developer shall ensure that design plans for any large-scale projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, stepping back of buildings, and varied color schemes to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for large project components to diminish imposing building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the Port.
- C. **Height and Bulk:** Prior to design review approval for properties within the City’s jurisdiction, the Project developer shall ensure that design plans for any large scale projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, and varied color schemes to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for the large project components to diminish imposing

building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the City of Chula Vista Planning Director.

- D. **Landscaping:** Prior to final approval of Phase I infrastructure design plans, the Port and City shall collectively develop a master landscaping plan for the project's public components and improvements. The plan shall provide sufficient detail to ensure conformance to streetscape design guidelines and that future developers/tenants, as applicable, provide screening of parking areas.
- E. Streetscape landscaping shall be designed to enhance the visitor experience for both pedestrians and those in vehicles. Specifically, detailed landscaping plans shall be developed to enhance Marina Parkway, a designated scenic roadway and shall provide, where appropriate, screening of existing industrial uses and parking areas until such time as these facilities are redeveloped.
- F. Street landscaping design shall be coordinated with a qualified biologist or landscape architect to ensure that proposed trees and other landscaping are appropriate for the given location. For instance, vegetation planted adjacent to open water/shoreline areas must not provide raptor perches. Landscaping shall be drought tolerant or low-water use, and invasive plant species shall be prohibited.
- G. **Landscaping:** Prior to approval of a tentative map or site development plan for future residential development, the Project developer shall submit a landscaping design plan for on-site landscaping improvements that is in conformance to design guidelines and standards established by the City of Chula Vista. The plan shall be implemented as a condition of project approval.
- H. **Gateway Plan:** Concurrent with the preparation of Phase I infrastructure design plans for E and H Streets, a Gateway plan shall be prepared for E and H Streets. Prior to issuance of occupancy for any projects within the Port's jurisdiction in Phase I, the E and H Street Gateway plan shall be approved by the Port and City's Directors of Planning. The E and H Street Gateway plan shall be coordinated with the Gateway plan for J Street.
- I. **Gateway Plan:** Concurrent with development of Parcels H-13 and H-14, the project developer shall submit a Gateway plan for J Street for City Design Review consideration. Prior to issuance of any building permits, the J Street Gateway plan shall be approved by the Director of Planning and Building in coordination with the Port's Director of Planning. The J Street Gateway plan shall be coordinated with the Gateway plan for E and H Streets.

Despite implementation of Mitigation Measure 4.4-1, Potential Significant Impact 4.4-1 will remain significant. Impacts to view quality resulting from a change in scale and character and substantial view blockage associated with the Pacifica Project would not be reduced to below a

level of significance. No feasible mitigation has been identified which would reduce the impacts to view quality associated with the Pacifica Project to below a level of significance. The FEIR determined that the impact could be avoided or substantially reduced only by redesigning the Project and analyzed a reduced-size alternative which would reduce this impact (*see* Section 5.6 *Reduced Overall Density Alternative*). The feasibility of the Reduced Overall Density Alternative is addressed in Section 7.4 of these findings below. Although Potential Significant Impact 4.4-1 has been reduced to the extent feasible by the design considerations and mitigation measures identified in the FEIR and these findings, the impact cannot be mitigated to below a level of significance. This significant unavoidable impact to view quality is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **5.3.2 Potential Significant Impact (4.4-2)**

The amount of public view blockage caused by the Pacifica Project would be substantial, especially at the south end where views of the water exists and this impact would be considered significant.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which lessen the significant environmental effect identified in the FEIR, but not to below a level of significance; therefore, despite the incorporation of all feasible mitigation measures, the Project's impacts to public view blockage are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The Pacifica Project will not block any public views, with the exception of views as seen from Portions of I-5 and J Street. The public views are unaffected from E Street, Bayside Park, Bayside Park Beach, Bayfront Park, and Marina View Park. The availability of public views from Chula Vista Marina is likely to be increased. Public views of the waterfront as seen from Portions of I-5 would be blocked by the Pacifica Project for a great number of individuals. These views exist for only a few seconds of travel time, however. It is important to note that the viewing scene observed through this view corridor contains some views of the water and shoreline. These views are not fully open due to existing vegetation blocking a substantial amount of the view of the waterfront. In general, the photographs in the FEIR cannot capture the extent of the view due to its dynamic nature. As such, the view does allow for some blockage without having a negative affect. Although the viewing scene observed through this viewing corridor has limited views of the water and shoreline, this corridor does contain existing views of

waterfront development such as the marinas and watercraft. The amount of blockage caused by the Pacifica Project would be substantial, especially at the south end where views of the water exist. The Pacifica Project would result in a moderate impact to view quality, which would be considered a significant impact.

In order to mitigate potential impacts to public views, the Port and City will implement Mitigation Measure 4.4-1. As discussed in the Facts in Support of Findings for Potential Significant Impact 4.4-1 above, Mitigation Measure 4.4-1 includes view protection measures that would require buildings fronting H Street to be designed to step away from the street and the placement of trees to take existing views into consideration. Mitigation Measure 4.4-1 also includes height and bulk measures that would require the Project developer to minimize the height and bulk of proposed buildings through standard design techniques such as articulated facades, distributed building massing, and horizontal banding. However, this mitigation is insufficient to reduce the public view blockage associated with development of the Pacifica Project to below a level of significance. No feasible mitigation has been identified which would reduce the impacts to view blockage associated with the Pacifica Project to below a level of significance. The FEIR determined that the impact could be avoided or substantially reduced only by redesigning the Project and analyzed an reduced-size alternative which would reduce this impact (*see* FEIR, Section 5.6 *Reduced Overall Density Alternative*). The feasibility of the Reduced Overall Density Alternative is addressed in Section 7.4 of these findings below. Although Potential Significant Impact 4.4-2 has been reduced to the extent feasible by the design considerations and mitigation measures identified in the FEIR and these findings, the impact cannot be mitigated to below a level of significance. This significant unavoidable impact to view blockage is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

## **5.4 Air Quality**

### **5.4.1 Potential Significant Impact (4.6-1)**

Construction emissions associated with Phase I of the Proposed Project are projected to exceed the standards for NO<sub>x</sub> and reactive organic gases during some years of construction but not during others. These impacts would be potentially significant.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which lessen the significant environmental effect identified in the FEIR, but not to below a level of significance; therefore, despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and

unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

As shown in *Tables 4.6-6 through 4.6-8 of Section 4.6, Air Quality* in the FEIR, construction activities would result in significant air quality impacts for each criteria pollutant except sulfur dioxide (SO<sub>2</sub>) and carbon monoxide (CO) for Phase I of the Proposed Project. Unmitigated PM<sub>10</sub> and PM<sub>2.5</sub> emissions are projected to exceed the standard during mass grading operations for each project phase. Construction emissions are projected to exceed the standards for NO<sub>x</sub> and reactive organic gases during some years of construction but not during others. Please refer to *Table 4.6-2 of the FEIR*, which identifies the potential health effects associated with exposure to these elevated concentrations of pollutants. These impacts would be potentially significant.

In order to reduce potential impacts associated with construction emissions, the Port and City will implement Mitigation Measure 4.6-1, to include the following:

Prior to the commencement of any grading activities, the following measures shall be placed as notes on all grading plans and shall be implemented during grading of each phase of the project to minimize construction emissions. These measures shall be completed to the satisfaction of the Port and the Director of Planning and Building for the City of Chula Vista (These measures were derived, in part, from Table 11-4 of Appendix 11 of the SCAQMD CEQA Air Quality Handbook, and from SCAQMD Rule 403):

#### **Best Available Control Measures for Specific Construction Activities**

##### **a) Backfilling activities:**

- Stabilize backfill material when not actively handling
- Stabilize backfill material during handling
- Stabilize soil at completion of backfilling activity.

##### **b) Clearing and grubbing activities:**

- Maintain stability of soil through pre-watering of site prior to clearing and grubbing
- Stabilize soil during clearing and grubbing activities
- Stabilize soil immediately after clearing and grubbing activities.

c) Clearing forms:

- Use water spray to clear forms
- Use sweeping and water spray to clear forms
- Use vacuum system to clear forms.

d) Crushing activities:

- Stabilize surface soils prior to operation of support equipment
- Stabilize material after crushing.

e) Cut and fill activities:

- Pre-water soils prior to cut and fill activities
- Stabilize soil during and after cut and fill activities.

f) Demolition activities – mechanical/manual:

- Stabilize wind erodible surfaces to reduce dust
- Stabilize surface soil where support equipment and vehicles will operate
- Stabilize loose soil and demolition debris.

g) Disturbed soil:

- Stabilize disturbed soil throughout the construction site
- Stabilize disturbed soil between structures.

h) Earth-moving activities:

- Pre-apply water to depth of proposed cuts
- Re-apply water as necessary to maintain soils in a damp condition and to ensure that visible emissions do not exceed 100 feet in any direction
- Stabilize soils once earth-moving activities are complete.

i) Importing exporting of bulk materials:

- Stabilize material while loading to reduce fugitive dust emissions
- Stabilize material while transporting to reduce fugitive dust emissions



- Stabilize material while unloading to reduce fugitive dust emissions
  - Cover haul trucks or maintain at least 12 inches of freeboard to reduce blow-off during hauling
  - Comply with Vehicle Code Section 23114.
- j) Landscaping activities:
- Stabilize soils, materials, slopes
- k) Road shoulder maintenance:
- Apply water to unpaved shoulders prior to clearing
  - Apply chemical dust suppressants and/or washed gravel to maintain a stabilized surface after completing road shoulder maintenance.
- l) Screening activities:
- Pre-water material prior to screening
  - Limit fugitive dust emissions to opacity and plume length standards
  - Stabilize material immediately after screening.
- m) Staging areas:
- Stabilize staging areas during use
  - Stabilize staging area soils at project completion.
- n) Stockpiles/bulk material handling:
- Stabilize stockpiled materials by covering/watering
  - Stockpiles within 100 yards of off-site occupied buildings must not be greater than 8 feet in height; or must have a road bladed to the top to allow water truck access or must have an operational water irrigation system that is capable of complete stockpile coverage.
- o) Traffic areas for construction activities:
- Stabilize all off-road traffic and parking areas
  - Stabilize all haul routes
  - Direct construction traffic over established haul routes.

p) Trenching activities:

- Stabilize surface soils where trencher or excavator and support equipment will operate
- Stabilize soils at the completion of trenching activities.

q) Truck loading activities:

- Pre-water material prior to loading
- Cover haul trucks or maintain at least 12 inches of freeboard to reduce blow-off during hauling.

r) Turf overseeding activities:

- Apply sufficient water immediately prior to conducting turf vacuuming activities to meet opacity and plume length standards
- Cover haul vehicles prior to exiting the site.

s) Unpaved roads/parking lots:

- Stabilize soils to meet the applicable performance standards
- Limit vehicular travel to established unpaved roads (haul routes) and unpaved parking lots.

t) Vacant land:

- In instances where vacant lots are 0.10 acre or larger and have a cumulative area of 500 square feet or more that are driven over and/or used by motor vehicles and/or off-road vehicles, prevent motor vehicle and/or off-road vehicle trespassing, parking and/or access by installing barriers, curbs, fences, gates, posts, signs, shrubs, trees, or other effective control measures.

Other General Best Available Control Measures:

- u) Minimize idling time
- v) Maintain properly tuned equipment
- w) Regular maintenance—keep equipment well maintained
- x) Where practicable, use low pollutant-emitting equipment

- y) Use of ultra-low-sulfur diesel fuel
- z) Use construction equipment that is CARB-certified or that meets Tier 3 emissions or better, if available
- aa) Use alternative diesel formulations (e.g., aqueous diesel), if available
- bb) Where practicable, use catalytic reduction for gasoline-powered equipment
- cc) Use injection timing retard for diesel-powered equipment
- dd) Apply chemical stabilizer or pave the last 100 feet of internal travel path within the construction site prior to public road entry
- ee) Install wheel washers adjacent to a paved apron prior to vehicle entry on public roads
- ff) Remove any visible track-out into traveled public streets within 30 minutes of occurrence
- gg) Wet wash the construction access point at the end of each workday if any vehicle travel on unpaved surfaces has occurred
- hh) Provide sufficient perimeter erosion control to prevent washout of silty material onto public roads
- ii) Suspend all soil disturbance and travel on unpaved surfaces if winds exceed 25 miles per hour
- jj) Enforce a 15 mile-per-hour speed limit on unpaved surfaces
- kk) On dry days, dirt and debris spilled onto paved surfaces shall be swept up immediately to reduce re-suspension of particulate matter caused by vehicle movement. Approach routes to construction sites shall be cleaned daily of construction-related dirt in dry weather.
- ll) Disturbed areas shall be hydroseeded, landscaped, or developed as quickly as possible and as directed by the City or Port to reduce dust generation.
- mm) Electrical construction equipment shall be used to the extent feasible.
- nn) Low-VOC coatings will be used during application of architectural coatings. Coatings must meet the VOC content limitations set forth in APCD Rule 67.0.

With the addition of controls assumed during construction, emissions of reactive organic gases during application of architectural coatings and of PM<sub>10</sub> and PM<sub>2.5</sub> during site grading activities would be reduced for each development phase during construction. *Tables 4.6-34 through 4.6-40* of the FEIR present emissions with the application of mitigation measures. Changes in significance after mitigation are indicated in the tables. Although these measures will reduce significant air quality impacts of the Project, this mitigation is insufficient to reduce the construction emissions to a level below the standard established by the SCAQMD and used in the FEIR. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.6-1 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.6-1 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.4.2 Potential Significant Impact (4.6-2)**

The operation of Phase I development is anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub> and PM<sub>2.5</sub>. The exceedance of the standard for criteria pollutants (ROG, NO<sub>x</sub>, CO, and PM<sub>10</sub>) would be a significant impact for Phase I development.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The significance of operational impacts was assessed in terms of the Air Quality Significance Thresholds established by the SCAQMD. Operational impacts stem primarily from emissions from vehicular sources, although area emissions (e.g., natural gas combustion) also contribute. *Table 4.6-11 of Section 4.6, Air Quality* of the FEIR, provides the projected area and operational emissions in pounds per day for Phase I. As can be seen from this table, emissions projected for this phase of development are anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub> and PM<sub>2.5</sub>. Please refer to *Table 4.6-2* of the FEIR, which identifies the potential health effects associated with exposure to these elevated concentrations of pollutants. The exceedance

of the standard for criteria pollutants (ROG, NO<sub>x</sub>, CO, and PM<sub>10</sub>) would be a significant impact for Phase I development.

The potential impacts associated with emissions that are above the significance thresholds and have the potential to contribute to a violation of an air quality standard that would result during operation of Phase I of the Proposed Project will be mitigated by implementation of Mitigation Measure 4.6-2 as follows:

- A. For development within the City's jurisdiction, the project applicant shall submit an AQIP with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP Guidelines, including any necessary site plan modifications.
- B. Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project complies with Title 24 for Residential and Nonresidential buildings. These requirements, along with the following measures, shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:
  - Use of low NO<sub>x</sub> emission water heaters.
  - Installation of energy efficient and automated air conditioners when air conditioners are provided.
  - Energy efficient parking area lights.
  - Exterior windows shall be double paned.

Although these measures will reduce air quality impacts of the Project, they are insufficient to reduce operations emissions to a level below the standard established by the SCAQMD and used in the FEIR. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.6-2 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.6-2 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### 5.4.3 Potential Significant Impact (4.6-3)

The operation of Phase II development is anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub> and PM<sub>2.5</sub>. The exceedance of the standard for criteria pollutants (ROG, NO<sub>x</sub> CO, and PM<sub>10</sub>) would be a significant impact for Phase II development.

#### Finding

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### Facts in Support of Finding

*Table 4.6-14 of Section 4.6, Air Quality* in the FEIR, provides the projected area and operational emissions for Phase II. Emissions projected for this phase of development are anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub> and PM<sub>2.5</sub>. Please refer to *Table 4.6-2* of the FEIR, which identifies the potential health effects associated with exposure to these elevated concentrations of pollutants. The exceedance of the standard for criteria pollutants (ROG, NO<sub>x</sub> CO, and PM<sub>10</sub>) would be a significant impact for Phase II development.

In order to mitigate for the potential impacts associated with emissions that are above the significance thresholds and have the potential to contribute to violation of an air quality standard that would result during operation of Phase II of the Proposed Project, the Port and City shall implement Mitigation Measure 4.6-3 as follows:

- A. For development within the City's jurisdiction, the applicants shall submit an AQIP with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP Guidelines, including any necessary site plan modifications.

B. Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project complies with Title 24 for Residential and Nonresidential buildings. These requirements along with the following measures shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:

- Use of low NO<sub>x</sub> emission water heaters.
- Installation of energy efficient and automated air conditioners when air conditioners are provided.
- Energy efficient parking area lights.
- Exterior windows shall be double paned.

Although these measures would reduce air quality impacts of the Project, they are insufficient to reduce area and operations emissions associated with Phase II to a level below the standard established by the SCAQMD and used in the FEIR. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.6-3 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.6-3 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.4.4 Potential Significant Impact (4.6-4)**

The operation of Phase III development is anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub> and PM<sub>2.5</sub>. The exceedance of the standard for criteria pollutants (ROG, NO<sub>x</sub> CO, and PM<sub>10</sub>) would be a significant impact for Phase III development.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### Facts in Support of Finding

*Table 4.6-17 of Section 4.6, Air Quality* in the FEIR, provides the projected area and operational emissions for Phase III. Emissions projected for this phase of development are anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. Please refer to *Table 4.6-2 of the FEIR*, which identifies the potential health effects associated with exposure to these elevated concentrations of pollutants. The exceedance of the standard for criteria pollutants (ROG, NO<sub>x</sub>, and CO) would be a significant impact for Phase III development.

In order to mitigate for impacts associated with emissions that are above the significance thresholds and have the potential to contribute to a violation of an air quality standard that would result during operation of Phase III of the Proposed Project, the Port and City shall implement Mitigation Measure 4.6-4 as follows:

- A. For residential, as well as mixed-use/commercial development within the City's jurisdiction, the applicants shall submit an AQIP with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall either evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP Guidelines, including any necessary site plan modifications.
- B. Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project complies with Title 24 for Residential and Nonresidential buildings. These requirements along with the following measures shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:
  - Use of low NO<sub>x</sub> emission water heaters.
  - Installation of energy efficient and automated air conditioners when air conditioners are provided.
  - Energy efficient parking area lights.
  - Exterior windows shall be double paned.

Although these measures would reduce air quality impacts of the Proposed Project, they are insufficient to reduce area and operations emissions to a level below the standard established by



the SCAQMD and used in this document by the City and Port. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.6-4 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.6-4 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.4.5 Potential Significant Impact (4.6-5)**

The operation of Phase IV development is anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub>. The exceedance of the standard for criteria pollutants (ROG and NO<sub>x</sub>) would be a significant impact for Phase IV development.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

*Table 4.6-20 of Section 4.6, Air Quality* in the FEIR, provides the projected area and operational emissions for Phase IV. Emissions projected for this phase of development are anticipated to exceed the standard for each criteria pollutant except SO<sub>2</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub>. Please refer to *Table 4.6-2* of the FEIR, which identifies the potential health effects associated with exposure to these elevated concentrations of pollutants. The exceedance of the standard for criteria pollutants (ROG and NO<sub>x</sub>) would be a significant impact for Phase IV development.

In order to mitigate for potential impacts associated with emissions that are above the significance thresholds and have the potential to contribute to a violation of an air quality standard that would result during operation of Phase IV of the Proposed Project, the Port and City shall implement Mitigation Measure 4.6-5 as follows:

- A. For residential, as well as mixed-use/commercial development within the City's jurisdiction, the applicants shall submit an AQIP with any Tentative Maps submitted to

the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate “the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled.” There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures outlined in the City’s AQIP Guidelines, including any necessary site plan modifications.

B. Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project complies with Title 24 for Residential and Nonresidential buildings. These requirements along with the following measures shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:

- Use of low-NOx emission water heaters.
- Installation of energy efficient and automated air conditioners when air conditioners are provided.
- Energy efficient parking area lights.
- Exterior windows shall be double paned.

Although these measures would reduce air quality impacts of the Project, they are insufficient to reduce area and operations emissions associated with Phase IV to a level below the standard established by the SCAQMD and used in the FEIR. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.6-5 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.6-5 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **5.4.6 Potential Significant Impact (4.6-6)**

At the program level for the Project, impacts to sensitive receptors during construction of Phases I, II, III, and IV would be significant.

**Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

**Facts in Support of Finding**

The Phase I project-level development includes the residential uses of the Pacifica Project. Once this development has been completed, sensitive receptors will be located on the project site. Construction of Phases I through IV program-level components, would have the potential to affect those receptors. Because construction emissions during Phases I through IV would exceed the significance thresholds for ROG, NO<sub>x</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub>, impacts to sensitive receptors during construction would be temporary but significant.

In order to mitigate for impacts to sensitive receptors during construction of program-level components in Phases I, II, III, and IV, the Port and City shall implement Mitigation Measure 4.6-1. The facts in support of the findings for Potential Significant Impact 4.6-1 above also apply to this significant impact. Mitigation Measure 4.6-1 includes several Best Available Control Measures for Specific Construction Activities to be placed as notes on all grading plans. The intent of these measures is to minimize construction emissions. With addition of controls assumed during construction, emissions of reactive organic gases during application of architectural coatings and of PM<sub>10</sub> and PM<sub>2.5</sub> during site grading activities would be reduced for each development phase during construction. *Tables 4.6-34 through 4.6-40* in the FEIR present emissions with application of mitigation measures. Changes in significance after mitigation are indicated in the tables. Although these measures will reduce air quality impacts of the Project, this mitigation is insufficient to reduce the impact on sensitive receptors of construction emissions from Phases I through IV program-level components to a level below the standard established by the SCAQMD and used in the FEIR. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.6-6 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.6-6 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

## **5.5 Public Services**

### **5.5.1 Potential Significant Impact (4.13.5-1)**

The need for additional library square feet to serve the Project would place substantial pressure on the existing library facilities and would worsen the present shortfall in library square footage and books per capita. This would be a significant impact.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to public services (library services) are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

Based on a population rate of 2.159 persons per multifamily unit, the 1,500 dwelling units proposed in Phase I of the Proposed Project would result in a total population of approximately 3,239 persons. Based on the expected net population increase, the project would require approximately 1,620 square feet of library facilities for Phase I development. The Municipal Code of the City of Chula Vista does not apply a service demand requirement for libraries to commercial or industrial acreage. As such, the impact, and required mitigation, only applies to residential uses. The need for additional library square feet to serve the Proposed Project would place substantial pressure on the existing library facilities and would worsen the present shortfall in library square footage and books per capita. This would be a significant impact. In order to mitigate for impacts associated with the increased demand on existing library facilities, the City shall require that prior to the approval of a building permit for any residential project, the applicant shall pay a PFDIF or equivalent fee in an amount calculated according to the City's PFDIF program in effect at the time of permit issuance. However, due to the existing deficiency in library service in the City and the inability to demonstrate that fees would fully mitigate the potential impact, this mitigation is insufficient to reduce the impact to below significant. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.13.5-1 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.13.5-1 cannot be mitigated to below a level of significance. This significant

unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **5.5.2 Potential Significant Impact (4.13.5-2)**

Development of the Proposed Project during Phase I would require approximately 1,620 square feet of library space. Until new library facilities are constructed or existing facilities are expanded to meet the increased demand, a significant impact to library services would exist.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to public services (library services) are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The projected increase in population associated with development of the Pacifica Project during Phase I would result in additional demands on library services. Currently, there is insufficient existing library space in the City to meet their 500 GSF per 1,000 residents threshold standard. Development of the Pacifica Project during Phase I would require approximately 1,620 square feet of library space.

In order to mitigate the impacts associated with the increased demand on existing library facilities, the City shall require that prior to the approval of a building permit for any residential project, the applicant shall pay a PFDIF or equivalent fee in an amount calculated according to the City's PFDIF program in effect at the time of permit issuance. However, due to the existing deficiency in library service in the City and the inability to demonstrate that fees would fully mitigate the potential impact, this mitigation is insufficient to reduce the impact to below significant. No other feasible mitigation has been identified which would reduce Potential Significant Impact 4.13.5-1 to below a level of significance. Although this impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Impact 4.13.5-1 cannot be mitigated to below a level of significance. This significant unavoidable impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below

## 5.0 FINDINGS REGARDING DIRECT SIGNIFICANT AND UNAVOIDABLE IMPACTS

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## 6.0 FINDINGS REGARDING SIGNIFICANT CUMULATIVE IMPACTS

CEQA requires a lead agency to evaluate the potential cumulative impacts of a proposed project. Cumulative impacts are defined as two or more individual effects which, when considered together, are considerable or compound or increase other effects. The individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impact from several projects is the change in the environment, which results from the proposed project when added to other closely related projects. In identifying projects which may contribute to cumulative impacts, the CEQA allows the use of either a list of past, present, and reasonably anticipated future projects, with related or cumulative impacts. The list of “past, present and reasonably anticipated future projects” should include related projects which already have been constructed, are presently under construction, are approved but not yet under construction, and are not yet approved but are under environmental review at the time the draft EIR is prepared. The list must include not only projects under review by the lead agency, but also those under review by other relevant public agencies.

The Project will result in significant cumulative impacts in the following areas: Traffic and Circulation; Aesthetics/Visual Quality; Air Quality; Marine Biological Resources; Public Services; Public Utilities; and Energy. Although the Port has incorporated all feasible mitigation measures that would avoid or substantially lessen these significant cumulative impacts, several of the significant cumulative impacts identified in the FEIR cannot be avoided or reduced to below significance.

The FEIR also determined that the Project may result in significant impacts at the cumulative level for Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Public Services (Library Services) and Energy, which would not be mitigated to below a level of significance even after the implementation of all feasible mitigation measures. As described in the Statement of Overriding Considerations below, however, the Port has determined these significant unavoidable cumulative impacts are acceptable because of specific overriding considerations.

The findings below identify each of the significant cumulative environmental impacts, the mitigation measures adopted to substantially lessen or to avoid them, and the cumulative impacts which cannot be mitigated below significance after the incorporation of all feasible mitigation measures. The findings are based on by reference the analysis of cumulative significant impacts contained in the *Chapter 6.0, Cumulative Impacts* of the FEIR.

## **6.1 Transportation/Circulation**

### **6.1.1 Potential Significant Impact (6.5-1)**

The development of the Project would result in a significant cumulative impact during Phase I to the freeway segment of I-5 between E Street to H Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions in both directions during the AM and PM peak hours.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

As part of the traffic analysis, cumulative impacts were identified if the project contributed to a roadway, intersection or freeway segment that operated at level of service (LOS) E or LOS F. All of the segments of I-5 between SR-54 and Palomar Street currently operate at LOS F (except for SR-54 to E Street, which operates at LOS D in the AM peak hour and LOS E in the PM peak hour), and all phases of the Proposed Project would contribute traffic to each of these segments. The following I-5 freeway segments would experience congestion in Phase I that would be considered significant:

- E Street to H Street (LOS F, NB/SB, AM/PM)
- H Street to J Street (LOS F, NB/SB, AM/PM)
- Street to L Street (LOS F, NB/SB, AM/PM)
- L Street to Palomar Street (LOS F, NB/SB, AM/PM)

The Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify



transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The Plan required by this mitigation shall include the following:

- a) The responsible entities (the Entities) included in this effort will include, but may not be limited to, the City, other cities along I-5, the Port, SANDAG, and Caltrans. Other entities will be included upon the concurrence of the foregoing Entities.
- b) The Plan will identify physical and operational improvements to I-5 adjacent to the Project area, relevant arterial roads, and transit facilities (the Improvements) that are focused on regional impacts and specific transportation impacts from the project and will also identify the fair-share responsibilities of each Entity for the construction and financing for each Improvement. The Plan will include an implementation element that includes each Entity's responsibilities and commitment to mitigate the impacts created by all phases of the Proposed Project.
- c) The Plan will set forth a timeline and other agreed upon relevant criteria for implementation of each Improvement.
- d) The Plan will identify the total estimated design and construction cost for each Improvement and the responsibility of each Entity for both implementation and funding of such costs.
- e) The Plan will include the parameters for any agreed upon fair-share funding to be implemented that would require private and/or public developers to contribute to the costs, in a manner that will comply with applicable law.
- f) In developing the Plan, the Entities shall also consider ways in which the Improvements can be coordinated with the financing plans and programs of existing local and regional transportation and facilities, in order to avoid duplication of effort and expenditure; however, the existence of such other plans and programs shall not relieve the Entities of their collective obligation to develop and implement the Plan as set forth in this mitigation measure. Nothing in the Plan shall be construed as relieving any Entity (or any other entity) from its independent responsibility (if any) for the implementation of any transportation improvement.
- g) The Port shall seek adoption of the Plan before the Port Board of Commissioners and the City shall seek adoption of the Plan before the City Council upon the completion of the multi-jurisdictional effort to develop the Plan. The Port and the City shall report to their respective governing bodies regarding the progress made to develop the Plan within 6

months of the first meeting of the entities. Thereafter, the Port and the City shall report at least annually regarding the progress of the Plan, for a period of not less than 5 years, which may be extended at the request of the City Council and/or Board of Commissioners.

- h) The Plan shall also expressly include each Entity's pledge that it will cooperate with each other in implementing the Plan.
- i) Prior to issuance of certificates of occupancy or building permits for any development of individual projects within the Chula Vista Bayfront Master Plan, the Port and the City shall require Project applicants to make their fair-share contribution toward mitigation of cumulative freeway impacts within the City's Portion of the I-5 South Corridor by participating in the City's Western Traffic Development Impact Fee or equivalent funding program.

The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-1 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.2 Potential Significant Impact (6.5-2)**

The development of the Proposed Project would result in a significant cumulative impact during Phase I to the freeway segment of I-5 between H Street to J Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions in both directions during the AM and PM peak hours.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Cumulative Impact 6.5-1 above also apply to Potential Significant Cumulative Impact 6.5-2. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-2 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **6.1.3 Potential Significant Impact (6.5-3)**

The development of the Project would result in a significant cumulative impact during Phase I to the freeway segment of I-5 between J Street to L Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions in both directions during the AM and PM peak hours.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Cumulative Impact 6.5-1 above also apply to Potential Significant Cumulative Impact 6.5-3. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port,

the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-2 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.4 Potential Significant Impact (6.5-4)**

The development of the Project would result in a significant cumulative impact during Phase I to the freeway segment of I-5 between L Street to Palomar Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions in both directions during the AM and PM peak hours.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 4.2-8, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Cumulative Impact 6.5-1 above also apply to Potential Significant Cumulative Impact 6.5-4. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use

its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-4 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.5 Potential Significant Impact (6.5-5)**

With the closure of F Street, extension of H Street, and the partial extension of E Street, the addition of cumulative traffic to Phase I traffic would result in a cumulative significant impact to the freeway segment of I-5 between H Street and J Street given that, despite all feasible mitigation, the roadway segment would experience northbound LOS F conditions during the AM peak hours and southbound LOS F conditions during the PM peak hours.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Cumulative Impact 6.5-1 above also apply to Potential Significant Impact 6.5-5.

As part of the traffic analysis, cumulative impacts were identified if the Project contributed to a roadway, intersection, or freeway segment that operated at level of service (LOS) E or LOS F.

All of the segments of I-5 between SR-54 and Palomar Street currently operate at LOS F (except for SR-54 to E Street, which operates at LOS D in the AM peak hour and LOS E in the PM peak hour), and all phases of the Proposed Project would contribute traffic to each of these segments. In Phase I Conditions with Closure of F Street and Extension of H Street and Partial Extension of E Street, the following I-5 freeway segments would experience congestion that would be considered significant:

- H Street to J Street (LOS F, NB, AM and LOS F, SB, PM)
- J Street to L Street (LOS F, NB/SB, AM/PM)
- L Street to Palomar Street (LOS F, NB/SB, AM/PM)

As discussed previously, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-5 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.6 Potential Significant Impact (6.5-6)**

With the closure of F Street, extension of H Street, and the partial extension of E Street, the addition of cumulative traffic to Phase I traffic would result in a cumulative significant impact to the freeway segment of I-5 between J Street and L Street given that, despite all feasible

mitigation, the roadway segment would experience LOS F conditions in both directions during both the AM and PM peak hours.

### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

The facts in support of the findings for Potential Significant Cumulative Impacts 6.5-1 and 6.5-5 above also apply to Potential Significant Cumulative Impact 6.5-5. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-6 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is



considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.7 Potential Significant Impact (6.5-7)**

With the closure of F Street, extension of H Street, and the partial extension of E Street, the addition of cumulative traffic to Phase I traffic would result in a cumulative significant impact to the freeway segment of I-5 between L Street and Palomar Street given that, despite all feasible mitigation, the roadway segment would experience LOS F conditions in both directions during both the AM and PM peak hours.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of all feasible mitigation, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Cumulative Impact 6.5-1 above also apply to Potential Significant Cumulative Impact 6.5-7. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-7 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **6.1.8 Potential Significant Impact (6.5-8)**

The development of the Project would result in a significant cumulative impact during Phase II to the freeway segment of I-5 between H Street to J Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions northbound in the AM peak hour and LOS F conditions southbound in the PM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of all feasible mitigation, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Cumulative Impact 6.5-1 above also apply to Potential Significant Cumulative Impact 6.5-8. As part of the traffic analysis, cumulative impacts were identified if the project contributed to a roadway, intersection or freeway segment that operated at level of service (LOS) E or LOS F. All of the segments of I-5 between SR-54 and Palomar Street currently operate at LOS F (except for SR-54 to E Street, which operates at LOS D in the AM peak hour and LOS E in the PM peak hour), and all phases of the Proposed Project would contribute traffic to each of these segments. In Phase II, the

following I-5 freeway segments would experience congestion that would be considered significant:

- H Street to J Street (LOS F, NB, AM and LOS F, SB, PM)
- J Street to L Street (LOS F, NB, AM and LOS F, SB, PM)
- L Street to Palomar Street (LOS F, NB/SB, AM/PM)

As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-7 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.9 Potential Significant Impact (6.5-9)**

The development of the Project would result in a significant cumulative impact during Phase II to the freeway segment of I-5 between J Street to L Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions northbound in the AM peak hour and LOS F conditions southbound in the PM peak hour.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of all feasible mitigation, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

**Facts in Support of Finding**

The facts in support of the findings for Potential Significant Cumulative Impact 6.5-1 and 6.5-8 above also apply to Potential Significant Impact 6.5-9. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-9 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

**6.1.10 Potential Significant Impact (6.5-10)**

The development of the Project would result in a significant cumulative impact during Phase II to the freeway segment of I-5 between L Street to Palomar Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions in both directions during the AM and PM peak hours.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of all feasible mitigation, the Project's impacts to freeway segments are considered significant and unmitigated, and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

**Facts in Support of Finding**

The facts in support of the findings for Potential Significant Cumulative Impacts 6.5-1 and 6.5-8 above also apply to Potential Significant Cumulative Impact 6.5-10. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port,

the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-9 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.11 Potential Significant Impact (6.5-11)**

In Phase III, H Street between Street A to the I-5 ramps would operate at LOS D, which would be a significant cumulative impact.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

##### **Facts in Support of Finding**

As discussed in the FEIR, in Phase III, H Street between Street A to the I-5 ramps would operate at LOS D. In order to mitigate for impacts to the Phase III road network as a result of the Project, it was determined that H Street between Street A and the I-5 ramps would already have been widened in Phase II to accommodate growth in traffic, and it would be difficult to widen more, due to ROW constraints. To accommodate traffic from the Project and to provide another route to I-5, the Port shall extend E Street from the RCC Driveway to west of Bay Boulevard. The segment shall be built as a two-lane Class III Collector prior to the issuance of either a building permit or final map for a Phase II project. Incorporation of Mitigation Measure 6.5-3 will ensure that potential cumulative impacts associated with traffic impacts caused by the Proposed Project on the Phase III network will be less than significant. With incorporation of Mitigation Measure 6.5-3, Potential Significant Cumulative Impact 6.3-11 will be less than significant.

#### **6.1.12 Potential Significant Impact (6.5-12)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would result in a significant cumulative impact to the intersection of H Street and the I-5 southbound ramps, given that without sufficient mitigation, the intersection would experience LOS E conditions during the PM peak hour.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding**

To accommodate traffic from the project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard. The extension of E Street would significantly impact the intersection of H Street and I-5 SB Ramps which would operate at LOS E in the PM peak hour. In order to mitigate for impacts to the Phase III road network as a result of the Proposed Project, it was determined that H Street between Street A and the I-5 ramps was already widened in Phase II to accommodate growth in traffic, and it would be difficult to widen more, due to ROW constraints. To accommodate traffic from the Project and to provide another route to I-5, the Port shall extend E Street from the RCC Driveway to west of Bay Boulevard. The segment shall be built as a two-lane Class III Collector prior to the issuance of either a building permit or final map for a Phase II project. Incorporation of Mitigation Measure 6.5-3 will ensure that potential cumulative impacts to the intersection of H Street and I-5 SB Ramps due to the extension of E Street will be less than significant. With incorporation of Mitigation Measure 6.5-3, Potential Significant Cumulative Impact 6.5-12 will be less than significant and the intersection will operate at an acceptable LOS.

**6.1.13 Potential Significant Impact (6.5-13)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact to the intersection of J Street and the I-5 northbound ramps, given that without sufficient mitigation, the intersection would experience LOS E conditions during the AM peak hour.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding**

To accommodate traffic from the Proposed Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard. In order

to mitigate for impacts to the intersection of J Street and I-5 NB Ramps which would operate at LOS E in the PM peak hour due to the extension of E Street, prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct an exclusive westbound right-turn lane at the intersection of J Street and I-5 NB Ramps. The lane shall be constructed to the satisfaction of the City Engineer. Incorporation of Mitigation Measure 6.5-3 will ensure that potential impacts to the intersection of J Street and the I-5 northbound ramps due to the extension of E Street will be less than significant. With incorporation of Mitigation Measure 6.5-4, Potential Significant Cumulative Impact 6.5-13 will be less than significant and the intersection will operate at an acceptable LOS.

#### **6.1.14 Potential Significant Impact (6.5-14)**

The development of the Project would result in a significant cumulative impact during Phase III to the freeway segment of I-5 between J Street to L Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions northbound during the AM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 6.5-1, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 6.5-1 above also apply to Potential Significant Impact 6.5-14. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair



share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-15 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.15 Potential Significant Impact (6.5-15)**

The development of the Proposed Project would result in a significant cumulative impact during Phase III to the freeway segment of I-5 between L Street to Palomar Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions southbound during the PM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 6.5-1, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

**Facts in Support of Finding**

The facts in support of the finding for Potential Significant Cumulative Impact 6.5-1 above also apply to Potential Significant Cumulative Impact 6.5-15. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Implementation of the mitigation measures described above would avoid or substantially lessen the potential significant cumulative impact to freeway segments. However, because implementation of the physical improvements needed to reduce significant cumulative impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port, the Port cannot ensure that the necessary improvements will be constructed as needed. Although this cumulative impact has been reduced to the extent feasible by the mitigation measures identified in the FEIR and these findings, Potential Significant Cumulative Impact 6.5-9 cannot be mitigated to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

**6.1.16 Potential Significant Impact (6.5-16)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact to the roadway segment of E Street west of Bay Boulevard, given that without sufficient mitigation, the roadway segment would experience LOS D conditions.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding**

In Phase III Conditions with Extension of E Street, E Street west of Bay Boulevard would operate at LOS D which would be considered significant. In order to mitigate for impacts to the roadway segment of E Street west of Bay Boulevard resulting from the extension of E Street, prior to the issuance of a certificate of occupancy for any Phase III project, the Port shall widen E Street between the RCC Driveway and Bay Boulevard to a two-lane Class II Collector. The additional roadway capacity would facilitate the flow of Project traffic. Incorporation of Mitigation Measure 6.5-5 would ensure that the roadway segment will operate at an acceptable LOS impacts to the segment of E Street west of Boulevard resulting from the extension of E Street will be less than significant.

**6.1.17 Potential Significant Impact (6.5-17)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact to the roadway segment of Street A from H Street to Street C, given that without sufficient mitigation, the roadway segment would experience LOS F conditions.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding**

In Phase III Conditions with Extension of E Street, Street A from H Street to Street C would operate at LOS F which would be considered significant. In order to mitigate for impacts to the roadway segment of Street A from H Street to Street C resulting from the extension of E Street, prior to issuance of a certificate of occupancy for any Phase III project, the Port shall widen Street A between H Street and Street C to a four-lane Class I Collector. The additional roadway capacity would facilitate the flow of Project traffic. Incorporation of Mitigation Measure 6.5-6 would ensure that the roadway segment would operate and an acceptable LOS and impacts to the segment of Street A from H Street to Street C resulting from the extension of E Street will be less than significant.

### **6.1.18 Potential Significant Impact (6.5-18)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact to the intersection of E Street and Bay Boulevard, given that without sufficient mitigation, the intersection would experience LOS F conditions during the PM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

#### **Facts in Support of Finding**

In Phase III Conditions with Extension of E Street, the intersection of E Street and Bay Boulevard would operate at LOS F in the PM peak hour which would be considered a significant impact. In order to mitigate for impacts to E Street/Bay Boulevard intersection, prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct southbound left- and right-turn lanes at the intersection of E Street and Bay Boulevard. The lanes shall be constructed to the satisfaction of the City Engineer. The additional turn lanes would facilitate the flow of Project traffic at the intersection. Incorporation of Mitigation Measure 6.5-7 would ensure that the intersection will operate at an acceptable LOS and impacts to the intersection of E Street and Bay Boulevard resulting from the extension of E Street will be less than significant.

### **6.1.19 Potential Significant Impact (6.5-19)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact to the intersection of J Street and Bay Boulevard, given that without sufficient mitigation, the intersection would experience LOS E conditions during the PM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding**

In Phase III Conditions with Extension of E Street, the intersection of J Street and Bay Boulevard would operate at LOS E in the PM peak hour which would be considered a significant impact. In order to mitigate for impacts to J Street/Bay Boulevard intersection, prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct an exclusive eastbound right-turn lane at the intersection of J Street and Bay Boulevard. The lane shall be constructed to the satisfaction of the City Engineer. The additional turn lane would facilitate the flow of Project traffic at the intersection. Incorporation of Mitigation Measure 6.5-8 would ensure that the intersection would operate at an acceptable LOS and impacts to the intersection of J Street and Bay Boulevard resulting from the extension of E Street will be less than significant.

**6.1.20 Potential Significant Impact (6.5-20)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact to the intersection of J Street and the I-5 northbound ramps, given that without sufficient mitigation, the intersection would experience LOS E conditions during both the AM and PM peak hours.

**Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding**

In Phase III Conditions with Extension of E Street, the intersection of J Street and I-5 northbound ramps would operate at LOS E in the AM and PM peak hour which would be considered a significant impact. In order to mitigate for impacts to J Street/I-5 northbound ramp intersection, prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct an exclusive westbound right-turn lane at the intersection of J Street and I-5 NB ramps. The lane shall be constructed to the satisfaction of the City Engineer. The additional turn lane would facilitate the flow of Project traffic at the intersection. Incorporation of Mitigation Measure 6.5-9 would ensure that the intersection would operate and an acceptable LOS and impacts to the intersection of J Street and I-5 northbound ramps resulting from the extension of E Street will be less than significant.

### 6.1.21 Potential Significant Impact (6.5-21)

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact during Phase III to the freeway segment of I-5 between SR-54 to E Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions northbound in the AM peak hour and LOS F conditions southbound during the PM peak hour.

#### Finding

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 6.5-1, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### Facts in Support of Finding

The facts in support of the finding for Potential Significant Impact 6.5-1 above also apply to Potential Significant Impact 6.5-21. As part of the traffic analysis, cumulative impacts were identified if the project contributed to a roadway, intersection or freeway segment that operated at level of service (LOS) E or LOS F. All of the segments of I-5 between SR-54 and Palomar Street currently operate at LOS F (except for SR-54 to E Street, which operates at LOS D in the AM peak hour and LOS E in the PM peak hour), and all phases of the Proposed Project would contribute traffic to each of these segments.

Under Phase III Conditions with the Extension of E Street, the following I-5 freeway segments would experience congestion that would be considered significant:

- SR-54 to E Street (LOS F, NB, AM and LOS F, SB, PM)
- E Street to H Street (LOS F, NB, AM and LOS F, SB, PM)
- H Street to J Street (LOS F, NB, AM and LOS F, SB, PM)

- J Street to L Street (LOS F, NB, AM and LOS F, SB, PM)
- L Street to Palomar Street (LOS F, NB, AM and LOS F, SB, PM)

As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Again, as discussed under Potential Significant Impact 6.5-1 above and Mitigation Measure 6.5-1, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.22 Potential Significant Impact (6.5-22)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact during Phase III to the freeway segment of I-5 between E Street to H Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions northbound in the AM peak hour and LOS F conditions southbound during the PM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because

implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 6.5-1, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 6.5-1 and 6.5-21 above also apply to Potential Significant Impact 6.5-22. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Again, as discussed under Potential Significant Impact 6.5-1 above and Mitigation Measure 6.5-1, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.23 Potential Significant Impact (6.5-23)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact during Phase III to the freeway segment of I-5 between H Street to J Street given that, despite all feasible mitigation, the roadway segment



would continue to experience congested LOS F conditions northbound in the AM peak hour and LOS F conditions southbound during the PM peak hour.

### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 6.5-1, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 6.5-1 and 6.5-21 above also apply to Potential Significant Impact 6.5-23. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Again, as discussed under Potential Significant Impact 6.5-1 above and Mitigation Measure 6.5-1, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance. This significant unavoidable

cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.24 Potential Significant Impact (6.5-24)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact during Phase III to the freeway segment of I-5 between J Street to L Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions northbound in the AM peak hour and LOS F conditions southbound during the PM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 6.5-1, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 6.5-1 and 6.5-21 above also apply to Potential Significant Impact 6.5-24. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best

efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Again, as discussed under Potential Significant Impact 6.5-1 and Mitigation Measure 6.5-1 above, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.25 Potential Significant Impact (6.5-25)**

To accommodate traffic from the Project and to provide another route to I-5, E Street is proposed to be extended in Phase III from the RCC Driveway to west of Bay Boulevard, which would contribute to a significant cumulative impact during Phase III to the freeway segment of I-5 between L Street to Palomar Street given that, despite all feasible mitigation, the roadway segment would continue to experience congested LOS F conditions northbound in the AM peak hour and LOS F conditions southbound during the PM peak hour.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR; and pursuant to CEQA Guidelines section 15091(a)(2), additional such changes are within the responsibility and jurisdiction of Caltrans, not the Port, and such changes can and should be adopted by Caltrans. However, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Therefore, despite the incorporation of Mitigation Measure 6.5-1, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impacts 6.5-1 and 6.5-21 above also apply to Potential Significant Impact 6.5-25. As discussed, the Port and the City shall participate in a multijurisdictional effort conducted by Caltrans and SANDAG to assist in developing a

detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River. Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on nexus as well as other mechanisms. The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.

Again, as discussed under Potential Significant Impact 6.5-1 and Mitigation Measure 6.5-1 above, because implementation of the physical improvements needed to reduce significant impacts to the affected freeway segments is within the jurisdiction and control of Caltrans and not the Port or the City, the Port and the City cannot ensure that the necessary improvements will be constructed as needed. Accordingly, the Proposed Project's cumulative impacts to freeway segments would not be reduced to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

#### **6.1.26 Potential Significant Impact (6.5-26)**

The development of the Proposed Project would result in a significant cumulative impact during Phase IV to the intersection of H Street and Woodlawn Avenue, given that without sufficient mitigation, the intersection would experience LOS F conditions during both the AM and PM peak hours.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

##### **Facts in Support of Finding**

Under Phase IV Conditions, the intersection of H Street and Woodlawn Avenue would operate at LOS F in the AM and PM peak hour which would be a significant impact. In order to mitigate for the impact, prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port shall construct an eastbound and westbound through-lane along H Street (as part of roadway segment mitigation) and a westbound right-turn lane at the intersection of H Street and Woodlawn Avenue. The additional lanes shall be constructed to the satisfaction

of the City Engineer. The additional turn lanes would facilitate the flow of Project traffic at the intersection. Incorporation of Mitigation Measure 6.5-10 would ensure that cumulative impacts to H Street and Woodlawn Avenue under Phase IV conditions would be less than significant.

#### **6.1.27 Potential Significant Impact (6.5-27)**

The development of the Proposed Project would result in a significant cumulative impact during Phase IV to the intersection of H Street and Broadway, given that without sufficient mitigation, the intersection would experience LOS F conditions during the PM peak hour.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

##### **Facts in Support of Finding**

Under Phase IV Conditions, the intersection of H Street and Broadway would operate at LOS F in the PM peak hour which would be a significant impact. In order to mitigate for the impact, prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port shall construct a westbound through- and right-turn lane along H Street at the intersection of H Street and Broadway. The lane shall be constructed to the satisfaction of the City Engineer. With mitigation, this intersection would still operate at LOS E during the PM peak hour. This is consistent with the result from the Chula Vista Urban Core traffic study, which concluded that no additional mitigation is desired at this location. Therefore, incorporation of Mitigation Measure 6.5-11 would ensure that cumulative impacts to H Street and Broadway under Phase IV conditions would be less than significant.

#### **6.1.28 Potential Significant Impact (6.5-28)**

The development of the Proposed Project would result in a significant cumulative impact during Phase IV to the intersection of J Street and the I-5 northbound ramps, given that without sufficient mitigation, the intersection would experience LOS E conditions during the PM peak hour.

##### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding**

Under Phase IV Conditions, the intersection of J Street and I-5 northbound ramps would operate at LOS E in the PM peak hour which would be a significant impact. In order to mitigate for the impact, prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port shall construct a dual eastbound left-turn lane along J Street at the intersection of J Street and I-5 northbound ramps. The additional lanes shall be constructed to the satisfaction of the City Engineer. Incorporation of Mitigation Measure 6.5-12 would ensure that the intersection operates at an acceptable LOS and impacts to the intersection of J Street and I-5 northbound ramps under Phase IV conditions will be less than significant.

**6.2 Aesthetics/Visual Quality****6.2.1 Potential Significant Impact (6.6-1)**

The cumulative analysis in the General Plan Update EIR, which relied on the Regional Comprehensive Plan EIR, concluded that “the loss of views of significant landscape features and landforms would incrementally increase with implementation of the Regional Comprehensive Plan and general plans within the region.” Because the Regional Comprehensive Plan is a regional plan, the Urban Core Specific Plan intensifies this impact, and the Proposed Project would additionally impact landscape features and landforms in the region, the effects of which are cumulatively significant.

**Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, but not to below a level of significance; therefore, despite the incorporation of all feasible mitigation measures, the Project’s impacts to public view are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

**Facts in Support of Finding**

The Proposed Project would add to the intensification of land use and would further change the character of the area. The cumulative analysis in the General Plan Update EIR, which relied on the Regional Comprehensive Plan EIR, concluded that “the loss of views of significant landscape features and landforms would incrementally increase with implementation of the Regional Comprehensive Plan and general plans within the region.” Because the Regional Comprehensive Plan is a regional plan, the Urban Core Specific Plan intensifies this impact, and the Proposed

Project would additionally impact landscape features and landforms in the region, the effects of which are cumulatively significant.

In order to mitigate for impacts to existing landscape features and landforms in the region as a result of project implementation, the Port and City will implement Mitigation Measure 6.6-1, to include the following:

***View Protection:*** As a condition for issuance of Coastal Development Permits, buildings fronting on H Street shall be designed to step away from the street. More specifically, design plans shall protect open views down the H Street Corridor by ensuring that an approximate 100-foot ROW width (curb-curb, building setbacks, and pedestrian plaza/walkway zone) remains clear of buildings, structures, or major landscaping. Visual elements above 6 feet in height shall be prohibited in this zone if the feature would reduce visibility by more than 10%. Placement of trees should take into account potential view blockage. This mitigation should not be interpreted to not allow tree masses; however, trees should be spaced in order to assure “windows” through the landscaping. Trees should also be considered to help frame the views, and they should be pruned up to increase the views from pedestrians and vehicles, underneath the tree canopy. In order to reduce the potential for buildings to encroach into view corridors, and to address the scale and massing impact, buildings shall step back at appropriate intervals or be angled to open up a broader view corridor at the ground plane to the extent feasible. All plans shall be subject to review and approval by the Port. All future development proposals shall conform to Port design guidelines and standards to the satisfaction of the Port.

***Height and Bulk:*** Prior to issuance of Coastal Development Permits for projects within the Port’s jurisdiction, the Project developer shall ensure that design plans for any large-scale projects (greater than two stories in height) shall incorporate standard design techniques, such as articulated facades, distributed building massing, horizontal banding, stepping back of buildings, and varied color schemes, to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for large project components to diminish imposing building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the Port.

Prior to design review approval for properties within the City’s jurisdiction, the Project developer shall ensure that design plans for any large-scale projects (greater than two stories in height) shall incorporate standard design techniques, such as articulated facades, distributed building massing, horizontal banding, and varied color schemes, to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for the large project components

to diminish imposing building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the City of Chula Vista Planning Director.

**Landscaping:** Prior to final approval of Phase I infrastructure design plans, the Port and City shall collectively develop a master landscaping plan for the project's public components and improvements. The plan shall provide sufficient detail to ensure conformance to streetscape design guidelines and that future developers/tenants, as applicable, provide screening of parking areas.

Streetscape landscaping shall be designed to enhance the visitor experience for both pedestrians and those in vehicles. Specifically, detailed landscaping plans shall be developed to enhance Marina Parkway, a designated scenic roadway, and shall provide, where appropriate, screening of existing industrial uses and parking areas until such time as these facilities are redeveloped.

Street landscaping design shall be coordinated with a qualified biologist or landscape architect to ensure that proposed trees and other landscaping are appropriate for the given location. For instance, vegetation planted adjacent to open water/shoreline areas must not provide raptor perches. Landscaping shall be drought tolerant or low water use, and invasive plant species shall be prohibited.

Prior to approval of a tentative map or site development plan for future residential development, the Project developer shall submit a landscaping design plan for on-site landscaping improvements that is in conformance with design guidelines and standards established by the City of Chula Vista. The plan shall be implemented as a condition of project approval.

**Gateway Plan:** Concurrent with the preparation of Phase I infrastructure design plans for "E and H" Street, a Gateway plan shall be prepared for "E and H" Streets. Prior to issuance of occupancy for any projects within the Port's jurisdiction in Phase I, the "E and H" Street Gateway plan shall be approved by the Port and City's Directors of Planning and Building. The "E and H" Street Gateway plan shall be coordinated with the Gateway plan for J Street.

Concurrent with development of Parcels H-13 and H-14, the applicant shall submit a Gateway plan for "J" Street for City Design Review consideration. Prior to issuance of any building permits, the "J" Street Gateway plan shall be approved by the Director of Planning and Building in coordination with the Port's Director of Planning. The "J" Street Gateway plan shall be coordinated with the Gateway plan for "E and H" Streets.

Despite incorporation of Mitigation Measure 6.6-1, Potential Significant Impact 6.6-1 would remain significant and unmitigated. Impacts to view quality resulting from a change in scale and character and substantial view blockage associated with the Pacifica Residential and Retail Project would not be reduced to below a level of significance. No feasible mitigation beyond



redesign of the Project as identified as a Project alternative would reduce the impacts to view quality associated with the Pacifica Residential and Retail Project. See *Section 4.4, Aesthetics/Visual Quality* and *Chapter 5, Alternatives* in the FEIR, for further discussion. Accordingly, the Proposed Project's cumulative impacts to view quality would not be reduced to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **6.3 Air Quality**

#### **6.3.1 Potential Significant Impact (6.8-1)**

Because of the air basin's non-attainment status for ozone, PM<sub>2.5</sub>, and PM<sub>10</sub> and the construction activities associated with the Proposed Project, the Project would contribute to cumulative construction air quality impacts.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The cumulative assessment of air quality impacts relies on the current RAQS. In order to meet federal air quality standards in California, the California Air Resources Board (CARB) required each air district to develop its own strategy for achieving the National Ambient Air Quality Standards (NAAQS). The San Diego Air Pollution Control District (APCD) prepared the 1991/1992 RAQS in response to the requirements set forth in the California Clean Air Act. The RAQS set forth the steps needed to accomplish attainment of state and federal ambient air quality standards.

The RAQS addresses air effects from industrial sources, area-wide sources, and mobile sources. It also considers transportation control measures and indirect source review. Industrial sources are stationary air pollution sources for which APCD has control responsibility. Area-wide sources include such things as consumer products, small utility engines, hot water heaters, and

furnaces. Both the CARB and the APCD have authority to regulate these sources. Mobile sources are principally emissions from motor vehicles. The CARB establishes emission standards for motor vehicles and regulates other motor-vehicle-related activities, such as aftermarket parts certification and fuel standards.

The components of the RAQS that are most directly related to the Proposed Project fall within the transportation control measures and indirect source control. Transportation control measures include measures to reduce vehicle trips, use, miles traveled, and traffic congestion. Indirect sources are those facilities that generate or attract mobile sources that can result in emissions of pollutants for which there is a state ambient air standard. These uses include shopping centers, schools, residential uses, etc. These measures involve actions by the City and Port as they pertain to planning, zoning, and development activities.

In 1992, SANDAG adopted Transportation Control Measures (TCM) for the Air Quality Plan, which set forth 11 tactics aimed at reducing traffic congestion and motor vehicle emissions in the San Diego Air Basin (SDAB). For each of these tactics, the TCM evaluated the potential emissions reduction on a region-wide basis. These tactics are presented in the air quality section of this report (see *Section 4.6* of the FEIR).

The tactic that is most applicable to the current proposal is the Indirect Source Control Program. The TCM plan identified job-housing balance, mixed-use, and transit corridor development as criteria for indirect source control. As part of job-housing balance, SANDAG indicates that land use policies and programs shall be established to attract appropriate employers to residential areas and to encourage appropriate housing in and near industrial and business areas. Mixed-use development should be designed to maximize walking and minimize vehicle use by providing housing, employment, education, shopping, recreation, and any support facilities within convenient proximity. Finally, transit corridor development specifies that the City and the Port land use plans and development policies shall be designed to foster the use of transit. Further, high residential development densities shall be encouraged within walking distance of major transit routes with development having convenient access to transit.

As described in *Section 4.6, Air Quality* in the FEIR, while the proposed land use changes would be different from the former General Plan upon which growth projections used for the RAQS and State Implementation Plan (SIP) were based, the RAQS and SIP do account for air emissions associated with the current adopted General Plan. Emissions from area sources and energy use would be similar to the uses proposed in the former General Plan. The main source of emissions associated with the Proposed Project would be vehicles. According to the Analysis of Intersections with Significant Chula Vista Bayfront Traffic (Kimley-Horn and Associates 2008), land uses in the existing Chula Vista GPU for the CVBMP area were projected to generate 152,654 Average Daily Traffic (ADT). The Proposed Project, as currently proposed, would

generate 79,317 ADT, a reduction of 73,337 ADT. Given that the amount of traffic and associated vehicular emissions assumed in the Chula Vista GPU is higher than the current Proposed Project traffic and emissions, the Proposed Project would not be inconsistent with either the General Plan that served as the basis of the RAQS or with the growth assumptions in the RAQS, and therefore would not result in a significant impact. The SDAB is non-attainment for federal and state ozone standards, state  $PM_{10}$  and state  $PM_{2.5}$  standards. As indicated in *Section 4.6, Air Quality* of the FEIR, construction activities would result in significant air quality impacts for each criteria pollutant except carbon monoxide and sulfur dioxide during Phase I. During Phases II through IV, construction activities would result in significant air quality impacts for each criteria pollutant except sulfur dioxide.

Several cumulative projects that are within the current project boundary but are not part of the Proposed Project would not contribute to the cumulative air analysis. The Bayshore Bikeway does not represent an air pollution contribution. Because the demolition of the former Goodrich South Campus would occur before Phase I is initiated, it would not factor into the cumulative analysis for the Proposed Project.

In addition to the projects in Planning District 7, there are five projects being considered or recently approved in or adjacent to Planning District 5 of the PMP. They include the National City Aquatic Center, the National City Marina Improvement, National City Marine Terminal Capacity Enhancement and Wharf Extension projects, the Coronado Yacht Club, and the Glorietta Bay Marina Project at the western shore of Glorietta Bay.

The *Draft Mitigated Negative Declaration for South Bay Boatyard Improvements Project* (Port 2005b) indicated that the South Bay Boatyard would not obstruct implementation of the applicable air quality plan or violate air quality standards. As such, construction of the improvements at the existing South Bay Boatyard does not contribute to the cumulative air quality condition. As with the operation of the SBPP, the operation of the Boatyard is ongoing and the air emissions are part of the ambient air conditions.

Because of the air basin's non-attainment status for ozone,  $PM_{2.5}$ , and  $PM_{10}$ , the potential increase in residential units, and the construction activities associated with the Proposed Project, the project would contribute to both cumulative construction and operational air quality impacts.

The following mitigation measure would be required to mitigate Potential Significant Impact 6.8-1, which would result from the project's incremental contribution to construction-related cumulative air quality impacts:

Prior to the issuance of any grading permit, the following measures shall be placed as notes on all grading plans, and shall be implemented during grading of each phase of the project to minimize construction emissions. These measures shall be completed to the satisfaction of the

Port and the Director of Planning and Building for the City of Chula Vista (these measures were derived, in part, from Table 11-4 of Appendix 11 of the South Coast AQMD CEQA Air Quality Handbook (SCAQMD 1999)):

- Where practicable, use low pollutant-emitting equipment.
- Where practicable, use catalytic reduction for gasoline-powered equipment.
- Use injection timing retard for diesel-powered equipment.
- Water the grading areas a minimum of twice daily to minimize fugitive dust.
- Stabilize graded areas as quickly as possible to minimize fugitive dust.
- Apply chemical stabilizer or pave the last 100 feet of internal travel path within the construction site prior to public road entry.
- Install wheel washers adjacent to a paved apron prior to vehicle entry on public roads.
- Remove any visible track-out into traveled public streets within 30 minutes of occurrence.
- Wet wash the construction access point at the end of each workday if any vehicle travel on unpaved surfaces has occurred.
- Provide sufficient perimeter erosion control to prevent washout of silty material onto public roads.
- Cover haul trucks or maintain at least 12 inches of freeboard to reduce blow-off during hauling.
- Suspend all soil disturbance and travel on unpaved surfaces if winds exceed 25 mph.
- Cover/water on-site stockpiles of excavated material.
- Enforce a 15 mile-per-hour speed limit on unpaved surfaces.
- On dry days, dirt and debris spilled onto paved surfaces shall be swept up immediately to reduce re-suspension of particulate matter caused by vehicle movement. Approach routes to construction sites shall be cleaned daily of construction-related dirt in dry weather.
- Disturbed areas shall be hydroseeded, landscaped, or developed as quickly as possible and as directed by the City or Port to reduce dust generation.
- Electrical construction equipment shall be used to the extent feasible.

Although Mitigation Measure 6.8-1 would reduce the air quality impacts of the Proposed Project, construction emissions would not be reduced to a level below the standard established by the SCAQMD and used in this document by the City and Port. Therefore, despite incorporation of mitigation measure 6.8-1, Potential Significant Impact 6.8-1 will remain significant and

unmitigated. Accordingly, the Proposed Project's cumulative impacts to air quality would not be reduced to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below

### **6.3.2 Potential Significant Impact (6.8-2)**

Because of the air basin's non-attainment status for ozone, PM<sub>2.5</sub>, and PM<sub>10</sub> and the potential increase in residential units and traffic, the Project would contribute to cumulative operational air quality impacts.

#### **Finding**

Pursuant to CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR. Although changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect identified in the FEIR, there are no feasible mitigation measures which can mitigate this impact to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project's impacts to air quality are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The facts in support of the finding for Potential Significant Impact 6.8-1 above also apply to Potential Significant Impact 6.8-2. In order to mitigate for impacts to air quality resulting from operation generated emissions, the Port and City shall implement Mitigation Measure 6.8-1, to include the following:

For residential as well as mixed-use/commercial development within the City's jurisdiction, the applicants shall submit an Air Quality Improvement Plan (AQIP) with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall either evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP Guidelines, including any necessary site plan modifications.

Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project shall comply with Title 24 for Residential and Nonresidential buildings. These requirements, along with the following measures, shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:

- Use of low-NO<sub>x</sub> emission water heaters
- Installation of energy efficient and automated air conditioners when air conditioners are provided
- Energy efficient parking area lights
- Exterior windows shall be double paned.

Although these measures would reduce the air quality impacts of the Proposed Project, they would not bring area and operations emissions to a level below the standard established by the SCAQMD and used in this document by the City and Port. Therefore, despite the incorporation of Mitigation Measure 6.8-1, the cumulative air quality impacts remain significant and unmitigated. Accordingly, the Proposed Project's cumulative impacts to air quality would not be reduced to below a level of significance. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

### **6.3.3 Potential Significant Impact (6.8-3)**

The program-level components of the Chula Vista Bayfront Master Plan would potentially contribute to a conflict with the goals or strategies of AB 32 or related Executive Orders related to greenhouse gasses and climate change, which would be considered a cumulatively significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

#### **Facts in Support of Finding**

A forecast for Greenhouse gas (GHG) emissions in the SDAB or in California is not currently available. As noted in *Section 4.6, Air Quality* of the FEIR, it is estimated that California produces about 7% of U.S. GHG emissions, with about 41% of those emissions related to transportation and about 22% related to electricity. In December 2007, CARB finalized 1990 emissions at 427 million metric tons of CO<sub>2</sub> equivalent emissions and established mandatory

GHG reporting regulations for certain sectors of the economy. CARB's regulations address approximately 94% of the industrial and commercial stationary sources of emissions. Regulated entities include electricity generating facilities, electrical retail providers, oil refineries, hydrogen plants, cement plants, cogeneration facilities, and industrial sources that emit over 25,000 metric tons of CO<sub>2</sub> from stationary source combustion.

Implementation of the Proposed Project would result in GHG emissions as documented in *Section 4.6, Air Quality*, of the FEIR. Climate change is a global issue caused by GHG emissions worldwide. The State of California adopted the Global Warming Solutions Act of 2006 (referred to as AB 32) to reduce statewide GHG emissions and halt the state's contribution to further or catastrophic global climate change. The state also has related legislative orders addressing the statewide emissions of GHG, including Executive Order S-3-05. The GHG emission reduction goals of AB 32 and related Executive Orders consist of reducing GHG emissions to 2000 levels by 2010; to 1990 levels by 2020; and to 80% below 1990 levels by 2050.

Because of the cumulative nature of the problem of global climate change, the Proposed Project's GHG emissions were evaluated on a cumulative level in *Section 4.6, Air Quality*. The project-level components would emit 20% less GHG emissions above existing conditions than would occur with development consistent with "business as usual." As discussed in *Section 4.6, Air Quality*, "business as usual" is considered to be development in compliance with energy efficiency standards established by Title 24. Through the implementation of GHG-reducing project design features, project-level components in Phase I of the Proposed Project would not contribute to a conflict with or obstruction of the goals or strategies of AB 32 or related Executive Orders (see *Section 4.6, Air Quality* in the FEIR). Furthermore, Phase I project-level components of the Proposed Project would also comply with all applicable federal, state, and local programs designed to reduce GHG emissions in effect at the time of issuance of permits.

Program-level components of the Proposed Project have not reached the design stage that enables the development of Project Design Features (PDFs). As such, specific PDFs have not been assigned to Phase I through IV components of the Proposed Project (other than the Pacifica Residential and Retail Development). Program-level developments, including the RCC, will be required as conditions of approval to adopt GHG emission reduction measures similar to those adopted by the Pacifica Residential and Retail Development and to reduce anticipated consumption of energy pursuant to Mitigation Measures 4.16-1 and 4.16-2. New, more effective design features may become available prior to the initiation of these program-level components, however, and would be required of the projects and identified in subsequent environmental analyses.

Although specific PDFs for the RCC project will be determined at a later date, a selection of potential PDFs that may be proposed by the RCC applicant are presented in *Table 4.6-27* in the

FEIR, along with certain requirements for energy and water efficiency. Development of the RCC will be required to include a wide range of PDFs, including energy efficiency, water conservation and efficiency, recycling, and development of mixed uses that are intended to be consistent with the goals and strategies of AB 32 and related Executive Orders. The selection of PDFs discussed in the FEIR and provided in *Table 4.6-27* in the FEIR have been included in order to provide a menu of potential options that may be considered by the RCC applicant to reduce GHG emissions by 20% below business as usual. The potential PDFs identified in *Table 4.6-27* in the FEIR shall be considered by the Port when a project-specific development is proposed for the RCC on Parcel H-3. With implementation of GHG emission reduction measures included in *Table 4.6-27*, and outlined in Mitigation Measures 4.6-6, 4.16-1 and 4.16-2, the RCC is expected to achieve a 20% reduction in water use and exceed Title 24 energy efficiency standards by 15%; therefore, the RCC development would not be considered to contribute substantially to a cumulatively significant global climate change impact or contribute to a conflict with or the obstruction of AB 32 or related Executive Orders.

In the absence of PDF commitments, the level of efficiency of the program phases cannot be established. Therefore, the program-level components of the Project would potentially contribute to a conflict with the goals or strategies of AB 32 or related Executive Orders, which would be considered a cumulatively significant impact to global climate change. In order to mitigate for the program-level components of the Proposed Project's potential to conflict with the goals or strategies of AB 32 and/or related Executive Orders, the Port and City will implement Mitigation Measure 6.8-3, to include the following:

Development of program-level components of the Chula Vista Bayfront Master Plan (Phases I through IV) shall implement measures to reduce GHG emissions. Specific measures may include but are not limited to the following:

***Energy Efficiency***

- Design buildings to be energy efficient. Site buildings to take advantage of shade, prevailing winds, landscaping, and sun screens to reduce energy use.
- Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.
- Install light colored "cool" roofs, cool pavements, and strategically placed shade trees.
- Provide information on energy management services for large energy users.
- Install energy efficient heating and cooling systems, appliances and equipment, and control systems.
- Install light emitting diodes (LEDs) for traffic, street, and other outdoor lighting.



- Limit the hours of operation of outdoor lighting.
- Use solar heating, automatic covers, and efficient pumps and motors for pools and spas.
- Provide education on energy efficiency.

### ***Renewable Energy***

- Install solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating ventilation and air conditioning. Educate consumers about existing incentives.
- Install solar panels on carports and over parking areas.
- Use combined heat and power in appropriate applications.

### ***Water Conservation and Efficiency***

- Create water-efficient landscapes.
- Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.
- Use reclaimed water for landscape irrigation in new developments and on public property where appropriate. Install the infrastructure to deliver and use reclaimed water.
- Design buildings to be water-efficient. Install water-efficient fixtures and appliances.
- Use gray water. (Gray water is untreated household wastewater from bathtubs, showers, bathroom wash basins, and water from clothes washing machines.) For example, install dual plumbing in all new development, allowing gray water to be used for landscape irrigation.
- Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff.
- Restrict the use of water for cleaning outdoor surfaces and vehicles.
- Implement low-impact development practices that maintain the existing hydrologic character of the site to manage stormwater and protect the environment. (Retaining stormwater runoff on site can drastically reduce the need for energy-intensive imported water at the site.)
- Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.
- Provide education about water conservation and available programs and incentives.

***Solid Waste Measures***

- Reuse and recycle construction and demolition waste (including but not limited to soil, vegetation, concrete, lumber, metal, and cardboard).
- Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.
- Recover by-product methane to generate electricity.
- Provide education and publicity about reducing waste and available recycling services.

***Transportation and Motor Vehicles***

- Limit idling time for commercial vehicles, including delivery and construction vehicles.
- Use low- or zero-emission vehicles, including construction vehicles.
- Promote ride sharing programs, for example, by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides.
- Provide the necessary facilities and infrastructure to encourage the use of low- or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling).
- Provide public transit incentives, such as free or low-cost monthly transit passes.
- For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting, including (for example) locked bicycle storage or covered or indoor bicycle parking.
- Institute a telecommute work program. Provide information, training, and incentives to encourage participation. Provide incentives for equipment purchases to allow high-quality teleconferences.
- Provide information on all options for individuals and businesses to reduce transportation-related emissions. Provide education and information about public transportation.

The measures identified above and in Mitigation Measure 4.16-2, will substantially reduce GHG emissions, achieving reductions of at least 20% below “business as usual.” Furthermore, better technology is rapidly developing and may provide further measures in the near future that will avoid conflict with the goals or strategies of AB 32 or related Executive Orders. Once projects

are defined within the program phases, further environmental review will be required, at which time the most current measures will be identified and required to be consistent with this mitigation measure and any additional regulations in effect at the time. Implementation of Mitigation Measure 6.8-3, therefore, will avoid a contribution to a cumulatively significant impact and will result in a less than significant impact to global climate change.

## **6.4 Marine Biological Resources**

### **6.4.1 Potential Significant Impact (6.11-1)**

The Proposed Project would have a significant cumulative impact on eelgrass habitat during construction of the pier and realignment of the access channel occurring in the South Bay.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

#### **Facts in Support of Finding**

The mitigated negative declaration for the existing South Bay Boatyard project (Port 2005b) indicated that the site did not contain any sensitive species or provide part of a corridor for wildlife movement. It did indicate that driving of pilings into the seabed would temporarily generate noise vibrations that could impact the marine habitat, but that mobile fish and turtle species would avoid the area and return upon completion of construction. Because this project would be completed prior to the initiation of construction for Phase I, this would not represent a cumulative effect.

The National City Marina and National City Aquatic Center are located at the south end of Tidelands Avenue adjacent to Pepper Park north of the Sweetwater River. The boat basin has been constructed and did not impact open water. Excavation of the basin involved excavation of dry material behind a berm. Because the National City projects do not involve the loss of open water habitat, they do not contribute to a cumulative effect, as it relates to marine biological resources.

The Glorietta Bay Marina project is the only cumulative project where marine biological resource impacts have been identified and quantified. Improvements to the Glorietta Bay Marina were evaluated by Merkel and Associates. That study concluded that the project “impacts to eelgrass habitat are the only significant adverse impact to water resources anticipated from the project” (Merkel 2006). The Merkel report indicates that the project would impact 4,922 square

feet (0.1 acre) of eelgrass. The project identifies mitigation measures that would reduce the effects on eelgrass. This is accomplished through the creation of eelgrass habitat. The analysis by Merkel and Associates indicates that, according to standards for mitigation of this resource as outlined in the Southern California Eelgrass Mitigation Policy (SCEMP) (NMFS 1991, rev. Jan. 18, 2005) requirements for impacts to this resource, a compensatory mitigation for the impacts will require a successful replacement of 1.2:1 (replacement to impact) or 5,906 square feet of eelgrass.

The National City Terminal Wharf Extension may also impact eelgrass habitat. Impacts have not been analyzed or quantified, but may be significant.

The 0.1 acre of impact from the Glorietta Bay project combined with the 45.9 acres of impacts resulting from the construction of the pier and the realignment of the access channel amounts to a total of 46.0 acres of impact. These impacts to eelgrass, combined with potential impacts from the Wharf Extension project, would be cumulatively considerable.

In order to mitigate for cumulative impacts to eelgrass habitat in the South Bay resulting from the Proposed Project, the Port will implement Mitigation Measure 6.11-1, to include the following:

Prior to construction of any program-level components of the project that impact eelgrass, a pre-construction eelgrass survey shall be conducted by a qualified biologist to confirm the exact extent of the impact at the time of pile driving operations. The pre-construction survey must be conducted during the period of March through October and would be valid for a period of no more than 60 days, with the exception that surveys conducted in August through October would be valid until the following March 1.

Prior to the construction of any program-level components of the project that impact eelgrass, the Port shall establish and implement a plan to create new eelgrass habitat at a ratio of 1.2:1. The Port shall create new eelgrass habitat by removing the existing eelgrass currently located in the impacted areas and transplanting it at the new location. Identification and planting of the restoration site shall be completed to the satisfaction of the Port prior to commencement of construction.

Subsequent to construction of any program-level components of the project that impact eelgrass, a post-construction eelgrass survey shall be conducted by a qualified biologist. The post-construction survey shall be conducted within 30 days of the cessation of construction activities to confirm the exact amount of eelgrass affected. The difference between the pre-construction and post-construction eelgrass surveys shall determine the amount of required additional mitigation. In addition, the Port shall:

- Conduct transplant reports following construction (Initial Report). It would take 1 to 2 years for all of the fine sediment to dissipate in the water column for the movement of such a large amount of sediment. Based on this, eelgrass transplant success would not be possible for 1 to 2 years. Mitigation would be required for additional time delays.
- Conduct monitoring reports at 6, 12, 24, 36, 48, and 60 months post-transplant. Specific milestones and criteria for success are directed in the SCEMP along with guidelines for remedial actions if the success criteria are not met, which would require (based on the absence of other mitigating environmental considerations) a Supplementary Transplant Area to be constructed and monitored for an additional 5 years.
- Initiate any potential additional mitigation within 135 days of project inception; projects requiring more than 135 days to be completed may result in further additional mitigation.

If an appropriate mitigation site is not available at the time of construction of the program components which would impact eelgrass, mitigation habitat shall be created through fill or appropriate habitat in the Bay. Any delays to eelgrass planting after the impact occurs would require additional mitigation of 7% per month of additional eelgrass.

As discussed above, prior to construction of any program-level components of the Project that impact eelgrass, a pre-construction eelgrass survey shall be conducted by a qualified biologist. The survey will identify and confirm the exact extent of impacts at the time of pile driving operations. Once the extent of impacts to eelgrass habitat and identified, the Port shall then establish and implement a plan to create new eelgrass habitat at a ratio of 1.2:1. The new habitat will be created through the transplanting of the existing eelgrass habitat located in impact areas. Additionally, a post-construction eelgrass survey shall be conducted in order to identify the success of project mitigation. With incorporation of Mitigation Measure 6.11-1, cumulative impacts to eelgrass habitat in the South Bay resulting from the Proposed Project will be less than significant.

## **6.5 Public Services and Utilities**

### **6.5.1 Potential Significant Impact (6.15.2-1)**

The Proposed Project would increase the demand for sewage treatment, which would create a short-fall for the City by the year 2030 and represents a cumulatively significant impact.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

### Facts in Support of Finding

Wastewater services are addressed in the City's General Plan. Based on recent flow analysis performed by City staff, it is estimated that, by the year 2030, approximately 26.2 MGD of sewage would be generated within the City. Additional capacity would be needed to meet this demand.

The City of San Diego Metropolitan Sewage System (Metro) is in the process of allocating additional capacity rights to participating agencies. As the City's sewage generation approaches its capacity rights, the City is working with Metro to take appropriate steps to facilitate acquisition of additional treatment capacity to meet the City's build-out needs.

The EIR for the Urban Core Specific Plan indicated that development of the Urban Core Specific Plan would contribute incrementally to impacts to sewer systems serving the region. That EIR noted that the Urban Core Specific Plan, "as well as future development, would be required to adhere to the City's Threshold Standards Policy." This policy requires the City to provide the San Diego Metropolitan Sewer Authority with a 12- to 18-month forecast, to request confirmation that the projection is within the City's purchased capacity rights, and to provide an evaluation of their ability to accommodate the forecast growth. The Urban Core Specific Plan EIR concluded that adherence to the City policies would ensure that cumulative impacts are less than significant.

Chula Vista discharges approximately 17.0 MGD into the Metro system. As part of the recent Wastewater Master Plan Update which was done concurrently with the GPU, the City has projected that, by 2030, the City would be generating approximately 26.2 MGD of sewage. As indicated in *Section 4.14, Public Utilities* in the FEIR, projected demand for sewage treatment would exceed the remaining available capacity in the year 2030 by 5.33 MGD.

The Project adds a peak demand of 2.578 MGD. Considering the identified demand shortfall in the GPU and the SBRP, this additional demand is cumulatively considerable. As identified in *Section 4.14, Public Utilities* in the FEIR, the Proposed Project would increase the demand for sewage treatment. While the City currently has adequate capacity available in the Metro system, by the year 2030 there would be a short-fall and therefore the Proposed Project represents a cumulatively considerable contribution to that short-fall.

In order to mitigate for cumulative impacts associated with increased demand for sewage treatment services, the Port and City will implement Mitigation Measure 6.15.2-1 to require that prior to the approval of a building permit for any development in all phases of the Proposed Project, the City shall verify that it has adequate sewer capacity to serve the proposed development. In the event the City does not have adequate sewer capacity to serve the proposed development, no building permit shall be approved for the proposed development until the City

has acquired adequate sewer capacity to serve the proposed development. In accordance with Section 15130(a)(3) of the State CEQA Guidelines, a significant cumulative impact would be rendered less than cumulatively considerable, and thus is not significant when the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The requirement for the contribution to provide a fair-share contribution to the provision of the needed sewer service mitigates the cumulative impact to below significance.

Incorporation of Mitigation Measure 6.15.2-1 will ensure that adequate sewer capacity exists for development prior to the approval of a building permit for said development. If adequate sewer capacity does not exist, the no building permit shall be approved until the City has acquired adequate sewer capacity to serve the development in question. Mitigation Measure 6.15.2-1 will ensure that the cumulative increased demand for sewer treatment services resulting from the Proposed Project will be less than significant.

#### **6.5.2 Potential Significant Impact (6.15.6-1)**

Because the schools that serve the Proposed Project are currently at or near capacity, the additional students created by the Proposed Project, the Urban Core Specific Plan, and the other specific plans called for in the GPU would result in significant cumulative impacts to the existing school districts.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

#### **Facts in Support of Finding**

The EIR for the GPU indicated that build-out under the adopted General Plan would generate an estimated 27,576 K through 6 students, which would result in the need for one Chula Vista Elementary School District (CVESD) school in the northwest and none in the southwest. In the east, the adopted General Development Plan identifies seven CVESD-operated schools planned for future construction, two of which are currently under construction; build-out under the adopted General Plan would not require additional CVESD schools in the east beyond those currently planned.

In western Chula Vista, the GPU would result in increased school enrollment. In eastern Chula Vista, one Sweetwater Union High School District (SUHSD) high school and two middle schools have already been planned for construction to meet growing demand. SUHSD provided a

report based on the current student generation rate, which indicates that an additional high school would be needed to meet the projected increase in the number of high school students with adoption of the proposed GPU.

The Urban Core Specific Plan is in conformance with the General Plan and does not include a general plan amendment. At build-out, the Urban Core Specific Plan is expected to generate a net increase of approximately 3,877 students between elementary, middle school, and high school grades. As identified in *Section 4.13.4* of the FEIR, development of the Proposed Project would result in 1,500 new multifamily units, which would increase the demand on elementary, middle, and high schools in the area by approximately 1,092 students.

Because the schools that serve the Proposed Project are currently at or near capacity, the additional students created by the Proposed Project, the Urban Core Specific Plan, and the other specific plans called for in the GPU would result in significant cumulative impacts to the existing school districts. This would be a significant cumulative impact.

In order to mitigate for impacts associated with increased demand on existing school districts, the Port and City will implement Mitigation Measure 6.15.6-1 to require that prior to the issuance of a building permit, the applicant shall pay all required school mitigation fees. Payment of statutory school fees would ensure that project impacts to school services remain below a level of significance. As indicated above, the fees set forth in Government Code Section 65996 constitute the exclusive means of both “considering” and “mitigating” school facilities impacts of projects (Government Code Section 65996(a)). Once the statutory school mitigation fee or “developer fee” is paid, the impact would be deemed mitigated as a matter of law. Therefore, this mitigation measure would reduce the cumulative impact to schools to a less than significant level.

### **6.5.3 Potential Significant Impact (6.15.7-1)**

The Proposed Project would increase demands on the existing library services in the Project area, which would be considered a cumulatively significant impact on library facilities.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR. However, due to existing library deficiency and inability to demonstrate that fees would fully mitigate the cumulative impacts caused by the Proposed Project, implementation of Mitigation Measure 6.15.7-1 would not reduce the significant impact to library services to below a level of significance. Despite the incorporation of all feasible mitigation measures, the Project’s impacts to air quality are considered significant



and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

### **Facts in Support of Finding**

The EIR for the GPU indicated that build-out under the adopted General Plan would require 51,942 square feet of additional library space to meet the forecasted population growth. This includes the approximately 9,159 square feet of library facilities and 54,954 books that are projected to be needed by the Urban Core Specific Plan.

Based on a population rate of 2.159 persons per multifamily unit, the 1,500 dwelling units would result in a total population of approximately 3,239 people. As a result of this expected population increase, the project would require approximately 1,620 square feet of library facilities.

There are currently three full-service libraries in the City: the Civic Center Branch, the South Chula Vista Branch, and the East Lake Branch. The three facilities comprise a total of 102,000 square feet of library space, including 14,000 square feet of administrative facility space. In addition to the three full-service libraries, the Chula Vista Heritage Museum is part of the Chula Vista Public Library System and a Chapter of the Friends of the Library. The Library's 1998 Facilities Master Plan calls for two additional branch libraries to be constructed prior to 2020 to serve the eastern side of the City. These facilities include a 31,500 square feet full-service library in Rancho del Rey, to be completed by the summer of 2007, and an approximately 30,000 square feet library in the Eastern Urban Center in the Otay Ranch.

Development of the Proposed Project would increase demands on the existing library services in the project area to serve its residents. As identified in *Section 4.13.5* of the FEIR, the Project would contribute an incremental demand on libraries and would be a significant impact.

In order to mitigate for cumulative impacts associated with increased demands on library services, the City shall require that for Phase I residential project, prior to the approval of a building permit, the applicant(s) shall pay a PFDIF or other equivalent fee in an amount calculated according to the City's PFDIF program in effect at the time of permit issuance. While implementation of Mitigation Measure 6.15.7-1 would provide funds that can be used to construct new facilities to meet the need resulting from Project development, due to existing library deficiencies in services and the inability to demonstrate that fees would fully mitigate the impact, implementation of the measure would not reduce the significant impact to library services to a less than significant level. Therefore, the cumulative impact to library services would remain significant and unmitigated. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

## **6.6 Energy**

### **6.6.1 Potential Significant Impact (6.17-1)**

Due to the uncertain nature of long-term energy supplies, energy impacts associated with the long-term energy needs of the Proposed Project are considered to be cumulatively significant.

#### **Finding**

Pursuant to State CEQA Guidelines section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR. However, due to the uncertainty of the future supply of energy, which is within the responsibility and control of SDG&E and not the Port or the City, implementation of Mitigation Measure 6.17-1 would not reduce the cumulative impact regarding long-term energy supplies to a less than significant level. Despite the incorporation of all feasible mitigation measures, the Project's impacts to cumulative long-term energy needs are considered significant and unmitigated and a Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093 is required.

#### **Facts in Support of Finding**

The cumulative assessment of energy impacts relies on the SANDAG Regional Comprehensive Plan and the GPU. The Regional Comprehensive Plan concluded that future population growth in the Southern California/Northern Baja California, Mexico region would result in an increase in the need for energy resources, which would be considered to have a cumulatively significant energy impact. The General Plan Update EIR concluded that, because there is no assurance of a long-term supply of energy in the future, the increased projected energy demand results in a cumulative significant impact.

The General Plan Update EIR indicates that the adopted General Plan will create a demand of 1,212 million kWh of electricity and 65.5 million therms of natural gas (not including the gas consumed by the SPBB). As indicated in *Section 4.16, Energy* of the FEIR, SDG&E has indicated that, without an increased import capacity of at least 500 MW, there would be a long-term grid reliability deficiency (Brown 2004). As population increases, demand for energy also increases.

The largest consumer of natural gas in the City is the SBPP. The current facility has a maximum fuel gas demand of 177 standard cubic feet per day. The General Plan Update EIR indicated that the SBPP represented approximately two-thirds of the natural gas used in the City. This demand is not reflected in the forecast demand of 65.5 million therms projected by the City for the General Plan.

To address long-term energy needs, SDG&E has filed a resource plan with CPUC, which proposes a mix of conservation, demand response, generation, and transmission to provide reliable energy for the next 20 years ([http://www.sdenenergy.org/uploads/7-9-04SDG&E\\_LTRP.pdf](http://www.sdenenergy.org/uploads/7-9-04SDG&E_LTRP.pdf)). In addition to SDG&E's long-term strategy, the City of Chula Vista has objectives and policies contained in the General Plan that promote the use of non-polluting and renewable alternatives to vehicle travel and seek to reduce energy consumption by optimizing traffic flow, directing higher-density housing within walking distance of transit facilities; this would reduce energy demand. Implementation of the policies and objectives contained in the General Plan will aid in reducing adverse energy impacts.

As noted in *Section 4.16, Energy* of the FEIR, efficiency programs average-year annual energy needs are substantially met by existing SDG&E resources and renewable purchases through 2010. In a high-demand year, the additional energy would come from additional purchases from the market and from local generation added primarily for grid reliability. By 2011, approximately 25% of average-year energy would come from resource addition, including additional renewable purchases, on- and off-system generation, and purchases for the market, facilitated by the additional import capability provided by the added transmission interconnection (SDG&E 2003). SDG&E is currently processing a project to bring an additional 500 MW import capacity into the area. Mitigation measures detailed in *Section 4.16, Energy* of the FEIR include design measures that reduce energy consumption in building design, along with the SDG&E efforts for long-term energy supply as outlined in their filing with the CPUC; however, due to the uncertain nature of long-term energy supply, energy impacts are cumulatively significant.

In order to mitigate for energy impacts associated with the long-term energy needs of the Proposed Project, the Port and City shall encourage compact development featuring a mix of uses that locate residential areas within reasonable walking distance to jobs, services, and transit. Additionally, the Port and City shall promote and facilitate transit system improvements in order to increase transit use and reduce dependency on the automobile and Encourage innovative energy conservation practices and air quality improvements in new development and redevelopment projects consistent with the City's AQIP Guidelines or their equivalent, pursuant to the City's Growth Management Program.

However, despite the fact that the Project would result in adoption of these conservation measures, the cumulative impact relative to energy supply would remain significant and unmitigated because of the of the uncertainty of the future supply of energy, which is within the responsibility and control of SDG&E and other entities responsible for arranging electric energy supplies, not the Port or the City. Therefore, even with incorporation of Mitigation Measure 6.17-1, Significant Impact 6.17-1 will remain significant and unmitigated. This significant unavoidable cumulative impact is considered acceptable when balanced against the specific benefits of the Project set forth in the Statement of Overriding Considerations below.

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## 7.0 FINDINGS REGARDING PROJECT ALTERNATIVES

CEQA requires an EIR to evaluate feasible mitigation measures and alternatives that would avoid or substantially lessen any of the significant environmental impacts of the proposed project. In preparing and adopting findings pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091, a lead agency need not necessarily address the feasibility of both mitigation measures and environmentally superior alternatives when contemplating the approval of a project with significant environmental impacts. Where the significant impacts can be mitigated to below a level of significance solely by the adoption of mitigation measures, the lead agency has no obligation in its findings to consider the feasibility of alternatives, even if their impacts would be less severe than those of the project as mitigated. Accordingly, in adopting the findings concerning alternatives for the Proposed Project, the Port considers only those significant environmental impacts of the Project that cannot be avoided or substantially lessened through mitigation.

Where a project will result in some unavoidable significant environmental impacts even after the incorporation of all feasible mitigation measures identified in an EIR, the lead agency must consider the feasibility of alternatives to the project that could avoid or substantially lessen the unavoidable significant environmental impacts. “Feasible” means capable of being accomplished in a successful manner within a reasonable time, taking into account economic, environmental, legal, social, and technological factors (Pub. Res. Code section 21061.0; CEQA Guidelines section 15364). The concept of “feasibility” also encompasses the ability of an alternative to accomplish the objectives of a project and the desirability of an alternative from a policy standpoint, to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.

While an EIR evaluates whether alternatives are potentially feasible, the lead agency’s decision-making body considers in its findings whether the alternatives are actually feasible. A lead agency may not approve a project if there are feasible alternatives that would avoid or substantially lessen unmitigated significant impacts. If there are no feasible alternatives, the lead agency may approve a project if it determines that the benefits of the project outweigh its unavoidable environmental risks and the lead agency adopts a Statement of Overriding Considerations (CEQA Guidelines section 15093).

The FEIR concluded that the Proposed Project may result in the following significant impacts, which would not be mitigated to below a level of significance even after the incorporation of all feasible mitigation measures:

- The Pacifica project would result in significant direct impacts on Land/Water Use Compatibility because it would be inconsistent with the City of Chula Vista General Plan

objectives regarding aesthetics and visual resources (LUT 11) and library services and facilities (PFS 11).

- The Project would result in the following significant direct and cumulative impacts on Traffic and Circulation:
  - The addition of traffic from all phases of the Project would result in significant direct and cumulative impacts to freeway segments of I-5 between SR-54 and Palomar Street during both a.m. and p.m. peak hours
  - The addition of traffic from the Project would result in a significant direct impact in that E Street and H Street intersections affected by an at-grade trolley crossing would experience additional delay along the arterial and at adjacent intersections
  - The addition of traffic from Phase III of the Project would result in a significant cumulative impact on the roadway segment of H Street between Street A and the I-5 ramps
  - The addition of traffic from Phase III of the Project with the extension of E Street would result in a significant cumulative impact on the intersection of H Street and I-5 southbound ramps during the p.m. peak hours and the intersection of J Street and I-5 northbound ramps during the p.m. peak hours.
- The Project would result in the following significant direct and cumulative impacts on Aesthetics/Visual Quality:
  - The Pacifica project would result in significant direct impacts in that its proposed buildings will exceed the scale of the existing waterfront development and will block existing views of San Diego Bay for motorists on portions of I-5
  - The Project would result in a significant cumulative impact in that it would add to the intensification of land uses and further change the character of the area and result in the loss of views of significant landscape features and landforms.
- The Project would result in the following significant direct and cumulative impacts on Air Quality:
  - Emissions from construction activities in all phases would result in a significant direct impact because they would exceed the federal and state standards for criteria pollutants
  - Emissions from Project operations in all phases would result in a significant direct impact because they would exceed the federal and state standards for certain criteria pollutants
  - Construction activities associated with the program-level components of all phases would result in a significant direct impact because sensitive receptors located on site

would be exposed to emissions that would exceed federal and state standards for criteria pollutants

- Construction activities and project operations in all phases of the Project would result in significant cumulative impacts on air quality because of the San Diego Air Basin's existing non-attainment status for the federal 8-hour ozone standard and the state ozone, PM<sup>10</sup>, and PM<sup>2.5</sup> standards.
- The Pacifica project would result in significant direct and cumulative impacts on Public Services (Library Services) in that it would worsen the existing shortfall in library square footage and books per capita until new library facilities are constructed or existing facilities are expanded in the City of Chula Vista.
- The Project would result in a significant cumulative impact on Energy because of uncertainty regarding long-term energy supply.

The FEIR examined a reasonable range of alternatives that could avoid or substantially lessen one or more of the Project's significant impacts. The alternatives considered in the FEIR are the No Project Alternative, the Harbor Park Alternative, the No Land Trade Alternative, the Reduced Overall Density Alternative, and the Alternate L-Ditch Remediation Alternative. Attachment 1 to these findings is *Table 5.1-1, Comparison of Impacts between Proposed Project and Project Alternatives*, of the FEIR, which identifies the significant environmental impacts of the Project and indicates whether these impacts would be greater than, similar to, or less than the Project under each alternative.

In considering the feasibility of the alternatives, the Port examined the Project objectives and weighed the ability of each alternative to meet these objectives. The Project purposes and objectives are set forth in *Section 2.2, Purpose and Need of the Project* and *Section 2.2.1, Project Objectives*, of the FEIR. They are consolidated as Project Objectives and are numbered consecutively below in order to facilitate reference to them in the discussion of the feasibility of each alternative:

1. Create a vibrant, active, unified waterfront with strong connections to the rest of the City and region;
2. Create new public access, recreational amenities, and shoreline enhancements;
3. Protect biological resources in the vicinity of the Proposed Project;
4. Stimulate economic growth for the Port, the City, the South Bay area, and the San Diego region;

5. Improve land use compatibility (shift the power distribution facilities from active use areas and relocate residential development away from resources in the Sweetwater Marsh National Wildlife Refuge);
6. Develop economically feasible land uses throughout the Bayfront to serve the local community and region as well as serving the public trust purposes;
7. Develop property in a manner that minimizes environmental impacts and reinforces the public realm in a manner befitting the setting and regional significance of the area;
8. Balance the cost of public improvements with private development so that public costs can be paid for by the increased revenues from the private development;
9. Consistency with tidelands trust requirements and restrictions;
10. Broad community input into the planning process and support of the master plan;
11. Development of a master plan that protects and enhances environmental resources;
12. Seamless integration with adjoining properties;
13. Development of a visionary master plan that is economically sustainable, provides revenue generation, and will encourage private sector participation;
14. Development of a plan that creates future market opportunities and defines the market rather than simply responding to the existing market;
15. Development of a plan that eliminates or reduces barriers linking the Bayfront to the rest of western Chula Vista;
16. Development of a plan that enhances a culturally diverse community and integrates the Bayfront with the rest of Chula Vista;
17. Development of a comprehensive funding program; and
18. Development of a master plan that includes recreational, public art, and open space opportunities as significant components of the plan.

In addition, the following design principles were used to provide a framework in developing the initial land use concepts for the Bayfront during the master planning process:

1. Create one Chula Vista Bayfront
2. Celebrate the serenity and Hispanic culture of Chula Vista's Bayfront setting
3. Extend Chula Vista all the way to the Bayfront
4. Take advantage of deep water at the harbor to create an active boating environment



5. Create a Bayfront park system that marries ecological habitats and recreational needs of the community
6. New development should reinforce the sense of place at the Bayfront.

The findings below describe the alternatives examined in *Chapter 5.0* of the FEIR, discuss their ability to avoid or substantially lessen any of the unavoidable significant impacts of the Project, and determine whether they are feasible. Pursuant to CEQA Guidelines section 15093(a)(3) and based on the substantial evidence contained in the record of these proceedings, the Port hereby finds that the alternatives analyzed in the FEIR that would avoid or substantially lessen any of the unavoidable significant impacts of the Project are infeasible for the reasons set forth below.

## **7.1 No Project Alternative**

### **7.1.1 Description of Alternative**

The “no project” alternative is a default alternative required to be considered by CEQA Guidelines section 15126.6(e). Under the No Project Alternative, the land use plans would not be amended and the project site would retain its existing land and water use designations. No land trade would occur between the Port and the private developer, and no action by the California State Lands Commission would be required. Lands held under private ownership in the Sweetwater District would remain in the City’s jurisdiction. No land use designation changes would occur, and no amendment to the PMP or LCP would be approved. Public trust lands in the Harbor and Otay districts would remain in the Port’s jurisdiction.

Under this alternative, development is assumed to be in conformance with the adopted land use plans and zoning designations. CCC action on development of privately held lands in the Sweetwater District would not be required, provided such development conforms to the adopted LCP, which includes the Land Use Plan. CCC action may be required for development of Port lands in accordance with the PMP.

For Port lands, the Precise Plan for Planning District 7 would be retained, expanded, or upgraded consistent with goals and policies as allowed by the plan. Permitted uses would include existing marine sales and service, commercial recreation, industrial business park and marine-related industrial, public recreation and conservation areas, and public facilities.

For public and private lands under the City’s jurisdiction, including the Midbayfront property in the Sweetwater District, current adopted planning designations would apply. In some cases, the amount and location of development would create impacts more severe than those of the Proposed Project.

The existing LCP Land Use Plan anticipates high-intensity development of the Sweetwater District, including development of up to 1,000 residential units, 1,906,000 square feet of commercial/hotel use (including 1,860 hotel rooms), 60,000 square feet of office use, 75,000 square feet of cultural arts facilities, and 34 acres of parks. In addition, development in the City's jurisdiction within the Harbor and Otay districts permits industrial development at a floor area ratio of 0.50 and commercial development at a floor area ratio of 0.25. Given the acreage presented in the adopted land use plan, this plan could result in about 5,700,000 square feet of industrial use.

The existing plan provides for a central resort district and park and recreation uses. Designated visitor and visitor/highway commercial, professional/administrative, and public/quasi-public uses (including an existing railroad ROW), as well as research, limited industrial, general industrial, and open space/parks, comprise remaining uses in the City's jurisdiction. The F & G Street Marsh component of the Sweetwater Marsh NWR is one of three designated open space areas. Permitted building heights in the Sweetwater District would range from a maximum height of 229 feet for high-rise residential sites in the northeastern area to a maximum 30 feet in the area generally adjacent to the Sweetwater Marsh NWR. Building heights in the Harbor and Otay districts would be limited to 44 feet.

#### **7.1.2 Ability of Alternative to Avoid or Substantially Reduce Significant Unmitigated Impacts**

If no development were to occur and the project site continued in its existing condition, the No Project Alternative would avoid or substantially reduce all of the unmitigated significant impacts of the Project, because there would be no significant adverse impacts on the environment in the absence of development. However, if development were to occur in the foreseeable future in accordance with current plans and consistent with available infrastructure and community services, the No Project Alternative would not avoid or substantially reduce the unmitigated significant impacts of the Project. In light of the development allowed under the Midbayfront LCP and the current PMP, the No Project Alternative would result in increased development densities and increased potential impacts, especially in the Sweetwater District, a highly sensitive biological area. Under this scenario, development currently allowed under existing Port and City plans would result in increased impacts to Land/Water Use Compatibility, Air Quality, Noise, Traffic, Terrestrial and Marine Biological Resources, Public Services (Fire Protection), and Public Utilities (Water Supply).

#### **7.1.3 Feasibility of Alternative and Relationship to Project Objectives**

The Port finds that the No Project Alternative, in which development would occur in accordance with current plans, infrastructure, and community services, would not achieve many of the

important objectives of the Project. The Port further finds that the No Project Alternative, in which no development would occur and the Project site would remain in its existing condition, would not achieve any of the objectives of the Project.

The Port finds that all significant impacts of the Project will be mitigated by the design of the Project and the adoption of the mitigation measures set forth in the MMRP, except the direct and cumulative significant impacts on Land/Water Use Compatibility, Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Public Services (Library Services), and Energy described in *Section 7.0* of this document. The Port finds that the No Project Alternative, in which foreseeable development would occur under current plans, would not avoid or lessen the unmitigated significant impacts of the Project. The Port further finds that the No Project Alternative, in which no development would occur and the project site would remain in its existing condition, would not avoid or substantially lessen the unmitigated significant impacts of the Project. Therefore, pursuant to CEQA Guidelines section 15093(a)(3), the Port also finds that this alternative is infeasible because it would not attain any of the Project objectives; would not provide the Port, the City, and the region with any of the benefits of the Project described in the Statement of Overriding Considerations; and is undesirable from a policy standpoint. For the impacts of the Project that remain significant even after the incorporation of all feasible mitigation measures and alternatives, the Port adopts the Statement of Overriding Considerations set forth in *Section 8.0* of this document, pursuant to CEQA Guidelines section 15093.

## **7.2 Harbor Park Alternative**

### **7.2.1 Description of Alternative**

The Harbor Park Alternative was developed in conjunction with the community as one of three design options (including the Proposed Project) that is discussed in greater detail in the FEIR. At build-out, the proposed Harbor Park Alternative would result in a project impact area slightly less than that of the Proposed Project, by not developing the triangular parcel south of HP-11 and east of the proposed E Street Extension/Marina Parkway Realignment. The Harbor Park Alternative provides less-intensive land uses, such as a signature park, along the shoreline between G Street and H Street via location of an RCC on Parcel H-23, away from the shoreline. The Harbor Park alternative also entails location of a resort hotel on Parcel H-1 and cultural uses on Parcel H-3. The Harbor Park Alternative combines Parcels HP-1 and H-3 under the Proposed Project to establish one parcel, HP-1, which would be developed as a 35-acre signature park adjacent to the San Diego Bay, within walking distance of proposed cultural, retail, residential, and marina uses. In addition, modifications to Parcels H-18, S-2, S-1, and H-8/H-9, and E Street Extension/Marina Parkway alignment are proposed under the Harbor Park Alternative, as described below.

The Harbor Park Alternative is different than the Proposed Project in the following respects:

- An RCC would be located on a smaller, 24-acre Parcel H-23 in the Harbor District, which is further away from the Bayfront.
- A Signature Park would be integrated with the existing Bayside Park on Parcel HP-1 in the Harbor District, bringing the park closer to the water's edge on a larger, 35-acre parcel.
- Adjacent to the signature park on Parcel H-3, up to 400,000 square feet of cultural/retail would be built in Phase III.
- The interim surface parking lot on Parcel H-18 would be constructed in Phase II, instead of in Phase I as with the Proposed Project.
- A maximum 400-room conference hotel with a maximum height of 60 feet would be constructed on Parcel S-2 in Phase II, instead of a Signature Park in the Sweetwater District in Phase I.
- Mixed-use office/commercial/recreation/cultural uses with a maximum height of 60 feet would replace the 750-room resort hotel with a maximum height of 100 feet on Parcel S-1 in the Sweetwater District. Specifically, up to 300,000 square feet of mixed-use office/commercial recreation and 50,000 square feet of cultural would be built on Parcel S-1.
- A 500-room resort hotel with a maximum height of 65 feet and a 200-slip marina would replace the community boating center on Parcel H-1 in the Harbor District.
- Up to 100,000 square feet of retail would be built around the northern portion of the harbor on Parcels H-8/H-9, instead of up to 50,000 square feet of retail as with the Proposed Project.
- The E Street Extension/Marina Parkway alignment within the Sweetwater District would be modified to direct traffic easterly as the road enters the Harbor District. The Marina Parkway segment between Goodrich and Parcel H-3 would be a primary public access road. Under the Proposed Project, this road traverses west as it enters the Harbor District, connecting to the end of H Street.
- No fire station would be proposed on Parcel H-17, as is proposed under the Proposed Project. This parcel would remain in the Port's jurisdiction and would be designated for Industrial Business Park use.
- Parcel SP-3 would be constructed in Phase IV, instead of in Phase I as proposed under the Proposed Project.

### **7.2.2 Ability of Alternative to Avoid or Substantially Reduce Significant Unmitigated Impacts**

The Harbor Park Alternative would be similar to the Proposed Project in many areas due to the similarity of the project features and level of development. However, the Harbor Park Alternative would have greater impacts than the Proposed Project on Traffic and Circulation, Aesthetics/Visual Quality, Noise, Terrestrial Biological Resources, Cultural Resources, Public Services (Fire Protection), and Public Utilities (Sewers) (see Attachment 1, *Table 5.1.1.*). This is primarily due to the fact that the majority of the development under this alternative would be located in a very sensitive and undeveloped area, thereby situating increased visitors and patrons to sensitive resources in the Sweetwater District. It would also not allow for the development of a fire station in the Harbor District to help maintain established levels of service on the west side of Chula Vista. For these reasons, the Harbor Park Alternative would not avoid or substantially lessen any of the unmitigated significant impacts of the Project.

### **7.2.3 Feasibility of Alternative and Relationship to Project Objectives**

The Port finds that all significant impacts of the Project will be mitigated by the design of the Project and the adoption of the mitigation measures set forth in the MMRP, except the direct and cumulative significant impacts on Land/Water Use Compatibility, Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Public Services (Library Services), and Energy described in *Section 7.0* of this document. The Port further finds that the Harbor Park Alternative would not avoid or substantially lessen the unmitigated significant impacts of the Project. For the impacts of the Project that remain significant even after the incorporation of feasible mitigation measures and alternatives, the Port adopts the Statement of Overriding Considerations set forth in *Section 8.0* of this document, pursuant to CEQA Guidelines section 15093.

## **7.3 No Land Trade Alternative**

### **7.3.1 Description of Alternative**

The No Land Trade Alternative was selected for consideration to provide a development alternative that would not require an exchange of public trust land under Port jurisdiction in the Harbor District for private land in the Sweetwater District. Under this alternative, the proposed land trade would not take place, which would avoid the need for approval by the California State Lands Commission. All tidelands trust properties in the project area would remain within the Port's jurisdiction, and all parcels held under option by private developers would remain within the City's jurisdiction.

Under the No Land Trade Alternative, the Project would not include any development within the Sweetwater District. Therefore, this alternative would consist of only the Harbor and Otay

districts, for a project area of approximately 409 acres. However, current land entitlements approved under the Midbayfront LCP would allow high-density residential units and a hotel and ancillary retail and commercial uses in the Sweetwater District. Although this alternative is geographically smaller, it takes into account the potential cumulative impacts should the approved Midbayfront LCP be developed. In a worst-case scenario, build-out of the Sweetwater District in accordance with the approved LCP would include 1,000 dwelling units, 1,906,000 square feet of commercial/hotel use (including 1,860 hotel rooms), 60,000 square feet of office, 75,000 square feet of cultural arts facilities, and nearly 34 acres of parks.

### **7.3.2 Ability of Alternative to Avoid or Substantially Reduce Significant Unmitigated Impacts**

The No Land Trade Alternative would result in an increase in the significant impacts with respect to Land/Water Use Compatibility, Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Terrestrial Biological Resources, Public Services (Fire Protection), Public Utilities (Sewers), and Energy (see Attachment 1, *Table 5.1.1*). This alternative would also not include the development of a fire station in the Harbor District to help maintain established levels of service on the west side of Chula Vista. In all other impact areas, the impacts of the No Land Trade Alternative would be equal to that of the Project. For these reasons, the No Land Trade Alternative would not avoid or substantially lessen the unmitigated significant impacts of the Project.

### **7.3.3 Feasibility of Alternative and Relationship to Project Objectives**

The Port finds that all significant impacts of the Project will be mitigated by the design of the Project and the adoption of the mitigation measures set forth in the MMRP, except the direct and cumulative significant impacts on Land/Water Use Compatibility, Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Public Services (Library Services), and Energy described in *Section 7.0* of this document. The Port further finds that the No Land Trade Alternative would not avoid or substantially lessen any of the unmitigated significant impacts of the Project. In addition, the No Land Trade Alternative would be infeasible because it would not achieve several of the major objectives of the Project, including Project Objectives Nos. 3, 5, 7, 10, 11, which relate to the intent to minimize adverse impacts on sensitive natural resources by relocating residential development from the Sweetwater District to the Harbor District. Because this alternative would not implement the land exchange concept, it would not attain these Project objectives and is undesirable from a policy standpoint. For the impacts of the Project that remain significant even after the incorporation of feasible mitigation measures and alternatives, the Port adopts the Statement of Overriding Considerations set forth in *Section 8.0* of this document, pursuant to CEQA Guidelines section 15093.

## **7.4 Reduced Overall Density Alternative**

### **7.4.1 Description of Alternative**

The Reduced Overall Density Alternative consists of the same development plan as the Project, but provides for a 30% overall reduction in the intensity and density of development throughout the Project area. This alternative would allow the development of only 1,050 residential units in the Pacifica project and would reduce the square footage of other proposed development by 30%. The Reduced Overall Density Alternative was selected for consideration in the FEIR to analyze whether a development alternative that would reduce overall development intensity would avoid or substantially reduce any of the significant impacts of the Project.

### **7.4.2 Ability of Alternative to Avoid or Substantially Reduce Significant Unmitigated Impacts**

In general, the Reduced Overall Density Alternative would reduce the significant impacts of the Project in the following impact areas or certain aspects thereof: Traffic and Circulation, Aesthetics/Visual Quality, Hydrology/Water Quality (Stormwater), Air Quality, Noise, Public Services (Police Protection, Parks and Recreation, Schools, Library Services), Public Utilities, Energy, and Population and Housing. This alternative would have impacts equal or similar to the Project in the following impact areas or certain aspects thereof: Land/Water Use Compatibility, Traffic and Circulation, Hydrology/Water Quality, Air Quality, Terrestrial Biological Resources, Marine Biological Resources, Cultural Resources, Paleontological Resources, Hazards and Hazardous Materials/Public Safety, Seismic/Geologic Hazards, and Population and Housing. This alternative would have impacts greater than the Project with respect to Public Services (Fire Protection) because it would not provide for construction of a new fire station in the Harbor District (see Attachment 1, FEIR *Table 5.1.1.*).

The Reduced Overall Density Alternative would not avoid the unmitigated significant impacts of the Project. However, this alternative would lessen all of the unmitigated significant impacts to a degree commensurate with the overall 30% reduction in development mass and intensity provided by this alternative. Although this alternative would substantially lessen (i.e., by 30%) the unmitigated significant impacts of the Project, several of these impacts would remain significant and unmitigated even with the overall 30% reduction in development mass and intensity provided by this alternative, including the impacts to: Traffic and Circulation, in which impacts to freeway segments will occur with or without the Project, and the necessary mitigation for delay associated with freeway segments and at-grade crossings is within the jurisdiction and control of other agencies and not the Port or the City; Aesthetics/Visual Quality, Air Quality, and Public Services (Library Services), in which the impacts of this alternative also would be

significant; and Energy, in which the mitigation for impacts to long-term energy supply is within the jurisdiction and control of another agency and not the Port or the City.

#### 7.4.3 Feasibility of Alternative and Relationship to Project Objectives

The Port finds that all significant impacts of the Project will be mitigated by the design of the Project and the adoption of the mitigation measures set forth in the MMRP, except the direct and cumulative significant impacts on Land/Water Use Compatibility, Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Public Services (Library Services), and Energy described above. The Port further finds that although the Reduced Overall Density Alternative would avoid or substantially lessen the unmitigated significant impacts of the Project, the unmitigated significant impacts to Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Public Services (Library Services), and Energy would remain significant even if this alternative were adopted. The Port further finds that the Reduced Overall Density Alternative is infeasible because it would not achieve the major objectives of the Project discussed below and is undesirable from a policy standpoint.

The Reduced Overall Density Alternative would not achieve Project Objectives Nos. 3, 5, and 7, which relate to protecting biological resources, improving land use compatibility, and minimizing environmental impacts, because it would not implement the proposed land exchange concept that is central to the development of the Project and the corresponding attainment of these major Project objectives. *Section 1.3* of the FEIR states the following with respect to the importance of the land exchange in accomplishing the major objectives of the Project: “In the course of adopting these Project objectives, it became evident that the current jurisdictional lines would have to be redrawn and that it would be desirable for the Port to exchange some of its public trust property with Pacifica Companies. Without such a land exchange, the land use potential of the project planning area could not be optimized.” Because the land exchange is a purely voluntary transaction, it requires a willingness on the part of Pacifica to exchange the land it owns in the Sweetwater District for land owned by the Port in the Harbor District. In evaluating the merits of the proposed land exchange, Pacifica assumed a certain residential density on the property it would receive as part of the exchange in order to determine if it was willing to participate. Pacifica concluded that it would be willing to participate if it could develop 1,500 residential units on the parcels it would receive in the land exchange. Pacifica informed the Port that, if the Reduced Overall Density Alternative were selected, Pacifica would not participate in the land exchange.

Adoption of the Reduced Overall Density Alternative would also fail to achieve Project Objective No. 10, which seeks to implement “[b]road community input into the planning process and support of the master plan,” and Project Objective No. 11, which seeks “development of a master plan that protects and enhances environmental resources.” The CAC endorsed the land



exchange concept because it would shift high density residential land uses from the more environmentally sensitive Sweetwater District to the centrally located Harbor District. Pacifica's refusal to participate in the land exchange if the Reduced Overall Density Alternative were selected would mean that the Project objectives of honoring community input and enhancing environmental resources by preserving a higher percentage of the more environmentally sensitive land currently owned by Pacifica would not occur. Rather, development would have to proceed in the manner described in the No Land Trade Alternative, which does not require implementation of the proposed land exchange and allows for more intensive development adjacent to the Sweetwater Marsh NWR.

Adoption of the Reduced Overall Density Alternative also would make it impossible to achieve two major economic objectives of the Project: Project Objective No. 8, which seeks to "balance the cost of public improvements with private development so that public costs can be paid for by the increased revenues from the private development"; and Project Objective No. 17, which seeks "development of a comprehensive funding program" for the Bayfront. The comprehensive funding program developed for the Bayfront is based on the tax increment revenues, development impact fees, infrastructure construction, and other monetary contributions identified in the Land Exchange Agreement. This funding program assumes development of 1,500 dwelling units and the commercial and retail development described in the Project. A 30% reduction in dwelling units and overall density would result in a substantial reduction in the revenues, fees, and other monetary contributions anticipated for the comprehensive funding programs, which are intended to pay for the public infrastructure needed to accommodate the proposed development and to pay for the mitigation measures provided in the MMRP. The Port has received and considered an analysis of the impact of the Reduced Overall Density Alternative on project economics prepared by Economic & Planning Systems, Inc., which indicates that, although the amount of development would be reduced by 30% under this alternative, the amount of public infrastructure needed to support the development would be reduced by only 2%. As a result, although the cost of providing the infrastructure needed to support development would remain approximately the same, the Reduced Overall Density Alternative would substantially reduce the revenue available to pay for such costs.

A substantial reduction in project revenues also would obstruct achievement of Project Objective Nos. 2 (Create new public access, recreational amenities, and shoreline enhancements) and Project Objective No. 18 (Development of a master plan that includes recreational, public art, and open space opportunities as significant components of the plan), which were intended to be implemented through provision of the public park, recreational, and cultural amenities described in the FEIR and desired by the community. The adverse impact of the Reduced Overall Density Alternative on project revenues would impede the establishment of a "comprehensive funding program" at a level that would sustain the infrastructure and allow for development of the public

amenities incorporated in the Project through the “broad community input into the planning process.”

The Reduced Overall Density Alternative also is infeasible because it would prevent or impede the achievement of Project Objective No. 7, which seeks to develop the project area “in a manner that minimizes environmental impacts and reinforces the public realm in a manner befitting the setting and regional significance of the area.” The reduction in density by 450 residential units and 30% of the hotel rooms and floor area ratio of other commercial and retail uses would diminish the Project’s effectiveness in reducing air pollutants and GHG emissions that result from higher density mixed-use projects. SANDAG has projected that the City will grow by approximately 115,000 by the year 2030.<sup>1</sup> The same demographics show that to accommodate that growth, the City will need approximately 35,000 additional residential units between 2000 and 2030. Because the Reduced Overall Density Alternative would reduce the number of units available in the region, those units would need to be built in other locations to accommodate the additional growth projected by SANDAG. Those units would likely be displaced to suburban areas, which would increase the vehicle miles traveled and result in increased air pollutants and GHG emissions. The displacement of residential development to outlying areas also could lead to the consumption of open space, degradation in water quality, and other environmental impacts discussed below.

Section 4.3 of the Land Use and Transportation Element of the City’s General Plan embraces smart growth principles that encourage the development of projects that “provide a mix of compatible land uses,” “take advantage of compact building design,” and “create walkable neighborhoods.” The smart growth principles are more easily accomplished in infill projects with higher densities and a mix of land uses. Higher densities in the Bayfront also will contribute to the vibrancy of what is intended to be a world-class waterfront. The reductions in density provided in the Reduced Overall Density Alternative would impede the implementation of smart growth principles in the project area.

To implement smart growth principles, the City has embraced a “villages” strategy as a preferred land use form. This strategy seeks to direct growth into mixed-use activity centers that are pedestrian-friendly districts linked to an improved regional transit system. A village typically is defined as a mixed-use heart of a community where residential, commercial, employment, and civic uses are all present and integrated. Villages are intended to be pedestrian friendly and characterized by inviting, accessible, and attractive streets and public spaces. Public spaces should consist of well-designed public parks or plazas that bring people together. Individual villages will offer a variety of housing types affordable for people with different incomes and needs. The importance of the villages’ strategy to successful growth has been validated by

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<sup>1</sup> San Diego Association of Governments Fast Facts San Diego.  
[http://www.sandag.org/resources/demographics\\_and\\_other\\_data/demographics/fastfacts/chul.htm](http://www.sandag.org/resources/demographics_and_other_data/demographics/fastfacts/chul.htm)

planning professionals throughout the United States. The Urban Land Institute's report *Higher-Density Development, Myth and Fact*, developed in conjunction with the Sierra Club, National Multi Housing Council, and American Institute of Architects, notes that, "New compact developments with a mix of uses and housing types throughout the country are being embraced as a popular alternative to sprawl. At the core of the success of these developments is density, which is the key to making these communities walkable and vibrant." The Project embodies the villages planning strategy by creating a mixed-use village with high-density housing, which will provide pedestrian connections from residential areas to parks, transit and commercial work and shopping areas. Reducing the density of the Project through the Reduced Overall Density Alternative would serve to weaken the ability for the mixed-use development to succeed, thereby undermining the implementation of the villages' strategy.

According to SANDAG's 2006 white paper, *Homes for All San Diegans, The State of Housing Affordability in the Region*, "[o]ver the next 30 years, SANDAG's 2030 Regional Growth Forecast projects that the region's population will increase by about a million people and a half-million jobs—both growing at about the same rate. Even though housing in the 1970s and 1980s grew at about the same rate as population and employment, in the 1990s home production began to fail to keep pace with demand. The 2030 Regional Growth Forecast also shows the region exporting almost 90,000 households to Riverside and Imperial Counties, and Baja California, although at least one household member continues to work in San Diego County. This reflects the region's relative lack of planning for residential development." The Project provides a significant new supply of housing to deal with the jobs housing imbalance shown in the SANDAG report. The new supply of housing will serve to provide affordable alternatives to single-family residential neighborhoods. The SANDAG report "recommends a smart growth approach to improving housing choice. Vacant land for new construction is disappearing quickly and is nonexistent in some cities, which means that most new housing development will occur through redevelopment and infill, and mixed use development. SANDAG's Smart Growth Concept Map identifies where this type of development should be located—along transit corridors and near transit stations." As noted above, the Project site is located adjacent to an Urban Center on the Smart Growth Concept Map, and the Project is a high-density mixed-use project, consistent with the growth pattern adopted by SANDAG. The Reduced Overall Density Alternative would not produce the optimum number of housing needed to help curb the jobs-housing imbalance in the region, and could contribute to that imbalance by placing housing further away from job centers. The Reduced Overall Density Alternative is therefore infeasible because its inconsistency with the smart growth policies of the City and the region render it undesirable from a policy standpoint.

The link between infill development and reduced vehicle miles traveled (VMT), congestion, and cost to public infrastructure is the subject of the U.S. Environmental Protection Agency (EPA), Economic Development Division's report on *The Transportation and Environmental Impacts of*

*Infill Versus Greenfield Development*, which used case studies (including one from San Diego) to determine the effects of locating similar developments in infill areas versus “Greenfield” areas. The results of the San Diego case study found that locating the project in the infill area would reduce single occupancy vehicle trips by 48%, congestion would be 75% lower within 1 mile of the infill site, travel costs would be 42% lower with the infill site, and per capita VMT would be reduced by 48% with the infill site. As noted above, the 450-unit reduction in the Reduced Overall Density Alternative would need to be accommodated elsewhere in the County or beyond, and would likely be accommodated in a Greenfield area. The Reduced Overall Project Alternative would therefore not provide the benefits of infill development shown in the EPA report that are created by the infill nature of the Project.

High-density infill development also allows people to work and recreate closer to where they live, reducing fuel use and therefore saving energy and reducing air pollution and GHG emissions. SANDAG’s Regional Comprehensive Plan notes that “separation of land uses (e.g., when jobs are far from housing) and low density development inevitably lead to longer trip distances. As discussed in the Transportation chapter of the [Regional Comprehensive Plan], these are among the most important reasons vehicle miles traveled are increasing faster than the region’s population. This, in turn, is putting demands on the road network that are increasingly difficult to meet, and is reducing the benefits anticipated from cleaner vehicles.” Therefore the mixing of land uses (putting housing near jobs and shopping) allows for a reduction in VMT, and for the City to capture the benefits of cleaner burning vehicles. The 30% reduction in density and intensity of development at this infill location would run counter to Regional Comprehensive Plan policies, which encourage people to work and recreate closer to where they live.

The role of high-density projects in reducing traffic congestion, fuel consumption, air pollution, and GHG emissions is well documented. The CEC’s May 2005 report, *The Effect of Land Use Choices on Transportation Fuel Demand*, which was written to support the 2005 integrated policy report, finds that “improved land use planning can reduce the number and length of automobile trips and improve travel via transit and non-motor mobility options. The net result would be fewer vehicle miles traveled (VMT) in the state and reduced fuel demand.” GHG emissions are predominantly from two sources: automobile trips and energy use. Automobile trips and energy production typically require the burning of fossil fuels, which in turn creates carbon dioxide as a byproduct. Carbon Dioxide is implicated as a major contributor to global climate change, and the Intergovernmental Panel on Climate Change has stated that “the primary source of the increased atmospheric concentration of carbon dioxide since the pre-industrial period results from fossil fuel use.” The CEC has stated that “transportation accounts for 41% of California’s 2004 total greenhouse emissions; gasoline use alone accounts for 27% of the 2004 total.” The Project has calculated the GHG emissions anticipated from buildout of the Project. Using conservative assumptions, the Project will emit less per capita emissions than that estimated by AB 32, California’s landmark GHG legislation. Therefore, according to the CEC,

the reduction in VMT is a primary goal for how to reduce GHG emissions in the state. The Reduced Overall Density Alternative would reduce the opportunity to achieve such a reduction in VMT by encouraging development to occur at other locations that may not be able to achieve such a reduction.

The CEC's June 2007 report, *The Role of Land Use in Meeting California's Energy and Climate Change Goals*, states, "most urban growth over the last 30 years has been characterized by travel-inducing features; low-density, a lack of balance and accessibility between housing, jobs and services" and, "density may have the most profound effect on travel and transportation outcomes, with higher density reducing vehicle miles traveled." The report further states, "Controlling for other factors, the difference between low and high density U.S. metropolitan areas is more than 40% daily per capita VMT...and that doubling of neighborhood density can be expected to result in approximately a 5% reduction in both vehicle trips and VMT per capita." The Urban Lands Institute made similar findings in its report, *Growing Cooler: The Evidence on Urban Development and Climate Change*, which states, "based on the urban planning literature reviewed in this publication, it appears that compact development has the potential to reduce VMT per capita by anywhere from 20% to 40% relative to sprawl."

A higher density provides an ability for housing to be built in close proximity to mass transit, commercial development and job centers, thus lowering commute times and providing transportation. The Bayfront represents an infill opportunity to locate housing in close proximity to jobs. The Project is significantly denser than the traditional single-family residential projects developed over the last several decades in San Diego and provides recreational, entertainment, and commercial amenities within the community that typically require vehicle trips to access. As stated in the CEC report, "According to the National Household Travel Survey 2001 Highlights Report, 45% of daily trips were made for family and personal reasons, such as shopping and running errands, 27% were made for social and recreational purposes, and 15% were made for commuting to work." Therefore, the link between reductions in VMT is related to the mixing of commercial and residential land. As noted in the National Household Travel Survey cited by CEC, 45% of trips are made for family or personal reasons while 15% of trips are made for work. Due to the mixing of residential with retail and recreational uses and job centers, the Project is poised to capture the maximum number of trips, because most of the reasons for car use are found within the Project or in close proximity. Because the Project has the characteristics of an infill project, overall car trips can be reduced or eliminated through transit, bicycle, and pedestrian opportunities, which are not as available in a more traditional suburban development.

The VMT reduction benefits of high-density urban infill development are further addressed by the EPA's report, *Measuring the Air Quality and Transportation Impacts of Infill Development*. The report "quantifies the air quality benefits of regional growth scenarios that increase development on brownfield and other infill sites." The report notes, "The three case studies

demonstrate—across a range of scenarios and regional contexts—that redirecting development to more walkable, transit accessible areas reduces driving and emissions. Shifting 5% to 10% of a region’s homes and jobs to infill locations was estimated to produce 2% to 5% less vehicle travel and a 3% to 8% reduction in emissions.” The report found that, “compared with other policies adopted to meet regional air quality goals, these reductions are both significant and cost effective.” As it relates to the balance between growth and air quality concerns in cities, the EPA report also states, “this report shows that directing new growth into reclaimed brownfield and infill sites can help meet their need for growth while addressing regional air quality issues.” The Reduced Overall Density Alternative would provide less of these benefits due to the reduction in density and need to recapture that growth in suburban areas, and is therefore found infeasible as a matter of public policy.

The City is a signatory to the U.S. Mayors’ Climate Protection Agreement, which commits signatory cities to implement GHG reductions in the Kyoto Accords. One of the key strategies sited in the agreement is the reduction of sprawl and the reduction in vehicle miles traveled. Therefore as a matter of public policy and in accordance with City’s participation in the U.S. Mayors’ Climate Protection Agreement, the Port finds that the Reduced Overall Density Alternative is infeasible because it would not meet the public policy objectives of the City.

In addition, higher density housing also provides efficient use of land that avoids the consumption of open space that contains trees and other vegetation that act as carbon sinks for GHG emissions. According to the Urban Land Institute, “Compact urban design reduces driving and smog and preserves the natural areas that are assets of the community: watersheds, wetlands, working farms, open space, and wildlife corridors.” The Project’s efficient use of land for needed housing will preserve open space and reduce the destruction of GHG-absorbing vegetation. Placing the same level of growth, or accommodating the units lost by the Reduced Overall Density Alternative in a suburban area, would consume significantly more land in an area not already disturbed. The Reduced Overall Density Alternative would displace development into these Greenfield areas and is therefore undesirable from a policy standpoint.

The Reduced Overall Density Alternative also would result in the construction of fewer affordable housing units on the Project site because the City’s affordable housing requirement is based on the total number of residential units associated with a project. The Pacifica project component plans to develop 1,500 residential units on Parcels H-13 and H-14, of which 150 units would be devoted to affordable housing. The Redevelopment Agency will cause the production of the remaining 75 affordable units to meet statutory requirement for new affordable housing production of 15%, resulting in a Redevelopment Agency requirement for 225 affordable units.

Under the Reduced Overall Density Alternative, which would reduce the density of the Pacifica project from 1,500 units to 1,050 units, only 157 units would be devoted to affordable housing, instead of 225 units. However, based on Pacifica's intention not to proceed with the land exchange if the Reduced Overall Density Alternative is adopted, that alternative would result in the loss or delayed development elsewhere of 68 affordable housing units. Based on the need for affordable housing within the City, the Port hereby finds that the reduction of affordable housing units on site renders the Reduced Overall Density Alternative infeasible for "social" or "other reasons."

For the economic, social, technological, and other reasons discussed above, the Port finds that, pursuant to CEQA Guidelines section 15093(a)(3), the Reduced Overall Density Alternative is infeasible because it would not achieve several of the most important objectives of the Project, would impede other Project objectives, and would be inconsistent with local, regional, and statewide policies, thereby making it undesirable from a policy standpoint. Accordingly, for the impacts of the Project that remain significant even after the incorporation of feasible mitigation measures and alternatives, the Port adopts the Statement of Overriding Considerations set forth in *Section 8.0* of this document, pursuant to CEQA Guidelines section 15093.

## **7.5 Alternate L-Ditch Remediation Alternative**

### **7.5.1 Description of Alternative**

The L-Ditch is an approximately 4.43-acre, 50-foot-wide L-shaped drainage ditch with approximately 1.15 acres of wetland habitat on Parcel HP-5. The L-Ditch extends adjacent to Street C from Marina Parkway to Street A, and adjacent to Street A from Street C to Marina Parkway. The L-Ditch is contaminated with hazardous materials and is subject to Cleanup and Abatement Order No. 98-08, issued by the RWQCB in a separate proceeding. The Cleanup and Abatement Order requires the existing contamination to be remediated pursuant to a remedial action plan (RAP) approved by the RWQCB.

At the time the Revised DEIR was made available for public and agency review, the RAP had not yet been prepared by the Port or approved by the RWQCB. Accordingly, the Revised DEIR considered two scenarios for the RAP and subsequent development of Parcel HP-5. The Proposed Project incorporated the first scenario, which assumed that the existing contamination would be remediated by removal from the L-Ditch. Under the Proposed Project, therefore, the L-Ditch would not be developed and would contain an average 50-foot-wide buffer from the delineated wetland edge on either side, which would protect against encroachment into the L-Ditch, other than for the proposed bridge crossing to provide access between Parcels H-13 and H-14 and Street A. The Alternate L-Ditch Remediation Alternative considered the second scenario, which assumed that the existing contamination would be remediated in place by filling

the L-Ditch. Under this alternative, Parcel HP-5 would no longer contain wetlands and could be developed.

The Alternate L-Ditch Remediation Alternative involves changes to development plans proposed for Parcels HP-5, H-13, and H-14 of the Proposed Project. Under this alternative, the remediation and fill of approximately 8.0 acres of Parcel HP-5 would distribute the residential development for the Pacifica project over 23 acres, in lieu of the 14 acres within Parcels H-13 and H-14 available for development under the Proposed Project. This increase in land area will allow for a reduction in height, bulk, and development density while simultaneously affording an increase in useable public open space as compared to the proposed Pacifica project. Because the wetlands would have been removed as a result of the remediation and fill required by the Cleanup and Abatement Order, the 50-foot wetland buffer surrounding HP-5 would no longer be necessary.

The overall land use of Parcels H-13 and H-14 under the Alternate L-Ditch Remediation Alternative would be the same as for the Pacifica project component of the Proposed Project, including a maximum of 1,500 residential units with various mid-rise and high-rise components, and retail as described in the FEIR. Under this alternative, although the number of residential units and area of ancillary uses would remain the same, the development would include the developable area of Parcel HP-5, resulting in an increased building footprint of approximately 30%. This increase in ground coverage will allow for an overall reduction in height and bulk of the proposed towers, as well as a reduction in development density as compared to the proposed Pacifica project. Under the Alternate L-Ditch Remediation Alternative, the same number of towers would be constructed but would be spread over a larger area. Building heights under this alternative would range from 4 to 17 stories, with a maximum building height of 200 feet, as opposed to 220 feet under the proposed Pacifica project.

A site plan for the development proposed on Parcels H-13, H-14 and HP-5 under the Alternate L-Ditch Remediation Alternative is shown in *Figure 5.7-1* of the FEIR. The differences between the Alternate L-Ditch Remediation Alternative and the proposed Pacifica project are summarized in *Table 5.7-1* of the FEIR. The Alternate L-Ditch Remediation Alternative is similar to the proposed Pacifica project except for the differences shown in the table. As with the Pacifica project component of the Proposed Project, the Alternate L-Ditch Remediation Alternative would include a PMP Amendment, General Plan Amendment, and LCP Amendment to address areas located entirely within the coastal zone. These amendments would be required to address the necessary modifications to policies that would result from the Alternate L-Ditch Remediation Alternative.



### **7.5.2 Ability of Alternative to Avoid or Substantially Reduce Significant Unmitigated Impacts**

The Alternate L-Ditch Remediation Alternative involves an alternative development approach to the Pacifica project, which is a project-level component of the project. This alternative development approach would allow the Pacifica project to be spread out over a somewhat larger footprint on Parcels H-13, H-14 and HP-5, but does not otherwise change the nature or extent of the proposed Pacifica project. As a result, the Alternate L-Ditch Remediation Alternative would have essentially the same type and intensity of impacts as that of the proposed Pacifica project, except with respect to the impacts on Aesthetics/Visual Resources. By spreading the proposed development over a somewhat larger footprint, the size and bulk of the residential buildings will be reduced from 19 stories (220 feet) to 17 stories (200 feet), which would result in a reduction in development density and would afford an increase in useable public open space as compared to the proposed Pacifica project. Although the Alternate L-Ditch Remediation Alternative would reduce the unavoidable significant impacts of the Pacifica project on Aesthetics/Visual Resources, these impacts would not be avoided or reduced to below a level of significance. This alternative does not propose any changes to the program-level components of the Project and thus would not avoid or substantially reduce any of the unavoidable significant impacts of the program-level components of the Project.

### **7.5.3 Feasibility of Alternative and Relationship to Project Objectives**

On March 2, 2010, the Port approved a RAP that proposes to remediate the existing contamination in place by filling the L-Ditch, as considered in the Alternate L-Ditch Remediation Alternative. The Port has submitted the RAP to the RWQCB for approval in the separate proceedings concerning remediation of the existing contamination on Parcel HP-5. Accordingly, the Port hereby finds that the Alternate L-Ditch Remediation Alternative is feasible and hereby adopts the Alternate L-Ditch Remediation Alternative and incorporates it into the Project as the development plan for Parcels H-13, H-14 and HP-5, in place of the plan for the development of those parcels described in the FEIR in *Chapter 3.0, Project Description (Section 3.4.4.1(b)(i) Project Description: Harbor District Project Level (Phase I) Components)*.

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## 8.0 STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA provides that a lead agency should not approve a project as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of the project. CEQA further provides, however, that, in the event specific economic, social, or other conditions make infeasible such project alternatives or mitigation measures, a project may be approved in spite of one or more significant impacts thereof (Pub. Res. Code section 21002). A lead agency which wishes to carry out or approve a project that has one or more unavoidable significant impacts is required to balance the unavoidable adverse environmental risks of the project against its economic, legal, social, technological, or other benefits, including region-wide and statewide environmental benefits. If the specific benefits of the project outweigh its unavoidable adverse environmental risks, the adverse environmental risks may be considered "acceptable." The lead agency may then approve the project and adopt a "Statement of Overriding Considerations," which states in writing the specific reasons to support the lead agency's action based on the FEIR and other information in the record (CEQA Guidelines section 15093).

The Port has found that the Proposed Project would have the following unavoidable significant environmental impacts: direct significant impacts on Land/Water Use Compatibility, Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, and Public Services (Library Services); and cumulative significant impacts on Traffic and Circulation, Aesthetics/Visual Quality, Air Quality, Public Services (Library Services), and Energy. The Port has adopted all feasible mitigation measures with respect to these unavoidable significant impacts. The Port also has considered a reasonable range of alternatives to the Project, including the No Project Alternative, the Harbor Park Alternative, the No Land Trade Alternative, the Reduced Overall Density Alternative, and the Alternate L-Ditch Remediation Alternative. The Port has determined that none of these alternatives is feasible except the Alternate L-Ditch Remediation Alternative, which the Port has adopted in place of the plan for development of Parcels H-13, H-14, and HP-5 set forth in Section 3.0 *Project Description* of the FEIR.

Because of these unavoidable significant impacts, the Port must adopt a Statement of Overriding Considerations pursuant CEQA Guidelines section 15093 in order to approve the Project. Although the Port is not required to adopt a Statement of Overriding Considerations for significant impacts that will be mitigated to below a level of significance, certain significant impacts identified in the FEIR and proposed mitigation measures and alternatives may be the subject of differing opinion among persons who have commented on the Project. Accordingly, the Port wishes to make clear its view that the benefits of the Project, described below, are of such importance to the community as to outweigh all significant environmental impacts described in the FEIR or suggested by participants in the public review process.

Pursuant to CEQA Guidelines section 15093, the Port hereby finds that the Project would have the following benefits:

**Community Planning and Development**

- The Project advances the goals articulated in the Port's mission statement: "While protecting the Tidelands Trust resources, the Port will balance economic benefits, community services, environmental stewardship, and public safety on behalf of the citizens of California."
- The Project will fulfill the overall objective of the Chula Vista Bayfront Master Plan by establishing the Chula Vista Bayfront as an active, accessible, vibrant area, with attractions that draw people to and celebrate the waterfront experience, while protecting and enhancing environmental resources.
- The Project will be consistent with the tidelands trust requirements and restrictions and will incorporate broad community input into the planning process and support of the master plan after significant public outreach and participation.
- The Project will provide an overall improvement of land use compatibility to fulfill desired goals of an active recreational and commercial area, while providing enhanced environmental resources.

**Recreation, Open Space, Public Access, and Connectivity**

- The Project will link the Bayfront to the downtown Chula Vista Urban Core and provide a network of trails and open space along the shoreline.
- The Project will create new public access, recreational amenities, and shoreline enhancements, while still protecting biological resources in the Project vicinity, and will create a park system that considers ecological habitats and recreational needs of the community.
- The Project will extend Chula Vista's traditional grid of streets to ensure pedestrian, vehicle, bicycle, transit, and water links, and will provide a continuous open space system, fully accessible to the public, that will connect the Sweetwater, Harbor, and Otay districts through components such as a continuous shoreline promenade or baywalk and a continuous bicycle path linking the parks and ultimately creating greenbelt linkages.
- The Project will provide many features to encourage pedestrian, bicycle, and transit use within the Bayfront area, including a pedestrian circulation plan of approximately 54,000 linear feet comprising shoreline promenade, trails, and sidewalks, as well as an approximately 12-foot-wide meandering pedestrian trail interwoven throughout the Signature Park, which will maximize public visual and physical access to the water.

- The Project will improve public access and recreational opportunities by creating new public parks that will provide space for passive and active public recreation in the park and other open space areas in each of the three districts, including a Signature Park and the creation of an active commercial harbor with public space at the water's edge.
- The Project will improve the public's right to access the San Diego Bay by improving the link between western Chula Vista along H Street, E Street, and J Street.
- The Project will facilitates direct public access to the shoreline via E Street, H Street, J Street, and Marina Parkway and will provide parks and public uses between these roads and the San Diego Bay.
- The Project will preserve open space in the Project area, with approximately 238 acres (43%) of the Project site designated as open space, either in the form of natural habitat or public passive- or active-use parks. The City's Land Use Plan (LUP) designates approximately 28 acres of public and quasi-public areas and parks and recreation adjacent to the Bay and nature preserve, thereby enhancing public access to the coastal resources. The public, park, and open space lands would be permanently dedicated and maintained to assure future access.

#### **Economic and Social Sustainability**

- The Project will stimulate economic growth for the Port, City of Chula Vista, the South Bay area, and the overall region and will develop economically feasible land uses in the Project area. The plan will be economically sustainable, will generate revenue, and will encourage private sector participation.
- One time tax and other revenues generated by Project development for the City will exceed approximately \$8.8 million.
- Through build-out of the Project, development is expected to result in more than \$11.5 million per year in local tax revenues, including property taxes, tax increment for redevelopment properties, transient occupancy taxes, sales taxes, utility user's taxes and business taxes.
- Economic impacts of developing the Project in the San Diego regional economy equal approximately \$1.3 billion.
- The Project will result in a capital investment of approximately \$120 million in improvements and expansion of public infrastructure, including street, sewer, and water system improvements throughout the Project area.
- The Project will generate substantial additional revenues to the Port, the City, the RDA and the region from tax and other revenues generated directly by construction and

operation of the individual projects and indirectly from regional and local businesses which supply the projects with goods and services..

- The Project will increase employment opportunities within the region directly by providing thousands of new full-time and part-time permanent jobs in the residential, hotel, retail, cultural, and other site-specific projects expected to be developed in the project area, including approximately 2,000 jobs at the RCC, over the course of Project build-out, and indirectly among new and existing local businesses which will supply goods and services to the Project, such as food and beverage, temporary labor, building maintenance and repair services, landscaping services, vending machines, furniture and equipment, vehicle repair and servicing, and advertising specialty products. In addition, the Project is expected to provide an estimated 6,500 construction jobs over the course of Project build-out.
- The Pacifica project will increase employment opportunities within the region by directly providing over 200 permanent jobs and an average of 390 temporary jobs per year over the Project's 20-year build-out period (with the greatest numbers of jobs provided when hotel and residential construction coincide). In addition, the Pacifica project is expected to result in approximately 600 indirect project-related community jobs over the Project's 20-year build-out period.
- The Project will increase the supply of affordable housing in western Chula Vista by providing 225 additional units in the Pacifica Project and the project area.

#### **Public Facilities Planning**

- The Project will provide facilities that can be used as community meeting space.
- In addition to the existing facilities provided within the Bayfront, the Project will provide new low-cost visitor and recreational facilities in all three of the districts, including a Signature Park in both the Sweetwater and Harbor districts, a community boating center or recreational marina of approximately 10,000 to 20,000 square feet in the Harbor District, and ancillary retail establishments, such as restaurants, shops, and shared public plazas.
- The Project will provide for increased recreational boating opportunities and enhanced facilities by providing a new community boating center or recreational marina on Parcel H-1, which could include an aquatic center, boating opportunities, and dock-and-dine facilities, and by improving the navigation channel and a ferry terminal and providing a new pier.
- The Project will include a fire station as a Phase I project-level component, which will enhance fire protection services in the Project area and in the western portion of the City.

**Environmental Stewardship**

- The Project will minimize impacts of residential development to on-site and adjacent sensitive biological habitat by precluding residential uses in the Otay District and moving residential and other intensive uses away from the Sweetwater District, the Sweetwater NWR, and the F & G Street Marsh, in order to protect environmentally sensitive habitat areas from disruption.
- The Project will concentrate more intense development in the Harbor District, which is most directly accessible to downtown Chula Vista and will provide a significant link from the City to the Bayfront.
- The Project will implement measures designed to increase energy efficiency. Project-level components proposed for Phase I incorporate project features to ensure efficient use of energy, and program-level components for all phases will be required to reduce energy consumption by 30%.
- The Project will provide for the protection of sensitive natural resources and increased public participation through the creation, implementation, and enforcement of an NRMP and good faith efforts to enter into cooperative management agreements with USFWS or other appropriate agencies.

The Port has balanced the specific economic, legal, social, technological, and other benefits of the Proposed Project, including region-wide and statewide environmental benefits, against its unavoidable significant environmental risks in determining whether to approve the Project. For the foregoing reasons, the Port hereby finds that, pursuant to CEQA Guidelines section 15093, the benefits of the Project outweigh its significant adverse environmental impacts and, therefore, such impacts are considered acceptable. The Port further finds that each of the benefits and the fulfillment of the objectives of the Project is determined to be a separate and independent basis for overriding the unavoidable significant impacts of the Project. Accordingly, the Port hereby adopts this Statement of Overriding Considerations.

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# **ATTACHMENT 1**

*Table 5.1-1*

*Comparison of Impacts between Proposed Project  
and Project Alternatives*

**Table 5.1-1  
Comparison of Impacts between Proposed Project and Project Alternatives**

Environmental Issue		Proposed Project Significance After Mitigation	No Project	Harbor Park	No Land Trade	Reduced Overall Density	Alternate Ditch Remediation
<b>4.1 Land/Water Use Compatibility</b>							
1.	The Proposed Project would have a significant impact if it conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the General Plan, Specific Plan, local coastal program, master plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.	Significant and unmitigable	Greater	Equal	Equal	Equal	Equal
2.	The Proposed Project would have a significant impact if it conflicts with any applicable Habitat Conservation Plan (HCP) or Natural Community Conservation Plan (NCCP).	Less than significant	Less	Equal	Greater	Equal	Equal
3.	The Proposed Project would have a significant impact if it creates a substantial or extreme land/water use incompatibility with adjacent or nearby existing and proposed land uses, resulting in significant incompatibility or nuisance impacts.	Less than significant	Equal	Equal	Greater	Equal	Equal
4.	The Proposed Project would have a significant impact if it is inconsistent or conflicts with an adopted PMP water use designation where substantial indirect or secondary environmental impacts would occur.	Less than significant	Equal	Equal	Equal	Equal	Equal
<b>4.2 Traffic and Circulation</b>							
1.	The Proposed Project would have a significant impact on traffic circulation if it substantially increases hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)	Less than significant	Equal	Equal	Equal	Equal	Equal
2.	The Proposed Project would have a significant impact on traffic circulation if it conflicts with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)	Less than significant	Equal	Equal	Equal	Equal	Equal
3.	The Proposed Project would have a significant impact if changes to the land use and the circulation plans would result in the following: For non-Chula Vista Urban Core circulation element roadways (Expressway, Prime Arterial, Major Street, Town Center Arterial, Class I Collector): a) A roadway segment that currently operates at LOS C or better and with the proposed changes would operate at LOS D or worse at General Plan build-out. b) A roadway segment that currently operates at LOS D or E and with the proposed changes would operate at LOS E or F at General Plan build-out (respectively), or which operates at LOS D, E, or F and would worsen by 5 percent or more at General Plan build-out. For Chula Vista Urban Core Circulation Element roadways (Gateway Street, Urban Arterial, Commercial Boulevard, and Downtown Promenade): a) A roadway segment that currently operates at LOS D or better and with the proposed changes would operate at LOS E or F at General Plan build-out. b) A roadway segment that currently operates at LOS F and would worsen by 5 percent or more at General Plan build-out.	Significant and unmitigable	Greater	Greater	Greater	Less	Equal
4.	The Proposed Project would have a significant impact if changes to the land use and circulation plans would affect signalized and unsignalized intersections as follows: a) An intersection that currently operates at LOS D or better and with proposed changes would operate at LOS E or worse at General Plan build-out. b) An intersection that currently operates at LOS E or F and the project trips generated comprise 5 percent or more of the entering volume. Entering volumes are the total approach volumes entering an intersection. c) A cumulative impact would occur if the operations at intersection are at LOS E or F only.	Less than significant	Greater	Greater	Equal	Less	Equal
<b>4.3 Parking</b>							
1.	The Proposed Project would have a significant impact if it causes the parking supply to be less than the generated demand or if it exacerbates an existing parking shortage.	Less than significant	Equal	Equal	Equal	Less	Equal
2.	The Proposed Project would have a significant impact if it results in parking shortfalls during major events within the Chula Vista Bayfront area.	Less than significant	Equal	Equal	Equal	Less	Equal
3.	The Proposed Project would have a significant impact if it removes parking lots designated for public use that are heavily utilized and not replaced.	Less than significant	Equal	Equal	Equal	Less	Equal
<b>4.4 Aesthetics/Visual Quality</b>							
1.	View Quality: The Proposed Project would have a significant impact if it has a substantially adverse effect on a scenic vista, public view, or public resource (such as a symbol or landmark).	Significant and unmitigable	Less	Greater	Greater	Less	Equal
2.	Visual Quality: The Proposed Project would have a significant impact if it substantially degrades the existing visual character or quality of the site and its surroundings.	Less than significant	Less	Equal	Greater	Less	Equal
3.	Light and Glare: The Proposed Project would have a significant impact if it creates a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	Less than significant	Equal	Equal	Equal	Less	Equal
4.	Visual Character: The Proposed Project would have a significant impact if it conflicts with urban design guidelines in adopted plans and policies.	Less than significant	Equal	Equal	Greater	Less	Equal
<b>4.5 Hydrology/Water Quality</b>							
1.	The Proposed Project would have a significant impact if it substantially depletes groundwater or interferes substantially with groundwater recharge.	Less than significant	Equal	Equal	Equal	Equal	Equal
2.	The Proposed Project would have a significant impact if it alters an existing 100-year floodplain or would place structures within a 100-year flood hazard area which would impede or redirect flood flows.	Less than significant	Equal	Equal	Equal	Equal	Equal

Table 5.1-1 (Cont.)

Proposed Project Significance After Mitigation	Harbor Park	No Land Trade	Reduced Overall Density	Alternate L- Ditch Remediation
3. The Proposed Project would have a significant impact if it exposes people or structures to a significant risk of loss, injury, or death involving flooding, and/or exposes people or structures to inundation by seiche, tsunami, or mudflow.	Equal	Equal	Equal	Equal
4. The Proposed Project would have a significant impact if it substantially alters the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site.	Equal	Equal	Equal	Equal
5. The Proposed Project would have a significant impact if it degrades water quality or would violate any water quality standards or waste discharge requirements, resulting from a substantial increase in the rate or amount of polluted surface runoff.	Equal	Equal	Less	Equal
6. The Proposed Project would have a significant impact if it creates or contributes runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.	Equal	Equal	Less	Equal
7. The Proposed Project would have a significant impact if it results in pollution or contamination that may have an impact on human health and the environment, including the aquatic habitat, or impacts on biological communities.	Equal	Equal	Equal	Equal
8. The Proposed Project would have a significant impact if it results in substantial erosion and subsequent sedimentation of water bodies.	Equal	Equal	Equal	Equal
<b>4.6 Air Quality</b>				
1. The Proposed Project would have a significant impact if it conflicts with or obstructs implementation of the applicable air quality plan (e.g., RAQS).	Greater	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it violates any air quality standard or contributes substantially to an existing or projected air quality violation.	Greater	Equal	Less	Equal
3. The Proposed Project would have a significant impact if it results in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).	Greater	Equal	Less	Equal
4. The Proposed Project would have a significant impact if it exposes sensitive receptors to substantial pollutant concentrations.	Greater	Greater	Less	Equal
5. The Proposed Project would have a significant impact if it locates residential housing within 1,000 feet of a plant or any other toxic air emitting facility.	Less	Equal	Equal	Equal
6. The Proposed Project would have a significant impact if it creates objectionable odors affecting a substantial number of people.	Equal	Equal	Equal	Equal
7. The Proposed Project would have a significant impact if it conflicts with or obstructs goals or strategies of the California Global Warming Solutions Act of 2006 (AB 32) or related Executive Orders.	Greater	Equal	Equal	Equal
8. The Proposed Project would have a significant impact if it results in substantially increased exposure of the project from the potential adverse effects of global warming identified in the California Global Warming Solutions Act of 2006 (AB 32).	Greater	Equal	Equal	Equal
<b>4.7 Noise</b>				
1. The Proposed Project would have a significant impact if it exposes persons to or generates noise levels in excess of standards established in the City of Chula Vista General Plan or noise ordinance, or applicable standards of other agencies.	Greater	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it exposes persons to or generates excessive groundborne or waterborne vibrations or noise levels.	Equal	Equal	Less	Equal
3. The Proposed Project would have a significant impact if it results in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.	Greater	Equal	Less	Equal
4. The Proposed Project would have a significant impact if it results in substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	Equal	Equal	Less	Equal
<b>4.8 Terrestrial Biological Resources</b>				
1. The Proposed Project would have a significant impact if it has a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by CDFG or USFWS.	Greater	Greater	Equal	Equal
2. The Proposed Project would have a significant impact if it has a substantial adverse effect on federally or state protected wetlands as defined by Sections 401 and 404 of the CWA (including, but not limited to, marsh, vernal pool, coastal, etc.), and Section 1600 of the CDFG Code through direct removal, filling, hydrologic interruption, or other means.	Greater	Equal	Equal	Equal
3. The Proposed Project would have a significant impact if it interferes substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impedes the use of native wildlife nursery sites.	Greater	Equal	Equal	Equal
4. The Proposed Project would have a significant impact if it conflicts with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	Greater	Equal	Equal	Equal
5. The Proposed Project would have a significant impact if it conflicts with the provisions of an adopted HCP, NCCP, or other approved local, regional, or state habitat conservation plan.	Greater	Equal	Equal	Equal
<b>4.9 Marine Biological Resources</b>				
1. The Proposed Project would have a significant impact if it has a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFG or USFWS.	Greater	Equal	Equal	Equal

Table 5.1-1 (Cont.)

Environmental Issue	Proposed Project Significance After Mitigation	No Project	Harbor Park	No Land Trade	Reduced Overall Density	Alternate L-Ditch Remediation
2. The Proposed Project would have a significant impact if it interferes substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impedes the use of native wildlife nursery sites.	Less than significant	Greater	Equal	Equal	Equal	Equal
3. The Proposed Project would have a significant impact if it has a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFG or USFWS.	Less than significant	Greater	Equal	Equal	Equal	Equal
4. The Proposed Project would have a significant impact if it has a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrologic interruption, or other means.	Less than significant	Equal	Equal	Equal	Equal	Equal
5. The Proposed Project would have a significant impact if it conflicts with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	Less than significant	Greater	Equal	Equal	Equal	Equal
6. The Proposed Project would have a significant impact if it conflicts with the provisions of an adopted HCP, NCOP, or other approved local, regional, or state habitat conservation plan.	Less than significant	Greater	Equal	Equal	Equal	Equal
<b>4.10 Cultural Resources</b>						
1. The Proposed Project would have a significant impact if it causes a substantial adverse change in the significance of a historical or archaeological resource as defined in CEQA Guidelines Section 15064.5, including resources that are eligible for the California Register of Historic Resources (CRHR) and the National Register of Historic Places and resources that are locally designated as historically significant, or the City of Chula Vista finds the resource historically significant based on substantial evidence.	Less than significant	Equal	Equal	Equal	Equal	Equal
2. The Proposed Project would have a significant impact if it disturbs any human remains, including those interred outside of formal cemeteries.	Less than significant	Equal	Greater	Equal	Equal	Equal
<b>4.11 Paleontological Resources</b>						
1. The Proposed Project would have a significant impact if it directly or indirectly destroys a unique paleontological resource or site or unique geologic feature.	Less than significant	Equal	Equal	Equal	Equal	Equal
<b>4.12 Hazards and Hazardous Materials/Public Safety</b>						
1. The Proposed Project would have a significant impact if it creates a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	Less than significant	Equal	Equal	Equal	Equal	Equal
2. The Proposed Project would have a significant impact if it creates a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	Less than significant	Equal	Equal	Equal	Equal	Equal
3. The Proposed Project would have a significant impact if it emits hazardous emissions or handles hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school.	Less than significant	Equal	Equal	Equal	Equal	Equal
4. The Proposed Project would have a significant impact if it is located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, a significant hazard to the public or the environment would be created.	Less than significant	Equal	Equal	Equal	Equal	Equal
5. The Proposed Project would have a significant impact if it is located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport and would result in a safety hazard for people residing or working in the project area.	Less than significant	Equal	Equal	Equal	Equal	Equal
6. The Proposed Project would have a significant impact if it impairs implementation of or physically interferes with an adopted emergency response plan or emergency evacuation plan.	Less than significant	Equal	Equal	Equal	Equal	Equal
<b>4.13 Public Services</b>						
<b>Fire Protection</b>						
1. The Proposed Project would have a significant impact if it reduces the ability to respond to calls throughout the City within the City's threshold standard to respond to calls within 7 minutes in 80 percent of the cases.	Less than significant	Greater	Greater	Greater	Greater	Equal
2. The Proposed Project would have a significant impact if it results in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the fire protection and emergency services.	Less than significant	Greater	Greater	Greater	Greater	Equal
<b>Police Protection</b>						
1. The Proposed Project would have a significant impact on police protection services if it: <ul style="list-style-type: none"> <li>Reduces the ability to respond to calls within the City's threshold standard for Priority One emergency calls within 7 minutes in 81 percent of the cases and maintain an average response time to all Priority One calls of 5.5 minutes or less.</li> <li>Reduces the ability to respond to calls within the City's threshold standard for Priority Two urgent calls, within 7 minutes in 57 percent of cases, and maintain an average response time to all Priority Two calls of 7.5 minutes or less.</li> </ul>	Less than significant	Equal	Equal	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it results in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities and/or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services.	Less than significant	Equal	Equal	Equal	Less	Equal

Table 5.1-1 (Cont.)

Environmental Issue	Proposed Project Significance After Mitigation	No Project	Harbor Park	No Land Trade	Reduced Overall Density	Alternate L-Ditch Remediation
<b>Parks and Recreation</b>						
1. The Proposed Project would have a significant impact if it results in the inability for the City to provide an adequate level of service in accordance with the Chula Vista Municipal Code Chapter 17.10.040 Parks and Public Facilities.	Less than significant	Less	Equal	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it results in substantial adverse physical impacts associated with the provision of new or physically altered governmental or recreational facilities and/or the need for new, expanded, or physically altered governmental or recreational facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for park services.	Less than significant	Less	Equal	Equal	Less	Equal
3. The Proposed Project would have a significant impact if it increases the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.	Less than significant	—	—	—	—	—
<b>Schools</b>						
1. The Proposed Project would have a significant impact if it the CVESD and SUHSD do not have the necessary school facilities to meet the needs of the students in new development areas in a timely manner.	Less than significant with mitigation	Less	Equal	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it results in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities and/or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for school services.	Less than significant	Less	Equal	Equal	Less	Equal
<b>Library Service</b>						
1. The Proposed Project would have a significant impact if it exceeds the population ratio, which requires that 500 square feet (gross) of adequately equipped and staffed libraries be provided per 1,000 populations.	Significant and unmitigable	Less	Equal	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it results in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities and/or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for library services.	Less than significant	Less	Equal	Equal	Less	Equal
<b>4.14 Public Utilities</b>						
<b>Water Supply and Water Availability</b>						
1. The Proposed Project would have a significant impact if sufficient water supplies are not available to serve the project from existing entitlements and resources, or results in the need for new or expanded entitlements.	Less than significant	Greater	Equal	Equal	Less	Equal
2. The Proposed Project would have a significant impact if the project requires or results in the construction of new water treatment facilities or expansion of existing facilities and services, the construction of which could cause significant environmental effects.	Less than significant	Greater	Equal	Equal	Less	Equal
3. The Proposed Project would have a significant impact if the Proposed Project is inconsistent with the assumptions used in the San Diego County Water Authority (SDCWA) Urban Water Management Plan (UWMP).	Less than significant	Equal	Equal	Equal	Equal	Equal
<b>Sewer</b>						
1. The Proposed Project would have a significant impact if it results in a determination by the wastewater treatment provider that serves or may serve the project that it does not have adequate planned capacity to serve projected demand in addition to the provider's existing commitments.	Less than significant	Equal	Greater	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it requires or results in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.	Less than significant	Equal	Equal	Equal	Less	Equal
<b>Solid Waste Management</b>						
1. The Proposed Project would have a significant impact if the project was served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs.	Less than significant	Equal	Equal	Equal	Less	Equal
2. The Proposed Project would have a significant impact if it does not comply with federal, state, and local regulations related to solid waste.	Less than significant	Equal	Equal	Equal	Less	Equal
<b>4.15 Seismic/Geologic Hazards</b>						
1. The Proposed Project would have a significant impact if the rupture of a known earthquake fault, as delineated on the most recent Alquist-Prado Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault, or strong seismic ground shaking occurred.	Less than significant	Equal	Equal	Equal	Equal	Equal
2. The Proposed Project would have a significant impact if seismic-related ground failure, including liquefaction, occurred, or if it is located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	Less than significant	Equal	Equal	Equal	Equal	Equal
3. The Proposed Project would have a significant impact if it is located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating a substantial risk to life or property.	Less than significant	Equal	Equal	Equal	Equal	Equal
4. The Proposed Project would have a significant impact if there is the potential for tsunamis.	Less than significant	Equal	Equal	Equal	Equal	Equal
<b>4.16 Energy</b>						
1. The Proposed Project would have a significant impact if it increases the demand for energy resources to exceed the City's available supply or causes a need for new and expanded facilities.	Significant and unmitigable	Equal	Equal	Greater	Less	Equal

Table 5.1-1 (Cont.)

4.17 Population and Housing	Environmental Issue	Proposed Project Significance After Mitigation	No Project	Harbor Park	No Land Trade	Reduced Overall Density	Alternative Ditch Remediation
1. The Proposed Project would have a significant impact if it induces substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly, (for example, through extension of roads or other infrastructure).		Less than significant	Equal	Equal	Equal	Equal	Equal
2. The Proposed Project would have a significant impact if it displaces substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere.		Less than significant	Equal	Equal	Equal	Less	Equal

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2010-78

**EXHIBIT B**

**MITIGATION MONITORING AND  
REPORTING PROGRAM**

**for the**

**CHULA VISTA BAYFRONT MASTER PLAN**

**UPD #83356-EIR-658**

**SCH #2005081077**

*Prepared for:*

**SAN DIEGO UNIFIED PORT DISTRICT**

3165 Pacific Highway  
San Diego, California 92101

*Prepared by:*

**DUDEK**

605 Third Street  
Encinitas, California 92024

**MAY 2010**

**EXHIBIT "B"**



## 1.0 INTRODUCTION

This Mitigation Monitoring and Reporting Program ("MMRP") was prepared for the San Diego Unified Port District ("Port") for the Chula Vista Bayfront Master Plan ("Proposed Project") pursuant to Public Resources Code section 21081.6, which requires public agencies to adopt such programs to ensure effective implementation of mitigation measures. The MMRP will serve the purpose of verifying completion of the mitigation measures for the Proposed Project.

### Project Overview

The Proposed Project (Sweetwater Park Plan) comprises the following components:

- Amendments to the Port Master Plan (PMP); the City of Chula Vista General Plan; and the City's Local Coastal Program (LCP), which includes the Land Use Plan and Bayfront Specific Plan; and Multiple Species Conservation Program (MSCP) Chula Vista Subarea Plan
- A land exchange between the Port and Pacifica
- Redevelopment of the Sweetwater, Harbor, and Otay Districts with a variety of uses: park, open space, ecological buffers, cultural, recreational, residential, hotel and conference space, mixed-use office/commercial recreation, and retail. Redevelopment is expected to include a resort and conference center and proposed water uses such as a reconfigured marina basin and boat slips, a new commercial harbor, and realignment of the existing navigation channel.
- Redevelopment of the roadway system and infrastructure serving the Proposed Project area both on site and off site
- Demolition and/or relocation of existing uses to allow for the above redevelopment to occur subject to lease agreements.

Prominent characteristics of the Proposed Project include the establishment of three districts (Sweetwater, Harbor, and Otay), development of an RCC and other hotels, a signature park and other park and open space areas, a large ecological buffer, up to 1,500 residential units, mixed-use office/commercial recreation, retail, cultural uses, and reconfiguration of the existing Chula Vista Harbor. Several actions, including undergrounding of existing transmission lines, remediation of the L-Ditch and the former Goodrich South Campus land area, and demolition/relocation of the SDG&E switchyard (subject to the California Energy Commission (CEC) and California Public Utilities Commission (CPUC) actions), are being and/or would be separately addressed by the regulatory agencies responsible for their review and approval.

The project site (also referred to as the planning area) encompasses approximately 556 acres that includes 497 acres of land area and 59 acres of water area. This planning area has been divided into three districts—the Sweetwater District, the Harbor District, and the Otay District. The Sweetwater District (approximately 130 acres) proposes the lowest intensity development of the three districts and focuses on lower scale, environmentally sensitive and environmentally themed uses, including a large ecological buffer, a signature park, bike path, pedestrian trails, other open space areas, uses such as office/retail, hotel, parking for the Chula Vista Nature Center, and roadway and infrastructure improvements.

The Harbor District is most directly accessible to downtown Chula Vista and would be redeveloped to provide a significant link from the City to the Bayfront. It is composed of approximately 223 acres of land and approximately 59 acres of water. The Harbor District proposes the highest intensity development of the Proposed Project and encourages an active, vibrant mix of uses: hotels and conference space; bike path; park and other open space areas; a continuous waterfront promenade; residential uses; mixed-use retail, office, and cultural space; piers; and new roadways and infrastructure. Also proposed is a reconfiguration of the existing harbor to create a new commercial harbor, and realignment of the navigation channel.

The Otay District is composed of approximately 144 acres, and proposes medium intensity development that consists of industrial business park use (relocation of the existing switchyard), low cost visitor-serving recreational uses (such as a recreational vehicle park and a new South Park), other open space areas, an ecological buffer, stormwater retention basins, bike path, pedestrian trails, and new roadways and infrastructure.

The plan proposes to extend Chula Vista's traditional grid of streets to ensure pedestrian, vehicle, bicycle, transit, and water links. The Proposed Project also proposes a continuous open space system, fully accessible to the public, which would seamlessly connect the Sweetwater, Harbor, and Otay Districts through components such as a continuous shoreline promenade or baywalk and a continuous bicycle path linking the parks and ultimately creating greenbelt linkages. Significant park and other open space areas in each of the three districts are proposed along with a defined signature park and the creation of an active commercial harbor with public space at the water's edge. The plan would also enhance existing physical and visual corridors while adding new ones. Approximately 258 acres, or 46%, of the project site is proposed to be developed with hotel, retail, office, and other uses, including public street systems. Approximately 238 acres, or 43%, of the Project site is proposed to be open space, either in the form of natural habitat or public passive or active use parks. The remaining 59 acres, or 11%, of the Project site is proposed to be water area for the marina basins and new commercial harbor.

The illustrative map for the Proposed Project is shown in *Figure 3-8b* of the Final EIR. Proposed development is planned to occur in four phases over an approximate 24-year period

(approximately five years for Phases I and II; approximately five years for Phase III; and approximately 14 years for Phase IV). Phases I and II will consist of high-quality development and public improvements concentrated in the Sweetwater and Harbor Districts that will be the catalyst for surrounding public and private development in the Proposed Project. This phasing schedule, however, represents a best-case scenario and will be contingent upon and subject to many factors, such as availability and timing of public financing and construction of public improvements; terms of existing long-term leases; actual market demand for, and private financing of, proposed development; lease negotiations; approvals for, and demolition and/or relocation of, existing uses; approvals for new uses; and other approvals. The Port and City will enter into an agreement for the purpose of financing and development of the Proposed Project.

Phase I components, consisting of development on Parcels H-13, H-14, HP-5, and H-17, are analyzed in this report at a project-specific level and are identified in *Table 3-4* of the Final EIR. All other proposed Phase I components are analyzed at a programmatic level and are identified in *Table 3-5* in the Final EIR. Phases II, III, and IV components are also analyzed at a programmatic level and are identified in *Table 3-6* of the Final EIR. The nature and extent of additional environmental review, which may be required for Phases I, II, III, and IV projects analyzed at a programmatic level, will be determined pursuant to State CEQA Guidelines Section 15168.

Implementation of the Proposed Project will require discretionary approvals by State and local agencies as shown in *Table 3-1* of the Final EIR. Discretionary approvals include but are not limited to amendments to the PMP (adopted in 1981 and last amended in 2004), the Chula Vista LCP (which includes the LUP and Specific Plan), the City of Chula Vista General Plan, and the City of Chula Vista's MSCP, coastal development permits, a land exchange, and tentative maps.

### **The Final Environmental Impact Report (Final EIR)**

The Final Environmental Impact Report (Final EIR) evaluated the Proposed Project's potential to adversely affect a wide range of resources and impact categories, including land/water use compatibility; traffic and circulation; parking; aesthetics/visual quality; hydrology/water quality; air quality; noise; terrestrial biological resources; marine biological resources; cultural resources; paleontological resources; hazards and hazardous materials/public safety; public services; public utilities; seismic/geologic hazards; and energy. The Final EIR recommends feasible mitigation measures to avoid or substantially reduce these significant impacts. Pursuant to Public Resources Code Section 21011.6, the mitigation measures are included in this MMRP.

In response to public and agency comments on the Revised DEIR, the Port and the City engaged in extensive public outreach with many interested persons, organizations and agencies in a good faith attempt to address their concerns. As a result of these efforts, the Port and the City agreed

to implement a number of project design features and mitigation measures above and beyond those which are required to avoid or reduce the Proposed Project's significant impacts below a level of significance. Although these additional project design features and mitigation measures are not required by CEQA or any other applicable law or regulation, the Port and the City agreed to include them in this MMRP to facilitate their implementation and monitoring.

## **2.0 MITIGATION MONITORING AND REPORTING PROGRAM**

### **Program Procedural Guidelines**

Prior to the commencement of a development activity subject to a project design feature or mitigation measure contained in this MMRP, the parties responsible for implementing, monitoring and reporting the project design feature or mitigation measure shall meet to establish their respective responsibility and authority for each of the project design features or mitigation measures applicable to the proposed activity. The Port and/or the City shall provide the participants with a complete list of all project design features and mitigation measures in this MMRP which apply to the proposed activity. The participants shall review and confirm the performance, monitoring and reporting responsibilities for each applicable design feature and mitigation measure.

### **Actions in Case of Noncompliance**

There are generally three separate categories of noncompliance associated with the project design features and mitigation measures contained in this MMRP:

- Noncompliance that requires an immediate halt to a specific task or piece of equipment;
- Noncompliance that warrants an immediate corrective action but does not result in work or task delay; and
- Noncompliance that does not warrant immediate corrective action and results in no work or task delay.

There are a number of options the Port and/or the City may use to enforce this MMRP should noncompliance continue. These options include, but are not limited to, "stop work" orders, fines and penalties (civil), restitution, permit revocations, citations, and injunctions. Decisions regarding actions in case of noncompliance are the responsibility of the Port and/or the City.

### 3.0 MITIGATION MONITORING PROGRAM TABLE

Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.1-1	<p>Prior to the issuance of the first grading permit for activities that could impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall consult with the CCC to determine whether the proposed impact is allowed under the California Coastal Act. If the impact is not allowed, then a design shall be developed that avoids impacts to CCC jurisdictional wetlands. In the event that the CCC concurs that the impact to CCC jurisdictional wetlands is allowed, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands to provide 2:1 mitigation for the impact to CCC wetlands on Parcels HP-13B and HP-7. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, shall detail the target functions and values, and shall address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process and propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation, to ensure each area is successful. The restoration plan shall address monitoring requirements and shall specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report, and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p> <p>*Applies to Significant Impact 4.1-1.</p>	Port or Port Tenants – Prior to First Grading Permit	Port		
MM 4.1-2	<p>The Port or Port tenants, as appropriate, will need to mitigate impacts to the areas identified as seasonal pond, mapped as a CCC wetland at a 2:1 ratio.</p> <p>The Port or Port tenants, as appropriate, shall confer with the CCC in order to determine whether drainages mapped as a potential CCC wetland fall under CCC jurisdiction. If this area is not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the final development design must mitigate</p>	Port or Port Tenants – Prior to First Clearing or Grubbing Permit	Port in Consultation with the California Coastal Commission		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<p>impacts at a 2:1 ratio.</p> <p>Prior to the issuance of the first grading permit for projects that could impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall consult with the CCC to determine whether the proposed impact is allowed under the California Coastal Act. If the impact is not allowed, then a design shall be developed that avoids impacts to CCC jurisdictional wetlands. In the event that the CCC concurs that the impact to CCC jurisdictional wetlands is allowed, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, shall detail the target functions and values, and shall address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process and propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation, to ensure each area is successful. The restoration plan shall address monitoring requirements and shall specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p>				
MM 4.1-4	<p>*Applies to Significant Impacts 4.1-2 and 4.1-3.</p> <p>Prior to issuance of any permit for clearing, grubbing, or grading, the project applicant shall be required to obtain an HLIT Permit pursuant to Section 17.35 of the Chula Vista Municipal Code for impacts to Covered Species and Vegetation Communities protection under the City's MSCP Subarea Plan.</p> <p>*Applies to Significant Impact 4.1-6.</p>	<p>Project Applicant - Prior to First Cleaning or Grubbing Permit</p>	<p>City of Chula Vista, USFWS, and CDFG</p>		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.2-1	<p>Prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall:</p> <ul style="list-style-type: none"> <li>Construct H Street west of Marina Parkway as a 2-lane Class III Collector</li> <li>Construct E Street as a 2-lane Class III Collector along Parcel H-3. This would provide a connection to Lagoon Drive via Marina Parkway.</li> <li>Construct a traffic signal at H Street and RCC Truck Driveway.</li> </ul> <p>Prior to the issuance of building permits for any development on H-13 or H-14 in Phase I, the applicant shall:</p> <ul style="list-style-type: none"> <li>Rebuild that portion of Marina Parkway fronting H-13 and H-14 between Sandpiper Way and J Street as a 3-lane Class II Collector with excess ROW used for pedestrian facilities, or secure such construction to the satisfaction of the City engineer.</li> </ul> <p>Frontage improvements for the remaining segments of Marina Parkway J Street and Sandpiper Way will be constructed in conjunction with the development of the adjacent parcels to these frontages in subsequent phases.</p> <ul style="list-style-type: none"> <li>Construct Street A north of J Street would be constructed as a 2-lane Class III Collector, or secure such construction to the satisfaction of the City Engineer.</li> </ul> <p>This mitigation would reduce Significant Impact 4.2-1 to below a level of significance.</p> <p>*Applies to Significant Impact 4.2-1.</p>	<p>Port or Port Tenants - Prior to First Certificate of Occupancy</p> <p>Applicant - Prior to First Building Permit</p>	City Engineer		
MM 4.2-2	<p>Prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, Port or Port tenants, as appropriate, shall construct H Street from I-5 to Marina Parkway as a four-lane Major Street. This mitigation is provided in lieu of widening of F Street due to environmental constraints associated with the widening of F Street in the vicinity of G&amp;G Street Marsh. At the completion of the H Street Extension, the Port or Port tenants, as appropriate, shall also restrict access along the segment of Lagoon Drive/F Street (between Parcel H-3 and the BF Goodrich access on F Street) to emergency vehicle access only. This mitigation would reduce Significant Impact 4.2-2, 4.2-4, 4.2-6, 4.2-7, and 4.2-11 to below a level of significance.</p> <p>*Applies to Significant Impacts 4.2-2, 4.2-4, 4.2-6, 4.2-7, and 4.2-11.</p>	<p>Port or Port Tenants - Prior to First Certificate of Occupancy</p>	City Engineer		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.2-3	Prior to the issuance of any certificates of occupancy for any development on H-3 in Phase I, Port or Port tenants, as appropriate, shall widen H Street west of Marina Parkway from a two-lane Class III Collector to a three-lane Class II Collector. This mitigation would reduce Significant Impact 4.2-3 to below a level of significance.  *Applies to Significant Impact 4.2-3.	Port or Port Tenants -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-4	Prior to the issuance of certificates of occupancy for development on H-3 and building permits for any development on H-13 or H-14 in Phase I, the Port, Port tenant, or applicant, as appropriate, shall widen Bay Boulevard between E Street and F Street from a two-lane Class III Collector to a two-lane Class II Collector, or secure such widening to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 4.2-5 to below a level of significance.  *Applies to Significant Impact 4.2-5.	Port, Port Tenants, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-5	Prior to the issuance of building permits for any development on H-13 or H-14 in Phase I, the applicant shall construct a traffic signal at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-8 and 4.2-14 to below a level of significance.  *Applies to Significant Impacts 4.2-8 and 4.2-14.	Applicant -Prior to First Building Permit	City Engineer		
MM 4.2-6	Prior to the issuance of certificates of occupancy for development on H-3 or building permits on H-13 or H-14 for any development in Phase I, the Port, Port tenants, or applicants, as appropriate, shall construct a traffic signal at the intersection of L Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-9 and 4.2-15 to below a level of significance.  *Applies to Significant Impacts 4.2-9 and 4.2-15.	Port, Port Tenants, or Applicant -Prior to First Certificate of Occupancy	City Engineer		



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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.2-7	Prior to the issuance of certificates of occupancy for development on H-3 or building permits on H-13 or H-14 for any development in Phase I, the Port, Port tenants, or applicants, as appropriate, shall construct a traffic signal at the intersection of I-5 southbound ramps and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-10 and 4.2-16 to below a level of significance  *Applies to Significant Impacts 4.2-10 and 4.2-16.	Port, Port Tenants, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-9	Prior to the issuance of certificates of occupancy for any development on H-3 in Phase I, the Port or Port tenant, as appropriate, shall construct a westbound lane along H Street/RCC Driveway, which would result in widening H Street west of Marina Parkway to a three-lane Class II Collector. This mitigation would reduce Significant Impact 4.2-13 to below a level of significance.  *Applies to Significant Impact 4.2-13.	Port or Port Tenant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-11	Prior to the issuance of certificates of occupancy for development on H-23 in Phase I, the Port or Port tenant, as appropriate, shall construct Street A between H Street to Street C as a two-lane Class III Collector, and shall construct Street C between Marina Parkway and Street A as a two-lane Class II Collector. Implementation of this mitigation measure would reduce Significant Impact 4.2-20 to below a level of significance.  *Applies to Significant Impact 4.2-20.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-12	Prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall widen H Street between Street A and I-5 Ramps to a five-lane Major Street, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 4.2-21 to below a level of significance.  *Applies to Significant Impact 4.2-21.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-13	Prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall widen J Street between Street A to I-	Port, Port Tenant, or Applicant	City Engineer		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	5 Ramps to a six-lane Major Street, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 4.2-22 to below a level of significance.  *Applies to Significant Impact 4.2-22.	-Prior to First Certificate of Occupancy			
MM 4.2-14	Prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall widen Street A between Street C and J Street to a four-lane Class I Collector or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 4.2-23 to below a level of significance.  *Applies to Significant Impact 4.2-23.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-15	Prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a traffic signal and add an exclusive left-turn lane at each approach at the intersection of H Street and RCC Driveway, or secure such construction to the satisfaction of the City Engineer. The traffic signal and left-turn lanes shall be built to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-24 to below a level of significance.  *Applies to Significant Impact 4.2-24.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-16	Prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a westbound and eastbound through lane along J Street at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The lanes shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-25 to below a level of significance.  *Applies to Significant Impact 4.2-25.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-17	Prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a traffic signal at the intersection of H Street and Street A, or secure such construction to the satisfaction of the City Engineer. The traffic signal shall be constructed and operate to the satisfaction of	Port, Port Tenant, or Applicant -Prior to First Certificate of	City Engineer		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	the City Engineer. This mitigation would reduce Significant Impact 4.2-26 to below a level of significance.	Occupancy			
MM 4.2-18	<p>*Applies to Significant Impact 4.2-26.</p> <p>Prior to the issuance of certificates of occupancy for any development in Phase II of the development, the developer shall construct a traffic signal at the intersection of J Street and Marina Parkway. The traffic signal shall be constructed and operate to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-27 to below a level of significance.</p> <p>*Applies to Significant Impact 4.2-27.</p>	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-19	<p>Prior to the issuance of certificates of occupancy for any development in Phase II, the Port, Port tenant, or applicant, as appropriate, shall construct a traffic signal at the intersection of J Street and Street A and add an exclusive westbound right-turn lane along J Street and an exclusive southbound right-turn lane along Street A, or secure such construction to the satisfaction of the City Engineer. The traffic signal and turning lanes shall operate and be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-28 to below a level of significance.</p> <p>*Applies to Significant Impact 4.2-28.</p>	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-20	<p>Prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenants, or applicant, as appropriate shall construct the segment of Street A that would continue south from J Street, connecting to the proposed Street B in the Otay District, as a two-lane Class III Collector. In addition, prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenants, as appropriate shall construct the segment of Street B that would connect to the proposed Street A, bridge over the Telegraph Canyon Creek Channel, and continue south to Bay Boulevard, as a 2-lane Class III Collector. This mitigation would reduce Significant Impact 4.2-31 to below a level of significance.</p> <p>*Applies to Significant Impact 4.2-31.</p>	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.2-21	Prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenants, or applicant, as appropriate, shall widen Street A between H Street and Street C to a four-lane Class I Collector, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 4.2-32 to below a level of significance.  *Applies to Significant Impact 4.2-32.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-22	Prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenants, or applicant, as appropriate, shall construct an exclusive eastbound right-turn lane along J Street at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The turning lane shall be built to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-33 to below a level of significance.  *Applies to Significant Impact 4.2-33.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-23	Prior to the issuance of certificates of occupancy for any development in Phase III of the development, the Port, Port tenants, or applicant, as appropriate, shall construct an exclusive westbound right-turn lane along J Street at the intersection of J Street and I-5 NB Ramps, or secure such construction to the satisfaction of the City Engineer. The turning lane shall be built to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-34 to below a level of significance  *Applies to Significant Impact 4.2-34.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-24	Prior to the issuance of certificates of occupancy for any development in Phase III, the Port, Port tenants, or applicant, as appropriate, shall construct E Street from the RCC Driveway to Bay Boulevard as a two-lane Class III Collector. This mitigation would reduce Significant Impact 4.2-38 to below a level of significance  *Applies to Significant Impact 4.2-38.	Port, Port Tenants, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-25	Prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct a new F Street segment between the proposed terminus of the existing F Street and the proposed E Street	Port, Port Tenant, or Applicant -Prior to First	City Engineer		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	extension, ending at the SP-3 Chula Vista Nature Center parking lot, as a two-lane Class III collector street, which shall also contain a Class II bike lane on both sides of the street. This mitigation would reduce Significant Impact 4.2-39 to below a level of significance.  *Applies to Significant Impact 4.2-39.	Certificate of Occupancy			
MM 4.2-26	Prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall widen E Street between F Street and Bay Boulevard to a four-lane Class I Collector, or secure such construction to the satisfaction of the City Engineer. The additional roadway capacity would facilitate the flow of project traffic. Also, the widening of this segment of E Street would facilitate the flow of project traffic on Bay Boulevard between E Street to F Street. This mitigation would reduce Significant Impacts 4.2-40 and 4.2-41 to below a level of significance.  *Applies to Significant Impacts 4.2-40 and 4.2-41.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-27	Prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall widen H Street between I-5 Ramps and Broadway to a 6-lane Gateway Street. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 4.2-42 to below a level of significance. The off-site traffic improvements described in this mitigation measure for direct traffic impacts would create secondary traffic impacts. Improvements associated with these secondary impacts would be required as a result of cumulative and growth-related traffic overall, of which the Proposed Project would be a component. The Western Chula Vista TDIF identifies these improvements in a cumulative context and attributes fair share contributions according to the impact. Therefore, the Proposed Project would be responsible for a fair share contribution and would not be solely responsible for implementation of necessary secondary impact improvements.  *Applies to Significant Impact 4.2-42.	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.2-28	<p>Prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct an eastbound through lane and an exclusive eastbound right-turn lane along E Street at the intersection of E Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The lanes shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-43 to below a level of significance.</p> <p>*Applies to Significant Impact 4.2-43.</p>	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-29	<p>Prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct an exclusive southbound right-turn lane along Bay Boulevard at the intersection of J Street and Bay Boulevard, or secure such construction to the satisfaction of the City Engineer. The lane shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-44 to below a level of significance.</p> <p>*Applies to Significant Impact 4.2-44.</p>	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.2-30	<p>Prior to the issuance of certificates of occupancy for any development in Phase IV, the Port, Port tenant, or applicant, as appropriate, shall construct a dual southbound left-turn lane along Street A, or secure such construction to the satisfaction of the City Engineer. The lane shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 4.2-45 to below a level of significance.</p> <p>*Applies to Significant Impact 4.2-45.</p>	Port, Port Tenant, or Applicant -Prior to First Certificate of Occupancy	City Engineer		
MM 4.4-1	<p><b>A. View Protection:</b> As a condition for issuance of Coastal Development Permits, buildings fronting on H Street shall be designed to step away from the street. More specifically, design plans shall protect open views down the H Street Corridor by ensuring that an approximate 100-foot ROW width (curb-curb, building setbacks, and pedestrian plaza/walkway zone) remains clear of buildings, structures, or major landscaping. Visual elements above 6 feet in height shall be prohibited in this zone if the feature would reduce visibility by more than 10 percent. Placement of trees should take into account potential view blockage. This mitigation should not be interpreted to not allow tree masses; however, trees should be spaced in order to ensure "windows" through the landscaping. Trees should also be considered to help frame the views and they should</p>	Project Developer -Prior to First Coastal Development Permit	Port		

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	<p>be pruned to increase the views from pedestrians and vehicles, underneath the tree canopy. In order to reduce the potential for buildings to encroach upon view corridors, and to address the scale and massing impact, buildings shall step back at appropriate intervals or be angled to open up a broader view corridor at the ground plane to the extent feasible. All plans shall be subject to review and approval by the Port. All future development proposals shall conform to Port design guidelines and standards to the satisfaction of the Port.</p> <p><b>B. Height and Bulk:</b> Prior to issuance of Coastal Development Permits for projects within the Port's jurisdiction, the project developer shall ensure that design plans for any large scale projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, stepping back of buildings, and varied color schemes to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for large project components to diminish imposing building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the Port.</p> <p><b>C. Height and Bulk:</b> Prior to design review approval for properties within the City's jurisdiction, the project developer shall ensure that design plans for any large scale projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, and varied color schemes to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for the large project components to diminish imposing building edges, monotonous facades, and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the City of Chula Vista Planning Director.</p> <p><b>D. Landscaping:</b> Prior to final approval of Phase I infrastructure design plans, the Port and City shall collectively develop a master landscaping plan for the project's public components and improvements. The plan shall provide sufficient detail to ensure conformance to streetscape design guidelines and that future developers/tenants, as applicable, provide screening of parking areas.</p>	<p>Project Developer -Prior to First Coastal Development Permit</p> <p>Port</p> <p>Project Developer -Prior to Design Review Approval</p> <p>City</p> <p>Port and City -Prior to Final Approval of Phase I Design</p> <p>Port in Coordination with qualified Biologist or Landscape Architect</p>			

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	<p>Streetscape landscaping shall be designed to enhance the visitor experience for both pedestrians and those in vehicles. Specifically, detailed landscaping plans shall be developed to enhance Marina Parkway, a designated scenic roadway and shall provide, where appropriate, screening of existing industrial uses and parking areas until such time as these facilities are redeveloped.</p> <p>Street landscaping design shall be coordinated with a qualified biologist or landscape architect to ensure that proposed trees and other landscaping are appropriate for the given location. For instance, vegetation planted adjacent to open water/shoreline areas must not provide raptor perches. Landscaping shall be drought tolerant or low-water use, and invasive plant species shall be prohibited.</p> <p><b>E. Landscaping:</b> Prior to approval of a tentative map or site development plan for future residential development, the project developer shall submit a landscaping design plan for on-site landscaping improvements that is in conformance to design guidelines and standards established by the City of Chula Vista. The plan shall be implemented as a condition of project approval.</p> <p><b>F. Gateway Plan:</b> Concurrent with the preparation of Phase I infrastructure design plans for E and H Streets, a Gateway plan shall be prepared for E and H Streets. Prior to issuance of occupancy for any projects within the Port's jurisdiction in Phase I, the E and H Street Gateway plan shall be approved by the Port and City's Directors of Planning and Building. The E and H Street Gateway plan shall be coordinated with the Gateway plan for J Street.</p> <p><b>G. Gateway Plan:</b> Concurrent with development of Parcels H-13 and H-14, the applicant shall submit a Gateway plan for J Street for City Design Review consideration. Prior to issuance of any building permits, the J Street Gateway plan shall be approved by the Director of Planning and Building in coordination with the Port's Director of Planning. The J Street Gateway plan shall be coordinated with the Gateway plan for E and H Streets.</p>	<p>Project Developer -Prior to TM/SDP Approval</p> <p>City</p> <p>Applicant -Prior to Occupancy</p> <p>Port and City</p> <p>Applicant -Prior to First Building Permit</p> <p>Port and City</p>			

\*Applies to Significant Impacts 4.4-3, 4.4-4, 4.4-5, 4.4-7, and 4.4-8.



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MM 4.4-2	<p>Prior to design review approval, lighting design plans with specifications for outdoor lighting locations and other intensely lighted areas shall be submitted to the Port and City for review and approval. The specifications shall identify the lighting intensity needs and design light fixtures to direct light toward intended uses. Outdoor and parking lot lighting shall be shielded and directed away from adjacent properties, wherever feasible and consistent with public safety. Consideration shall be given to the use of low-pressure sodium lighting or the equivalent. The lighting plan shall illustrate the location of the proposed lighting standards and type of shielding measures. The lighting plan shall incorporate specific design features including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Where lighting must be used for safety reasons (FAA 2000 Advisory Circular), minimum intensity, maximum off-phased (3 second between flashes) white strobes shall be used.</li> <li>• All event lighting shall be directed downward and shielded, unless directed downward or shielded to minimize light spill beyond the area for which illumination is required.</li> <li>• Exterior lighting shall be limited to that which is necessary and appropriate to ensure general public safety and navigation, including signage for building identification and orientation.</li> <li>• Exterior lighting shall be directed downward and shielded to prevent upward lighting and to minimize light spill beyond the area for which illumination is required.</li> <li>• Office space, residential units, and hotel rooms shall be equipped with motion sensors, timers, or other lighting control systems to ensure that lighting is extinguished when the space is unoccupied.</li> <li>• Office space, residential unit and hotel rooms shall be equipped with blinds, drapes or other window coverings that may be closed to minimize the effects of interior night lighting.</li> <li>• Reflective glass or the application of reflective coatings shall not be used on any glass surface.</li> </ul>	Applicant -Prior to Design Review Approval	Port and City		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.5-1	As a condition of approval of a Tenant Design Plan for projects within the Port's jurisdiction and a condition of the approval of a Final Map for projects within the City's jurisdiction, the project applicant shall include trash control measures that include animal-proof, covered, and self-closing trash containers and trash control enclosures, with frequent servicing, to prevent litter from being wind blown off-site to the satisfaction of the Port/City as appropriate pursuant to their water quality technical reports.  *Applies to Significant Impact 4.5-1.	Applicant -Condition of Approval for Tentative Design Plan/Condition of Approval of Final Map	Port/City		
MM 4.5-2	A. Prior to the issuance of a grading permit, the applicant shall notify the RWQCB of dewatering of contaminated groundwater during construction. If contaminated groundwater is encountered, the project developer shall treat and/or dispose of the contaminated groundwater (at the developer's expense) in accordance with NPDES permitting requirements, which includes obtaining a permit from the Industrial Wastewater Control Program to the satisfaction of the RWQCB.  B. Prior to the discharge of contaminated groundwater for all construction activities, should flammables, corrosives, hazardous wastes, poisonous substances, greases and oils, and other pollutants exist on site, a pretreatment system shall be installed to pre-treat the water to the satisfaction of the RWQCB before it can be discharged into the sewer system.  *Applies to Significant Impact 4.5-2.	Project Applicant/ Developer -Prior to First Grading Permit  Project Developer -Prior to Construction groundwater discharge	RWQCB  RWQCB		
MM 4.5-3	Prior to the issuance of a grading, excavation, dredge/fill, or building permit for any Parcel, the applicant shall submit a Spill Prevention/Contingency Plan for approval by the Port or City as appropriate. The plan shall: <ul style="list-style-type: none"><li>• Ensure that hazardous or potentially hazardous materials (e.g., cement, lubricants, solvents, fuels, other refined petroleum hydrocarbon products, wash water, raw sewage) that are used or generated during the construction and operation of any project as part of the Proposed Project shall be handled, stored, used, and disposed of in accordance with NPDES permitting requirements and applicable federal, state, and local policies</li><li>• Include material safety data sheets</li><li>• Require 40 hours of worker training and education as required by the Occupational Safety and Health Administration</li></ul>	Applicant -Prior to First Grading Permit	Port or City		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<ul style="list-style-type: none"> <li>Minimize the volume of hazardous or potentially hazardous materials stored at the site at any one time</li> <li>Provide secured storage areas for compatible materials, with adequate spill containment</li> <li>Maintain all required records, manifest and other tracking information in an up-to-date and accessible form or location for review by the Port or City</li> <li>Demonstrate that all local, state, and federal regulations regarding hazardous materials and emergency response have been or will be complied with.</li> </ul>				
	*Applies to Significant Impact 4.5-3.				
MM 4.5-4	<p>A. Prior to issuance of a permit by USACE for dredge and/or fill operations in the Bay or Chula Vista Harbor, the applicant shall conduct a focused sediment investigation and submit it to USACE and RWQCB for review and approval. The applicant shall then determine the amount of bay sediments that requires remediation and develop a specific work plan to remediate bay sediments in accordance with permitting requirements of the RWQCB. The work plan shall include but not be limited to dredging the sediment, allowing it to drain, and analyzing the nature and extent of any contamination. Pending the outcome of the analytical results, a decision by RWQCB shall prescribe the requirements for disposition of any contaminated sediment.</p> <p>B. Prior to issuance of a grading permit for marina redevelopment on HW-1 and HW-4, the developer shall submit a work plan for approval by the RWQCB and Port/City that requires the implementation of BMPs, including the use of silt curtains during in-water construction to minimize sediment disturbances and confine potentially contaminated sediment if contaminated sediment exists. If a silt curtain should be necessary, the silt curtain shall be anchored along the ocean floor with weights (i.e., a chain) and anchored to the top with a floating chain of buoys. The curtain shall wrap around the area of disturbance to prevent turbidity for traveling outside the immediate project area. Once the impacted region resettles the curtains shall be removed. If the sediment would be suitable for ocean disposal, no silt curtain shall be required. However, if contaminants are actually present, the applicant would be required to provide to the RWQCB and Port/City an evaluation showing that the sediment would be suitable for ocean disposal.</p>	<p>Applicant</p> <p>-Prior to First USACE Permit for dredge/fill</p> <p>Developer</p> <p>-Prior to First Grading Permit</p>	<p>USACE and RWQCB</p> <p>RWQCB and Port/City</p>		
	*Applies to Significant Impact 4.5-4				

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.5-5	<p>Prior to the commencement of in-water construction for all phases of development, the Port or Port tenants shall adhere to regulatory requirements including the use of BMPs, which shall include use of silt curtains during all sediment suspension activities.</p> <p>* Applies to Significant Impact 4.5-5</p>	Port or Port Tenants -Prior to In-Water Construction	RWQCB		
MM 4.6-6	<p>Development of Program-level components of the Chula Vista Bayfront Master Plan (Phases I through IV) shall implement measures to reduce GHG emissions. Specific measures may include, but are not limited to the following:</p> <p><b>Energy Efficiency</b></p> <ul style="list-style-type: none"> <li>• Design buildings to be energy efficient. Site buildings to take advantage of shade, prevailing winds, landscaping, and sun screens to reduce energy use.</li> <li>• Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.</li> <li>• Install light colored "cool" roofs, cool pavements, and strategically placed shade trees.</li> <li>• Provide information on energy management services for large energy users.</li> <li>• Install energy-efficient heating and cooling systems, appliances and equipment, and control systems.</li> <li>• Install light emitting diodes (LEDs) for traffic, street, and other outdoor lighting.</li> <li>• Limit the hours of operation for outdoor lighting.</li> <li>• Use solar heating, automatic covers, and efficient pumps and motors for pools and spas.</li> <li>• Provide education on energy efficiency.</li> </ul> <p><b>Renewable Energy</b></p> <ul style="list-style-type: none"> <li>• Install solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating ventilation and air conditioning. Educate consumers about existing incentives.</li> <li>• Install solar panels on carports and over parking areas.</li> <li>• Use combined heat and power in appropriate applications.</li> </ul>	Project Developer -Conditions of Approval for Program Master Plan Developments	Port		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<p><u>Water Conservation and Efficiency</u></p> <ul style="list-style-type: none"> <li>• Create water-efficient landscapes.</li> <li>• Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.</li> <li>• Use reclaimed water for landscape irrigation in new developments and on public property where appropriate. Install the infrastructure to deliver and use reclaimed water.</li> <li>• Design buildings to be water efficient. Install water-efficient fixtures and appliances.</li> <li>• Use gray water. (Gray water is untreated household wastewater from bathtubs, showers, bathroom wash basins, and water from clothes washing machines.) For example, install dual plumbing in all new development allowing gray water to be used for landscape irrigation.</li> <li>• Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff.</li> <li>• Restrict the use of water for cleaning outdoor surfaces and vehicles.</li> <li>• Implement low-impact development practices that maintain the existing hydrologic character of the site to manage stormwater and protect the environment. (Retaining stormwater runoff on site can drastically reduce the need for energy-intensive imported water at the site.)</li> <li>• Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.</li> <li>• Provide education about water conservation and available programs and incentives.</li> </ul> <p><u>Solid Waste Measures</u></p> <ul style="list-style-type: none"> <li>• Reuse and recycle construction and demolition waste (including but not limited to soil, vegetation, concrete, lumber, metal, and cardboard).</li> <li>• Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.</li> <li>• Recover byproduct methane to generate electricity.</li> <li>• Provide education and publicity about reducing waste and available recycling services.</li> </ul>				

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<p><u>Transportation and Motor Vehicles</u></p> <ul style="list-style-type: none"> <li>• Limit idling time for commercial, non-refrigerated vehicles, including delivery and construction vehicles. Refrigerated delivery trucks may remain idling while at loading docks.</li> <li>• Use low or zero-emission vehicles, including construction vehicles.</li> <li>• Promote ride sharing programs; e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides.</li> <li>• Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling stations).</li> <li>• Provide public transit incentives, such as free or low-cost monthly transit passes.</li> <li>• For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting, including, e.g., locked bicycle storage or covered or indoor bicycle parking.</li> <li>• Institute a telecommuter work program. Provide information, training, and incentives to encourage participation. Provide incentives for equipment purchases to allow high-quality teleconferences.</li> <li>• Provide information on all options for individuals and businesses to reduce transportation-related emissions. Provide education and information about public transportation.</li> </ul> <p>The increased efficiency demands associated with completion years beyond 2020 are not specified in terms of business as usual reductions, but would demand substantially greater reductions than 20 percent below business as usual. While the measures listed above would substantially reduce projects GHG emissions, the level to which they would achieve these reductions cannot be ascertained as they may be modified by any applicable standards that are adopted in the future. Furthermore, because of the increased demand for greater reductions for developments beyond the 2020 horizon year and the rapid development of better technology, the mechanism and technological applications that may be available and necessary to avoid conflict with the goals or</p>				

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	strategies of AB 32 or related Executive Orders identification of adequate and effective measures is not feasible at this time.				
	*Applies to Significant Impact 4.6-7.				
MM 4.7-1	Construction-related noise shall be limited adjacent to the J Street Marsh during the typical breeding season of January 15 to August 31. Construction activity adjacent to these sensitive areas must not exceed 60 dB(A) Leq. at any active nest within the marsh. Prior to issuance of a building permit, the project developer shall prepare and submit to the City for review and approval an acoustical analysis and nesting bird survey to demonstrate that the 60 dB(A) Leq. noise level is maintained at the location of any active nest within the marsh. If the noise threshold is anticipated to be exceeded at the nest location, the project developer shall construct noise barriers or implement other noise control measures to ensure that construction noise levels do not exceed the threshold.	Project Developer -Prior to First Building Permit	City		
	*Applies to Significant Impact 4.7-1.				
MM 4.7-2	Prior to the approval of Design Review for the Pacifica project, the applicant shall submit a site plan for the project demonstrating to the satisfaction of the Director of Planning and Building of the City that outdoor use areas are not exposed to noise levels in excess of 65 dB(A) CNEL. Applicants shall submit project plans demonstrating that outdoor usable residential areas conform to the standards set by the City of Chula Vista General Plan.  Prior to issuance of building permits, the developer shall install noise barriers that would reduce sound levels to 65 dB(A) CNEL or below at outdoor usable areas on the Pacifica site. To preserve a view, glass or Plexiglas with a minimum density of 3.5 pounds per square foot may be substituted for other construction materials. The barrier locations, heights, and lengths for the Pacifica development, as summarized in <i>Table 4.7-15</i> and illustrated on <i>Figure 4.7-10</i> , would achieve these reductions.	Applicant -Prior to Design Review Approval  Developer -Prior to First Building Permit	City  City		

**TABLE 4.7-15  
Barrier Locations, Heights, and Lengths For Rooftop Parapet**

Barrier Location	Height (ft)	Length (ft)
<b>Rooftop Parapet</b>		
HD-1B: North Façade	5	224

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Number	Mitigation Measure		Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.7-3	HD-1B: East Façade	6	243			
	HD-2A: East/South Façades	5	313			
	HD-2B: North Façade	5	128			
	HD-2B: East Façade	6	188			
	HD-3A: East Façade	5	215			
	HD-3A: South Façade	5	350			
	HD-4A: East Façade	5	264			
	HD-4A: South Façade	5	336			
*Applies to Significant Impact 4.7-2.						
MM 4.7-3	Prior to the issuance of building permits for residential units adjacent to circulation element roadways in the Harbor District, the applicant shall perform and submit an acoustical analysis to the City, demonstrating that the proposed building plans provide interior noise levels due to exterior sources are 45 dB(A) CNEL or less in any habitable room. The analysis must also identify Sound Transmission Loss (STL) rates of each window.		Applicant -Prior to First Building Permit	City		
MM 4.7-4	*Applies to Significant Impacts 4.7-3 and 4.7-7.					
	Prior to the approval of Design Review for the Pacifica project, the applicant shall submit a design plan for the project demonstrating to the satisfaction of the City's Director of Planning and Building that the noise level from operation of mechanical equipment will not exceed 50 dB(A) Leq. at any property line. Noise control measures may include, but are not limited to, the selection of quiet equipment, equipment setbacks, silencers, and/or acoustical louvers. Such measures must be designed and installed so as to achieve a cumulative sound level from mechanical equipment that does not exceed 40 dB(A) at 50 feet from the building façades adjacent to Marina Parkway, Street C, and J Street or 54 dB(A) at 50 feet from the building façades facing Street A.		Applicant -Prior to Design Review Approval	City		
	Prior to the approval of Design Review for the Pacific project, the applicant shall prepare and submit to the City for review and approval an acoustical analysis and nesting bird survey to demonstrate that operation of mechanical equipment will not exceed the 60 dB(A) Leq. noise level at the location of any active nest within the J Street Marsh. If the		Applicant -Prior to Design Review Approval	City		



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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	noise threshold is anticipated to be exceeded at the nest location, the project developer shall construct noise barriers and/or implement noise control measures to maintain operational noise levels below the threshold.  *Applies to Significant Impact 4.7-4.				
MM 4.7-5	To avoid significant impacts to the F&G Street Marsh and reduce the construction noise level to 60 dB(A) or below, the developer of Parcel H-3 shall install and place a 20-foot-high temporary noise barrier or wall along the northeast project property line and returns along the east and west property lines. This mitigation would be necessary for construction activity occurring within 800 feet of the habitat during the extended breeding season. As demonstrated on <i>Figure 4.7-11</i> , the barrier must be of solid construction, with no gaps or cracks through or below the wall, and must have a minimum density of 3.5 pounds per square foot. The barrier must block line-of-sight between the source and receiver and be long enough to prevent flanking around the ends.  Prior to the start of construction, upon selection of a contractor and once specific equipment models and locations, phasing, and operational duration, etc. are known, a detailed analysis shall be conducted by the project developer and approved by the Port and/or City to determine proper placement of the temporary noise barrier.	Developer -Prior to start of construction	Port and/or City		
		Developer -Prior to start of construction	Port and/or City		
MM 4.7-6	*Applies to Significant Impact 4.7-5.  Prior to the approval of Design Review, the applicant shall submit a site plan for the project demonstrating to the satisfaction of the Director of Planning and Building of the City and the Port, that outdoor use areas are not exposed to noise levels in excess of 65 dB(A) CNEL. As part of CEQA review for subsequent execution of actions associated with project construction phases, applicants shall submit project plans demonstrating that outdoor usable residential areas conform to the standards set by the City of Chula Vista General Plan.  Prior to the issuance of building permits or certificates of occupancy, the developer shall install noise barriers that would reduce sound levels to 65 dB(A) CNEL or below at ground-level noise sensitive receptors on the project site. To preserve a view, glass or Plexiglas with a minimum density of 3.5 pounds per square foot may be substituted for	Applicant -Prior to Design Review Approval			
		Developer -Prior to First Building Permit or Certificate of Occupancy			

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	other construction materials.				
MM 4.7-7	<p>*Applies to Significant Impact 4.7-6.</p> <p>To avoid significant impacts to the F &amp; G Street Marsh and reduce the noise level at habitat to 60 dB(A) or below, the developer shall install a 3-foot-high noise barrier along the east right-of-way of E Street for the extent of the habitat, as shown on <i>Figure 4.7-12</i>. The barrier must be of solid construction, with no gaps or cracks through or below the wall, and have a minimum density of 3.5 pounds per square foot. The barrier must block line-of-sight between the source and receiver and be long enough to prevent flanking around the ends.</p>	Developer - Prior to start of construction	City		
MM 4.7-8	<p>*Applies to Significant Impact 4.7-8.</p> <p>To avoid significant construction-related noise impacts, the following measures shall be followed:</p> <ul style="list-style-type: none"> <li>Construction activity shall be prohibited Monday through Friday from 10:00 P.M. to 7:00 A.M., and Saturday and Sunday from 10:00 P.M. to 8:00 A.M., pursuant to the Chula Vista Municipal Code Section 17.24.050 (Paragraph J).</li> <li>All stationary noise generating equipment, such as pumps and generators, shall be located as far as possible from noise sensitive receptors, as practicable. Where practicable, noise-generating equipment shall be shielded from noise sensitive receptors by attenuating barriers or structures. Stationary noise sources located less than 200 feet from sensitive receptors shall be equipped with noise reducing engine housings. Water tanks, equipment storage, staging, and warm-up areas shall be located as far from noise sensitive receptors as possible.</li> <li>All construction equipment powered by gasoline or diesel engines shall have sound control devices at least as effective as those originally provided by the manufacturer; no equipment shall be permitted to have an unmuffled exhaust.</li> <li>Any impact tools used during demolition of existing infrastructure shall be shrouded or shielded, and mobile noise generating equipment and machinery shall be shut off when not in use.</li> <li>Construction vehicles accessing the site shall be required to use the shortest possible route to and from I-5, provided the route does not expose additional receptors to noise.</li> </ul>	Developer -During construction	City		

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	<ul style="list-style-type: none"> <li>Construction equipment shall be selected as those capable of performing the necessary tasks with the lowest sound level and the lowest acoustic height possible to perform the required construction operation.</li> <li>Construction equipment shall be operated and maintained to minimize noise generation. Equipment shall be kept in good repair and fitted with "manufacturer-recommended" mufflers.</li> </ul>				
MM 4.7-9	<p>*Applies to Significant Impacts 4.7-9 and 4.7-10.</p> <p>Construction-related noise shall be limited during the typical breeding season of January 15 to August 31 adjacent to the Sweetwater Marsh NWR and F&amp;G Street Marsh. The current accepted noise threshold is 60 dB(A) Leq.; thus construction activity shall not exceed this level, or ambient noise levels if higher than 60 dB(A) during the breeding season. If construction does occur within the breeding season or adjacent to the marshes, the project developer shall prepare and submit an acoustical analysis to the Port and/or City that shall determine whether noise barriers would be required to reduce the expected noise levels below the threshold. If noise barriers, construction activities, or other methods are unable to result in a level of noise below the threshold, construction in these areas shall be delayed until the end of the breeding season.</p>	Developer -Prior to start of construction	Port and/or City		
MM 4.8-1	<p>*Applies to Significant Impact 4.7-11.</p> <p>Prior to construction in any areas with suitable nesting locations for raptors (such as trees, utility poles, or other suitable structures) and, if grading or construction occurs during the breeding season for nesting raptors (January 15 through July 31), the project developer(s) within the Port's or City's jurisdiction shall retain a qualified, Port- or City-approved biologist, as appropriate, who shall conduct a pre-construction survey for active raptor nests. The pre-construction survey must be conducted no more than 10 calendar days prior to the start of construction, the results of which must be submitted to the Port or City, as appropriate, for review and approval. If an active nest is found, an appropriate setback distance will be determined in consultation with the applicant, Port or City, USFWS, and CDFG. The construction setback shall be implemented until the young are completely independent of the nest or the nest is relocated with the approval of the USFWS and CDFG. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all</p>	Developer(s) -Prior to start of construction	Port or City in Consultation with USFWS and CDFG		

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	major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint.				
	*Applies to Significant Impact 4.8-1.				
MM 4.8-2	Prior to construction in any areas with suitable nesting habitat for burrowing owl and, if grading or construction occurs during the breeding season for the burrowing owl (January 15 through July 31), the project developer(s) within the Port's or City's jurisdiction, as appropriate, shall retain a qualified biologist, who shall be approved by the Port or City, respectively, to conduct a pre-construction survey within all suitable habitat prior to any grading activities. The pre-construction survey must be conducted no more than 10 calendar days prior to the start of construction, the results of which must be submitted to the Port or City, as appropriate, for review and approval. If an active burrow is detected during the breeding season of January 15 to July 31, construction setbacks of 300 feet from occupied burrows shall be implemented until the young are completely independent of the nest. If an active burrow is found outside of the breeding season, or after an active nest is determined to no longer be active by a qualified biologist, the burrowing owl would be passively relocated according to the guidelines provided by CDFG (1995) and in coordination with CDFG. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint.	Developer(s) -Prior to start of construction	Port or City in Consultation with CDFG		
MM 4.8-3	*Applies to Significant Impact 4.8-2. If grading or construction occurs during the breeding season for migratory birds (January 15 through August 31), the project developer(s) shall retain a qualified biologist, approved	Developer -Prior to start of	Port or City in		

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	<p>by the Port/City (depending on the jurisdiction), to conduct a pre-construction survey for nesting migratory birds. The pre-construction survey must be conducted no more than 10 calendar days prior to the start of construction, the results of which must be submitted to the Port or City, as appropriate, for review and approval. If active nests are present, the Port will consult with USFWS and CDFG to determine the appropriate construction setback distance. Construction setbacks shall be implemented until the young are completely independent of the nest or relocated with the approval of the USFWS and CDFG. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint.</p>	<p>construction</p>	<p>Consultation with USFWS and CDFG</p>		
MM 4.8-4	<p>* Applies to Significant Impact 4.8-3.</p> <p>Prior to construction or grading in any areas of suitable nesting or foraging habitat for light-footed clapper rail, and, regardless of the time of year, the project developer(s) shall retain a qualified biologist who shall be approved by the Port or City, as appropriate, and shall be present during removal of southern coastal salt marsh vegetation within the inlet to the F &amp; G Street Marsh to ensure that there are no direct impacts to foraging light-footed clapper rails. If a light-footed clapper rail is encountered, construction will be temporarily halted until the bird leaves the area of construction. A bio-monitor shall be present on site during initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained. A bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. Depending on the sensitivity of the resources, the City and/or Port shall define the frequency of field inspections. The bio-monitor shall send a monthly monitoring letter report to the City and/or Port detailing observations made during field inspections. The bio-monitor shall also notify the City and/or Port immediately if clearing is done outside of the permitted project footprint. The project developer(s) shall consult with the U.S. Fish and Wildlife Service prior to impacting any</p>	<p>Developer -Prior to start of construction</p>	<p>Port or City in coordination with qualified biological monitor</p>		

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	<p>areas of suitable nesting or foraging habitat for light-footed clapper rail so as not to prevent any unauthorized take of the light-footed clapper rail. Any take must be authorized by U.S. Fish and Wildlife Service.</p> <p>*Applies to Significant Impact 4.8-4.</p>				
MM 4.8-5	<p>Prior to issuance of any clearing and grubbing or grading permits within the jurisdiction of the City, the project applicant within the City's jurisdiction shall be required to obtain a HLIT permit pursuant to Section 17.35 of the Chula Vista Municipal Code for impacts to Covered Species and Vegetation Communities protected under the City's MSCP Subarea Plan. In addition, the MSCP requires additional protective measures for the western burrowing owl, as identified in Mitigation Measure 4.8-2 above.</p> <p>*Applies to Significant Impact 4.8-5.</p>	<p>Applicant</p> <p>- Prior to First Clearing, Grubbing, or Grading Permit</p>	City		
MM 4.8-6	<p><b>A. Construction-related noise.</b> Construction-related noise shall be limited adjacent to the Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Refuge, F &amp; G Street Marsh, the mudflats west of the Sweetwater District, and the J Street Marsh during the general avian breeding season of January 15 to August 31. During the avian breeding season, noise levels from construction activities must not exceed 60 dB(A) Leq, or ambient noise levels if higher than 60 dB(A). The project developer(s) shall prepare and submit to the Port/City for review and approval an acoustical analysis and nesting bird survey to demonstrate that the 60 dB(A) Leq noise level is maintained at the location of any active nest within the marsh. If noise attenuation measures or modifications to construction activities are unable to reduce the noise level below 60 dB(A), either the developer(s) must immediately consult with the Service to develop a noise attenuation plan or construction in the affected areas must cease until the end of the breeding season. Because potential construction noise levels above 60 dB(A) Leq have been identified at the F &amp; G Street Marsh, specific noise attenuation measures have been identified and are addressed in Section 4.7 of the EIR.</p> <p><b>B. Perching of raptors.</b> To reduce the potential for raptors to perch within the landscaping and hunt sensitive bird species from those perches, the following design criteria shall be identified in the CVBMP master landscape plan and incorporated into all building and landscape plans with a line of site to the City's MSCP Preserve buffer zones, and on-site open space:</p>	<p>Developer</p> <p>-Prior to start of construction</p>	Port or City		
		<p>Developer</p> <p>-Prior to Design Review Approval</p>	Port or City		

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	<ul style="list-style-type: none"> <li>• Light posts shall have anti-perching spike strips along any portions that would be accessible to raptors.</li> <li>• The top edge of buildings shall be rounded with sufficient radius to reduce the amount of suitable perching building edges.</li> <li>• If building tops are hard corners, spike strips shall be used to discourage raptors from perching and building nests.</li> <li>• Decorative eaves, ledges, or other protrusions shall be designed to discourage perching by raptors.</li> <li>• To the extent practicable, buildings on Parcels S-1 and S-4 will be oriented to reduce raptor perches within the line of sight to adjacent sensitive habitats.</li> </ul> <p><b>C. Raptor management and monitoring.</b> Prior to the issuance of a Coastal Development Permit, the project developer shall prepare a raptor nest management plan to be implemented once the project is built. A biologist retained by the project developer and approved by the Port and/or City shall be responsible for monitoring the buildings and associated landscaping to determine whether raptor nests have been established on Port or City lands within 500 feet of the Preserves. If a nest is discovered, the nest would be removed in consultation with USFWS, CDFG, and the Port/City, outside of the raptor breeding season of January 15 to July 31.</p> <p><b>D. Lighting.</b> The following mitigation measure is required during all phases of development to ensure that outdoor lighting throughout the project area is minimized upon any of the habitat buffers, Preserve areas, habitats, or open water.</p> <p>Prior to issuance of a building permit, each applicant within the Port's or City's jurisdiction shall prepare a lighting design plan, including a photometric analysis, to be reviewed by the Port or City, as appropriate. Each plan shall include the following features, as appropriate to the specific locations:</p> <ul style="list-style-type: none"> <li>• All exterior lighting shall be directed away from the habitat buffers, Preserve Areas, habitats, or open water, wherever feasible and consistent with public safety. Where necessary, lighting of all developed areas adjacent to the habitat buffers, Preserve</li> </ul>	<p>Developer -Prior to First Coastal Development Permit</p> <p>Developer -Prior to First Building Permit</p>	<p>Port or City in Consultation with biological monitor, USFWS, and CDFG</p> <p>Port or City</p>		

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	<p>Areas, habitats, or open water shall provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the habitat buffers, Preserve Areas, habitats, or open water and sensitive species from night lighting. The light structure themselves shall have shielding (and incorporate anti-raptor perching criteria); but the placement of the light structures shall also provide shielding from wildlife habitats and shall be placed in such a way as to minimize the amount of light reaching adjacent habitat buffers, Preserve Areas, habitats, or open water. This includes street lights, pedestrian and bicycle path lighting, and any recreational lighting.</p> <ul style="list-style-type: none"> <li>• All exterior lighting immediately adjacent to habitat buffers, Preserve Areas, habitats, or open water shall be low-pressure sodium lighting or other approved equivalent.</li> <li>• No sports field lights shall be planned on the recreation fields near the J Street Marsh or the Sweetwater Marsh.</li> <li>• All roadways will be designed, and where necessary edges bermed, to ensure automobile light penetration in the Wildlife Habitat Areas, as defined in Mitigation Measure 4.8-7, will be minimized, subject to applicable City and Port roadway design standards.</li> <li>• Explicit lighting requirements to minimize impacts to Wildlife Habitat Areas will be devised and implemented for all Bayfront uses including commercial, residential, municipal, streets, recreational, and parking lots. Beacon and exterior flood lights are prohibited where they would impact a Wildlife Habitat Area and use of this lighting should be minimized throughout the project. All street and walkway lighting should be shielded to minimize sky glow.</li> <li>• To the maximum extent feasible, all external lighting will be designed to minimize any impact to Wildlife Habitat Areas, and operations and maintenance conditions and procedures will be devised to ensure appropriate long-term education and control. To the maximum extent feasible, ambient light impacts to the Sweetwater or J Street Marshes will be minimized.</li> <li>• In Sweetwater and Otay District parks, lighting will be limited to that which is necessary for security purposes. Security lighting will be strictly limited to that required by applicable law enforcement requirements. All lighting proposed for the Sweetwater and Otay District parks and the shoreline promenade will be placed only where needed for human safety. Lights will be placed on low-standing bollards, shielded, and flat bottomed, so the illumination is directed downward onto the</li> </ul>				



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	<p>walkway and does not scatter. Lighting that emits only a low-range yellow light will be used since yellow monochromatic light is not perceived as natural light by wildlife and minimized eco-disruptions. No night lighting for active sports facilities will be allowed.</p> <ul style="list-style-type: none"> <li>• Sweetwater and Otay District parks will open and close in accordance with Port park regulations.</li> <li>• Laser light shows will be prohibited.</li> <li>• Construction lighting will be controlled to minimize Wildlife Habitat Area impacts.</li> </ul> <p><b>E. Noise.</b></p> <p><b>Construction Noise.</b> Mitigation Measure 4.8-6, and the measures outlined in <i>Section 4.7, Noise</i>, shall be implemented in order to reduce potential indirect construction-noise impacts to sensitive species within the F &amp; G Street Marsh and J Street Marsh. In order to further reduce construction noise, equipment staging areas shall be centered away from the edges of the project, and construction equipment shall be maintained regularly and muffled appropriately. In addition, construction noise must be controlled to minimize impacts to Wildlife Habitat Areas.</p> <p><b>Operational Noise.</b> Noise levels from loading and unloading areas; rooftop heating, ventilation, and air conditioning facilities; and other noise-generating operational equipment shall not exceed 60 dBA Leq. at the boundaries of the F &amp; G Street Marsh and the J Street Marsh during the typical breeding season of January 15 to August 31.</p> <p><b>Fireworks.</b> A maximum of three (3) fireworks events can be held per year, all outside of Least Tern nesting season except 4<sup>th</sup> of July, which may be allowed if in full regulatory compliance and if the nesting colonies are monitored during the event and any impacts reported to the Wildlife Advisory Committee so they can be addressed. All shows must comply with all applicable water quality and species protection regulations. All shows must be consistent with policies, goals, and objectives in the Natural Resource Management Plan (NRMP), described in Mitigation Measure 4.8-7.</p> <p><b>F. Invasives.</b> All exterior landscaping plans shall be submitted to the Port or City, as appropriate, for review and approval to ensure that no plants listed on the California</p>	<p>Applicant -Prior to Design Review Approval</p>	City		

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	<p>Invasive Plant Council (Cal-IPC) List of Exotic Pest Plants of Greatest Ecological Concern in California (<i>Appendix 4.8-7</i> of this Final EIR), the California Invasive Plant Inventory Database, Appendix N of the City's MSCP Subarea Plan, or any related updates shall be used in the Proposed Project area. Any such invasive plant species that establishes itself within the Proposed Project area will be removed immediately to the maximum extent feasible and in a manner adequate to prevent further distribution into Wildlife Habitat Areas.</p> <p>The following landscape guidelines will apply to the Proposed Project area:</p> <ul style="list-style-type: none"> <li>• Only designated native plants will be used in No Touch Buffer Areas, habitat restoration areas, or in the limited and transitional zones of Parcel SP-1 adjacent to Wildlife Habitat Areas.</li> <li>• Non-native plants will be prohibited adjacent to Wildlife Habitat Areas and will be strongly discouraged and minimized elsewhere where they will provide breeding of undesired scavengers.</li> <li>• Landscaping plans for development projects adjacent to ecological buffers and/or the MSCP Preserve shall include native plants that are compatible with native vegetation located within the ecological buffers and/or MSCP Preserve.</li> <li>• No trees will be planted in the No Touch Buffer Areas or directly adjacent to a National Wildlife Refuge, J Street Marsh, or SP-2 areas where there is no Buffer Area.</li> </ul> <p>G. Toxic Substances and Drainage. Implementation of general water quality measures outlined in Mitigation Measures 4.5-2 through 4.5-4, identified in <i>Section 4.5, Hydrology/Water Quality</i>, would reduce impacts associated with the release of toxins, chemicals, petroleum products, and other elements that might degrade or harm the natural environment to below a level that is significant, and would provide benefits to wetland habitats. As a reference, these mitigation measures are repeated below and apply to the Port and City:</p> <ul style="list-style-type: none"> <li>• If contaminated groundwater is encountered, the project developer shall treat and/or dispose of the contaminated groundwater (at the developer's expense) in accordance</li> </ul>	Port/City	Port/City in Consultation with USFWS and CDFG		

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	<p>with NPDES permitting requirements, which includes obtaining a permit from the Industrial Wastewater Control Program to the satisfaction of the RWQCB. The project developer(s) shall demonstrate satisfaction of all permit requirements prior to issuance of a grading permit.</p> <ul style="list-style-type: none"> <li>• Prior to the discharge of contaminated groundwater for all construction activities, should flammables, corrosives, hazardous wastes, poisonous substances, greases and oils, and other pollutants exist on site, a pre-treatment system shall be installed to pre-treat the water to the satisfaction of the RWQCB before it can be discharged into the sewer system.</li> <li>• Prior to the issuance of a grading, excavation, dredge/fill, or building permit for any parcel, the applicant shall submit a Spill Prevention/Contingency Plan for approval by the Port or City as appropriate. The plan shall: <ul style="list-style-type: none"> <li>◦ Ensure that hazardous or potentially hazardous materials (e.g., cement, lubricants, solvents, fuels, other refined petroleum hydrocarbon products, wash water, raw sewage) that are used or generated during the construction and operation of any project as part of the Proposed Project shall be handled, stored, used, and disposed of in accordance with NPDES permitting requirements and applicable federal, state, and local policies</li> <li>◦ Include material safety data sheets</li> <li>◦ Require 40 hours of worker training and education as required by the Occupational Safety and Health Administration</li> <li>◦ Minimize the volume of hazardous or potentially hazardous materials stored at the site at any one time</li> <li>◦ Provide secured storage areas for compatible materials, with adequate spill containment</li> <li>◦ Maintain all required records, manifest and other tracking information in an up-to-date and accessible form or location for review by the Port or City</li> <li>◦ Demonstrate compliance with all local, state, and federal regulations regarding hazardous materials and emergency response.</li> </ul> </li> <li>• Prior to issuance of a permit by USACE for dredge and/or fill operations in the Bay or Chula Vista Harbor, the applicant shall conduct a focused sediment investigation and submit it to USACE, EPA, and RWQCB for review and approval. The applicant shall then determine the amount of bay sediment that requires remediation and develop a specific work plan to remediate bay sediments in accordance with permitting</li> </ul>				

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	<p>requirements of the RWQCB. The work plan shall include but not be limited to: dredging the sediment, analyzing the nature and extent of any contamination, and allowing it to drain. Pending the outcome of the analytical results, the RWQCB and the Port shall prescribe the appropriate method for disposition of any contaminated sediment.</p> <ul style="list-style-type: none"> <li>• Prior to issuance of a grading permit for manna redevelopment on Parcels HW-1 and HW-4, the developer shall submit a work plan for approval by the RWQCB and Port/City that requires the implementation of BMPs, including the use of silt curtains during in-water construction to minimize sediment disturbances and confine potentially contaminated sediment if contaminated sediment exists. If a silt curtain should be necessary, the silt curtain shall be anchored along the ocean floor with weights (i.e., a chain) and anchored to the top with a floating chain of buoys. The curtain shall wrap around the area of disturbance to prevent turbidity from traveling outside the immediate project area. Once the impacted region resettles, the curtains shall be removed. If the sediment would be suitable for ocean disposal, no silt curtain shall be required. However, if contaminants are actually present, the applicant would be required to provide to the RWQCB and Port/City an evaluation showing that the sediment would be suitable for ocean disposal.</li> <li>• In addition, the following measures will apply: <ul style="list-style-type: none"> <li>◦ Vegetation-based storm water treatment facilities, such as natural berms, swales, and detention areas are appropriate uses for Buffer Areas so long as they are designed using native plant species and serve dual functions as habitat areas. Provisions for access for non-destructive maintenance and removal of litter and excess sediment will be integrated into these facilities. In areas that provide for the natural treatment of runoff, cattails, bulrush, mulefat, willow, and the like are permissible.</li> <li>◦ Storm water and non-point source urban runoff into Wildlife Habitat Areas must be monitored and managed so as to prevent unwanted ecotype conversion or weed invasion. A plan to address the occurrence of any erosion or type conversion will be developed and implemented, if necessary. Monitoring will include an assessment of stream bed scouring and habitat degradation, sediment accumulation, shoreline erosion and stream bed widening, loss of aquatic species, and decreased base flow.</li> <li>◦ The use of persistent pesticides or fertilizers in landscaping that drains into</li> </ul> </li> </ul>				

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	<p>Wildlife Habitat Areas is prohibited. Integrated Pest Management must be used in all outdoor, public, buffer, habitat, and park areas.</p> <ul style="list-style-type: none"> <li>o Fine trash filters (as approved by the agency having jurisdiction over the storm drain) are required for all storm drain pipes that discharge toward Wildlife Habitat Areas.</li> </ul> <p><b>H. Public Access.</b> In addition to site-specific measures designed to prevent or minimize the impact to adjacent open space preserve areas from humans and domestic animals, the following would prevent or minimize the impact to adjacent open space preserve areas from humans and domestic animals.</p> <p><b>Buffers:</b> All buffers shall be established and maintained by the Port/City. Appropriate signage will be provided at the boundary and within the buffer area to restrict public access. Within the western 200-foot width of Parcel SP-1, a portion of the buffer areas would be re-contoured and restored to provide habitat consistent with the native vegetation communities in the adjacent open space preserve areas and to provide mitigation opportunities for project impacts. <i>Appendix 4.8-8</i> provides more specific detail of the mitigation opportunities available within the buffer area included within the Proposed Project. <i>Table 4.8-5</i> provides a breakdown of the available maximum mitigation acreage that is available within the buffer. <i>Figure 4.8-23</i> depicts the conceptual mitigation opportunities within the Sweetwater District. <i>Figures 4.8-24</i> and <i>4.8-25</i> display the cross section of the buffer zones in the Sweetwater District indicated on the conceptual illustration. <i>Figure 4.8-26</i> depicts the conceptual mitigation opportunities within the Otay District. The proposed restoration includes creating and restoring coastal salt marsh and creating riparian scrub vegetation communities. In addition, the coastal brackish marsh, disturbed riparian habitat, and wetland would be enhanced.</p> <p>The first 200 feet of buffer areas adjacent to sensitive habitats, or full width in the case of reduced buffer areas, will be maintained as a "no touch" buffer and will not contain any trails or overlooks. Fencing, consisting of a 6-foot-high vinyl-coated chain link fence will be installed within the buffer area to prevent unauthorized access. Fencing in Parcel SP-1 will be installed prior to occupancy of the first buildings constructed in Phase I. District enforcement personnel will patrol these areas and be trained in the importance of preventing human and domestic animal encroachment in these areas. In addition, signs will be installed adjacent to these sensitive areas that provide contact information for the</p>				

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	<p>Harbor Police to report trespassing within the sensitive areas.</p> <p align="center"><b>TABLE 4.8-5</b></p> <p align="center"><b>Potential Mitigation Acreage Available for Proposed Impacts to Vegetation Communities and Land Cover Types for Chula Vista Bayfront (acres)</b></p> <table border="1"> <thead> <tr> <th>Habitat</th><th>District/Area</th><th>Created</th><th>Restored</th><th>Enhanced</th><th>Total Credits</th></tr> </thead> <tbody> <tr> <td>Coastal salt marsh</td><td>Sweetwater</td><td>4.87</td><td></td><td></td><td>5.97</td></tr> <tr> <td></td><td>Otay</td><td>4.54</td><td></td><td></td><td>4.54</td></tr> <tr> <td>Coastal brackish marsh</td><td>Sweetwater</td><td></td><td></td><td>3.40</td><td>1.70</td></tr> <tr> <td>Riparian</td><td>Sweetwater</td><td></td><td></td><td>3.03</td><td>1.52</td></tr> <tr> <td></td><td>Otay</td><td>1.99</td><td></td><td></td><td>1.99</td></tr> <tr> <td>Coastal salt marsh</td><td>F &amp; G Street Marsh</td><td></td><td>5.02</td><td></td><td>5.02</td></tr> <tr> <td>Wetland</td><td>Sweetwater</td><td></td><td></td><td>2.14</td><td>1.07</td></tr> <tr> <td><b>TOTAL WETLAND/ACREAGE</b></td><td></td><td><b>11.40</b></td><td><b>5.02</b></td><td><b>8.57</b></td><td><b>25.00</b></td></tr> <tr> <td><b>TOTAL WETLAND/CREDITS*</b></td><td></td><td><b>11.40</b></td><td><b>5.02</b></td><td><b>4.29</b></td><td><b>20.71</b></td></tr> <tr> <td>CSS/Native Grassland Restoration</td><td>Sweetwater</td><td></td><td>17.73</td><td></td><td>17.73</td></tr> <tr> <td></td><td>Otay</td><td></td><td>1.99</td><td></td><td>1.99</td></tr> <tr> <td></td><td>F &amp; G Street Marsh</td><td></td><td>2.49</td><td></td><td>2.49</td></tr> <tr> <td><b>TOTAL UPLAND/ACREAGE</b></td><td></td><td><b>0</b></td><td><b>22.21</b></td><td><b>0</b></td><td><b>22.21</b></td></tr> <tr> <td><b>TOTAL UPLAND/CREDITS*</b></td><td></td><td><b>0</b></td><td><b>22.21</b></td><td><b>0</b></td><td><b>22.21</b></td></tr> </tbody> </table> <p>*Credits are based on an assumption that habitat creation and restoration will receive a 1:1 mitigation credit and enhancement will receive a 0.5:1 mitigation credit.</p> <p>Impacts to disturbed coastal sage scrub would be mitigated by the restoration of a coastal sage scrub/native grassland habitat also within this buffer. There is the potential to provide a maximum of 20.71 acres of mitigation credit for impacts to wetland habitats and 22.21 acres for impacts to upland habitats. This would exceed the required mitigation needed for impacts within the Port's and City's jurisdiction.</p> <p>A detailed coastal sage scrub (CSS) and maritime succulent scrub (MSS) restoration plan that describes the vegetation to be planted shall be prepared by a Port- or City-approved biologist and approved by the Port or City, as appropriate. The City or Port shall develop guidelines for restoration in consultation with USFWS and CDFG.</p>	Habitat	District/Area	Created	Restored	Enhanced	Total Credits	Coastal salt marsh	Sweetwater	4.87			5.97		Otay	4.54			4.54	Coastal brackish marsh	Sweetwater			3.40	1.70	Riparian	Sweetwater			3.03	1.52		Otay	1.99			1.99	Coastal salt marsh	F & G Street Marsh		5.02		5.02	Wetland	Sweetwater			2.14	1.07	<b>TOTAL WETLAND/ACREAGE</b>		<b>11.40</b>	<b>5.02</b>	<b>8.57</b>	<b>25.00</b>	<b>TOTAL WETLAND/CREDITS*</b>		<b>11.40</b>	<b>5.02</b>	<b>4.29</b>	<b>20.71</b>	CSS/Native Grassland Restoration	Sweetwater		17.73		17.73		Otay		1.99		1.99		F & G Street Marsh		2.49		2.49	<b>TOTAL UPLAND/ACREAGE</b>		<b>0</b>	<b>22.21</b>	<b>0</b>	<b>22.21</b>	<b>TOTAL UPLAND/CREDITS*</b>		<b>0</b>	<b>22.21</b>	<b>0</b>	<b>22.21</b>				
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Coastal salt marsh	F & G Street Marsh		5.02		5.02																																																																																										
Wetland	Sweetwater			2.14	1.07																																																																																										
<b>TOTAL WETLAND/ACREAGE</b>		<b>11.40</b>	<b>5.02</b>	<b>8.57</b>	<b>25.00</b>																																																																																										
<b>TOTAL WETLAND/CREDITS*</b>		<b>11.40</b>	<b>5.02</b>	<b>4.29</b>	<b>20.71</b>																																																																																										
CSS/Native Grassland Restoration	Sweetwater		17.73		17.73																																																																																										
	Otay		1.99		1.99																																																																																										
	F & G Street Marsh		2.49		2.49																																																																																										
<b>TOTAL UPLAND/ACREAGE</b>		<b>0</b>	<b>22.21</b>	<b>0</b>	<b>22.21</b>																																																																																										
<b>TOTAL UPLAND/CREDITS*</b>		<b>0</b>	<b>22.21</b>	<b>0</b>	<b>22.21</b>																																																																																										

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	<p>The restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish success criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions are expected. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months from the date the report is submitted.</p> <p>The project developer(s) shall be responsible for implementing the proposed mitigation measures and ensuring that the success criteria are met and approved by the City or Port, as appropriate, and other regulatory agencies, as may be required.</p> <p><b>Strategic Fencing.</b>  <u>Temporary Fencing.</u> Prior to issuance of any clearing and grubbing or grading permits, temporary orange fencing shall be installed around sensitive biological resources on the project site that will not be impacted by the Proposed Project. Silt fencing shall also be installed along the edge of the SDBNWR during grading within the western portion of the ecological buffer. In addition, the applicant must retain a qualified biologist to monitor the installation and ongoing maintenance of this temporary fencing adjacent to all sensitive habitat. This fencing shall be shown on both grading and landscape plans, and installation and maintenance of the fencing shall be verified by the Port's or City's Mitigation Monitor, as appropriate.</p> <p><u>Permanent Fencing.</u> Prior to approval of landscape plans, a conceptual site plan or fencing plan shall be submitted to the Port or City, as appropriate, for review and approval to ensure areas designated as sensitive habitat are not impacted. Fencing shall be provided within the buffer area only, and not in sensitive habitat areas.</p>				

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	<p><b>Domestic Animals.</b> In all areas of the Chula Vista Bayfront, especially on the foot path adjacent to the marsh on the Sweetwater District property, mandatory leash laws shall be enforced. Appropriate signage shall be posted indicating human and domestic animal access is prohibited within the designated Preserve areas.</p> <p><b>Trash.</b> Illegal dumping and littering shall be prohibited within the Preserve areas. Throughout the Proposed Project site, easily accessible trash cans and recycling bins shall be placed along all walking and bike paths, and shop walkways. These trash cans shall be "animal-proof" and have self-closing lids, to discourage scavenger animals from foraging in the cans. The trash cans shall be emptied daily or more often if required during high use periods. Buildings and stores shall have large dumpsters in a courtyard or carport that is bermed and enclosed. This ensures that, if stray trash falls to the ground during collection, it does not blow into the Bay or marshes.</p> <p><b>Training.</b> Pursuant to permitting requirements of the Resource Agencies, pre-construction meetings will take place with all personnel involved with the project, to include training about the sensitive resources in the area.</p> <p><b>I. Boating Impacts.</b> All boating, human and pet intrusion must be kept away from F &amp; G Street channel mouth and marsh.</p> <ul style="list-style-type: none"> <li>• Water areas must be managed with enforceable boating restrictions. The Port will exercise diligent and good faith efforts to enter into a cooperative agreement with the Resource Agencies and Coast Guard to ensure monitoring and enforcement of no-boating zones and speed limit restrictions to prevent wildlife disturbances.</li> <li>• No boating will be allowed in vicinity of the J Street Marsh or east of the navigation channel in the Sweetwater District during the fall and spring migration and during the winter season when flocks of bird are present.</li> <li>• All rentals of jet-skis and other motorized personal watercraft (PWCs), as defined in Harbors and Navigations Code Section 651(s) will be prohibited in the Proposed Project area.</li> <li>• Use of PWCs will be prohibited in Wildlife Habitat Areas, subject to applicable law.</li> <li>• A five (5) mile-per-hour speed limit will be enforced in areas other than the</li> </ul>				



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	<p>navigation channels.</p> <ul style="list-style-type: none"> <li>Nothing in this mitigation measure shall preclude bona fide research, law enforcement, or emergency activities.</li> </ul>				
MM 4.8-7	<p>*Applies to Significant Impacts 4.8-6 and 4.8-7.</p> <p>Mitigation Measure 4.8-7 is intended to provide additional measures to reduce further the indirect impacts to biological resources already addressed in and reduced to below a level of significance by Mitigation Measure 4.8-6. This additional measure provides for the creation, implementation, funding, and enforcement of a Natural Resources Management Plan ("NRMP"), good faith efforts to enter into a cooperative management agreement with the USFWS or other appropriate agency or organization, restoration priorities, the creation of a South Bay Wildlife Advisory Group, and education, as follows:</p> <p>A. Natural Resources Management Plan: In recognition of the sensitivity of the natural resources and the importance of protection, restoration, management and enforcement in protecting those resources, the Port, City and RDA will cause to be prepared an NRMP to be prepared in accordance with the mitigation measure. The NRMP will be designed to achieve the Management Objectives (defined below) for the Wildlife Habitat Areas (defined below). The NRMP will be an adaptive management plan, reviewed and amended as necessary by the Port and City in compliance with the process described in Section 4.8-7D of this measure.</p> <p>a. "Wildlife Habitat Areas" are defined as:</p> <ol style="list-style-type: none"> <li>All National Wildlife refuge lands, currently designated and designated in the future, in the South San Diego Bay and Sweetwater Marsh National Wildlife Refuge Units. National Wildlife Refuge lands are included in the definition of Wildlife Habitat Areas for the sole purpose of addressing adjacency impacts and not for the purpose of imposing affirmative resource management obligations with respect to the areas within the National Wildlife Refuge lands.</li> <li>All Port designated lands and open water areas in the Conservation Land Use Designations of Wetlands, Estuary, and Habitat Replacement as depicted in the Draft Precise Plan for Planning District 7.</li> <li>Parcels 1g and 2a from the City's Bayfront Specific Plan.</li> </ol>	<p>Port</p> <p>-Prior to start of construction</p>	Port		

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	<ul style="list-style-type: none"> <li>iv. The Wildlife Habitat Areas are depicted on Exhibit 1 to the MMRP.</li> <li>v. No Touch Buffer areas as depicted on Exhibit 2 to the MMRP.</li> <li>b. NRMP Management Objectives for Wildlife Habitat Areas: Taking into consideration the potential changes in functionality of Wildlife Habitat Areas due to rising sea levels, the NRMP will promote, at a minimum, the following objectives ("Management Objectives") for the Wildlife Habitat Areas:               <ul style="list-style-type: none"> <li>i. Long term protection, conservation, monitoring, and enhancement of:                   <ul style="list-style-type: none"> <li>1. Wetland habitat, with regard to gross acreage as well as ecosystem structure, function and value.</li> <li>2. Coastal sage and coastal strand vegetation.</li> <li>3. Upland natural resources for their inherent ecological values, as well as their roles as buffers to more sensitive adjacent wetlands. Upland areas in the Sweetwater and Otay Districts will be adaptively managed to provide additional habitat or protection to create appropriate transitional habitat during periods of high tide, taking into account future sea level rise.</li> </ul> </li> <li>ii. Preservation of the biological function of all Bayfront habitats serving as avifauna for breeding, wintering, and migratory rest stop uses.</li> <li>iii. Protection of nesting, foraging, and rafting wildlife from disturbance.</li> <li>iv. Avoidance of actions within the Proposed Project area that would adversely impact or degrade water quality in San Diego Bay or watershed areas or impair efforts of other entities for protection of the watershed.</li> <li>v. Maintenance and improvement of water quality where possible and coordination with other entities charged with watershed protection activities.</li> </ul> </li> <li>c. Implementation of NRMP Management Objectives: NRMP will include a plan for achieving Management Objectives as they related to the Buffer Areas and Wildlife Habitat Areas ("WHA's") and the Proposed Project area, which will:               <ul style="list-style-type: none"> <li>i. Ensure the Port, City and RDA are not required to expend funds for NRMP implementation until project-related revenues are identified and impacts initiated.</li> <li>ii. Require coordination with the Resource Agencies of the Port's City's and Resource Agencies' respective obligations with respect to the Buffer Areas and Wildlife Habitat Areas.</li> <li>iii. Designate "No Touch" Buffer Areas as that term is defined and described in this</li> </ul> </li> </ul>				

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	<p>Final EIR. Such areas will contain contiguous fencing designed specifically to limit the movement of domesticated, feral, and nuisance predators (e.g. dogs, cats, skunks, opossums and other small terrestrial animals [collectively, "Predators"]) and humans between developed park and No Touch Buffer Areas and Wildlife Habitat Areas. The fence will be at a minimum 6-foot high, black vinyl chain link fence or other suitable barrier (built to the specifications described in this Final EIR). Fence design may include appropriate locked access points for maintenance and other necessary functions. Installation of the fence will include land contouring to minimize visual impacts of the fence. The installation of such fencing in the Sweetwater and Harbor Districts must be completed prior to the issuance of Certificates of Occupancy for development projects on either Parcel H-3 or H-23 and in conjunction with the development or road improvements in the Sweetwater District, with the exception of Parcel S-4 which will retain the existing fencing until that parcel is redeveloped and the fencing of the No Touch Buffer installed.</p> <p>iv. Prohibit active recreation, construction of any road (whether paved or not), within No Touch Buffer Areas, Limited Use Buffer Areas, and Transition Buffer Areas as that term is defined and described in this Final EIR, with the exception of existing or necessary access points for required maintenance.</p> <p>v. Result in the fencing of No Touch Buffer Areas including, without limitation, fencing necessary to protect the Sweetwater Marsh and the Sweetwater parcel tidal flats, the J Street Marsh next to the San Diego Bay Refuge and the north side of Parcel H-3.</p> <p>vi. Include additional controls and strategies restricting movement of humans and Predators into sensitive areas beyond the boundaries of the designated Buffer Areas.</p> <p>vii. Require the Recreational Vehicle Park to install fencing or other barriers sufficient to prevent passage of Predators and humans into sensitive adjacent habitat.</p> <p>viii. Require all dogs to be leashed in all areas of the Proposed Project at all times except in any designated and controlled off-leash areas.</p> <p>ix. Impose and enforce restrictions on all residential development to keep cats and dogs indoors or on leashes at all times. Residential developments will be required to provide education to owners and/or renters regarding the rules and restrictions regarding the keeping of pets.</p>				

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	<p>d. Walkway and Path Design: Detail conditions and controls applicable to the walkways, paths, and overlooks near Wildlife Habitat Areas and outside of the No Touch Buffer Areas in accordance with the following:</p> <ul style="list-style-type: none"> <li>i. Alignment, design, and general construction plans of walkways and overlooks will be developed to minimize potential impacts to Wildlife Habitat Areas.</li> <li>ii. Path routes will be sited with appropriate setbacks from Wildlife Habitat Areas.</li> <li>iii. Paths running parallel to shore or marsh areas that will cause or contribute to bird flushing will be minimized throughout the Proposed Project.</li> <li>iv. Walkways and overlooks will be designed to minimize and eliminate, where possible, perching opportunities for raptors and shelter for skunks, opossums or other Predators.</li> <li>v. Walkways and overlooks that approach sensitive areas must be blinded, raised, or otherwise screened so that birds are not flushed or frightened. In general, walkway and overlook designs will minimize visual impacts on the Wildlife Habitat Areas of people on the walkways.</li> </ul> <p>e. Predator Management: The NRMP will include provisions designed to manage Predator impacts on Wildlife Habitat Areas which will include and comply with the following:</p> <ul style="list-style-type: none"> <li>i. Year-round Predator management will be implemented for the life of the Proposed Project with clearly delineated roles and responsibilities for the Port, City and Resources Agencies. The primary objective of such provisions will be to adequately protect terns, rails, plovers, shorebirds, over-wintering species, and other species of high management priority as determined by the Resource Agencies.</li> <li>ii. Predator management will include regular foot patrols and utilize tracking techniques to find and remove domestic or feral animals.</li> <li>iii. Address Predator attraction and trash management for all areas of the Proposed Project by identifying clear management measures and restrictions. Examples of the foregoing include design of trash containers, including those in park areas and commercial dumpsters, to be covered and self-closing at all times, design of containment systems to prevent access by sea gulls, rats, crows, pigeons, skunks, opossums, raccoons, and similar animals and adequate and frequent servicing of trash receptacles.</li> <li>iv. All buildings, signage, walkways, overlooks, light standards, roofs, balconies,</li> </ul>				

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	<p>ledges, and other structures that could provide line of sight views of Wildlife Habitat Areas will be designed in a manner to discourage their use as raptor perches or nests.</p> <p>f. Miscellaneous Additional Requirements of the NRMP: In addition to the standards described above, the NRMP will include:</p> <ul style="list-style-type: none"> <li>i. All elements which address natural resource protection in the MMRP including but not limited to those which assign responsibility and timing for implementing mitigation measures consistent with the City's MSCP Subarea Plan;</li> <li>ii. Pertinent sections of the MSCP Subarea Plan;</li> <li>iii. References to existing Port policies and practices, such as Predator management programs and daily trash collections with public areas and increase service during special events.</li> <li>iv. Establishment of design guidelines to address adjacency impacts, such as storm water, landscape design, light and noise and objectives ad discussed below;</li> <li>v. Establishment of baseline conditions and management objectives; and</li> <li>vi. Habitat enhancement objectives and priorities.</li> </ul> <p>g. Creation, Periodic Review, and Amendment of the NRMP: The NRMP will be a natural resource adaptive management and monitoring plan initially prepared in consultation with the Wildlife Advisory Group, and reviewed and amended in further consultation with the Wildlife Advisory Group one year following adoption of the NRMP and annually thereafter for the first five (5) years after adoption, after which it will be reviewed and amended as necessary every other year for the first 6 years, then once every 5 years thereafter. If the RCC is not pursued in the first five (5) years after certification of the FEIR, this schedule will be amended to ensure that NRMP is evaluated every year for five years after the development of the RCC. The periodic review of the NRMP described in the preceding sentences is hereinafter called "Periodic Review." A material revision of the NRMP is hereinafter called an "NRMP Amendment". However, nothing in this schedule will be interpreted to preclude a speedy response or revision to the NRMP if necessary to abate an emergency condition or to accommodate relevant new information or necessary management practices consistent with the NRMP management objectives. Preparation of the</p>				

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	<p>NRMP will begin within six months of the filing of the Notice of Determination for the Final EIR by the Port and will be completed prior to the earlier of: (a) Development Commencement; (b) issuance of a Certificate of Occupancy for the residential development; or (c) three years. The adaptive management components of the NRMP Periodic Review will address, among other things, monitoring of impacts of development as it occurs and monitoring the efficacy of water quality improvement projects (if applicable) and management and restoration actions needed for resource protection, resource threats, management (i.e., sea-level rise, trash, window bird strikes, lighting impacts, bird flushing, water quality, fireworks, human-wildlife interface, education and interpretation programs, public access, involvement, and use plan, management of the human-wildlife interface, wildlife issues related to facilities, trails, roads, overlooks planning, and watershed coordination), and other issues affecting achievement of NRMP Management Objectives.</p> <p>i. The Port and City will cause the preparation, consideration negotiation and approval of the NRMP including, staff and administrative oversight and engagement of such consultants as are reasonable and necessary for their completion, approval and amendment in accordance with this mitigation measure.</p> <p>ii. The Port and City will each provide a written notice of adoption to the Wildlife Advisory Group upon their respective approval of the NRMP.</p> <p>h. DISPUTE RESOLUTION FOR PLAN CREATION AND AMENDMENT. The NRMP and any material amendments to the NRMP will require submission, review, and approval by the CCC after final adoption by the Port and City. Nonetheless, the participants would benefit if the NRMP is developed through a meaningful stakeholder process providing for the resolution of as many disagreements as possible prior to NRMP submission to the CCC. This section provides a process by which the Coalition can participate in the creation and amendment of the NRMP.</p> <p>i. PLAN CREATION AND AMENDMENT. Where this mitigation measure contemplates the creation of the NRMP following the Effective Date or an NRMP Amendment, this section will provide a non-exclusive mechanism for resolution of disputes concerning the content of the NRMP and such NRMP Amendments. The standard of review and burden of proof for any disputes arising hereunder shall be the same as those under the California Environmental Quality Act.</p> <p>1. PLAN CREATION AND AMENDMENT INFORMAL NEGOTIATIONS. Any dispute that arises with respect to the creation or amendment of the NRMP will in</p>				

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	<p>the first instance be the subject of informal negotiations between the parties to the dispute. A dispute will be considered to have arisen when one (1) party (the "Disputing Party") sends the other party a written Notice of Dispute. During the informal negotiations, the Disputing Party will identify in writing and with specificity the issue, standard, or proposed requirement which is the subject of the dispute (the "Notice of Dispute"). The period for informal negotiations will not exceed thirty (30) days from the date the Notice of Dispute is received.</p> <p>2. PLAN CREATION AND AMENDMENT FORMAL DISPUTE RESOLUTION, PHASE I. In the event the Parties cannot resolve a dispute by informal negotiations, the Disputing Party may invoke formal dispute resolution procedures by providing the other parties a written statement of position on the matter in dispute, including, but not limited to, any facts, data, analysis or opinion supporting that position and any supporting documentation relied upon by the Disputing Party (the "Position Statement"). The Position Statement must be transmitted (via electronic mail or verifiable post) within thirty (30) days of the end of informal negotiations, and will be provided to the other parties and to each member of the Wildlife Advisory Group. If informal negotiations are unsuccessful, and the Disputing Party does not invoke formal dispute resolution within thirty (30) days, the position held by the Port, City or Agency (the respective public agency involved in such dispute is hereinafter called "Managing Agency") will be binding on the Disputing Party, subject to submission, review, and approval by the CCC.</p> <p>a. The other parties will submit their position statements ("Opposition Statements"), including facts, data, analysis or opinion in support thereof, to the Disputing Party and the Wildlife Advisory Group members within thirty (30) days of transmission of the Position Statement.</p> <p>b. Within twenty-one (21) days after transmission of the Opposition Statement(s), the Wildlife Advisory Group will convene, consider and, within a reasonable period of time thereafter, render its proposed resolution of the dispute. The Wildlife Advisory Group's decision will not be binding upon the Disputing Party, but rather, will be considered purely advisory in nature. The proposed resolution of the Wildlife Advisory Group will be that comprehensive recommendation supported by a majority of Wildlife Advisory Group members after vote, with each member entitled to one vote.</p>				

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	<p>The Wildlife Advisory Group's proposal will be transmitted to all parties by an appointed Wildlife Advisory Group member via electronic mail.</p> <p>3. PLAN CREATION AND AMENDMENT FORMAL DISPUTE RESOLUTION, PHASE II. If any party does not accept the advisory decision of the Wildlife Advisory Group, it must invoke the second phase of formal dispute resolution by presenting the dispute to the governing board ("Governing Board") of the Managing Agency (i.e., Board of Port Commissioners or City Council). This phase of the dispute resolution process is initiated by such party providing written notice to the other parties within thirty (30) days of receipt of the Wildlife Advisory Group proposal ("MA Notice"). The MA Notice will include the Position Statement, Opposition Statement, the Wildlife Advisory Group proposal, and any other information such party desires to include. Any supplement to the Opposition Statement will be filed with the Managing Agency within fourteen (14) days. The Governing Board of the Managing Agency will review the transmitted information and within sixty (60) days from receipt of the MA Notice will schedule a public hearing to consider the dispute and within ten (10) days of such public hearing, render a decision. The decision of the Governing Board of the Managing Agency will be final and binding on the Managing Agency but will not bind the members of the Coalition. If the members of the Coalition accept the decision of the Governing Board of the Managing Agency, the decision will dictate the manner in which the dispute is resolved in the NRMP or amendment to the NRMP. Nothing herein will preclude such party from publicly opposing or supporting the Governing Board's decision before the CCC.</p> <p>i. DISPUTE RESOLUTION REGARDING NRMP IMPLEMENTATION AND ENFORCEMENT. Once the CCC approves the NRMP or any NRMP Amendment, the Governing Board will issue a Notice of Adoption with respect to the NRMP or NRMP amendment. Once a Notice of Adoption is issued with respect to the NRMP or NRMP Amendment, this section will be the exclusive mechanism for the parties to resolve disputes arising under, or with respect to implementation or enforcement of, the NRMP including when the NRMP is reviewed during an Adaptive Management Review or Periodic Review and such review does not require an NRMP Amendment. This provision will not be used to challenge the adequacy of the NRMP or an NRMP Amendment after the issuance of a Notice of Adoption with respect thereto. The standard of review and burden of proof for any disputes arising hereunder shall be the</p>				



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	<p>same as those under CEQA.</p> <p>i. <b>PLAN ENFORCEMENT INFORMAL NEGOTIATIONS.</b> Any dispute that arises with respect to implementation or enforcement of the NRMP will in the first instance be the subject of informal negotiations between the parties to the dispute. A dispute will be considered to have arisen when one Disputing Party sends the other party a written Notice of Dispute. During the informal negotiations, the Disputing Party will send a written Notice of Dispute to the other parties specifying the aspect of the NRMP it believes is not being implemented properly and the way in which the Disputing Party believes the NRMP should be implemented according to its terms (the "Notice of Dispute"). The period for informal negotiations will not exceed forty-five (45) days from the date such Notice of Dispute is received.</p> <p>ii. <b>PLAN ENFORCEMENT FORMAL DISPUTE RESOLUTION, PHASE I.</b> In the event the Parties cannot resolve a dispute by informal negotiations under the preceding section, the Disputing Party may invoke a formal dispute resolution procedure by presenting the dispute to the Governing Board of the Managing Agency by providing the other parties a written statement of position on the matter in dispute, including, but not limited to, any facts, data, analysis or opinion supporting that position and any supporting documentation relied upon by the Disputing Party (the "Position Statement"). The Position Statement must be transmitted (via electronic mail or verifiable post) within thirty (30) days of the end of informal negotiations, and will be provided to the other parties, to each member of the Wildlife Advisory Group. If informal negotiations are unsuccessful, and the Disputing Party does not invoke formal dispute resolution within thirty (30) days, the Managing Agency's position will be binding on the Disputing Party subject to any periodic review and/or approval by the CCC, if required by law.</p> <p>1. The other parties will submit their position statements ("Opposition Statements"), including facts, data, analysis, or opinion in support thereof, to the Disputing Party, the Wildlife Advisory Group members, and the Governing Board within thirty (30) days of transmission of the Position Statement.</p> <p>2. Within forty-five (45) days after transmission of the Opposition Statement(s), the Disputing Party will provide a written notice ("MA II Notice") to the other parties, the Wildlife Advisory Group and the Governing Board. The MA II Notice will include the Position Statement, Opposition Statement, the Wildlife Advisory Group proposal, and any other information the Disputing Party desires to</p>				

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	<p>include. Any supplement to the Opposition Statement will be filed with the Managing Agency within fourteen (14) days following receipt of the MA II Notice. The Governing Board will review the transmitted information and within sixty (60) days from receipt of the MA II Notice will schedule a public hearing to consider the dispute and within ten (10) days of such public hearing, render a decision. The decision of the Governing Board will be final and binding on the Managing Agency but will not bind the members of Coalition. If the members of the Coalition accept the decision of the Governing Board of the Managing Agency, the decision will dictate the manner in which the dispute is resolved in the NRMP. If any member of the Coalition disagrees with the decision of the Governing Board, it shall have the right to seek a petition for writ of mandate from the Superior Court of California, San Diego Division.</p> <p>iii. <b>WAIVER OF DEFENSE.</b> To the extent permitted by law, the Port, City and RDA agree that lack of funds shall not be a defense to any claim of failure to adequately fund implementation and enforcement of the adopted NRMP.</p> <p><b>B. Additional Habitat Management and Protection:</b></p> <p>a. The Port will exercise diligent and good faith efforts to enter into the following cooperative agreements with the USFWS or other appropriate agency or organization:</p> <p>i. An agreement providing for the long-term protection and management of the sensitive biological habitat running north from the South Bay Boatyard to the Sweetwater River Channel (known as the Sweetwater Tidal Flats) and addressing educational signage, long-term maintenance, and additional protection measures such as increased monitoring and enforcement by Harbor Police, shared jurisdiction and enforcement by District personnel with legal authority to enforce applicable rules and regulations ("District Enforcement Personnel"), shared jurisdiction and enforcement by District Enforcement Personnel and other appropriate Resource Agencies of resource regulations, and placement of enforcement signage. Subject to the cooperation of the applicable Resource Agency, such cooperative agreement will be executed prior to the Development Commencement of any projects subject to Port's jurisdiction within the Sweetwater or Harbor Districts.</p> <p>ii. An agreement for the long-term protection and management of the J Street</p>				

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	<p>Marsh and addressing additional protective measures such as educational signage, long-term maintenance, and monitoring and enforcement by District Enforcement Personnel, shared jurisdiction and enforcement of resource regulations by District Enforcement Personnel and other Resource Agencies, and placement of enforcement signage. Subject to the cooperation of the applicable Resource Agency, such cooperative agreement will be executed prior to the Development Commencement within the Otay District.</p> <p>The Port will include an analysis of the appropriate level and method for wetland and marine life habitat restoration of the intake/discharge channels associated with the South Bay Power Plant in the environmental review document for the demolition of the South Bay Power Plant.</p> <p>iii. If either of the cooperative agreements contemplated above are not achievable within three (3) years after Final EIR certification, the Port will develop and pursue another mechanism that provides long-term additional protection and natural resource management for these areas.</p> <p>b. The Port will include an analysis of the appropriate level and method for wetland and marine life habitat restoration of the intake/discharge channels associated with the South Bay Power Plant in the environmental review document for the demolition of the South Bay Power Plant.</p> <p>c. As a future and separate project, the Port will investigate, in consultation with the USFWS, the feasibility of restoring an ecologically meaningful tidal connection between the F &amp; G Street Marsh and the upland marsh on parcel SP-2 consistent with USFWS restoration concepts for the area. At a minimum, the investigation will assess the biological value of tidal influence, the presence of hazardous materials, necessary physical improvements to achieve desired results, permitting requirements, and funding opportunities for establishing the tidal connection. This investigation will be completed prior to the initiation of any physical alteration of SP-2, F Street, and/or the F &amp; G Street Marsh. In addition, once emergency access to the Proposed Project area has been adequately established such that F Street is no longer needed for public right-of-way for vehicular use, but may reserve it for pedestrian and bicycle use if ecologically appropriate.</p>				

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	<p>C. Restoration Priorities: The following will supplement the description of the conceptual mitigation opportunities in the Final EIR (including Appendix 4.8-8 Mitigation Opportunities). The following restoration priorities will not be included in the NRMPP but rather will be applicable (i) if and only to the extent that Port or City are required to restore degraded habitat in accordance with the terms of the MMRP or (ii) to establish priorities for Port's pursuit of grant funding.</p> <p>a. Restoration priorities for the Proposed Project are those mitigation opportunities in the Final EIR as depicted in the conceptual mitigation opportunities (Figures 4.8-23 and 4.8-26) and the projects located in the South Bay in the Port's Adopted Restoration and Enhancement Plan.</p> <p>b. With the exception of the restoration described in Section (d) below, shoreline/marsh interface restorations in the Sweetwater and Otay Districts should be natural and gradually sloped and planted with salt marsh and upland transition plants in a manner that will stabilize the bank without the need for additional riprap areas. Upland slopes should be contoured to provide a very gentle grade so as to maximize tidal elevation of mudflats, salt marsh habitat and upland transition areas. This area should be wide enough to encourage or allow wildlife to move between the Sweetwater Marsh and the F &amp; G Marsh and between the J Street and the South San Diego Bay Unit of the NWR. The shoreline should be improved and restored to facilitate a more effective upland refuge area for species during high tides and to accommodate the impacts from global sea rise.</p> <p>c. The Telegraph Creek should be improved to be a more natural channel as part of the redevelopment of the Otay District. Efforts to naturalize and revegetate the creek will be maximized as is consistent with its function as a storm water conveyance.</p> <p>d. The Port will perform an analysis of the appropriate level and method for environmental restoration of the intake/discharge channels associated with the South Bay Power Plan in the environmental review document for the demolition of the power plant.</p> <p>D. South Bay Wildlife Advisory Group: A South Bay Wildlife Advisory Group ("Wildlife Advisory Group") will be formed to advise the Port and City in the creation of the NRMPP, cooperative management agreements, Adaptive Management Review</p>				

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	<p>(defined below) and any related wildlife management and restoration plans or prioritizations. The Wildlife Advisory Group will also address management issues and options for resolution. The Wildlife Advisory Group will initiate and support funding requests to the Port and City, identify priorities for use of these funds and engage in partnering, education, and volunteerism to support the development of the Proposed Project in a manner that effectively protects and enhances the fish, wildlife, and habitats of the area and educates and engages the public.</p> <ol style="list-style-type: none"> <li>Port and City will provide such administrative and staff support to the Wildlife Advisory Group as is necessary to perform the functions and achieve the goals described herein.</li> <li>The Wildlife Advisory Group will be comprised of the following: one (1) representative from each the Environmental Health Coalition, San Diego Audubon Society, San Diego Coastkeeper, Coastal Environmental Rights Foundation, Southwest Wetlands Interpretative Association, Surfrider Foundation (San Diego Chapter), and Empower San Diego; two (2) representatives from the Chula Vista Natural Center (one from educational programs and one from programs/operations); up to three (3) representatives from major developers or tenants with projects in the CVBMP (including one from Pacifica Companies, which on completion, may be succeeded by a representative of its homeowner association); one (1) representative from the City's Resource Conservation Commission; one (1) from either Harborside or Mueller elementary school or the School District; Western and Eastern Chula Vista residents selected by the City (one from Northwest one from the Southwest and one from east of I-805); one (1) representative from eco-tourism based business; two (2) individuals appointed by Port; and 6 representatives from Resources Agencies (two from the USFWS, one from Refuges and one from Endangered Species and one (1) each from California Department of Fish and Game, National Marine Fisheries Service, Regional Water Quality Control Board and CCC).</li> <li>The Wildlife Advisory Group will meet as needed, but at a minimum of every six months for the first ten (10) years and annually thereafter. The Wildlife Advisory Group will be formed within six months of the filing of the Notice of Determination for the FEIR by the Port.</li> <li>The Wildlife Advisory Group will meet at the intervals described above to review</li> </ol>				

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	<p>the NRMP to: (i) determine the effectiveness of the NRMP in achieving the Management Objectives; (ii) identify any changes or adjustments to the NRMP required to better achieve the Management Objectives; (iii) identify any changes or adjustments to the NRMP required to respond to changes in the man-made and natural environments that are affecting or, with the passage of time may affect, the effectiveness of the NRMP in achieving the Management Objectives; and (iv) review priorities relative to available funding. At its periodic meetings, the Wildlife Advisory Group may also consider and make recommendations regarding (x) implementation of the NRMP as needed, (y) Adaptive Management Review and (z) NRMP Amendments.</p> <p>e. The Wildlife Advisory Group will advise the joint powers authority (JPA) on the expenditure of the Community Benefits Fund, subject to the applicable law.</p> <p>E. Education: An environmental education program will be developed and implemented and will include the following:</p> <p>a. The program will continue for the duration of the Proposed Project and will target both residential and commercial uses as well as park visitors.</p> <p>b. The program's primary objective will be to educate Bayfront residents, visitors, tenants and workers about the natural condition of the Bay, the ecological importance of the Proposed Project area and the public's role in the restoration and protection of wildlife resources of the Bay.</p> <p>c. The program will include educational signage, regular seminars and interpretive walks on the natural history and resources of the area, regular stewardship events for volunteers (shoreline and beach cleanups, exotic plant removal, etc.).</p> <p>d. Adequate annual funding for personnel or contractor/consultant and overhead to ensure implementation of the following functions and activities in collaboration with the Chula Vista Nature Center or USFWS:</p> <ol style="list-style-type: none"> <li>Coordination of Volunteer programs and events;</li> <li>Coordination of interpretive and educational programs;</li> <li>Coordination of Tenant, resident and visitor educational programs;</li> <li>Docent educational; and</li> <li>Enhancements and restoration.</li> </ol>				

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	<p>F. Personnel and Funding: Funding for the implementation of the NRMP will be provided by the Port, City and RDA. To meet these obligations, the Port, City and RDA will commit revenues or otherwise provide funding to a JPA formed pursuant to the California Marks-Roos Act, Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code. Port, City and RDA will ensure the JPA is specifically charged to treat the financial requirements of this Agreement as priority expenditures that must be assured as project-related revenues are identified and impacts initiated. The Port, City and RDA expressly acknowledge the funding commitments contemplated herein will include, but not be limited to, funding for personnel and overhead or contractor(s)/consultant(s) to implement and ensure the following functions and activities:</p> <ul style="list-style-type: none"> <li>a. On-site management and enforcement for parks and Wildlife Habitat Areas as necessary to enforce restrictions on human and Predator access regarding Wildlife Habitat Areas;</li> <li>b. Enforcement of mitigation measures including, but not limited to, trash collection, noise restrictions, removal of invasive plants, habitat restoration, and park use restrictions;</li> <li>c. Coordination, development, implementation and evaluation of effectiveness of education and mitigation programs, including implementation of NRMP.</li> <li>d. Evaluation of effectiveness of bird strike mitigation and design measures;</li> <li>e. Water quality protections; and,</li> <li>f. Coordination of injured animal rehabilitation activities.</li> </ul> <p>*Applies to Significant Impacts 4.8-6 and 4.8-7.</p>				
MM 4.8-8	<p>Prior to construction of the H Street Pier, the Port shall create 0.96 acre of eelgrass habitat to mitigate for the loss of surface water foraging habitat in accordance with the Southern California Eelgrass Mitigation Policy. The creation of eelgrass habitat shall be conducted in accordance with Mitigation Measures 4.9-1 and 4.9-2 in <i>Section 4.9, Marine Biological Resources</i>.</p> <p>*Applies to Significant Impact 4.8-8.</p>	<p>Port</p> <p>-Prior to completion of construction</p>	Port		
MM 4.8-9	<p>A. Prior to completion of in-harbor work in Phase IV, the Port shall create 1.93 acres of</p>	Port or Port	Port in		

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	eelgrass habitat. The creation of eelgrass habitat shall be conducted in accordance with Mitigation Measure 4.9-2 in <i>Section 4.9, Marine Biological Resources</i> .	Tenants -Prior to start of grading	Consultation with wildlife agencies		
	B. When project-specific designs are proposed for the remaining project components affecting 1.61 acres of surface water foraging habitat and intertidal mudflats, the mitigation of impacts shall be re-evaluated by the Port during subsequent environmental review pursuant to State CEQA Guidelines Section 15168 to determine accurate net loss and mitigation for the loss of foraging habitat.	Port -Prior to start of grading	Port in Consultation with wildlife agencies		
	*Applies to Significant Impact 4.8-9.				



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MM 4.8-10	<p>A. Prior to the commencement of grading for development in each phase that impacts riparian habitat or sensitive vegetation communities, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a restoration plan for impacts to riparian habitat and sensitive vegetation communities in accordance with the mitigation requirements presented in <i>Table 4.8-6</i>.</p> <p>Prior to the commencement of Phase I grading that impacts riparian habitat or sensitive vegetation communities, the Port shall coordinate with the wildlife agencies for the preparation and approval of a detailed restoration plan within the Port's jurisdiction. The restoration plan shall be prepared by a qualified biologist, and the plan shall be approved by the Port. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies.</p> <p>B. Prior to initiating any construction activities in each phase that would affect riparian habitat or sensitive vegetation communities, including clearing and grubbing associated with program-level phases, an updated project-level assessment of potential impacts shall be made based on a specific project design. The Port or project developer(s), as appropriate, shall retain a qualified, Port-approved biologist to update appropriate surveys, identify the existing conditions, quantify impacts, and provide adequate</p>	<p>Developer</p> <p>-Prior to First Clearing, Grubbing, or Grading Permit</p>	City		

Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<p>mitigation measures to reduce impacts to below a level of significance. This updated assessment shall be submitted to the Port for review and approval.</p> <p>*Applies to Significant Impacts 4.8-10 and 4.8-12.</p>				
MM 4.8-11	<p>A. Prior to issuance of any clearing and grubbing or grading permits within the City's jurisdiction that would affect riparian habitat or sensitive vegetation communities, the project developer(s) shall acquire mitigation credits or prepare and initiate implementation of a restoration plan for impacts to riparian habitats and sensitive vegetation communities in accordance with the acreages identified in <i>Table 4.8.7</i>.</p> <p>Mitigation credits shall be secured in a City-approved mitigation bank or land acquisition shall be provided at an approved location. Verification of mitigation credits or a restoration plan shall be provided to the City for review and approval prior to issuance of any clearing and grubbing or grading permits.</p> <p>The project developer(s) shall prepare and implement a detailed restoration plan to the satisfaction of the City and the regulatory agencies. As previously addressed above in <i>Section 4.8.6, Mitigation Measures</i>, the guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season.</p>	<p>Port or Port Tenants -Upon Approval of Final Design</p> <p>Port or Port Tenants -Prior to start of grading</p>	<p>Port in Consultation with USACE</p> <p>Port in Consultation with USACE</p>		

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	<p>B. Prior to issuance of any clearing and grubbing or grading permits within the City's jurisdiction that affect riparian habitat or sensitive vegetation communities associated with the program-level development phases, an updated assessment of potential impacts shall be made based on a specific project design. The project developer(s) shall retain a City-approved biologist to update appropriate surveys, identify the existing conditions, quantify impacts, and provide adequate mitigation consistent with the City's MSCP Subarea Plan. This updated assessment shall be submitted to the City for review and approval.</p> <p>C. Prior to issuance of any clearing and grubbing or grading permits within the City's jurisdiction that affect riparian habitat or sensitive vegetation communities, the project applicant shall be required to obtain an HLIT permit pursuant to Section 47.35 of the Chula Vista Municipal Code for impacts to Covered Species and Vegetation Communities protected under the City's MSCP Subarea Plan.</p> <p>*Applies to Significant Impacts 4.8-13 and 4.8-15.</p>	<p>Developer -Prior to First Clearing, Grubbing and Grading Permit</p> <p>Developer -Prior to First Clearing, Grubbing, and Grading Permit</p>	<p>City in Consultation with USACE</p> <p>City in Consultation with USACE</p>		
MM 4.8-12	<p>A. The Port or Port tenants, as appropriate, shall mitigate for permanent and temporary impacts to USACE jurisdictional waters at the following ratios: 1:1 for permanent impacts to non-wetland waters of the U.S.; 4:1 for impacts to wetlands; and 1:1 for all temporary impacts. A minimum of 1:1 mitigation must be created in order to achieve the no-net-loss requirement of the CWA. <i>Table 4.8-8</i> provides a breakdown of the required mitigation acreages for all USACE impacts within the Port's jurisdiction. Mitigation for impacts from the Bay and Marina components of the Proposed Project will be established through USACE regulations once final designs for this work in Phases II through IV are finalized.</p> <p>Prior to the commencement of grading activities for any projects that impact USACE jurisdictional waters, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a restoration plan detailing the measures needed to achieve the necessary mitigation. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria</p>	<p>Port or Port Tenants -Prior to First Grading Permit</p>	<p>Port in Consultation with CDFG</p>		

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	<p>may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies.</p> <p>B. Prior to the issuance of the first clearing and grubbing or grading permit for activities that impact USACE jurisdictional waters, the project developer(s) within the City's jurisdiction shall prepare a restoration plan detailing the measures needed to create/restore impacts to USACE jurisdictional waters within the City's jurisdiction in accordance with the acreage identified in <i>Table 4.8-9</i>. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques; planting palettes; implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The project developer(s) shall be required to implement the restoration plan subject to the oversight and approval of the City.</p>	<p>Port or Port Tenants -Prior to First Grading Permit</p>	<p>CDFG</p>		

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	<p>C. Prior to issuance of the first clearing and grubbing or grading permit, for activities that impact USACE jurisdictional waters, the Port or Port tenants, as appropriate, and project developer(s) within the City's jurisdiction shall obtain a Section 404 permit from USACE. The permit application process would also entail approval of the restoration plan from the USACE as described above, with regard to areas that fall under the jurisdiction of USACE.</p> <p>*Applies to Significant Impacts 4.8-16 through 4.8-19.</p>	Port or Port Tenants -Prior to First Grading Permit	CDFG		
MM 4.8-13	<p>The Port or Port tenants, as appropriate, shall mitigate for permanent and temporary impacts to CDFG jurisdictional areas at a 2:1 ratio. <i>Table 4.8-8</i> provides a breakdown of the required mitigation acreages for all CDFG impacts within the Port's jurisdiction.</p> <p>Prior to the issuance of the first grading permit that may impact CDFG jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a restoration plan detailing the measures needed to achieve the necessary mitigation. The plan shall outline the timeline and procedures for restoring/enhancing the potential enhancement/mitigation sites, which include the native buffer areas and the F &amp; G Street Marsh. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including CDFG.</p>	Port or Port Tenants -Prior to start of grading	Port in Consultation with California Coastal Commission		

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	<p>Prior to issuance of the first grading permit that may impact CDFG jurisdictional areas, the Port or Port tenants, as appropriate, shall obtain permits from CDFG. The permit application process would also entail approval of the restoration plan as described above, with regard to areas that fall under the jurisdiction of CDFG. Pursuant to Fish and Game Code 1602, the Port and other applicants are required to obtain a Streambed Alteration Agreement for impacts to streambeds and associated riparian habitat that fall within CDFG's jurisdiction.</p> <p><i>*Applies to Significant Impact 4.8-21.</i></p>				
MM 4.8-14	<p><b>A.</b> Mitigation for permanent direct and indirect (from bridge shading) impacts would be at a 2:1 ratio as detailed in <i>Table 4.8-8</i>.</p> <p>Prior to the commencement of grading activities for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p>	<p>Port or Port Tenants -Prior to start of grading</p>	<p>Port in Consultation with California Coastal Commission</p>		

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	<p>B. Mitigation for permanent direct and indirect (from bridge shading) impacts would be at a 2:1 ratio as detailed in <i>Table 4.8-9</i>.</p> <p>Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the project applicants within the City's jurisdiction shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The City shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the City in consultation with the regulatory agencies, including the CCC.</p> <p><i>*Applies to Significant Impacts 4.8-22, 4.8-23, 4.8-32.</i></p>	<p>Port or Port Tenants</p> <p>-Prior to Approval of Grading Permits</p>	<p>California Coastal Commission</p>		
MM 4.8-15	<p>Mitigation for permanent direct and indirect (from bridge shading) impacts from circulation road construction/improvements and the riprap removal and bulkhead replacement totaling 0.51 acre would be at a 2:1 ratio as detailed in <i>Table 4.8-8</i>. This would require a total mitigation of 1.02 acres. Mitigation for temporary impacts within Parcel OP-2B from the re-channelization of the Telegraph Canyon Channel would require mitigation at a ratio of 1:1 as detailed on <i>Table 4.8-8</i> for a total of 0.16 acre.</p> <p>Prior to the commencement of grading activities, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC</p>	<p>Port or Port Tenants</p> <p>-Prior to First Grading Permit</p>	<p>Port in Consultation with California Coastal Commission</p>		

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	<p>wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. <i>A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</i></p> <p>Prior to approval of grading permits for projects impacting CCC wetlands, the Port or Port tenants, as appropriate, shall obtain permits and/or approvals from CCC.</p> <p><i>*Applies to Significant Impacts 4.8-24 through 4.8-26.</i></p>				
MM 4.8-16	<p>Mitigation for temporary impacts from the restoration of the ecological buffer would require mitigation at a ratio of 1:1 as detailed on <i>Table 4.8-8</i>. The ecological buffer area supports 0.05 acre that has been mapped as a CCC wetland and will require 0.05 acre of mitigation. There is an additional 0.04 acre that is mapped as a potential CCC wetland and 1.50 acres that are former industrial areas in the process of remediation. The Port or Port tenants, as appropriate, will need to confer with CCC in order to determine whether the areas of potential jurisdiction, totaling 1.54 acres, actually fall under CCC jurisdiction. If these areas are not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the restoration will need to include the creation/enhancement of an additional 1.54 acres of CCC wetlands.</p>	Port or Port Tenants -Prior to First Grading Permit	Port in Consultation with California Coastal Commission		



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	<p>Prior to the issuance of the first grading permit for activities that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p>				
MM 4.8-17	<p>*Applies to Significant Impact 4.8-27.</p> <p>The Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the 0.58 acre of areas fall under CCC jurisdiction. If these areas are not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the Port will need to mitigate the impacts at a ratio of 2:1 as detailed in <i>Table 4.8-8</i> for a total mitigation of 1.16 acres.</p> <p>Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection</p>	Port or Port Tenants -Prior to First Grading Permit	Port in Consultation with California Coastal Commission		

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	<p>process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p>				
MM 4.8-18	<p><i>*Applies to Significant Impact 4.8-28.</i></p> <p>Prior to the issuance of the first grading permit for activities that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands to provide 0.32 acre of mitigation for the 0.16 acre impact to CCC wetlands on Parcels HP-13B and HP-7. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success</p>	<p>Port or Port Tenants -Prior to First Grading Permit</p>	<p>Port in Consultation with California Coastal Commission</p>		

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	<p>criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p> <p>*Applies to Significant Impact 4.8-29.</p>				
MM 4.8-19	<p>The Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the 0.16 acre of areas identified as potentially CCC jurisdictional actually fall under CCC jurisdiction. If these areas are not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the Port will need to mitigate the impacts at a ratio of 2:1 as detailed in <i>Table 4.8-8</i> for a total mitigation of 0.32 acre.</p> <p>Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p> <p>*Applies to Significant Impact 4.8-30.</p>	<p>Port or Port Tenants -Prior to First Grading Permit</p>	<p>Port in Consultation with California Coastal Commission</p>		
MM 4.8-20	<p>The Port or Port tenants, as appropriate, will need to mitigate impacts to the 0.10-acre seasonal pond, mapped as a CCC wetland, at a 2:1 ratio.</p>	<p>Port or Port Tenants</p>	<p>Port in Consultation</p>		

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	<p>The Port or Port tenants, as appropriate, shall confer with CCC in order to determine whether the 2.37-acre depressed area that exists where the LNG plant was formerly located, mapped as a potential CCC wetland, falls under CCC jurisdiction. If this area is not subject to CCC jurisdiction, no additional mitigation would be required. If CCC does assert jurisdiction over these areas, the final Phase II design of this parcel must mitigate impacts the 2.37-acre depressed area at a 2:1 ratio.</p> <p>Prior to the issuance of the first grading permit for projects that impact CCC jurisdictional areas, the Port or Port tenants, as appropriate, shall prepare a restoration plan detailing the measures needed to create/restore CCC wetlands. The guidelines for this plan will be developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The Port shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the Port in consultation with the regulatory agencies, including the CCC.</p> <p>*Applies to Significant Impact 4.8-31.</p>	-Prior to First Grading Permit	with California Coastal Commission		
MM 4.8-21	<p>A. Prior to the commencement of grading activities for project components impacting RWQCB jurisdictional waters, the Port or Port tenants, as appropriate, shall prepare and implement a restoration plan detailing the measures needed to create/restore RWQCB jurisdictional waters in accordance with the acreage identified in <i>Table 4.8-8</i>.</p>	Port or Port Tenants -Prior to start of grading	RWQCB		

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	<p>B. Prior to the issuance of the first grading permit for project components impacting RWQCB jurisdictional waters, the project developer(s) within the City's jurisdiction shall prepare and implement a restoration plan detailing the measures needed to create/restore RWQCB jurisdictional waters in accordance with the acreage identified in Table 4.8-8 to the satisfaction of the City. The guidelines for this plan will be developed in consultation with the regulatory agencies.</p> <p>C. Prior to the commencement of grading activities for project components impacting RWQCB jurisdictional waters, the Port or Port tenants, as appropriate, and applicants within the City's jurisdiction shall obtain permits from RWQCB. The permit application process would also entail approval of the restoration plan as described above. Pursuant to the CWA, the Port and other applicants are required to obtain a Section 401 Water Quality Certification permit from RWQCB.</p> <p>D. Prior to the commencement of grading activities for project components impacting RWQCB jurisdictional waters, including clearing and grubbing, the Port or Port tenants, as appropriate, and the project developer(s) within the City's jurisdiction shall consult with the RWQCB to determine whether Waste Discharge Requirements from the RWQCB shall be required for impacts to isolated waters of the State of California.</p>	<p>Developer -Prior to First Grading Permit</p> <p>Port or Port Tenants -Prior to start of grading</p> <p>Port or Port Tenants -Prior to start of grading</p>	<p>City in Consultation with RWQCB</p> <p>City in Consultation with RWQCB</p> <p>City in Consultation with RWQCB</p>		
MM 4.8-22	<p>* Applies to Significant Impact 4.8-34.</p> <p>A. Prior to issuance of any clearing and grubbing or grading permits for projects that impact City of Chula Vista designated wetlands, the project developer(s) shall acquire mitigation credits or prepare and initiate implementation of a restoration plan for Phase I impacts to mulefat scrub/riparian scrub at a ratio of 2:1 and southern coastal salt marsh at a ratio of 4:1. Mitigation credits shall be secured in a City-approved mitigation bank or other approved location. Verification of mitigation credits or an approved restoration plan shall be provided to the City prior to issuance of any clearing and grubbing or grading permits. Alternatively, completion of Mitigation Measure 4.8-11 will satisfy this mitigation measure as well.</p> <p>The project developer(s) shall prepare and implement a detailed restoration and enhancement plan to the satisfaction of the City for impacts to wetland resources protected under the City's MSCP Subarea Plan. The guidelines for this plan will be</p>	<p>Developer -Prior to First Clearing, Grubbing, or Grading Permit</p> <p>Developer -Prior to First</p>	<p>City in Consultation with CDFG</p> <p>City</p>		

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	<p>developed in consultation with the regulatory agencies. The plan shall summarize the approach taken to avoid and minimize impacts to sensitive habitats, detail the target functions and values, and address the approach to restoring those functions and values. Typically, the restoration plan shall detail the site selection process; shall propose site preparation techniques, planting palettes, implementation procedures, and monitoring and maintenance practices; and shall establish performance criteria for each mitigation site. Typical success criteria may include percent canopy cover, percent of plant survival, and percent of native/non-native canopy cover. A minimum 5-year maintenance and monitoring period would be implemented following installation to ensure each area is successful. The restoration plan shall address monitoring requirements and specify when annual reports are to be prepared and what they shall entail. Qualitative and quantitative assessments of the site conditions shall be included. If the mitigation standards have not been met in a particular year, contingency measures shall be identified in the annual report and remediation will occur within 3 months or the start of the growing season. The City shall be responsible for ensuring that all of the success criteria are met to the satisfaction of the City in consultation with the regulatory agencies.</p> <p>B. Prior to issuance of clearing and grubbing or grading permits for areas that impact jurisdictional waters, the project developer(s) shall provide evidence to the City that all required regulatory permits, such as those required under Section 1602 of the California Fish and Game Code and Section 13260 of the California Water Code, have been obtained.</p> <p>*Applies to Significant Impact 4.8-35.</p>	<p>Clearing, Grubbing, or Grading Permit</p> <p>Developer -Prior to First Clearing, Grubbing, or Grading Permit</p>	City		
MM 4.8-23	<p>Prior to issuance of any building permits, building plans shall be reviewed by a qualified biologist retained by the developer and approved by the Port or the City, to verify that the proposed building has incorporated specific design features to avoid or to reduce the potential for bird strikes, including but not limited to the following:</p> <p><b>Lighting</b></p> <ul style="list-style-type: none"> <li>• No solid red or pulsating red lights shall be installed on or near the building unless required by the Federal Aviation Administration (FAA).</li> <li>• Where lighting must be used for safety reasons (FAA 2000 Advisory Circular), minimum intensity, maximum off-phased (3 seconds between flashes) white strobes</li> </ul>	Developer -Prior to First Building Permit	Port or City		

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	<p>shall be used.</p> <ul style="list-style-type: none"> <li>No solid spot lights or intense bright lights shall be used during bird migration periods in the spring (from March to May) and Fall (from August to October). All event lighting shall be directed downward and shielded, unless such directed and shielded minimized light spills beyond the area for which illumination is required.</li> <li>Exterior lighting shall be limited to that which is necessary and appropriate to ensure general public safety and way finding, including signage for building identification and way finding.</li> <li>Exterior lighting shall be directed downward and shielded to prevent upward lighting and to minimize light spill beyond the area for which illumination is required.</li> <li>Office space, residential units, and hotel rooms shall be equipped with motion sensors, timers, or other lighting control systems to ensure that lighting is extinguished when the space is unoccupied.</li> <li>Office space, residential units, and hotel rooms shall be equipped with blinds, drapes, or other window coverings that may be closed to minimize the effects of interior night lighting.</li> </ul> <p><b>Glass and Reflection</b></p> <ul style="list-style-type: none"> <li>Use of reflective coatings on any glass surface is prohibited.</li> <li>Buildings shall incorporate measures to the satisfaction of the Port or the City to indicate to birds that the glass surface is solid by creating visual markers and muting reflection.</li> <li>Project design standards will encourage window stenciling and angling.</li> </ul> <p>These measures may include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>Glass surfaces which are non-reflective</li> <li>Glass surfaces which are tilted at a downward angle</li> <li>Glass surfaces which use fritted or patterned glass</li> <li>Glass surfaces which use vertical or horizontal mullions or other fenestration patterns</li> <li>Glass surfaces which are fitted with screening, decorative grills, or louvers</li> <li>Glass surfaces which use awnings, overhangs, bris sole, or other exterior sun-shading devices</li> </ul>				

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<ul style="list-style-type: none"> <li>• Glass surfaces which use external films or coatings perceivable by birds</li> <li>• Artwork, drapery, banners, and wall coverings that counter the reflection of glass surfaces or block "see through" pathways.</li> </ul> <p><b>Building Articulation</b></p> <ul style="list-style-type: none"> <li>• Structure design features that reduce or avoid the potential for bird strikes, such as secondary and tertiary setbacks, stepped back building design, protruding balconies, recessed windows, and mullioned glazing systems, shall be incorporated to the extent feasible. Balconies and other elements will step back from the water's edge.</li> <li>• Design features that increase the potential for bird strikes, such as walkways constructed of clear glass and "see through" pathways through lobbies, rooms and corridors, shall be avoided to the extent feasible.</li> <li>• Buildings will be sited and designed to minimize glass and windows facing Wildlife Habitat Areas to the maximum extent possible. Design for towers on Parcel H-3 should avoid east-west monolith massing and should include architectural articulation.</li> <li>• The tallest buildings on Parcel H-3 will be located generally on the southern portion of the parcel with building heights decreasing towards the north and west. The foregoing will not be interpreted to preclude incorporating secondary and tertiary setbacks along public streets.</li> <li>• Parcels containing surface parking, such as those depicted for the Sweetwater District, will be designed with parking lots nearer Wildlife Habitat Areas. Site plans on parcels adjacent to Wildlife Habitat Areas will maximum distance between structures and such areas.</li> </ul> <p><b>Landscaping</b></p> <ul style="list-style-type: none"> <li>• Exterior trees and landscaping shall be located and glass surfaces shall incorporate measures so that exterior trees and landscaping are not reflected on building surfaces.</li> <li>• In small exterior courtyards and recessed areas, the building's edge shall be clearly defined with opaque materials and non-reflective glass.</li> <li>• Interior plants shall be located a minimum of 10 feet away from glass surfaces to avoid or reduce the potential for attracting birds.</li> </ul>				



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	<p><b>Public Education</b></p> <ul style="list-style-type: none"> <li>The owner or operator of each building shall implement an ongoing procedure to the satisfaction of the Port or the City to encourage tenants, residents, and guests to close their blinds, drapes, or other window coverings to reduce or avoid the potential for bird strikes.</li> <li>The owner or operator of each building shall enroll in the Fatal Light Awareness Program's "Bird-Friendly Building Program" and shall implement ongoing tenant, resident, and guest education strategies, to the satisfaction of the Port or the City, to reduce or avoid the potential for bird strikes, such as elevator and lobby signage and educational displays, e-mail alerts and other bulletins during spring and fall migratory seasons, and other activities designed to enlist cooperation in reducing bird collisions with the building.</li> </ul> <p><b>Monitoring</b></p> <ul style="list-style-type: none"> <li>For Phase I projects, the project applicant shall retain a qualified biologist to design a protocol and schedule, in consultation with the U.S. Department of Fish and Wildlife and subject to the approval of the Port or City, as appropriate depending on jurisdiction, to monitor bird strikes which may occur during the first 12 months after the completion of construction. Within 60 days after completion of the monitoring period, the qualified biologist shall submit a written report to the Port or the City, which shall state the biologist's findings and recommendations regarding any bird strikes that occurred. Based on the findings of those reports, the Port or the City, as appropriate depending on jurisdiction, in coordination with the U.S. Department of Fish and Wildlife, will evaluate whether further action is required, which may include further monitoring.</li> <li>Bird strikes must be monitored in accordance with the NRMP and measures developed to address persistent problem areas. Nighttime lighting in tower buildings must be addressed and evaluated through adaptive management. Minimization of impacts of buildings on birds and the Wildlife Habitat Areas will be a priority in the selection of window coverings, glass color, other exterior materials, and design of exterior lighting and lighting of signs.</li> </ul>				

\*Applies to Significant Impacts 4.8-36 and 4.8-37.

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.9-1	A. Prior to construction of the H Street Pier during Phases II and IV or work within Parcel HW-4, a pre-construction eelgrass survey shall be conducted by a qualified marine biologist to confirm the exact amount of eelgrass to be affected at the time of pile driving operations. The pre-construction survey must be conducted during the period of March through October and would be valid for a period of no more than 60 days, with the exception that surveys conducted in August through October would be valid until the following March 1.	Developer -Prior to construction	Port in coordination with qualified biologist		
	B. Prior to construction of the H Street Pier during Phases II and IV or work within Parcel HW-4, the Port shall establish and implement a plan to create new eelgrass habitat. The loss of eelgrass habitat must be mitigated at a 1.2:1 ratio as described in the SCEMP (NIMFS 1991, Revision 11). Impacts to approximately 0.4 acre of eelgrass shall require the creation of approximately 0.48 acre of eelgrass to mitigate losses caused by construction of the H Street Pier.	Port -Prior to construction	Port in coordination with qualified biologist		
	C. Prior to or concurrent with the completion of the H Street Pier or work within Parcel HW-4, the Port shall create new eelgrass habitat at a ratio of 1.2:1 for the actual amount of impacts. This shall be done by removing the existing eelgrass currently located at the proposed H Street Pier site and transplanting it at an appropriate location within the filled area of the existing navigation channel, to the satisfaction of a qualified marine biologist.	Developer -Prior to or concurrent with completion of construction	Port in coordination with qualified biologist		
	D. Subsequent to construction of the H Street Pier during Phases II and IV or work within Parcel HW-4, a post-construction eelgrass survey shall be conducted by a qualified biologist. The post-construction survey shall be conducted within 30 days of the cessation of construction activities to confirm the exact amount of eelgrass affected. The difference between the pre-construction and post-construction eelgrass surveys shall determine the amount of required mitigation. In addition, the Port shall:  <ul style="list-style-type: none"> <li>• Conduct transplant reports following construction (Initial Report).</li> <li>• Conduct monitoring reports at 6, 12, 24, 36, 48, and 60 months post-transplant. Specific milestones and criteria for success are directed in the SCEMP along with guidelines for remedial actions if the success criteria are not met (including presence of green sea turtles based on soundings from the existing tagging program), which would require (based on the absence of other mitigating environmental considerations) a Supplementary Transplant Area to be constructed and monitored</li> </ul>	Port in coordination with qualified biologist	Port		

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	<p>for an additional 5 years.</p> <ul style="list-style-type: none"> <li>Initiate mitigation within 135 days of project inception; projects requiring more than 135 days to complete would result in additional mitigation.</li> <li>Coordinate with Sweetwater Authority to share monitoring reports, as necessary.</li> </ul> <p>*Applies to Significant Impacts 4.9-1, 4.9-2, and 4.9-4.</p>				
MM 4.9-2	<p>A. An estimated 83 acres of the existing navigation channel shall be filled to -3 to -5.5 feet MLLW. The fill would modify deep and moderately deep open-water habitat to create approximately 83 acres of shallow-water habitat. This area would provide enough transplantable habitat at a depth ideal for eelgrass in this section of the Bay to mitigate for the loss of eelgrass from the channel realignment and completion of the H Street Pier.</p> <p>B. A mitigation plan with an implementation schedule shall be prepared 30 days prior to any construction or dredge activities. The loss of eelgrass habitat shall be mitigated at a 1:2.1 ratio as described in the SCEMP (NMFS 1991, Revision 11). Based on this formula, impacts to 45.9 acres of eelgrass would require approximately 55.1 acres of eelgrass restoration.</p> <p>C. Prior to the commencement of in-water work on the channel realignment, a pre-construction eelgrass survey shall be conducted to confirm the exact area of impact at the time of dredging and fill operations. The pre-construction survey shall be conducted during the period of March through October and would be valid for a period of no more than 60 days, with the exception that surveys conducted in August through October would be valid until the following March 1.</p> <p>D. Subsequent to dredge and fill operations, a post-construction eelgrass survey shall be conducted by a qualified biologist. The post-construction survey shall be conducted within 30 days of the cessation of construction activities to confirm the exact area of eelgrass affected. The difference between the pre-construction and post-construction eelgrass surveys shall determine the amount of required mitigation. In addition, the Port shall:</p> <ul style="list-style-type: none"> <li>Conduct transplant reports following construction (Initial Report).</li> <li>Conduct monitoring reports at 6, 12, 24, 36, 48, and 60 months post-transplant.</li> </ul> <p>Specific milestones and criteria for success are directed in the SCEMP along with</p>	<p>Developer</p> <p>Developer in coordination with a qualified biologist</p> <p>Developer in coordination with a qualified biologist</p> <p>Developer in coordination with a qualified biologist</p>	<p>Port</p> <p>Port</p> <p>Port</p> <p>Port</p>		

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	<p>guidelines for remedial actions if the success criteria are not met (including presence of green sea turtles based on soundings from the existing tagging program), which would require (based on the absence of other mitigating environmental considerations) a Supplementary Transplant Area to be constructed and monitored for an additional 5 years.</p> <ul style="list-style-type: none"> <li>Initiate mitigation within 135 days of project inception; projects requiring more than 135 days to complete would result in additional mitigation.</li> <li>Coordinate with Sweetwater Authority to share monitoring reports, as necessary.</li> </ul> <p>*Applies to Significant Impact 4.9-3.</p>				
MM 4.9-3	<p>A. Prior to the commencement of harbor improvements on Parcel HW-3, which includes the placement of bulkheads, the Port or Port tenants, as appropriate, shall prepare and initiate implementation of a plan to create new habitat at a ratio of 2:1 for intertidal mudflat and 4:1 for pickleweed. Impacts to approximately 0.03 acre of intertidal mudflat shall require the in-kind creation of approximately 0.06 acre, and less than 0.001 acre of pickleweed shall require creation of approximately 0.004 acre of comparable habitat.</p> <p>B. Restoration shall occur in accordance with <i>Appendix 4.8-12</i>. At the time project specific designs are proposed for the Phase IV harbor reconfiguration, the mitigation for impacts to intertidal mudflat and pickleweed shall be re-evaluated by the Port during subsequent environmental review pursuant to State CEQA Guidelines Section 15188 to identify the total impact area and required mitigation for the loss of intertidal mudflat and pickleweed.</p> <p>C. Restoration shall occur in accordance with Mitigation Opportunities, <i>Appendix 4.8-12</i> to this report, which includes the creation of additional mudflat through the removal of riprap on the Bay shore in the Sweetwater District. As detailed in Mitigation Opportunities, this created habitat would be dominated by pickleweed (<i>Salicornia virginica</i>) with subdominants including saltwort (<i>Batis maritima</i>), fleshy Jaumea (<i>Jaumea carnosa</i>), alkali heath (<i>Frankenia salina</i>), and others as listed in Table 4 of <i>Appendix 4.8-12</i>. Currently, the mitigation opportunities detailed in <i>Appendix 4.8-12</i> are anticipated to be implemented during Phase I. The Port shall verify that the creation of intertidal mudflat satisfies the required mitigation once the final impacts are verified.</p>	<p>Port or Port Tenants</p> <ul style="list-style-type: none"> <li>-Prior to start of harbor improvements</li> </ul> <p>Port</p> <p>Port or Port Tenants</p> <ul style="list-style-type: none"> <li>-Prior to start of harbor improvements</li> </ul> <p>Port</p> <p>Port or Port Tenants</p> <ul style="list-style-type: none"> <li>-Prior to start of harbor improvements</li> </ul> <p>Port</p>			

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MM 4.9-4	<p>* Applies to Significant Impact 4.9-5.</p> <p>A. Prior to issuance of a permit by USACE for dredge and/or fill operations in the Bay or Chula Vista Harbor, the applicant shall conduct a focused sediment investigation and submit it to USACE and RWQCB for review and approval. The applicant shall then determine the amount of bay sediment that requires remediation and develop a specific work plan to remediate bay sediments in accordance with permitting requirements of the RWQCB. The work plan shall include but not be limited to: dredging the sediment, allowing it to drain, and analyzing the nature and extent of any contamination. Pending the outcome of the analytical results, a decision by RWQCB shall prescribe the requirements for disposition of any contaminated sediment.</p> <p>B. Prior to issuance of a grading permit for marina redevelopment on HW-1 and HW-4, the developer shall submit a work plan for approval by the RWQCB and Port/City that requires the implementation of BMPs, including the use of silt curtains during in-water construction to minimize sediment disturbances, and the confinement of potentially contaminated sediment if contaminated sediment exists. If a silt curtain should be necessary, the silt curtain shall be anchored along the ocean floor with weights (i.e., a chain) and anchored to the top with a floating chain of buoys. The curtain shall wrap around the area of disturbance to prevent turbidity from traveling outside the immediate project area. Once the impacted region resettles, the curtains shall be removed. If the sediment would be suitable for ocean disposal, no silt curtain shall be required. However, if contaminants are actually present, the applicant would be required to provide to the RWQCB and the Port/City an evaluation showing that the sediment would be suitable for ocean disposal.</p>	<p>Applicant -Prior to First USACE Permit</p> <p>Developer -Prior to First Grading Permit</p>	<p>RWQCB in coordination with USACE</p> <p>Port/City and RWQCB</p>		
MM 4.9-5	<p>* Applies to Significant Impact 4.9-6.</p> <p>For the in-water construction components to be completed in Phase IV, the amount of dredging shall be determined during final design of the marinas and harbor reconfiguration. Prior to any dredging, the Port shall develop and implement a plan for the dredging and storage of material to the satisfaction of responsible resource agencies, including USACE. The storage and/or landside disposal of dredge material shall be performed in accordance with the provisions of Mitigation Measure 4.6-6 in <i>Section 4.6, Air Quality</i> and all applicable federal, state, and local regulations.</p>	<p>Port -Prior to dredging activities</p>	<p>USACE and other responsible resource agencies</p>		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.9-6	<p>*Applies to Significant Impact 4.9-7.</p> <p>Prior to issuance of Coastal Development Permits, applicants shall submit a lighting plan and photometric analysis to the Port for review and approval. Lighting of all developed areas adjacent to open water shall be directed away from the water, wherever feasible and consistent with public safety. Lighting fixtures shall provide adequate shielding to protect the aquatic habitat and marine life from night lighting. The lighting plan shall illustrate the location of the proposed lighting standards and type of shielding measures. Low-pressure sodium lighting or the equivalent shall be used if feasible and shall be subject to the approval of the Port.</p>	Applicants -Prior to First Coastal Development Permit	Port		
4.10	<p>*Applies to Significant Impact 4.9-8.</p> <p>The Port shall implement a grading, monitoring, and data recovery program to reduce potential impacts to undiscovered buried archaeological resources on the Proposed Project to the satisfaction of the Director of Land Use Planning. Elements of the program will include that only certified archaeologists and Native American monitors are accepted. The project archaeologist shall monitor all areas identified for excavation, including off-site improvements. The monitors shall be present during the original cutting of previously undisturbed deposits. In the event that a previously unidentified potentially significant cultural resource is discovered, the archaeological monitor shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant resource. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared and approved by the County, then carried out using professional archaeological methods.</p> <p>In the event that human bones are discovered, the County coroner shall be contacted. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant (MLD) as identified by the Native American Heritage Commission shall be contacted by the project archaeologist to determine proper treatment and disposition of the remains. In the event that previously unidentified cultural resources are discovered, a report documenting the field and analysis results and interpreting the artifact and research data within the context shall be completed and submitted to the satisfaction of the Director of Land Use Planning.</p>				

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MM 4.11-1	<p>* This measure is not associated with a significant impact related to cultural resources; however, it has been incorporated to ensure appropriate implementation and enforcement.</p> <p>Prior to the issuance of any grading permit in the Sweetwater District, the applicant shall retain a qualified paleontologist (defined as an individual with an M.S. or Ph.D. in paleontology or geology who is familiar with paleontological procedures and techniques) who shall carry out the following mitigation program. Fieldwork may be conducted by a qualified paleontological monitor (defined as an individual who has experience in the collection and salvage of fossil materials) who at all times shall work under the direction of the qualified paleontologist.</p> <ul style="list-style-type: none"> <li>• The paleontologist shall attend all pre-grading meetings to inform the grading and excavation contractors of this paleontological resource mitigation program and shall consult with them with respect to its implementation.</li> <li>• The paleontological monitor shall be on site at all times during the original cutting of previously undisturbed sediments of highly sensitive geologic formations to inspect cuts for contained fossils in the low coastal mesa adjacent to Bay Boulevard in the northeastern portion of the Sweetwater District. The paleontological monitor shall be on site during the original cuts in deposits with a moderate resource sensitivity.</li> <li>• If fossils are discovered, the paleontologist or monitor shall recover them. In instances where recovery requires an extended salvage time, the paleontologist or monitor shall be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner. Where deemed appropriate by the paleontologist or monitor, a screen-washing operation for small fossil remains shall be set up.</li> <li>• Recovered fossils, along with copies of all pertinent field notes, photographs, and maps, shall be deposited (with the applicant's permission) in a scientific institution with paleontological collections. A final summary report that outlines the results of the mitigation program shall be completed. This report shall include discussion of the methods used, stratigraphy exposed, fossils collected, and significance of recovered fossils.</li> </ul> <p>All work shall be completed to the satisfaction of the Port or the City of Chula Vista, as appropriate.</p>	Applicant on coordination with qualified paleontologist -Prior to issuance of any grading permit	Port or City		

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MM 4.12-1	<p>* Applies to Significant Impact 4.11-1</p> <p>Prior to the issuance of any permit for excavation, demolition, grading, or construction activities in the area described in the relevant permit based on the planned future use, the following shall occur:</p> <p>A. The applicant shall contact the lead regulatory agency (RWQCB/DEH/DTSC) to discuss the appropriate course of action for the area of concern described in the permit based on the planned future site use. Remediation of contaminated soil and/or groundwater in these areas shall meet cleanup requirements established by the local regulatory agency based on the planned future use of the area and shall be protective of human health with regard to future occupants of these areas. The applicant shall submit documentation showing that contaminated soil and/or groundwater in the area covered by the permit shall have been avoided or remediated to meet cleanup requirements established by the local regulatory agencies (RWQCB/DEH/DTSC).</p> <p>B. The applicant shall obtain written authorization from the regulatory agency (RWQCB/DEH/DTSC) confirming the completion of any remediation required for development of the site, exclusive of any on-going monitoring obligations. A copy of the authorization shall be submitted to the Port and City to confirm meeting all requirements acceptable to the governing agency and that the proposed development parcel has been cleaned up or is in process to the satisfaction of the regulatory agency. In the situation where previous contamination has occurred on a site that has a previously closed case or on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, the DEH shall be notified of the proposed land use.</p> <p>C. A Soil and Water Management Plan (SWMP) for Phase I activities shall be developed to provide procedures for addressing unknown contamination and subsurface equipment (i.e., pipes, tanks) or debris encountered during construction and excavation. A SWMP for subsequent phases shall be prepared prior to construction and excavation or such development. The plan shall be developed by a qualified environmental consultant and shall identify notification, monitoring, sampling, testing, handling, storage, and disposal of contaminated media or substances (soil, groundwater) measures to avoid or reduce impacts associated with hazardous materials contamination to a less than significant impact. The SWMP shall be approved by the Port and/or City prior to commencement of</p>	<p>Applicant</p> <p>-Prior to First Permit for Excavation, Demolition, Grading, or Construction</p>	RWQCB /DEH/ DTSC		
		<p>Applicant</p> <p>-Prior to First Permit for Excavation, Demolition, Grading, or Construction</p>	RWQCB /DEH/ DTSC		
		<p>Applicant in coordination with a qualified environmental consultant</p> <p>-Prior to Construction and Excavation</p>	Port and/or City		



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	excavation, grading, demolition or construction. A qualified environmental consultant shall monitor excavations, grading, and construction activities in accordance with the plan. Any excess soil generated by construction shall be characterized to determine disposal options.				
	If indications of contamination are encountered during construction, a qualified environmental consultant shall be retained to observe the contamination, consult with the regulatory oversight agency, perform environmental media (soil, soil gas, and groundwater) sampling and analysis as necessary, report the result, and provide recommendations or further action.		RWQCB /DEH/ DTSC		
	In areas that have been identified as being contaminated, appropriate observation by a qualified environmental professional and sampling is required to characterize soil prior to off-site disposal. Contaminated soil shall be properly disposed of at an off-site facility. Fill soils shall be sampled to ensure that imported soil is free of contamination.		RWQCB /DEH/ DTSC		
	Within one month of completion of cleanup activities, a report summarizing the results of monitoring shall be submitted by the applicant to the satisfaction of the Port and City.	Port and/or City	RWQCB		
	D. In the event that grading or construction activities result in the discovery of hazardous waste, the Port and/or City shall ensure compliance with State of California CCR Title 23 Health and Safety Regulation. Excavated soils impacted by hazardous materials or waste shall be characterized and disposed of in accordance with CCR Title 14 and 22. The San Diego RWQCB shall be contacted regarding provisions for possible reuse as backfill of soils impacted by hydrocarbons. Excavated soils shall be lined and covered with an impermeable material to prevent spread of contaminated material.	Port and/or City	RWQCB		
	The applicant must have an Industrial Hygienist registered in the State of California on site while working in areas where contamination is encountered. The responsibility of this professional would be to monitor the work site for contamination and to implement mitigation measures as needed to prevent exposure to the workers or public. These measures may include signage and dust control.	Applicant	Port and/or City		
	Dewatering activities during construction shall be limited to the extent practicable and				

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	<p>water generated by dewatering shall be tested to determine treatment and disposal options in accordance with all applicable laws and regulations.</p> <p>*Applies to Significant Impacts 4.12-1, 4.12-3, 4.12-7, 4.12-12, 4.12-13, 4.12-17, and 4.12-18.</p>	Developer	RWQCB		
MM 4.12-2	<p>Prior to construction, all contractor and subcontractor project personnel shall receive training regarding the appropriate work practices necessary to effectively comply with the applicable environmental laws and regulations, including, without limitation, hazardous materials spill prevention and response measures.</p> <p>Hazardous materials shall not be disposed of or released onto the ground, the underlying groundwater, or any surface water. Totally enclosed containment shall be provided for all trash. All construction waste, including trash and litter, garbage, other solid waste, petroleum products, and other potentially hazardous materials shall be removed to a hazardous waste facility permitted or otherwise authorized to treat, store, or dispose of such materials.</p> <p>The Port of San Diego shall require that a Business Emergency Plan (BEP) is prepared for the construction of the Proposed Project, if not covered under their approved SWPPP. The plan shall identify all hazardous materials (e.g., fuels, solvents) that would be present on any portion of the construction area and project site. Contingency analysis and planning shall be presented to identify potential spill or accident situations, how to minimize their occurrence, and how to respond should they occur. The plan shall also identify spill response materials (e.g., absorbent pads, shovels) to be kept at the construction site and their locations.</p> <p>Hazardous materials spill kits shall be maintained on site for small spills.</p>	<p>Developer</p> <p>-Prior to start of construction</p> <p>Applicant in coordination with a qualified consultant</p> <p>-Prior to Construction and Excavation</p> <p>Developer</p>	<p>Port</p> <p>Port</p> <p>Port</p>		
MM 4.12-3	<p>*Applies to Significant Impact 4.12-2.</p> <p>In-water construction activities shall be conducted in accordance with Mitigation Measure 4.5-4 in <i>Section 4.5, Hydrology/Water Quality</i>.</p> <p>*Applies to Significant Impact 4.12-4</p>				

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.12-4	<p>In event of removal of USTs, the soil and groundwater within the vicinity of the USTs shall be adequately characterized and remediated, if necessary, to a standard that would be protective of water quality and human health, based on future site use. In areas to be redeveloped, a geophysical survey shall be conducted by the applicant to evaluate if there are any previously unidentified USTs or piping still existing in areas to be redeveloped.</p> <p>In the event that USTs are not identified in the HMTS or undocumented areas of contamination are encountered during grading activities (as indicated by odors, discolored soil, etc.), all work shall cease until appropriate health and safety procedures are implemented pursuant to the applicant's contingency plan. The applicant shall prepare a contingency plan to address contractor procedures for such an event, to minimize the potential for construction delays. In addition, the lead regulatory agency (DEH or RWQCB, depending on the nature of the contamination) shall be notified regarding the contamination. Each agency and program within the respective agency has its own mechanism for initiating an investigation. The applicant shall conduct contamination remediation and removal activities in accordance with pertinent local, state, and federal regulatory guidelines, under the oversight of the appropriate regulatory agency. Parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment.</p> <p>*Applies to Significant Impact 4.12-5.</p>	<p>Applicant -During grading activities</p> <p>Applicant -During grading activities</p>	<p>Lead Regulatory Agency (DEH or RWQCB)</p> <p>Lead Regulatory Agency (DEH or RWQCB)</p>		
MM 4.12-5	<p>Prior to the issuance of a demolition permit for buildings scheduled for demolition that have not been surveyed to date for ACMs and LBPs, the applicant shall conduct a survey to determine the locations and amounts of ACMs and LBPs present, as well as other miscellaneous hazardous materials, such as potential mercury-containing thermostats and switches, light ballasts and switches that might contain PCBs, fluorescent light tubes that might contain mercury vapor, exit signs that might contain a radioactive source, air conditioning systems, lead-acid batteries and batteries associated with emergency lighting systems, and Freon™-containing refrigeration systems. Should ACMs, LBPs, or other miscellaneous hazardous building materials be encountered in the site structures, the applicant shall obtain a licensed abatement contractor to remove the hazardous materials in accordance with all applicable federal, state, and local laws, regulations, and permitting requirements prior to initiation of demolition activities.</p>	<p>Applicant -Prior to First Demolition Permit</p>	<p>Port in coordination with lead regulatory agency</p>		

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	<p>Prior to any proposed demolition activities, the applicant shall conduct a thorough inspection of the facilities that have permits to store hazardous materials to confirm whether a release of hazardous materials at these facilities has impacted the underlying soil and/or groundwater. The facilities that currently store hazardous materials are located at 596 Sandpiper Way, 997 G Street, and 979 G Street. If indications of contamination are encountered during demolition, a qualified environmental consultant shall be retained to observe the contamination, consult with the regulatory oversight agency, perform environmental media (soil, soil gas, and groundwater) sampling and analysis as necessary, report the result and provide recommendations for further action.</p> <p><i>*Applies to Significant Impact 4.12-6.</i></p>	<p>Applicant in coordination with qualified environmental consultant</p> <p>-Prior to First Demolition Permit</p>	<p>Lead Regulatory Agency (DEH or RWQCB)</p>		
MM 4.12-6	<p>Prior to construction, remediation activities for known contamination shall be performed to be protective of construction workers on the project site, as required by Mitigation Measure 4.12-1.</p> <p><i>*Applies to Significant Impact 4.12-7.</i></p>	<p>Port and City</p> <p>- Prior to construction</p>	<p>Port and City</p>		
MM 4.12-7	<p>Management of the parks throughout the project site must be required to comply with the Port and City's Integrated Pest Management Policies (IPM). IPM shall be used on all landscaped areas. In addition, fertilizers must be minimized and only non-toxic products used. Runoff from irrigation sprinklers into surface waters must be minimized and use of mulching and drip irrigation, where needed, maximized. Measures shall be employed to ensure that landscape chemicals and wastes do not get into surface waters or habitat areas.</p> <p><i>*Applies to Significant Impact 4.12-8.</i></p>	<p>Port and City</p> <p>-Ongoing management of parks</p>	<p>Port and City</p>		
MM 4.12-8	<p>For development in the Sweetwater District that would result in exposure of any soil containing pesticides/herbicides, excavation and disposal of the contaminated soils at an appropriately licensed facility shall be conducted as required by applicable law, to reduce potential for future site occupants' exposure. Otherwise, soil capping shall be implemented. Capping could be performed by placement of a clean soil fill layer over the impacted soil, which in turn could be overlain by other surface covers (i.e., turf and other vegetative cover and pavement).</p> <p><i>*Applies to Significant Impact 4.12-9.</i></p>	<p>Developer</p> <p>-When grading activities result in exposure of any soil containing pesticides/herbicides</p>	<p>DEH and/or RWQCB</p>		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.12-9	<p>At the time project specific designs are proposed for any development in Phases II through IV, a site assessment must be conducted by a qualified expert satisfactory to the City and/or Port to determine concentrations of contaminants in soil, soil gas, and groundwater on the parcel proposed for development. Further site assessment may be required as part of subsequent environmental review pursuant to State CEQA Guidelines.</p> <p>A HHRA, or other means of evaluation, must be prepared for any new development in Phases II through IV, analyzing each parcel proposed for development within the Proposed Project area. If the calculated risk from the HHRA (or other means of evaluation) is considered to be significant for a receptor in a parcel, mitigation measures shall be implemented to reduce the risk to below a level of significance. These measures may include one or both of the following:</p> <ul style="list-style-type: none"> <li>• Remediating the contaminant sources and impacts in the respective media (i.e., soil, soil gas, groundwater) to levels below the health-based remediation criteria. Parcels contaminated with hazardous materials will be remediated to levels adequate to protect human health and the environment.</li> <li>• Implementing institutional and/or engineering controls to eliminate the pathway of concern or attenuate the contaminant exposure to levels below the health-based remediation criteria.</li> </ul> <p>*Applies to Significant Impact 4.12-10</p>	<p>Applicant in coordination with qualified expert -When Project specific designs are proposed</p> <p>Applicant in coordination with qualified expert</p>	<p>City and/or Port</p> <p>City and/or Port</p>		
MM 4.12-10	<p>Prior to the approval of Design Review for development on Parcels H-3, H-13, H-14, H-15, and HP-5, the applicant shall submit a design plan for the project demonstrating to the satisfaction of the City and/or Port that proposed buildings shall be designed so as to prevent a risk to human health associated with intrusion of CVOC vapors into future buildings on these parcels. Such design measures may include vapor barriers or passive vent systems.</p> <p>*Applies to Significant Impacts 4.12-11, 4.12-16, 4.12-19, and 4.12-20.</p>	<p>Applicant -Prior to Design Review Approval</p>	<p>Port and/or City</p>		
MM 4.12-11	<p>A. Remediation in soil locations identified as exceeding health-based remediation criteria shall be performed prior to redevelopment as targeted "hotspot" removal with confirmation sampling to demonstrate that the COPCs have been removed and concentrations in remaining soil are less than the remediation criteria.</p>	<p>Developer -Prior to redevelopment /construction</p>	<p>Port and/or City</p>		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<p>B. Remediation of the areas of HP-5 that contain COPCs at concentrations exceeding remediation criteria shall be completed prior to construction activities depending on the design of proposed development and the potential for workers to be exposed to contamination in these areas.</p> <p>C. Remediation of the areas of HP-5 that contain concentrations of CVOCs may be performed by various methods, including soil vapor extraction and treatment. Any required remediation shall be performed prior to construction activities in order to protect construction workers in these areas. This parcel shall be remediated to levels adequate to protect human health and the environment.</p> <p>*Applies to Significant Impacts 4.12-14 and 4.12-15.</p>	<p>Developer -Prior to redevelopment /construction</p> <p>Developer -Prior to redevelopment /construction</p>	<p>Port and/or City</p> <p>Port and/or City</p>		
MM 4.13.3-1	<p>Prior to reconstruction and/or reconfiguration of existing parks within the Project, the Port shall post a public notice at each affected park site at least 30 days prior to commencement of construction activity and maintain the posting throughout reconstruction of each affected park. Said public notice shall identify the duration of park closure and information related to optional locations for public park and recreational facilities.</p> <p>*Applies to Significant Impact 4.13.3-1.</p>	<p>Port -Prior to reconstruction/reconfiguration of parks</p>	Port		
MM 4.13.3-2	<p>Prior to approval of a building permit for any project within the City's jurisdiction, the applicant shall pay all applicable recreation and park fees, including those set forth in Chapters 3.50 and 17.10 in the City's Municipal Code.</p> <p>*Applies to Significant Impact 4.13.3-2.</p>	<p>Applicant -Prior to Building Permit Approval</p>	City		
MM 4.13.4-1	<p>Prior to the issuance of building permits for any residential project, the applicant shall pay required school mitigation fees. As indicated above, the fees set forth in Government Code Section 65996 constitute the exclusive means of both "considering" and "mitigating" school facilities impacts of projects (Government Code Section 65996(a)). They are "deemed to provide full and complete school facilities mitigation" (Government Code Section 65996(b)). Once the statutory school mitigation fee (sometimes referred to as a "developer fee") is paid, the impact would be deemed mitigated as a matter of law.</p>	<p>Applicant -Prior to First Building Permit</p>	City		

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MM 4.14.1-1	<p>*Applies to Significant Impacts 4.13.4-1 and 4.13.4-2</p> <p>To avoid significant construction-related noise impacts, the following measures shall be followed:</p> <ul style="list-style-type: none"> <li>Construction activity shall be prohibited Monday through Friday from 10:00 p.m. to 7:00 a.m., and Saturday and Sunday from 10:00 p.m. to 8:00 a.m., pursuant to the Chula Vista Municipal Code Section 17.24.050 (Paragraph J). It should be noted, however, that construction may require connections to existing water facilities, both on- and off-site, and may need to occur between the hours of 10:00 p.m. and 6:00 a.m. in order to minimize impacts to existing customers who cannot experience flow restrictions during daytime hours.</li> <li>All stationary noise generating equipment, such as pumps and generators, shall be located as far as possible from noise sensitive receptors. Where practicable, noise-generating equipment shall be shielded from noise sensitive receptors by attenuating barriers or structures. Stationary noise sources located less than 200 feet from sensitive receptors shall be equipped with noise reducing engine housings. Water tanks, equipment storage, staging, and warm-up areas shall be located as far from noise sensitive receptors as possible.</li> <li>All construction equipment powered by gasoline or diesel engines shall have sound control devices at least as effective as those originally provided by the manufacturer; no equipment shall be permitted to have an unmuffled exhaust.</li> <li>Any impact tools used during demolition of existing infrastructure shall be shrouded or shielded, and mobile noise generating equipment and machinery shall be shut off when not in use.</li> <li>Construction vehicles accessing the site shall be required to use the shortest possible route to and from I-5, provided the route does not expose additional receptors to noise.</li> <li>Construction equipment shall be selected as those capable of performing the necessary tasks with the lowest sound level and the lowest acoustic height possible to perform the required construction operation.</li> </ul>	Developer -During construction	City		
MM 4.14.1-2	<p>*Applies to Significant Impacts 4.14.1-1 and 4.14.1-2.</p> <p>Construction-related noise from off-site water improvements shall be limited during the typical breeding season of January 15 to August 31 adjacent to the Sweetwater Marsh</p>	Developer -During	Port and/or City		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	NWR, F & G Street Marsh, and the J Street Marsh. The current accepted noise threshold is 60 dB(A) Leq; thus construction activity shall not exceed this level, or ambient noise levels if higher than 60 dB(A) during the breeding season. If construction does occur within the breeding season or adjacent to the marshes, the project developer shall prepare and submit an acoustical analysis to the Port and/or City, which shall determine whether noise barriers would be required to reduce the expected noise levels below the threshold. If noise barriers or construction activities are unable to result in a level of noise below the threshold, construction in these areas shall be delayed until the end of the breeding season.	construction or if during breeding season prior to construction			
MM 4.14.1-3	<p>*Applies to Significant Impact 4.14.1-3.</p> <p>A. Prior to commencement of grading activities for all Phase I projects, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).</p> <p>B. Prior to commencement of grading activities for all subsequent phases, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).</p>	Applicant(s) -Prior to start of grading	Port or City		
MM 4.14.2-1	<p>*Applies to Significant Impact 4.14.1-4.</p> <p>Prior to the approval of a building permit for any development in Phases III and IV, the City shall verify that it has adequate sewer capacity to serve the proposed development. In the event the City does not have adequate sewer capacity to serve the proposed development, no building permit shall be approved for the proposed development until the City has acquired adequate sewer capacity to serve the proposed development.</p>	City -Prior to Building Permit Approval	City		
MM 4.14.2-2	<p>*Applies to Significant Impact 4.14.2-1.</p> <p>To avoid significant construction-related noise impacts, the following measures shall be followed:</p> <ul style="list-style-type: none"> <li>Construction activity shall be prohibited Monday through Friday from 10:00 p.m. to 7:00 a.m., and Saturday and Sunday from 10:00 p.m. to 8:00 a.m., pursuant to the Chula Vista Municipal Code Section 17.24.050 (Paragraph J).</li> </ul>	Developer -During construction	Port or City		



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	<ul style="list-style-type: none"> <li>• All stationary noise-generating equipment, such as pumps and generators, shall be located as far as possible from noise sensitive receptors. Where practicable, noise-generating equipment shall be shielded from noise sensitive receptors by attenuating barriers or structures. Stationary noise sources located less than 200 feet from sensitive receptors shall be equipped with noise reducing engine housings. Water tanks, and equipment storage, staging, and warm-up areas shall be located as far from noise sensitive receptors as possible.</li> <li>• All construction equipment powered by gasoline or diesel engines shall have sound control devices at least as effective as those originally provided by the manufacturer; no equipment shall be permitted to have an unmuffled exhaust.</li> <li>• Any impact tools used during demolition of existing infrastructure shall be shrouded or shielded, and mobile noise generating equipment and machinery shall be shut off when not in use.</li> <li>• Construction vehicles accessing the site shall be required to use the shortest possible route to and from I-5, provided the route does not expose additional receptors to noise.</li> <li>• Construction equipment shall be selected as those capable of performing the necessary tasks with the lowest sound level and the lowest acoustic height possible to perform the required construction operation.</li> </ul>				
MM 4.14.2-3	<p>*Applies to Significant Impact 4.14.2-2.</p> <p>Construction-related noise shall be limited during the typical breeding season of January 15 to August 31 adjacent to the Sweetwater Marsh NWR, F &amp; G Street Marsh, and the J Street Marsh. The current accepted noise threshold is 60 dB(A) Leq; thus construction activity shall not exceed this level, or ambient noise levels if higher than 60 dB(A) during the breeding season. If construction does occur within the breeding season or adjacent to the marshes, the project developer shall prepare and submit an acoustical analysis to the Port and the City, which shall determine whether noise barriers would be required to reduce the expected noise levels below the threshold. If noise barriers or construction activities are unable to result in a level of noise below the threshold, construction in these areas shall be delayed until the end of the breeding season.</p> <p>*Applies to Significant Impact 4.14.2-3.</p>	Developer - During construction or if during breeding season prior to construction	Port or City		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.14.2-4	<p>A. Prior to commencement of grading activities for all Phase I projects, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).</p> <p>B. Prior to commencement of grading activities for all Phase II-IV projects, the applicant(s) shall submit a traffic control plan for review and approval by the Port (for development on Port properties) and City Engineer and the Director of Public Works (for development on property and ROWs within the City's jurisdiction).</p> <p>*Applies to Significant Impact 4.14.2-4</p>	<p>Applicant -Prior to start of grading</p> <p>Applicant -Prior to start of grading</p>	<p>Port and City Engineer and Director of Public Works</p> <p>Port and City Engineer and Director of Public Works</p>		
MM 4.14.2-5	<p>A. Prior to the issuance of a Coastal Development Permit for Properties within the Port's jurisdiction and prior to the issuance of a grading permit for properties within the City's jurisdiction, the applicant shall notify the RWQCB of dewatering of contaminated groundwater during construction. If contaminated groundwater is encountered, the project developer shall treat and/or dispose of the contaminated groundwater (at the developer's expense) in accordance with NPDES permitting requirements, which includes obtaining a permit from the Industrial Wastewater Control Program to the satisfaction of the RWQCB.</p> <p>B. Prior to the discharge of contaminated groundwater for all construction activities, should flammables, corrosives, hazardous wastes, poisonous substances, greases and oils and other pollutants exist on site, a pretreatment system shall be installed to pre-treat the water to the satisfaction of the RWQCB before it can be discharged into the sewer system.</p> <p>*Applies to Significant Impact 4.14.2-5.</p>	<p>Applicant -Prior to First Coastal Development Permit (Port)/First Grading Permit (City)</p> <p>Applicant -During construction</p>	<p>Port, City and RWQCB</p> <p>RWQCB</p>		
MM 4.15-1	<p>Prior to the grading of parcels for specific developments, the applicant shall provide a comprehensive site-specific geotechnical evaluation, including subsurface exploration and laboratory testing showing that individual parcels are suitable for proposed development work and that on-site fill materials and soils can support proposed structures. The applicant shall submit a geotechnical design report to the Port or City, depending on jurisdiction, for approval showing site-specific measures to be employed. As applicable, these measures shall include:</p>	<p>Applicant -Prior to start of grading</p>	<p>Port or City</p>		

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	<ul style="list-style-type: none"> <li>Conformance to the California Building Code Seismic Zone 4 Design Parameters, as detailed in Table 1 of the geotechnical study (see Appendix 4.15-1)</li> <li>Design capable of withstanding strong seismic accelerations</li> <li>Earthwork procedures, including removal, moisture conditioning, and recompaction of existing fills on the site</li> <li>Selective grading, densification of the subsurface soils, and/or deep foundations</li> <li>Removal, moisture conditioning, and compaction of bay deposits/alluvial soils. Deep foundations shall be used for structural support in areas of relatively thick bay deposits/alluvium</li> <li>Removal or deep burial of expansive soils during grading, moisture conditioning, or specially designed foundations and slabs</li> <li>Removal, moisture conditioning, and compaction of the topsoil on site.</li> </ul>				
MM 4.15-2	<p>*Applies to Significant Impact 4.15-1 through 4.15-5.</p> <p>For all phases, the project applicant shall prepare a site specific geotechnical study. Mitigation of potential hazards due to liquefaction may include the densification or removal of the potentially liquefiable soil and placement of surcharge fills within building areas, or the use of deep foundation systems and mat slabs which still provide acceptable structural support should liquefaction occur. Soil densification can be accomplished by surcharging, compaction grouting, vibrocompaction, soil mixing, and deep dynamic compaction. Deep foundation systems may be used to transmit structural loads to bearing depths below the liquefiable zones and may consist of driven piles or drilled piles.</p>	Applicant -Prior to First Building Permit	Port or City		
MM 4.15-3	<p>*Applies to Significant Impact 4.15-2.</p> <p>Prior to the grading of parcels for the Pacifica development, the applicant shall adhere to the site-specific geotechnical evaluation prepared for the project or any amendment as approved by the Port/City (<i>Appendix 4.15-5</i>, Geocor Preliminary Geotechnical Investigation prepared for Pacifica Companies (February 2008), Sections 7 and 8 Conclusions and Preliminary Recommendations) which outlines general requirements and specific recommendations regarding soil and excavation, seismic design criteria, grading, consolidation settlement, ground improvement methods, slope stability, temporary slopes and shoring, groundwater and dewatering, shallow and deep</p>	Applicant -Prior to start of grading	Port or City		

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	foundations, subterranean structures, concrete slabs-on-grade, concrete flatwork, retaining walls and lateral loads, pavement, and drainage and maintenance.  * Applies to Significant Impacts 4.15-3 and 4.15-4.				
MM 4.15-4	Prior to the grading of parcels for the RCC development, the applicant shall adhere to the site-specific geotechnical evaluation prepared for the project or any amendment as approved by the Port/City ( <i>Appendix 4.15-4</i> , Geoccon Geotechnical Investigation prepared for Gaylord Hotels (January 2008), Section 6. Conclusions and Recommendations), which outlines general requirements and specific recommendations regarding soil and excavation, seismic design criteria, grading, temporary slopes and shoring, groundwater and dewatering, hotel/convention center/parking structure/flex space foundation, ancillary structure foundation, concrete slabs-on-grade, retaining walls and lateral loads, preliminary pavements, and drainage and maintenance.	Applicant -Prior to start of grading	Port or City		
MM 4.16-1	<p>* Applies to Significant Impact 4.15-5.</p> <p>Prior to the issuance of certificates of occupancy or building permits, the project applicant shall demonstrate that the Proposed Project complies with Title 24 of the California Energy Efficient Standards for Residential and Nonresidential Buildings. These requirements, along with the following measures, shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:</p> <ul style="list-style-type: none"> <li>• Use of low NO<sub>x</sub> emission water heaters</li> <li>• Installation of energy-efficient and automated air conditioners when air conditioners are provided</li> <li>• Energy-efficient parking area lights</li> <li>• Exterior windows shall be double paned.</li> </ul> <p>Implementation of these measures along with the SDG&amp;E efforts for long-term energy supply as outlined in their filing with the CPUC that proposes a mix of conservation, demand response, generation, and transmission (<a href="http://www.sdenergy.org/uploads/7-9-04SDG&amp;E_LTRP.pdf">http://www.sdenergy.org/uploads/7-9-04SDG&amp;E_LTRP.pdf</a>) would reduce the potential significant impact to below a level of significance.</p> <p>* Applies to Significant Impact 4.16-1.</p>	Applicant -Prior to First Certificate of Occupancy	Port and City Director of Planning or Building		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 4.16-2	<p>The following standards are intended to be interpreted broadly and with the flexibility to adapt to new energy technology and evolving building construction and design practices. They will apply to and govern development of all individual parcels within the Proposed Project area, except Parcels HP-5, H-13, H-14, and H-15. The term "Development" will mean the development of an individual parcel within the Proposed Project area.</p> <p>A. To help reduce the need for fossil-fueled power generation, reduce greenhouse gas emissions, and support the California Energy Commission's Loading Order for Electricity Resources, all developments will achieve a minimum of a fifty (50) percent reduction in annual energy use as described below:</p> <ol style="list-style-type: none"> <li>1. Each building in each Development will perform at least fifteen (15) percent better than Title 24, Part 6 of the California Building Energy Efficiency Standards ("Title 24") in effect as of the date of this FEIR. The minimum energy efficiency performance standard adopted by the City is hereinafter described as its "Energy Efficiency Requirement" or "EER." Should revised Title 24 standards be adopted by the State of California, the City's EER that is in effect at the time a building permit application is submitted for such Development shall apply.</li> <li>2. The balance of the reduction in annual energy use required will be achieved through the use of any combination of the energy reduction measures described below. To achieve compliance, sponsors of Developments may select one of two paths. The first path is based on Title 24 ("Title 24 Path") and the second is described in Energy and Atmosphere, Credit 1 "Optimized Energy Performance" (Credit EA-/c1) in the US Green Building Council's Leadership in Energy and Environmental Design (LEED) Version 3 system ("LEED Path"). The definition of the term "Baseline" against which energy reduction will be measured will vary depending on the path selected and is further described in Exhibit 3 of the MMRP to this Agreement. Choosing the LEED Path does not require a Development to achieve LEED Certification, but simply uses the methodology of EA-/c1. <ol style="list-style-type: none"> <li>a. Renewable Energy generated within the boundaries of the Development will be credited toward the energy reduction requirement of Section A 25.2. The term "Renewable Energy" will mean energy derived from the sources described in California Public Resources Code section 25741 (b)<sup>1</sup>.</li> <li>b. Renewable Energy generated on one or more sites ("Renewable Energy Sites")</li> </ol> </li> </ol>	Applicant -Prior to Building Permit Approval	Port and City in Coordination with the District.		

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	<p>within the boundaries of the Proposed Project by the Port, City or other third party and fed to the electrical grid or to the Development will be credited toward the energy reduction requirement described above. Aggregate energy generated on Renewable Energy Sites may be allocated to an individual Development up to the amount necessary to achieve such Development's compliance with the energy reduction requirement described above. Once allocated to a Development, the amount of energy generated by Renewable Energy Sites so allocated may not be further allocated to another development.</p> <p>c. Participation in a City of Chula Vista sponsored energy efficiency program provided that the resulting energy reduction may be calculated and verified. The methodology for calculating the amount of the credit toward the energy reduction requirement described above under the Title 24 Path and the LEED Path as described in Exhibit 3 of the MMRP.</p> <p>d. Each Development will develop, implement, and for the life of each Development, maintain a measurement and verification plan ("M&amp;V Plan"). Such participation has been shown to increase the persistence of energy efficiency ("EE") and also to provide a way of recognizing and encouraging the ongoing conservation efforts of occupants and facility managers and will be awarded a waiver for five (5) percent credit against the Baseline to determine compliance with the energy reduction requirement described above. The Port will include in all leases the requirement to perform an energy audit every three (3) years for the convention centers and hotel Developments over 300 rooms and five (5) years for all other Developments to ensure that all energy systems are performing as planned or corrective action will be taken if failing to meet EE commitments.</p> <p>e. Participation in one of SDG&amp;E's Voluntary Demand Reduction (DR) utility rates will be awarded a waiver for three (3) percent credit against the Baseline to determine compliance with the energy reduction requirement described above.</p> <p>f. Participation in one of SDG&amp;E's Mandatory Demand Reduction (DR) utility rates will be awarded a waiver for five (5) percent credit against the Baseline to determine compliance with the energy reduction requirement described above.</p> <p>g. Incorporation of natural ventilation into design such that at least 75% of the conditioned area is naturally ventilated according to the guidelines set forth in Exhibit 3 of the MMRP, and if this benefit was not included in the energy efficiency calculations, the project will be awarded either: a waiver for five (5) percent credit against the</p>				

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	<p>Baseline to determine compliance with the energy reduction requirement described above; or, a waiver for ten (10) percent credit will be awarded if the natural ventilation system is coupled with an energy or cooling system that does not draw from the grid if and when natural ventilation is not used. This may be prorated if less than 75% of the conditioned area is naturally ventilated.</p> <p>3. The parties understand and acknowledge that the energy reduction measures described above for a Development or component of a Development may be phased in over time to achieve compliance with the energy reduction provided such energy reduction measures are completed no later than thirty-six (36) months following issuance of a certificate of occupancy for such Development or such component thereof.</p> <p>4. To further incent responsible and sustainable development practices within the boundaries of the Proposed Project, the Port, the City and the Redevelopment Agency will consider voluntary commitments to levels of energy reduction in excess of the energy requirements described above commitment to achievement of a LEED Certification, and/or a "Living Building Challenge" in connection with the selection of respondents in RFP/RFQ processes for developments within the Proposed Project area.</p> <p>5. Within one year following the CCC's approval of a PMP amendment substantially consistent with the Proposed Project, the Port will in good faith consider adoption of an ordinance, in a public hearing process, that if approved by the Board of Port Commissioners, will require the following:</p> <ul style="list-style-type: none"> <li>a. Within six (6) months following adoption of the ordinance and every three (3) years thereafter, the Port will conduct an energy efficiency and renewable energy analysis that will: <ul style="list-style-type: none"> <li>i. Assess the feasibility and cost-effectiveness of programs and options to reduce demand on the electric grid from all lands under Port's jurisdiction; and</li> <li>ii. Include, but not be limited to, an assessment of the potential for reduction in energy use on all land under Port's jurisdiction through increases in energy efficiency, demand response, clean renewable and distributed energy generation and other methods and technologies.</li> </ul> </li> <li>b. Upon the completion of each analysis, the Port will consider good faith implementation of cost-effective programs and options as part of its commitment</li> </ul>				

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	to greenhouse gas reductions and global climate change prevention activities consistent with Assembly Bill 32. c. The results of each analysis will be published on the Port's website and received by the Port's Board of Port Commissioners in a public forum.  *Applies to Significant Impact 4.16-1.				
MM 4.17-1	The Redevelopment Agency will use all Low and Moderate Income Housing funds generated from within the Bayfront Redevelopment Project Area on the production of affordable housing units, inside and/or outside of redevelopment areas, for very low, low and moderate income individuals/families only in areas located west of I-805 in the City of Chula Vista.  * This measure is not associated with a significant impact related to population; however, it has been incorporated to ensure appropriate implementation and enforcement.	Redevelopment Agency			
<b>Significant and Unavoidable Impacts</b>					
---	No feasible mitigation beyond redesign of the project as identified as a project alternative would reduce this impact to view quality. See <i>Chapter 5, Alternatives</i> , for a discussion of design options that would allow for an overall reduction in height and bulk of the proposed development.  *Applies to Significant Impact 4.1-4.	---	---		
MM 4.1-3	Prior to the approval of a building permit for any residential project, the applicant shall pay a PFDF or equivalent fee in an amount calculated according to the City's PFDF program in effect at the time of permit issuance.  *Applies to Significant Impact 4.1-5.	Applicant -Prior to Building Permit Approval	City		
MM 4.2-8	The Port and the City shall participate in a multi-jurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor level study that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources and phasing that would reduce congestion with Caltrans standards on the I-5 south corridor from the SR-54 interchange to the Otay River (the "I-5 South Corridor") (hereinafter, the "Plan"). Local funding sources identified in the Plan shall include fair share contributions related to private and/or public development based on the	City, other cities along I-5, the Port, SANDAG, and Caltrans	Port Board of Commissioners and City Council		



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	<p>nexus established in this Draft EIR as well as other mechanisms. The Plan required by this mitigation shall include the following:</p> <ol style="list-style-type: none"> <li>The responsible entities (the Entities) included in this effort will include, but may not be limited to, the City, other cities along I-5, the Port, SANDAG, and Caltrans. Other entities will be included upon the concurrence of the foregoing Entities.</li> <li>The Plan will identify physical and operational improvements to I-5 adjacent to the project area, relevant arterial roads and transit facilities (the Improvements), that are focused on regional impacts and specific transportation impacts from the project, and will also identify the fair share responsibilities of each Entity for the construction and financing for each Improvement. The Plan will include an implementation element that includes each Entity's responsibilities and commitment to mitigate the impacts created by all phases of the Proposed Project.</li> <li>The Plan will set forth a timeline and other agreed upon relevant criteria for implementation of each Improvement.</li> <li>The Plan will identify the total estimated design and construction cost for each Improvement and the responsibility of each Entity for both implementation and funding of such costs.</li> <li>The Plan will include the parameters for any agreed upon fair-share funding to be implemented, that would require private and/or public developers to contribute to the costs, in a manner that will comply with applicable law.</li> <li>In developing the Plan, the Entities shall also consider ways in which the Improvements can be coordinated with existing local and regional transportation and facilities financing plans and programs, in order to avoid duplication of effort and expenditure; however, the existence of such other plans and programs shall not relieve the Entities of their collective obligation to develop and implement the Plan as set forth in this mitigation measure. Nothing in the Plan shall be construed as relieving any Entity (or any other entity) from its independent responsibility (if any) for the implementation of any transportation improvement.</li> <li>The Port shall seek adoption of the Plan before the Port Board of Commissioners and the City shall seek adoption of the Plan before the City Council upon the completion of the multi-jurisdictional effort to develop the Plan. The Port and the City shall report, to their respective governing bodies regarding the progress made to develop the Plan within 6 months of the first meeting of the entities. Thereafter, the Port and the City shall report at least annually regarding the progress of the</li> </ol>				

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	<p>Plan, for a period of not less than 5 years, which may be extended at the request of the City Council and/or Board of Commissioners.</p> <p>h. The Plan shall also expressly include each Entity's pledge that it will cooperate with each other in implementing the Plan.</p> <p>i. Prior to issuance of certificates of occupancy or building permits for any development of individual projects within the Chula Vista Bayfront Master Plan, the Port and the City shall require project applicants to make their fair share contribution toward mitigation of cumulative freeway impacts within the City's portion of the I-5 South Corridor by participating in the City's Western Traffic Development Impact Fee or equivalent funding program.</p> <p>The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of the mitigation measure.</p> <p>*Applies to Significant Impacts 4.2-12, 4.2-17, 4.2-18, 4.2-29, 4.2-30, 4.2-35 through 4.2-37, and 4.2-46 through 4.2-50.</p>				
MM 4.2-10	<p>Prior to issuance of certificates of occupancy for parcel H-3 or building permits for any development within the City, the Port and the City shall require project applicants to make their fair share contribution toward mitigation of intersection impacts at H Street and E Street within the City's jurisdiction by participating in the City's Western Traffic Development Impact Fee or equivalent funding program.</p> <p>The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of mitigation measure.</p> <p>However, because implementation of the physical improvements needed to reduce the significant impacts to the affected intersections will require funding from other sources in addition to the WTDIF, such as local, state and federal funds, and such funding is not</p>	Applicant(s) -Prior to First Certificate of Occupancy	Port and/or City		

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---	<p>certain or under the control of the Port or the City, the Port and the City cannot assure the necessary improvements will be constructed as needed or that they will be constructed within any known time schedule. Accordingly, the Proposed Project's impacts to the E Street and H Street intersections affected by an at-grade trolley crossing are considered significant and unmitigated.</p> <p>*Applies to Significant Impact 4.2-19.</p> <p>No feasible mitigation beyond redesign of the project as identified as a project alternative would reduce this impact to view quality. See <i>Chapter 5, Alternatives</i>, for a discussion of design options that would allow for an overall reduction in height and bulk of the proposed towers.</p> <p>*Applies to Significant Impacts 4.4-1 and 4.4-2.</p>	---	---		
MM 4.6-1	<p>Prior to the commencement of any grading activities, the following measures shall be placed as notes on all grading plans and shall be implemented during grading of each phase of the project to minimize construction emissions. These measures shall be completed to the satisfaction of the Port and the Director of Planning and Building for the City of Chula Vista (These measures were derived, in part, from Table 11-4 of Appendix 11 of the SCAQMD CEQA Air Quality Handbook, and from SCAQMD Rule 403).</p> <p>See Mitigation Measure 4.6-1 in <i>Section 4.6, Air Quality</i> for a list of Best Available Control Measures for Specific Construction Activities.</p> <p>*Applies to Significant Impacts 4.6-1 and 4.6-6.</p>	<p>Developer</p> <p>-Prior to start of grading</p>	Port and City		
MM 4.6-2	<p>A. For development within the City's jurisdiction, applicants shall submit an AQIP with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP</p>	<p>Applicants</p> <p>-With submittal of Tentative Map</p>	City		

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	<p>Guidelines, including any necessary site plan modifications.</p> <p>B. Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project complies with Title 24 of the California Energy Efficient Standards for Residential and Nonresidential buildings. These requirements, along with the following measures, shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:</p> <ul style="list-style-type: none"> <li>• Use of low NO<sub>x</sub> emission water heaters</li> <li>• Installation of energy efficient and automated air conditioners when air conditioners are provided</li> <li>• Energy efficient parking area lights</li> <li>• Exterior windows shall be double paned.</li> </ul> <p>Although these measures will reduce air quality impacts of the Proposed Project, they would not bring area and operations emissions to a level below the standard established by the SCAQMD and used in this document by the City and Port. Therefore, air quality impacts remain significant and unmitigated.</p> <p>*Applies to Significant Impact 4.6-2.</p>	<p>Applicant -Prior to First Building Permit</p>	<p>Port and City</p>		
MM 4.6-3	<p>A. For development within the City's jurisdiction, the applicants shall submit an AQIP with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP Guidelines, including any necessary site plan modifications.</p> <p>B. Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project complies with Title 24 of the California Energy Efficient Standards for Residential and Nonresidential buildings. These requirements along with the following</p>	<p>Applicants -With submittal of Tentative Map</p>	<p>City</p>		
		<p>Applicant -Prior to First Building Permit</p>	<p>Port and City</p>		

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	<p>measures shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:</p> <ul style="list-style-type: none"> <li>• Use of low NO<sub>x</sub> emission water heaters</li> <li>• Installation of energy efficient and automated air conditioners when air conditioners are provided</li> <li>• Energy efficient parking area lights</li> <li>• Exterior windows shall be double paned.</li> </ul> <p>Although these measures would reduce air quality impacts of the Proposed Project, they would not bring area and operations emissions to a level below the standard established by the SCAQMD and used in this document by the City and Port. Therefore, air quality impacts remain significant and unmitigated.</p>				
MM 4.6-4	<p>*Applies to Significant Impact 4.6-3.</p> <p>A. For residential, as well as mixed-use/commercial development within the City's jurisdiction, the applicants shall submit an AQIP with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP Guidelines, including any necessary site plan modifications.</p> <p>B. Prior to the issuance of buildings permits, the applicant shall demonstrate that the Proposed Project complies with Title 24 of the California Energy Efficient Standards for Residential and Nonresidential buildings. These requirements along with the following measures shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:</p> <ul style="list-style-type: none"> <li>• Use of low-NO<sub>x</sub> emission water heaters</li> <li>• Installation of energy efficient and automated air conditioners when air conditioners</li> </ul>	<p>Applicants -With submittal of Tentative Map</p> <p>Applicant -Prior to First Building Permit</p>	<p>City</p> <p>Port and City</p>		

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	<p>are provided</p> <ul style="list-style-type: none"> <li>• Energy efficient parking area lights</li> <li>• Exterior windows shall be double paned.</li> </ul> <p><i>Although these measures would reduce air quality impacts of the Proposed Project, they would not bring area and operations emissions to a level below the standard established by the SCAQMD and used in this document by the City and Port. Therefore, air quality impacts remain significant and unmitigated.</i></p>				
MM 4.6-5	<p><b>*Applies to Significant Impact 4.6-4.</b></p> <p><b>A.</b> For residential, as well as mixed-use/commercial development within the City's jurisdiction, the applicants shall submit an AQIP with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled." There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures contained in the City's AQIP Guidelines, including any necessary site plan modifications.</p> <p><b>B.</b> Prior to the issuance of buildings permits, the applicant shall demonstrate that the Proposed Project shall comply with Title 24 of the California Energy Efficient Standards for Residential and Nonresidential buildings. These requirements along with the following measures shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:</p> <ul style="list-style-type: none"> <li>• Use of low-NOx emission water heaters</li> <li>• Installation of energy efficient and automated air conditioners when air conditioners are provided</li> <li>• Energy efficient parking area lights</li> <li>• Exterior windows shall be double paned.</li> </ul>	<p>Applicants -With submittal of Tentative Map</p> <p>Applicant -Prior to First Building Permit</p>	<p>City</p> <p>Port and City</p>		

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	Although these measures would reduce air quality impacts of the Proposed Project, they would not bring area and operations emissions to a level below the standard established by the SCAQMD and used in this document by the City and Port. Therefore, air quality impacts remain significant and unmitigated.				
MM 4.13.5-1	*Applies to Significant Impact 4.6-5. Prior to the approval of a building permit for any residential project, the applicant shall pay a PFDIF or equivalent fee in an amount calculated according to the City's PFDIF program in effect at the time of permit issuance.	Applicant -Prior to Building Permit Approval	City and applicable school district		
	*Applies to Significant Impacts 4.13.5-1 and 4.13.5-2.				
<b>Cumulative Impacts</b>					
MM 6.5-1	The Port and the City shall participate in a multi-jurisdictional effort conducted by Caltrans and SANDAG to assist in developing a detailed I-5 corridor-level study (hereinafter, the "Plan") that will identify transportation improvements along with funding, including federal, state, regional, and local funding sources, and phasing that would reduce congestion management with Caltrans standards on the I-5 South corridor from the SR-54 interchange to the Otay River (the "I-5 South Corridor"). Local funding sources identified in the Plan shall include fair-share contributions related to private and/or public development based on nexus as well as other mechanisms. The Plan required by this mitigation shall include the following: a. The responsible entities (the Entities) included in this effort will include, but may not be limited to, the City, other cities along I-5, the Port, SANDAG, and Caltrans. Other entities will be included upon the concurrence of the foregoing Entities. b. The Plan will identify physical and operational improvements to I-5 adjacent to the project area, relevant arterial roads, and transit facilities (the Improvements) that are focused on regional impacts and specific transportation impacts from the project and will also identify the fair-share responsibilities of each Entity for the construction and financing for each Improvement. The Plan will include an implementation element that includes each Entity's responsibilities and commitment to mitigate the impacts created by all phases of the Proposed Project. c. The Plan will set forth a timeline and other agreed upon relevant criteria for implementation of each Improvement.	Port, City, CALTRANS, and SANDAG	Port and City in coordination with other cities along I-5, SANDAG, and Caltrans.		

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	<p>d. The Plan will identify the total estimated design and construction cost for each improvement and the responsibility of each Entity for both implementation and funding of such costs.</p> <p>e. The Plan will include the parameters for any agreed upon fair-share funding to be implemented that would require private and/or public developers to contribute to the costs, in a manner that will comply with applicable law.</p> <p>f. In developing the Plan, the Entities shall also consider ways in which the improvements can be coordinated with the financing plans and programs of existing local and regional transportation and facilities, in order to avoid duplication of effort and expenditure; however, the existence of such other plans and programs shall not relieve the Entities of their collective obligation to develop and implement the Plan as set forth in this mitigation measure. Nothing in the Plan shall be construed as relieving any Entity (or any other entity) from its independent responsibility (if any) for the implementation of any transportation improvement.</p> <p>g. The Port shall seek adoption of the Plan before the Port Board of Commissioners and the City shall seek adoption of the Plan before the City Council upon the completion of the multi-jurisdictional effort to develop the Plan. The Port and the City shall report to their respective governing bodies regarding the progress made to develop the Plan within 6 months of the first meeting of the entities. Thereafter, the Port and the City shall report at least annually regarding the progress of the Plan, for a period of not less than 5 years, which may be extended at the request of the City Council and/or Board of Commissioners.</p> <p>h. The Plan shall also expressly include each Entity's pledge that it will cooperate with each other in implementing the Plan.</p> <p>i. Prior to issuance of certificates of occupancy or building permits for any development of individual projects within the Chula Vista Bayfront Master Plan, the Port and the City shall require project applicants to make their fair-share contribution toward mitigation of cumulative freeway impacts within the City's portion of the I-5 South Corridor by participating in the City's Western Traffic Development Impact Fee or equivalent funding program.</p> <p>The failure or refusal of any Entity other than the Port or the City to cooperate in the implementation of this mitigation measure shall not constitute failure of the Port or the City to implement this mitigation measure; however, the Port and the City shall each use</p>				



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	its best efforts to obtain the cooperation of all responsible Entities to fully participate, in order to achieve the goals of this mitigation measure.  *Applies to Significant Impacts 6.5-1, 6.5-2, 6.5-3, 6.5-4, 6.5-5, 6.5-6, 6.5-7, 6.5-8, 6.5-9, 6.5-10, 6.5-14, 6.5-15, 6.5-21, 6.5-22, 6.5-23, 6.5-24 and 6.5-25, which would remain significant after implementation.				
MM 6.5-2	In assessing the impact of the project on the Phase III network, it was determined that H Street between Street A and the I-5 Ramps was already widened in Phase II to accommodate growth in traffic, and it would be difficult to widen more, due to right-of-way constraints. To accommodate traffic from the project and to provide another route to I-5, the Port shall extend E Street from the RCC Driveway to west of Bay Boulevard. The segment shall be built as a two-lane Class III Collector prior to the issuance of either a building permit or final map for a Phase II project. This Mitigation would reduce Significant Impacts 6.5-11 and 6.5-12 to below a level of significance.  *Applies to Significant Impacts 6.5-11 and 6.5-12.	Port -Prior to First Building Permit or Final Map for Phase II Project	City Engineer		
MM 6.5-3	Prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct an exclusive westbound right-turn lane at the intersection of J Street and I-5 NB Ramps. The lane shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 6.5-13 to below a level of significance.  *Applies to Significant Impact 6.5-13.	Port -Prior to First Certificate of Occupancy for any Phase III Project	City Engineer		
MM 6.5-4	Prior to issuance of a certificate of occupancy for any Phase III project, the Port shall widen E street between the RCC Driveway and Bay Boulevard to a two-lane Class II Collector. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 6.5-16 to below a level of significance.  *Applies to Significant Impact 6.5-16.	Port -Prior to First Certificate of Occupancy for any Phase III Project	City Engineer		
MM 6.5-4	Prior to issuance of a certificate of occupancy for any Phase III project, the Port shall widen Street A between H Street and Street C to a four-lane Class I Collector. The additional roadway capacity would facilitate the flow of project traffic. This mitigation would reduce Significant Impact 6.5-17 to below a level of significance.	Port -Prior to First Certificate of Occupancy for any Phase III Project	City Engineer		

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MM 6.5-6	<p>*Applies to Significant Impact 6.5-17.</p> <p>Prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct southbound left- and right-turn lanes at the intersection of E Street and Bay Boulevard. The lanes shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 6.5-18 to below a level of significance.</p>	<p>Port</p> <p>-Prior to First Certificate of Occupancy for any Phase III Project</p>	City Engineer		
MM 6.5-7	<p>*Applies to Significant Impact 6.5-18..</p> <p>Prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct an exclusive eastbound right-turn lane at the intersection of J Street and Bay Boulevard. The lane shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 6.5-19 to below a level of significance.</p>	<p>Port</p> <p>-Prior to First Certificate of Occupancy for any Phase III Project</p>	City Engineer		
MM 6.5-8	<p>*Applies to Significant Impact 6.5-19..</p> <p>Prior to issuance of a certificate of occupancy for any Phase III project, the Port shall construct an exclusive westbound right-turn lane at the intersection of J Street and I-5 NB Ramps. The lane shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 6.5-20 to below a level of significance.</p>	<p>Port</p> <p>-Prior to First Certificate of Occupancy for any Phase III Project</p>	City Engineer		
MM 6.5-9	<p>*Applies to Significant Impact 6.5-20.</p> <p>Prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port shall construct an eastbound and westbound through-lane along H Street (as part of roadway segment mitigation) and a westbound right-turn lane at the intersection of H Street and Woodlawn Avenue. The additional lanes shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 6.5-26 to below a level of significance.</p>	<p>Port</p> <p>-Prior to First Certificate of Occupancy</p>	City Engineer		
MM 6.5-10	<p>*Applies to Significant Impact 6.5-26.</p> <p>Prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port shall construct a westbound through- and right-turn lane along H Street at the intersection of H Street and Broadway. The lane shall be constructed to the satisfaction of the City Engineer. With mitigation, this intersection would still operate at LOS E during the PM peak hour. This is consistent with the result from the Chula Vista Urban Core traffic study, which concluded that no additional mitigation is desired at this</p>	<p>Port</p> <p>-Prior to First Certificate of Occupancy for any development in Phase IV</p>	City Engineer		

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	location. This mitigation would reduce Significant Impact 6.5-27 to below a level of significance.				
MM 6.5-11	<p>*Applies to Significant Impact 6.5-27.</p> <p>Prior to the issuance of certificates of occupancy for any development in Phase IV of the development, the Port shall construct a dual eastbound left-turn lane along J Street at the intersection of J Street and I-5 NB Ramps. The additional lanes shall be constructed to the satisfaction of the City Engineer. This mitigation would reduce Significant Impact 6.5-28 to below a level of significance.</p> <p>*Applies to Significant Impact 6.5-28.</p>	<p>Port</p> <p>-Prior to First Certificate of Occupancy for any development in Phase IV</p>	City Engineer		
MM 6.6-1	<p>A. View Protection: As a condition for issuance of Coastal Development Permits, buildings fronting on H Street shall be designed to step away from the street. More specifically, design plans shall protect open views down the H Street Corridor by ensuring that an approximate 100-foot ROW width (curb-curb, building setbacks and pedestrian plaza/walkway zone) remains clear of buildings, structures, or major landscaping. Visual elements above six feet in height shall be prohibited in this zone if the feature would reduce visibility by more than 10 percent. Placement of trees should take into account potential view blockage. This mitigation should not be interpreted to not allow tree masses; however, trees should be spaced in order to ensure "windows" through the landscaping. Trees should also be considered to help frame the views and they should be pruned up to increase the views from pedestrians and vehicles, underneath the tree canopy. In order to reduce the potential for buildings to encroach into view corridors, and to address the scale and massing impact, buildings shall step back at appropriate intervals or be angled to open up a broader view corridor at the groundplane to the extent feasible. All plans shall be subject to review and approval by the Port. All future development proposals shall conform to Port design guidelines and standards to the satisfaction of the Port.</p> <p>B. Height and Bulk: Prior to issuance of Coastal Development Permits for projects within the Port's jurisdiction, the project developer shall ensure that design plans for any large scale projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, stepping back of buildings, and varied color schemes to separate the building base from</p>	<p>Project Developer</p> <p>-Prior to First Coastal Development Permit</p>	Port		
		<p>Project Developer</p> <p>-Prior to First Coastal Development</p>	Port		

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	its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for large project components to diminish imposing building edges, monotonous facades and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the Port.	Permit			
	<b>C. Height and Bulk:</b> Prior to design review approval for properties within the City's jurisdiction, the project developer shall ensure that design plans for any large scale projects (greater than two stories in height) shall incorporate standard design techniques such as articulated facades, distributed building massing, horizontal banding, and varied color schemes to separate the building base from its upper elevation and color changes such that vertical elements are interrupted and smaller scale massing implemented. These plans shall be implemented for the large project components to diminish imposing building edges, monotonous facades and straight-edge building rooflines and profiles. This shall be done to the satisfaction of the City of Chula Vista Planning Director.	Project Developer -Prior to Design Review Approval	City		
	<b>D. Landscaping:</b> Prior to final approval of Phase I infrastructure design plans, the Port and City shall collectively develop a master landscaping plan for the project's public components and improvements. The plan shall provide sufficient detail to ensure conformance to streetscape design guidelines and that future developers/tenants, as applicable, provide screening of parking areas.  Streetscape landscaping shall be designed to enhance the visitor experience for both pedestrians and those in vehicles. Specifically, detailed landscaping plans shall be developed to enhance Marina Parkway, a designated scenic roadway and shall provide, where appropriate, screening of existing industrial uses and parking areas until such time as these facilities are redeveloped.  Street landscaping design shall be coordinated with a qualified biologist or landscape architect to ensure that proposed trees and other landscaping are appropriate for the given location. For instance, vegetation planted adjacent to open water/shoreline areas must not provide raptor perches. Landscaping shall be drought tolerant or low water use, and invasive plant species shall be prohibited.	Port and City -Prior to Final Approval of Phase I Design	Port in Coordination with qualified Biologist or Landscape Architect		
	<b>E. Landscaping:</b> Prior to approval of a tentative map or site development plan for future	Project Developer	City		

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	residential development, the project developer shall submit a landscaping design plan for on-site landscaping improvements that is in conformance to design guidelines and standards established by the City of Chula Vista. The plan shall be implemented as a condition of project approval.	-Prior to TM/SDP Approval			
	<b>F. Gateway Plan:</b> Concurrent with the preparation of Phase I infrastructure design plans for E and H Street, a Gateway plan shall be prepared for E and H Streets. Prior to issuance of occupancy for any projects within the Port's jurisdiction in Phase I, the E and H Street Gateway plan shall be approved by the Port and City's Directors of Planning and Building. The E and H Street Gateway plan shall be coordinated with the Gateway plan for J Street.	Applicant -Prior to Occupancy	Port and City's Director of Planning and Building		
	<b>G. Gateway Plan:</b> Concurrent with development of H-13 and H-14, the applicant shall submit a Gateway plan for J Street for City Design Review consideration. Prior to issuance of any building permits, the J Street Gateway plan shall be approved by the Director of Planning and Building in coordination with the Port's Director of Planning. The J Street Gateway plan shall be coordinated with the Gateway plan for E and H Streets.	Applicant -Prior to First Building Permit	City's Director of Planning and Building in coordination with the Port's Director of Planning		
	*Applies to Significant Impact 6.6-1, which would remain significant after mitigation				
MM 6.8-1	Prior to the issuance of any grading permit, the following measures shall be placed as notes on all grading plans, and shall be implemented during grading of each phase of the project to minimize construction emissions. These measures shall be completed to the satisfaction of the Port and the Director of Planning and Building for the City of Chula Vista (these measures were derived, in part, from Table 11-4 of Appendix 11 of the SCAQMD CEQA Air Quality Handbook (SCAQMD 1999)).  See Mitigation Measure 6.8-1 in <i>Chapter 6, Cumulative Impacts</i> , for a list of Best Available Control Measures for Specific Construction Activities.  *Applies to Significant Impact 6.8-1, which would remain significant and unmitigated after mitigation	Developer -Prior to start of grading	Port and City		

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MM 6.8-2	<p>A. For residential as well as mixed-use/commercial development within the City's jurisdiction, the applicants shall submit an Air Quality Improvement Plan (AQIP) with any Tentative Maps submitted to the City in accordance with Municipal Code Section 19.09.050B, and the applicant shall demonstrate that air quality control measures outlined in the AQIP pertaining to the design, construction, and operational phases of the project have been implemented to the satisfaction of the Director of Planning and Building for the City of Chula Vista. This plan shall demonstrate "the best available design to reduce vehicle trips, maintain or improve traffic flow, and reduce vehicle miles traveled. There are two options to meet the AQIP requirement. The applicant shall evaluate the project in accordance with the computer modeling procedures outlined in the City's AQIP guidelines, including any necessary site plan modifications.</p> <p>B. Prior to the issuance of building permits, the applicant shall demonstrate that the Proposed Project shall comply with Title 24 of the California Energy Efficient Standards for Residential and Nonresidential buildings. These requirements, along with the following measures, shall be incorporated into the final project design to the satisfaction of the Port and the Director of Planning and Building for the City:</p> <ul style="list-style-type: none"> <li>• Use of low-NO<sub>x</sub> emission water heaters</li> <li>• Installation of energy efficient and automated air conditioners when air conditioners are provided</li> <li>• Energy efficient parking area lights</li> <li>• Exterior windows shall be doublepaned.</li> </ul> <p>Although these measures would reduce the air quality impacts of the Proposed Project, they would not bring area and operations emissions to a level below the standard established by the SCAQMD and used in this document by the City and Port. Therefore, cumulative air quality impacts remain <b>significant and unmitigated</b>.</p>	<p>Applicants -With submittal of Tentative Map</p> <p>Applicant -Prior to First Building Permit</p>	<p>City</p> <p>Port and City Director of Planning and Building</p>		
MM 6.8-3	<p>*Applies to Significant Impact 6.8-2, which would remain significant and unmitigated.</p> <p>Development of program-level components of the Chula Vista Bayfront Master Plan (Phases I through IV) shall implement measures to reduce GHG emissions. Specific measures may include but are not limited to the following:</p>	<p>Applicants -During development of Program level</p>			

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Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	<p><b>Energy Efficiency</b></p> <ul style="list-style-type: none"> <li>• Design buildings to be energy efficient. Site buildings to take advantage of shade, prevailing winds, landscaping, and sun screens to reduce energy use.</li> <li>• Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.</li> <li>• Install light colored "cool" roofs, cool pavements, and strategically placed shade trees.</li> <li>• Provide information on energy management services for large energy users.</li> <li>• Install energy efficient heating and cooling systems, appliances and equipment, and control systems.</li> <li>• Install light emitting diodes (LEDs) for traffic, street, and other outdoor lighting.</li> <li>• Limit the hours of operation of outdoor lighting.</li> <li>• Use solar heating, automatic covers, and efficient pumps and motors for pools and spas.</li> <li>• Provide education on energy efficiency.</li> <li>• Renewable Energy</li> <li>• Install solar and wind power systems, solar and tankless hot water heaters, and energy-efficient heating ventilation and air conditioning. Educate consumers about existing incentives.</li> <li>• Install solar panels on carports and over parking areas.</li> <li>• Use combined heat and power in appropriate applications.</li> <li>• Water Conservation and Efficiency</li> <li>• Create water-efficient landscapes.</li> <li>• Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.</li> <li>• Use reclaimed water for landscape irrigation in new developments and on public property where appropriate. Install the infrastructure to deliver and use reclaimed water.</li> <li>• Design buildings to be water-efficient. Install water-efficient fixtures and appliances.</li> <li>• Use gray water. (Gray water is untreated household wastewater from bathtubs, showers, bathroom wash basins, and water from clothes washing machines.) For example, install dual plumbing in all new development, allowing gray water to be</li> </ul>	components of the CVBMP			

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	<p>used for landscape irrigation.</p> <ul style="list-style-type: none"> <li>• Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff.</li> <li>• Restrict the use of water for cleaning outdoor surfaces and vehicles.</li> <li>• Implement low-impact development practices that maintain the existing hydrologic character of the site to manage stormwater and protect the environment. (Retaining stormwater runoff on site can drastically reduce the need for energy-intensive imported water at the site.)</li> <li>• Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.</li> <li>• Provide education about water conservation and available programs and incentives.</li> <li>• Solid Waste Measures               <ul style="list-style-type: none"> <li>• Reuse and recycle construction and demolition waste (including but not limited to soil, vegetation, concrete, lumber, metal, and cardboard).</li> <li>• Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.</li> <li>• Recover by-product methane to generate electricity.</li> <li>• Provide education and publicity about reducing waste and available recycling services.</li> </ul> </li> <li>• Transportation and Motor Vehicles               <ul style="list-style-type: none"> <li>• Limit idling time for commercial vehicles, including delivery and construction vehicles.</li> <li>• Use low- or zero-emission vehicles, including construction vehicles.</li> <li>• Promote ride sharing programs, for example, by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides.</li> <li>• Provide the necessary facilities and infrastructure to encourage the use of low- or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling).</li> <li>• Provide public transit incentives, such as free or low-cost monthly transit passes.</li> <li>• For commercial projects, provide adequate bicycle parking near building entrances to</li> </ul> </li> </ul>				



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	<p>promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting, including (for example) locked bicycle storage or covered or indoor bicycle parking.</p> <ul style="list-style-type: none"> <li>• Institute a telecommute work program. Provide information, training, and incentives to encourage participation. Provide incentives for equipment purchases to allow high-quality teleconferences.</li> <li>• Provide information on all options for individuals and businesses to reduce transportation-related emissions. Provide education and information about public transportation.</li> <li>• The measures identified above and in Mitigation Measures 4.16-2, will substantially reduce GHG emissions, achieving reductions of at least 20 percent below "business as usual." Furthermore, better technology is rapidly developing and may provide further measures in the near future that will avoid conflict with the goals or strategies of AB 32 or related Executive Orders. Once projects are defined within the program phases, further environmental review will be required, at which time the most current measures will be identified and required to be consistent with this mitigation measure and any additional regulations in effect at the time. Implementation of Mitigation Measure 6.8-3, therefore, will avoid a contribution to a cumulatively significant impact and will result in a less than significant impact to global climate change.</li> </ul>				
MM 6.11-1	<p><i>* Applies to Significant Impact 6.8-3</i></p> <p><b>A.</b> Prior to construction of any program-level components of the project that impact eelgrass, a pre-construction eelgrass survey shall be conducted by a qualified biologist to confirm the exact extent of the impact at the time of pile driving operations. The pre-construction survey must be conducted during the period of March through October and would be valid for a period of no more than 60 days, with the exception that surveys conducted in August through October would be valid until the following March 1.</p> <p><b>B.</b> Prior to the construction of any program-level components of the project that impact eelgrass, the Port shall establish and implement a plan to create new eelgrass habitat at a ratio of 1:2:1. The Port shall create new eelgrass habitat by removing the existing eelgrass currently located in the impacted areas and transplanting it at the new location. Identification and planting of the restoration site shall be completed to the satisfaction of the Port prior to commencement of construction.</p>	<p>Port</p> <p>-Prior to construction of any program-level components that would impact eelgrass</p> <p>Port</p> <p>-Prior to construction of any program-level</p>	<p>Port in coordination with a qualified biologist</p> <p>Port in coordination with a</p>		

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	<p>C. Subsequent to construction of any program-level components of the project that impact eelgrass, a post-construction eelgrass survey shall be conducted by a qualified biologist. The post-construction survey shall be conducted within 30 days of the cessation of construction activities to confirm the exact amount of eelgrass affected. The difference between the pre-construction and post-construction eelgrass surveys shall determine the amount of required additional mitigation. In addition, the Port shall:</p> <ul style="list-style-type: none"> <li>Conduct transplant reports following construction (Initial Report). It would take 1 to 2 years for all of the fine sediment to dissipate in the water column for the movement of such a large amount of sediment. Based on this, eelgrass transplant success would not be possible for 1 to 2 years. Mitigation would be required for additional time delays.</li> <li>Conduct monitoring reports at 6, 12, 24, 36, 48, and 60 months post-transplant. Specific milestones and criteria for success are directed in the SCEMP along with guidelines for remedial actions if the success criteria are not met, which would require (based on the absence of other mitigating environmental considerations) a Supplementary Transplant Area to be constructed and monitored for an additional 5 years.</li> <li>Initiate any potential additional mitigation within 135 days of project inception; projects requiring more than 135 days to be completed may result in further additional mitigation.</li> </ul> <p>D. If an appropriate mitigation site is not available at the time of construction of the program components which would impact eelgrass, mitigation habitat shall be created through fill or appropriate habitat in the Bay. Any delays to eelgrass planting after the impact occurs would require additional mitigation of 7 percent per month of additional eelgrass.</p> <p>Implementation of Mitigation Measure 6.11-1 would reduce significant cumulative impacts to eelgrass to below significance.</p> <p>*Applies to Significant Impact 6.11-1.</p>	<p>components that would impact eelgrass</p> <p>Port in coordination with a qualified biologist eelgrass</p>	<p>qualified biologist</p> <p>Port</p>		

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MITIGATION MONITORING AND REPORTING PROGRAM**

Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
MM 6.15.2-1	<p>Prior to the approval of a building permit for any development in all phases of the Proposed Project, the City shall verify that it has adequate sewer capacity to serve the proposed development. In the event the City does not have adequate sewer capacity to serve the proposed development, no building permit shall be approved for the proposed development until the City has acquired adequate sewer capacity to serve the proposed development. In accordance with Section 15130(a)(3) of the State CEQA Guidelines, a significant cumulative impact would be rendered less than cumulatively considerable, and thus is not significant when the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The requirement for the contribution to provide a fair-share contribution to the provision of the needed sewer service mitigates the cumulative impact to below significance.</p> <p>*Applies to Significant Impact 6.15.2-1</p>	<p>City</p> <p>-Verify adequate sewer capacity exists prior to Approval of Building Permit (if City acquires additional sewer capacity for project, applicant to pay fair share of acquisition fee)</p>	City		
MM 6.15.6-1	<p>Prior to the issuance of a building permit, the applicant shall pay all required school mitigation fees.</p> <p>Payment of statutory school fees would ensure that project impacts to school services remain below a level of significance. As indicated above, the fees set forth in Government Code Section 65996 constitute the exclusive means of both "considering" and "mitigating" school facilities impacts of projects (Government Code Section 65996(a)). Once the statutory school mitigation fee (sometimes referred to as a "developer fee") is paid, the impact would be deemed mitigated as a matter of law. Therefore, this mitigation measure would reduce the cumulative impact to schools to a level less than significant.</p> <p>*Applies to Significant Impact 6.15.6-1.</p>	<p>Applicant</p> <p>-Prior to Building Permit Approval</p>	City		
MM 6.15.7-1	<p>For Phase I residential project, prior to the approval of a building permit, the applicant(s) shall pay a Public Facilities Development Impact Fee (PFDF) or other equivalent fee in an amount calculated according to the City's PFDF program in effect at the time of permit issuance.</p> <p>Implementation of Mitigation Measure 6.15.7-1 would provide funds that can be used to construct new facilities, as required, to meet the need resulting from project development. Due to existing library deficiency and inability to demonstrate that fees would fully</p>	<p>Applicant(s)</p> <p>-Prior to Building Permit Approval</p>	City		

**CHULA VISTA BAYFRONT MASTER PLAN PROJECT  
MITIGATION MONITORING AND REPORTING PROGRAM**

Number	Mitigation Measure	Responsible Party and Mitigation Timing	Monitoring Agency	Date of Completion	Date of Verification
	mitigate, implementation of the measure would not reduce the significant impact to library services to a level below significance.  *Applies to Significant Impact 6.15.7-1				
MM 6.17-1	<p>Encourage compact development featuring a mix of uses that locate residential areas within reasonable walking distance to jobs, services, and transit.</p> <ul style="list-style-type: none"> <li>Promote and facilitate transit system improvements in order to increase transit use and reduce dependency on the automobile.</li> <li>Encourage innovative energy conservation practices and air quality improvements in new development and redevelopment projects consistent with the City's AQIP Guidelines or their equivalent, pursuant to the City's Growth Management Program.</li> </ul> <p>Despite the fact that the Project would result in adoption of these conservation measures, the cumulative impact relative to energy supply would remain significant and unmitigated because of the uncertainty of the future supply of energy, which is within the responsibility and control of SDG&amp;E and other entities responsible for arranging electric energy supplies, not the Port or the City.</p> <p>*Applies to Significant Impact 6.17-1.</p>	Applicant	Port or City		

**Exhibit 1**  
*Wildlife Habitat Areas*





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AERIAL SOURCE: DIGITAL GLOBE, MARCH 2007

- National Wildlife Refuge (San Diego Bay Unit)\*
- Sweetwater Marsh National Wildlife Refuge\*
- City of Chula Vista LCP Open Space Land Use Designation
- City of Chula Vista S-4 100 ft. No-Touch Buffer
- CVBMP Boundary
- Proposed Navigation Channel

**Port Master Plan - Planning District 7**  
Conservation Land and Water Designations

- Estuary
- Habitat Replacement
- Wetland

**Exhibit 1 to the Mitigation Monitoring and Reporting Program for the Chula Vista Bayfront Master Plan Wildlife Habitat Areas**

\*National Wildlife Refuge lands are included in the definition of Wildlife Habitat Areas for the sole purpose of addressing adjacency impacts and not for the purpose of imposing affirmative resource management obligations with respect to the areas within the National Wildlife Refuge lands.

## **Exhibit 2**

*Buffer Areas*



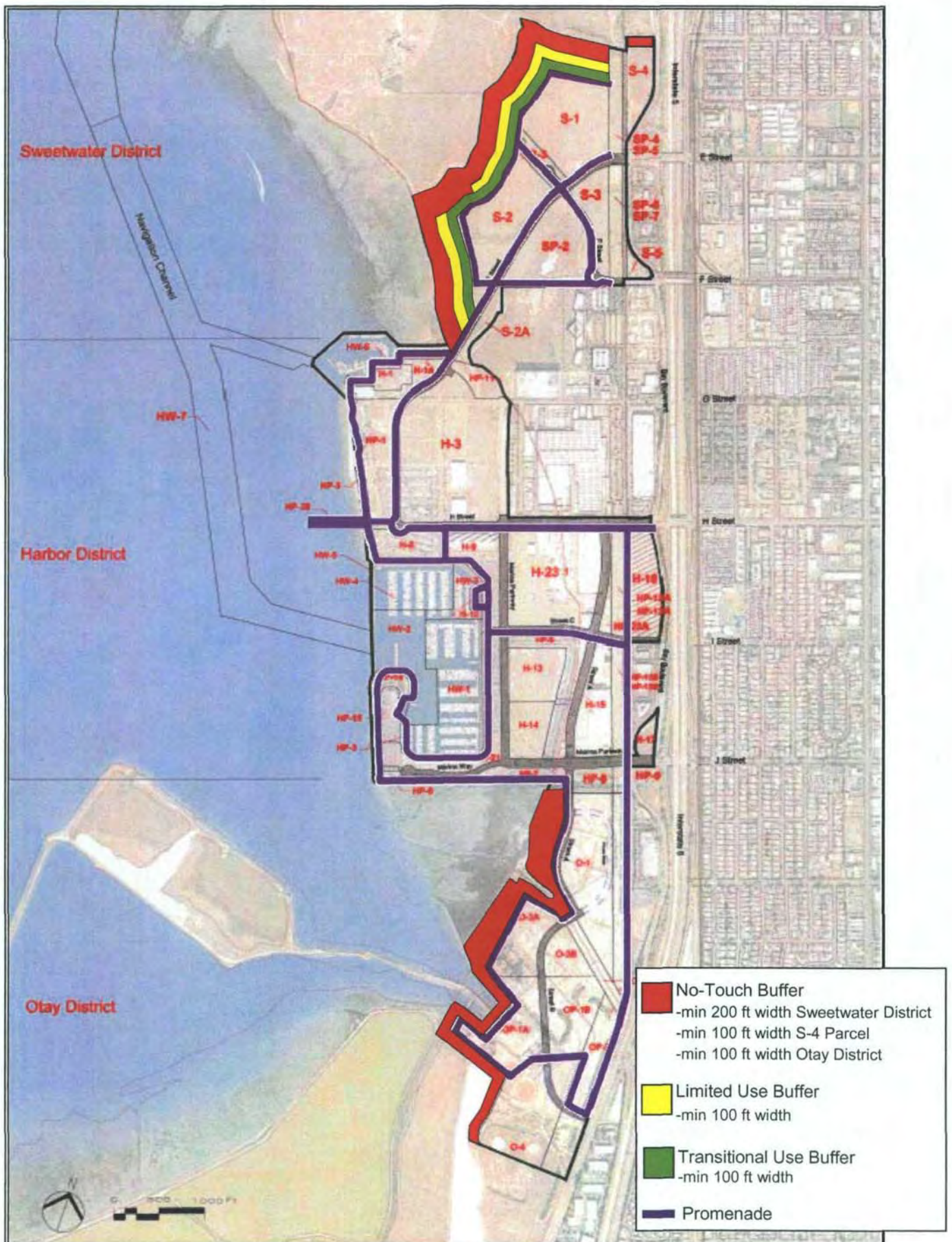


Exhibit 2 to the Mitigation Monitoring and Reporting Program for the Chula Vista Bayfront Master Plan Buffer Areas (Defined by Chapter 3, Project Description, of the Final EIR)



**Exhibit 3**  
*Energy Demand Reduction*

### EXHIBIT 3 to the Mitigation Monitoring and Reporting Program for the Chula Vista Bayfront Master Plan

Exhibit 3 outlines the methodologies for determining that the goals of the Energy Section are met. The Sample Worksheets are for illustration purposes, to provide a format which may be used both by Developments and by the City of Chula Vista's Building Department. Note that the Energy Section outlines requirements and approaches for projects which will be subject to future codes, regulations, tariffs, and technologies, all of which are subject to change. When clarifications are needed, they will be provided by the City of Chula Vista.

Baseline. The term "Baseline" refers to the amount of energy against which the energy reduction will be measured.

SAMPLE Worksheets. Sample worksheets are provided as suggested approaches. Actual worksheets for calculating the energy requirements should be coordinated with the City of Chula Vista Building Department.

Title 24 Path. Title 24 language refers to the "Standard Budget" and "Proposed Budget." The Whole Building Performance Method, which generates the Standard and Proposed Energy Budgets, is specifically for energy uses within a conditioned building, and does not include lighting which is in Interior Unconditioned Spaces or lighting which is outside. However, for the purposes of the Energy Section, this lighting energy will be added to the energy budgets for the conditioned building, and the combined energy uses will become the Baseline for the "Title 24 Path." Each of the various energy uses will be converted into Site kBtu, except for the final 5% energy reduction waiver allowed for Ongoing Measurement and Verification.

LEED Path. LEED language refers to the "Baseline Design" and "Proposed Design." The LEED Path Baseline is likely to be different and higher than the Title 24 Path Baseline because LEED counts all of the energy uses within the site boundary, some of which are not counted by Title 24. However, LEED is also likely to be better and more comprehensive in calculating overall energy performance features, such as district thermal plants, combined heat and power, natural ventilation, efficiencies in process loads, aggregating multiple buildings, and the benefits of renewable energy. Each of the various energy uses will be converted into dollars (\$), except for the final 5% energy reduction waiver allowed for Ongoing Measurement and Verification.

If the LEED Path is chosen, the Development may be subject to an additional fee to the City of Chula Vista for a 3rd party plan check by an experienced LEED reviewer acceptable to the City. Recognizing that LEED Templates may not be complete at the time of the initial Building Department submittals, draft Templates may be used, at the discretion of the reviewer.

Natural Ventilation. When using Natural Ventilation (NV) to qualify as an energy reduction feature, the Development may qualify for a waiver of up to 10% if at least 75% of the area that would normally be cooled relies solely on natural ventilation strategies to help maintain comfortable temperatures. Pro-rations are possible.

City of Chula Vista Sponsored Energy Efficiency Program. Refer to the appropriate City ordinances for details on this program.

Measurement and Verification. Each Development shall develop and implement an ongoing Measurement and Verification (M&V) Plan consistent with the International Performance Measurement and Verification Protocol (IPMVP) Volume III, Concepts and Options for Determining Energy Savings in New Construction, April 2003. The Development may choose either Option B or Option D. If the LEED Path is chosen, the M&V Plan should be consistent with Credit EAc5, except that LEED only requires one year of implementation, and the Energy Section of this Agreement requires M&V to be ongoing.

Demand Response Tariffs. Developments which enroll in SDG&E Demand Response rate tariff(s) which are designed to reduce the load on the electric grid during critical times may be awarded up to a 5% waiver.

# EXHIBIT 3

## SAMPLE Worksheet A: Title 24 Path

Name: Example Development

Description <sup>1</sup>	Source of Info (Attachments)	Input Standard	Input Proposed	Typical Units of Measure	Convert to Site kbtu	Standard = Baseline	Proposed	Units	Minimum % Reduction	Actual % Reduction
<b>15.2.1 MINIMUM EFFICIENCY</b>										
Title 24 Whole Building Performance	T24 UTIL-1, Part 1			Source TDV kbtu/sf-yr					15%	
<b>15.2.2 CALCULATE BASELINE AND REDUCTIONS</b>										
<b>A. Energy Uses</b>										
T24 Electricity	T24 UTIL-1, Part 2			Site KWH/year	3,413	-	-	kBtu		
T24 Gas	T24 UTIL-1, Part 2			Site Therms/year	100,000	-	-	kBtu		
T24 Lighting Outside and Uncond	Worksheet A-LTG		-	Site KWH/year	3,413	-	-	kBtu		
<b>A. Summary of Efficiency of End Uses</b>										
<b>B. Renewable Energy Contributions</b>										
PV: within Development	CSI calculation or PV-Watts <sup>2</sup>	n/a		Site KWH output/year	3,413	n/a	-	kBtu		
PV: Credited from Project		n/a		Site KWH output/year	3,413	n/a	-	kBtu		
Solar Thermal: within Development	F-Chart or equal	n/a		Site kbtu offset/year	1,000	n/a	-	kBtu		
Other	as appropriate	n/a		as appropriate		n/a				
<b>B. Combined Renewable Reductions</b>										
<b>C. Natural Ventilation</b>	Worksheet C						0% to 10%			
D. Chula Vista Program Savings										
Verified Electricity Savings	Confirm with Program Administrator	n/a		Site KWH	3,413		-	kBtu		
Verified Gas Savings		n/a		Site Therms	100,000		-	kBtu		
<b>D. CV Program Combined Reduction</b>										
<b>E. Ongoing Measure &amp; Verify</b>	Worksheet E						Required			
<b>F. Demand Response Tariff</b>	Worksheet F						0% to 5%			
<b>TOTAL REDUCTION FROM BASELINE (Must be at least 50% Reduction)</b>										<b>0.0%</b>

### NOTES TO WORKSHEET A

Note 1: If the Development includes more than one building, then use multiple Worksheets, or, add backup calculations or line items to this spreadsheet, as most appropriate.

Note 2: Final photovoltaic design and output informatio shall use industry standard software, including at least site location, array orientation, array tilt, and system efficiency. California Solar Initiative (CSI) rebate calculations and PV-Watts are examples of acceptable software.

# EXHIBIT 3

## Worksheet A-LTG: Lighting Outside and in Interior Unconditioned Spaces

Name: Example Development

Category <sup>1</sup>	Source of Info (Attachments)	T24 Allowed Watts	Proposed Watts	Occupancy	Average hours	Days /year	Hours /year	Standard KWH/yr	Proposed KWH/yr
Unconditioned spaces	T24 LTG Forms						-	-	-
Unconditioned spaces	T24 LTG Forms						-	-	-
Unconditioned spaces	T24 LTG Forms						-	-	-
Unconditioned spaces	T24 LTG Forms						-	-	-
Unconditioned spaces	T24 LTG Forms						-	-	-
General Site Illumination (Tradable)	T24 OLTG Forms						-	-	-
General Site Illumination (Tradable)	T24 OLTG Forms						-	-	-
General Site Illumination (Tradable)	T24 OLTG Forms						-	-	-
General Site Illumination (Tradable)	T24 OLTG Forms						-	-	-
General Site Illumination (Tradable)	T24 OLTG Forms						-	-	-
Specific Applications (Non-Tradable)	T24 OLTG Forms						-	-	-
Specific Applications (Non-Tradable)	T24 OLTG Forms						-	-	-
Specific Applications (Non-Tradable)	T24 OLTG Forms						-	-	-
Signs (Non-Tradable)	T24 OLTG Forms						-	-	-
Signs (Non-Tradable)	T24 OLTG Forms						-	-	-
Totals (Subtotals are inputs to Worksheet A)									-

### NOTES TO WORKSHEET A-LTG

Note 1: If more lines are needed, create a spreadsheet in similar format, and enter above, as appropriate.

Note 2: For average runtimes, use the hours in this chart, unless proposer demonstrates to the Bldg Department's satisfaction that a different value should be used.

# EXHIBIT 3

## SAMPLE Worksheet B: LEED Path

Name: Example Development

Description	Source of Info (Attachments)	Standard or Baseline	Proposed	Typical Units of Measure	Virtual Rate	Baseline	Proposed	Units	Minimum % Reduction	Actual % Reduction
<b>15.2.1 MINIMUM EFFICIENCY</b>										
Title 24 Whole Building Performance	T24 UTIL-1, Part 1			Source TDV kbtu/sf-yr					15%	
<b>15.2.2 CALCULATE BASELINE AND REDUCTIONS</b>										
A. Energy Costs: LEED Performance Rating Method (PRM) EAp2/c1 Letter Template										
Conditioned Building(s)		Included	Included							
Other energy uses on site		Included	Included							
Lighting: Outside and Uncond		Included	Included							
Onsite Renew Energy: Development		Included	Included							
Campus Renew Energy: Project		Included	Included							
Other		Included	Included							
Natural Ventilation		May be included in LEED EAp2/c1, OR, use Worksheet C								
Electricity (Summary)	LEED EAp2/c1 Section 1.8 Summary <sup>1</sup>			kWh	#DIV/0!	-		Site \$		
Natural Gas (Summary)				therms	#DIV/0!			Site \$		
<b>A. Summary of Efficiency of Energy Costs</b>						\$	\$	Site \$		
<b>B. Combined Renewable Reductions</b>	Included in EAp2/c1 above									
<b>C. Natural Ventilation</b>	May be included in LEED EAp2/c1 above, OR, use Worksheet C									
Alternate:	Worksheet C						0% to 10%			
D. Chula Vista Program Savings	Confirm with Program Administrator									
Verified Electricity Savings				Site KWH	#DIV/0!		#DIV/0!	Site \$		
Verified Gas Savings				Site Therms	#DIV/0!		#DIV/0!	Site \$		
<b>D. CV Program Combined Reduction</b>										
<b>E. Ongoing Measure &amp; Verify</b>	LEED EAc5. See Worksheet E.						Required			
<b>F. Demand Response Tariff</b>	Worksheet F						0% to 5%			
<b>TOTAL REDUCTION FROM BASELINE (Must be at least 50% Reduction)</b>										<b>0.0%</b>

### NOTES TO WORKSHEET B

Note 1: LEED EAp2/c1 Letter Template: Section 1.8, "Energy Cost and Consumption by Energy Type - Performance Rating Method Compliance Table"

EXHIBIT 3  
SAMPLE Worksheet C: Natural Ventilation

Name: Example Development

When using Natural Ventilation (NV) to qualify as an energy reduction feature for this Agreement, the Development may qualify for a waiver if at least 75% of the area that would normally cooled includes effective natural ventilation strategies to help maintain comfortable temperatures. A 5% waiver is granted if the area is also served by an energy or cooling system drawing energy from the grid. A 10% waiver is granted if the area is not served by an energy or cooling system drawing from the grid. The waiver may be prorated if the area is less than 75%. Final determination of normally cooled areas are at the discretion of the Building Department. For example, in CA Climate Zone 7, spaces such as warehouses and kitchens do not normally have electric cooling.

Two approaches are possible:

1. A Development may use a performance approach, such as macro-flow or Computational Fluid Dynamics (CFD) modeling, to design and confirm the maintenance of comfort using natural ventilation techniques.
2. As an alternate, the prescriptive calculations outlined in the Collaborative for High Performance Schools (CHPS) may be used. CHPS identifies an approach to achieving ventilation strategies which are likely to be effective in helping to maintain interior comfort when outside conditions are moderate. Even though the CHPS program targets school campuses, the approach is useful for The designer should follow the CHPS guidelines. To satisfy the prescriptive approach, the following table may be used. Inlets and Outlets should each be at least 4% of the floor area of the space.

Space Name	Source of Cooling	Conditioned Floor Area (CFA)	Qualifying CFA	Performance or Prescriptive Calculation	Prescriptive: Inlet (Windward)			Prescriptive: Outlet (Leeward)			opposite or corner wall
					Area	Orientation	% CFA	Area	Orientation	% CFA	
Space A	NV with grid cooling										
Space B	NV with grid cooling										
Space C	NV with grid cooling										
Subtotal:			0								
Space D	NV only										
Space E	NV only										
Space F	NV only										
Subtotal:			0								
Other spaces	no NV										
Total Normally Conditioned Floor Area											

CFA which is Naturally Ventilated, with Grid Cooling Energy Reduction Allowed	0				CFA: NV + grid Reduction		
					0%	15%	0%
					15%	30%	2%
					30%	45%	4%
					45%	60%	6%
					60%	75%	8%
					75%		10%

CFA Which is Naturally Ventilated Only Energy Reduction Allowed	0				CFA: NV Only Reduction		
					0%	15%	0%
					15%	30%	2%
					30%	45%	4%
					45%	60%	6%
					60%	75%	8%
					75%		10%

Combined Energy Reduction Allowed							

**EXHIBIT 3**

**SAMPLE Worksheet D: Chula Vista Energy Efficiency Program**

Name: Example Development

Refer to the appropriate City ordinances for details on this program, including, but not limited to:

City of Chula Vista Municipal Code Section 15.12 "Green Building Standards Ordinance"

City of Chula Vista Municipal Code Section 15.26.030 "Increase Energy Efficiency Ordinance"

EXHIBIT 3

SAMPLE Worksheet E: Ongoing Measurement & Verification (M&V)

Name: Example Development

Develop and implement a Measurement and Verification (M&V) Plan consistent with the International Performance Measurement and Verification Protocol (IPMVP) Volume III, Concepts and Options for Determining Energy Savings in New Construction, April 2003. The Development may choose either Option B or Option D.
M&V shall be on-going for the length of the lease.
Tenants shall have sub-meters for electricity. Sub-meters for gas and water should also be considered, but are not required.
The plan shall include a process for corrective action if energy performance goals are not achieved as planned. Refer to ASHRAE Guideline 14 for suggested ranges of discrepancy, appropriate to the meter, magnitude of energy uses, and overall plan.
If the LEED Path is chosen, the M&V Plan should be consistent with EAc5, except that LEED only requires one year of implementation, and the Energy Section of this Agreement requires M&V to be ongoing.



**EXHIBIT 3**  
**SAMPLE Worksheet F: Demand Response Tariffs**

**Name: Example Development**

If the development chooses an SDG&E Demand Response tariff in which the customer has the option to manually or semi-automatically reduce electricity use when requested by the utility, then it will be awarded a 3 % waiver towards the overall energy reduction.

If the development chooses an SDG&E Demand Response tariff in which the utility can automatically reduce the customer's electricity use, then it will be awarded a 5 % waiver towards the overall energy reduction.

<u>Meter(s)</u>	<u>Tariff</u>	<u>Manual or Semi-Automatic: Customer Controlled: 3%</u>	<u>Automatic, or Utility Controlled: 5%</u>	<u>% Reduction Awarded</u>

### EXHIBIT 3

#### Links for References used in EXHIBIT 3

Title 24 Building Energy Efficiency Standards	<a href="http://www.energy.ca.gov/title24/">www.energy.ca.gov/title24/</a>
Collaborative for High Performance Schools (CHPS) CHPS 2006 Volume II Best Practices Manual - Design	<a href="http://www.chps.net/dev/Drupal/node/31">www.chps.net/dev/Drupal/node/31</a>
IPMVP, Volume III, Concepts and Options for Determining Energy Savings in New Construction, April 2003.	<a href="http://www.evo-world.org">www.evo-world.org</a>
Leadership in Energy and Environmental Design (LEED™)	Products & Services / IPMVP / Applications Volume III
City of Chula Vista sponsored energy efficiency program	<a href="http://www.usgbc.org">www.usgbc.org</a>
Living Building Challenge	<a href="http://www.lbi.org">www.lbi.org</a>

**SAN DIEGO UNIFIED PORT DISTRICT**

Reference Copy  
Document No. 56562

**DATE:** May 18, 2010

**SUBJECT: CHULA VISTA BAYFRONT MASTER PLAN**

- A) CONDUCT A PUBLIC HEARING AND ADOPT A RESOLUTION WHICH (1) CERTIFIES THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE "CHULA VISTA BAYFRONT MASTER PLAN AND PORT MASTER PLAN AMENDMENT," (2) ADOPTS THE ALTERNATE L-DITCH REMEDIATION ALTERNATIVE, (3) ADOPTS FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATIONS, (4) ADOPTS A MITIGATION MONITORING AND REPORTING PROGRAM, AND (5) DIRECTS FILING OF THE NOTICE OF DETERMINATION**
- B) ADOPT A RESOLUTION WHICH (1) APPROVES THE PORT MASTER PLAN AMENDMENT FOR THE CHULA VISTA BAYFRONT PLANNING DISTRICT 7 AND (2) DIRECTS FILING THE PORT MASTER PLAN AMENDMENT WITH THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION**

**EXECUTIVE SUMMARY:**

In 2002, the San Diego Unified Port District (District) and the City of Chula Vista (City) began work to create a master plan for the approximately 556-acre Bayfront area. The Chula Vista Bayfront Master Plan (CVBMP) represents a collaborative effort between the District, the City and the community in developing a comprehensive plan that consolidates the respective planning visions of all. Pacifica Companies (Pacifica) joined this effort in 2003. The CVBMP (Proposed Project) promotes public access to and engagement with the water while enhancing the quality and protection of key habitat areas. The ultimate goal of the CVBMP is to create a world-class bayfront reflecting strong planning and design principles, economic feasibility, and community benefits.

The project area is divided into three districts referred to as the Sweetwater District, the Harbor District and the Otay District. Development within these districts is expected to occur in four phases and involves a land exchange between the District and Pacifica. Redevelopment of the Sweetwater, Harbor and Otay Districts are proposed with a variety of uses, including parks, open space, ecological buffers, residential, resort conference center (RCC), hotel, retail, cultural and recreational space; a reconfigured marina basin and boat slips; a new commercial harbor; and a realignment of the existing navigation channel. The Proposed Project also involves redevelopment of the existing roadway and infrastructure system to serve the proposed new uses, as well as the demolition and/or relocation of existing uses to allow for redevelopment to occur.

Pursuant to the California Environmental Quality Act (CEQA), a Draft Environmental Impact Report (EIR) was prepared for the Proposed Project. A public review of 105

days was provided for the Draft EIR commencing on September 29, 2006 and ending on January 11, 2007. The District prepared a Revised Draft EIR for the Proposed Project, which was circulated for a 60-day public review period from May 23, 2008 through August 7, 2008. The District received 53 comment letters, including nearly 1,000 individual comments, from various agencies, organizations, and individuals. The Final EIR, which contains the District's responses to these comments as well as associated revisions to the EIR text, has been prepared in accordance with CEQA. The Final EIR and the proposed Port Master Plan Amendment (PMPA) for the CVBMP have been provided to the Board for their consideration. Staff recommends that the Board conduct a public hearing, certify the Final EIR and approve the PMPA.

**RECOMMENDATION:**

Chula Vista Bayfront Master Plan:

- A) Conduct a Public Hearing and Adopt a Resolution which (1) certifies the Final Environmental Impact Report for the "Chula Vista Bayfront Master Plan and Port Master Plan Amendment," (2) adopts the Alternate L-Ditch Remediation Alternative, (3) adopts Findings of Fact and a Statement of Overriding Considerations, (4) adopts a Mitigation Monitoring and Reporting Program, and (5) directs filing of the Notice of Determination.
- B) Adopt a Resolution which (1) approves the Port Master Plan Amendment for the Chula Vista Bayfront Planning District 7 and (2) directs filing the Port Master Plan Amendment with the California Coastal Commission for certification.

**FISCAL IMPACT:**

There is no fiscal impact as a result of this Board action. The District, City, and the Chula Vista Redevelopment Agency (RDA) anticipate entering into a Financing Agreement and Memorandum of Understanding relative to the development and implementation of the CVBMP. These documents will establish the framework for the eventual formation of a Joint Powers Authority (JPA). Revenues from CVBMP development projects, including hotel occupancy taxes paid to the City, property tax increment paid to the RDA and ground lease payments paid to the District, will be combined within the District/City/RDA JPA. With these funds, the JPA will finance CVBMP infrastructure, such as roadways, utilities, and park amenities, as well as ongoing operations and maintenance costs, including costs for the mitigation and monitoring of impacts. To the extent permitted by law, the above new revenue sources will be used by the JPA to fund costs associated with implementation of the PMPA and are expected to be sufficient to fully fund these costs.

In addition, the District will receive contributions from Pacifica per the terms of the Pacifica Land Exchange Agreement in the amount of 0.5% of the initial gross sales price of residential units. Pursuant to the terms of the CVBMP Settlement Agreement, to the extent permitted by law, these funds will be transferred to the JPA and placed in a community benefits fund committed to Natural Resources, Affordable Housing,

Sustainability/Living, and Community Impacts and Culture within the Project Area and Western Chula Vista.

Prior to formation of the JPA, upfront costs are anticipated for the creation of a Natural Resources Management Plan (NRMP) and CVBMP landscape design guidelines. Anticipated expenditures are estimated in the amounts of \$100,000 for the NRMP and \$50,000 for the landscape design guidelines. These expenditures have been budgeted for next fiscal year by the Environmental Services and Land Use Planning Departments, respectively.

**COMPASS STRATEGIC GOALS:**

The completion of the CVBMP EIR will help to bring to fruition a long-awaited vision to develop a world-class waterfront that will benefit the citizens of Chula Vista and the region. The proposed redevelopment of the Bayfront will enhance and revitalize a presently underutilized waterfront area with land uses that include commercial development opportunities, new residential uses and public space amenities. Securing entitlements for the Bayfront will serve as an attraction for future developers and businesses, which will ultimately result in increased revenues that will strengthen the District's economic performance. Additionally, sensitive wildlife habitat will be better protected through the creation of buffers and enhanced natural resource areas.

This agenda item supports the following Strategic Goal(s).

- ☐ Promote the Port's maritime industries to stimulate regional economic vitality.
- ☒ Enhance and sustain a dynamic and diverse waterfront.
- ☒ Protect and improve the environmental conditions of San Diego Bay and the Tidelands.
- ☐ Ensure a safe and secure environment for people, property and cargo.
- ☐ Develop and maintain a high level of public understanding that builds confidence and trust in the Port.
- ☐ Develop a high-performing organization through alignment of people, process and systems.
- ☒ Strengthen the Port's financial performance.
- ☐ Not applicable.

**DISCUSSION:****BACKGROUND**

In 2002, the District and City began a collaborative planning process to create a master plan for the approximately 556-acre Chula Vista Bayfront area. This process included an award-winning public participation program with the Citizens Advisory Committee (CAC), which established three primary goals for the master plan: to develop a world-class waterfront; to create a plan that is supported by sound planning and economics; and, to create a plan that has broad-based community support. Pacifica joined this

effort in 2003 in response to the CAC's request to join the planning for Pacifica's proposal in the Midbayfront with the master plan being conducted for District properties.

The CVBMP represents a collaborative effort between the District, the City and the community in developing a comprehensive plan that consolidates the respective planning visions of each. The Proposed Project promotes public access to and engagement with the water while enhancing the quality and protection of key habitat areas. The ultimate goal of the CVBMP is to create a world-class bayfront reflecting strong planning and design principles, economic feasibility, and community benefits.

## **PROPOSED PROJECT OVERVIEW**

### **Project Location**

The project site is located within District tidelands and the City of Chula Vista in San Diego County, situated on the southeastern edge of the San Diego Bay and located approximately 1.5 miles west of the City's downtown commercial area. The project site encompasses approximately 556 acres, including 497 acres of land area and 59 acres of water area. The project site is bordered by the Sweetwater Marsh National Wildlife Reserve and the jurisdictional boundary of National City to the north. Interstate 5 (I-5) and the commercial development along Bay Boulevard are to the east. Palomar Street and the South Bay Unit of the San Diego Bay National Wildlife Refuge, which includes the salt evaporation ponds at the southern end of San Diego Bay, border the project site to the south (see Attachment 1, Proposed Project Boundary).

### **Project Components**

The Proposed Project, which is also referred to as the Sweetwater Park Plan, includes:

- Amendments to the Port Master Plan (PMP); the City of Chula Vista General Plan; the City's Local Coastal Program (LCP), which includes the Land Use Plan and Bayfront Specific Plan.
- A land exchange between the District and Pacifica Companies (a private developer).
- Implementation of the CVBMP through redevelopment of the Sweetwater, Harbor, and Otay Districts with a variety of uses, including parks, open space, ecological buffers, residential, RCC, hotel, retail, cultural and recreational space; a reconfigured marina basin and boat slips; a new commercial harbor; and a realignment of the existing navigation channel.
- Redevelopment of the roadway system and infrastructure serving the Proposed Project area both on site and off site.
- Demolition and/or relocation of existing uses to allow for the above redevelopment to occur subject to existing District lease agreements.

As shown in Attachment 2, Proposed Project Illustrative Plan, the Proposed Project will extend Chula Vista's traditional grid of streets to ensure pedestrian, vehicle, bicycle, transit, and water links. The Proposed Project also proposes an open space system that is fully accessible to the public and connects the Sweetwater, Harbor, and Otay Districts through a shoreline promenade or baywalk and a bicycle path linking the parks. Significant park and other open space areas in each of the three districts are proposed along with a "signature park" and the creation of an active commercial harbor with public space at the water's edge. The Proposed Project would also enhance existing physical and visual corridors while adding new ones. Approximately 238 acres (or 43 percent), of the project site is proposed for open space, either in the form of natural habitat or public parks and approximately 258 acres (or 46 percent), of the project site is proposed for development. The remaining 59 acres, of the project site consists of water area for the marina basins and new commercial harbor.

Proposed development is planned to occur in four phases over an approximate 24-year period. Construction of Phase I project level and II components would begin upon project approval and conclude approximately five years later. Phase I project level components are envisioned to consist of high-quality development and public infrastructure improvements that would be concentrated in the Harbor and Sweetwater Districts and would be a catalyst for surrounding public and private development. The phasing schedule represents a best-case scenario and will be contingent upon many factors, such as availability and timing of public financing and construction of public improvements, the disposition of existing long-term District leases, actual market demand for and private financing of proposed development, and the relocation and/or demolition of existing uses.

### **Proposed Project Features**

For planning purposes, the master plan area is divided into three districts—the Sweetwater District, the Harbor District, and the Otay District. For ease in referencing the proposed uses, each development component has been assigned an individual parcel number that corresponds to the project site parcel plan map. A parcel map of the Proposed Project, depicting the districts and their individual parcels, is provided on Attachment 3, Proposed Project Parcel Plan and Development Phases. This is accompanied by tables describing the proposed land use and development programs in each of the planning districts (Attachments 4, 5 and 6). The following is a synopsis of the key elements proposed within each district:

Sweetwater District: The Sweetwater District (approximately 130 acres) proposes the lowest intensity development of the three districts and focuses on lower scale, environmentally sensitive and environmentally themed uses, including a large ecological buffer, an 18-acre signature park, bike path, pedestrian trails, other open space areas, uses such as office/retail, hotel, parking for the Chula Vista Nature Center, and roadway and infrastructure improvements.

Harbor District: The Harbor District is most directly accessible to downtown Chula Vista and would be redeveloped to provide a significant link from the City to the Bayfront. It is composed of approximately 223 acres of land and approximately 59 acres of water. The Harbor District proposes the highest intensity development of the Proposed Project and encourages an active, vibrant mix of uses, including: an RCC, hotels and conference space; bike path; park and other open space areas; a continuous waterfront promenade; residential uses; mixed-use retail, office, and cultural space; and new roadways and infrastructure. Also proposed is a reconfiguration of the existing harbor to create a new commercial harbor, and realignment of the navigation channel.

Otay District: The Otay District is composed of approximately 144 acres, and proposes medium intensity development that will consist of industrial business park uses, low cost visitor-serving recreational uses, other open space areas, an ecological buffer, stormwater retention basins, bike path, pedestrian trails, and new roadways and infrastructure.

### **Recent Proposed Project Revisions**

Since the Revised Draft EIR was distributed, two changes occurred as a result of recent activities outside the scope of the Proposed Project. These two changes involved a land sale from the District to SDG&E and initiation of a remediation effort on parcel HP-5 within the proposed Pacifica land exchange area. These recent project revisions are further described below along with how they are reflected in the District actions on the Proposed Project.

SDG&E Land Exchange: On January 6, 2010, the District approved a Real Estate Exchange Agreement with San Diego Gas & Electric Company (SDG&E Agreement), which provides for the relocation of an existing SDG&E switchyard; the extinguishing of easements in favor of SDG&E; and the transferring of ownership of 12.42 acres, from the District to SDG&E. The District's PMPA was originally distributed for public review showing these areas included within the CVBMP boundary. The land acquired by SDG&E, as well as an additional 6.08-acres adjacent to this area (see Attachment 7, SDG&E Land Exchange Map), will now remain in the City's LCP and graphics in the draft PMPA have been revised accordingly to exclude this area from the Port Master Plan boundary.

L-Ditch (Parcel HP-5) Remediation/Preferred Project Alternative: At the time the Draft EIR and the Revised Draft EIR (DEIR) were prepared, the District had not yet formulated a work plan for remediation of the existing contamination in the L-Ditch located on Parcel HP-5 in the Harbor District, which is considered a wetland and is subject to Cleanup and Abatement Order (CAO) No. 98-08 issued by the California Regional Water Quality Control Board. The Revised DEIR therefore analyzed two potential scenarios for Parcel HP-5: 1) the Proposed Project, which assumed the existing contamination would be excavated and removed and the L-Ditch would remain



a wetland on which no development would occur; and 2) the Alternate L-Ditch Remediation Alternative, which assumed that development would occur if the existing contamination were remediated in place by filling the L-Ditch and the L-Ditch were no longer considered a wetland. On March 2, 2010, the District approved a work plan, pursuant to the CAO, which proposes to fill the L-Ditch and remediate the existing contamination in place. This is consistent with the Alternate L-Ditch Remediation Alternative which was analyzed in Section 5.7 of the Revised DEIR.

This Alternate L-Ditch Remediation Alternative proposes to construct the Pacifica residential development on a larger footprint that includes development over HP-5. All other elements of the Alternate L-Ditch Remediation Alternative are identical to the Proposed Project. This increase in land area will allow for a reduction in height, bulk, development density and visual impacts, while simultaneously affording an increase in useable public open space as compared to the proposed Pacifica project.

Because the Alternate L-Ditch Remediation Alternative is consistent with the proposed work plan for remediating the existing contamination in the L-Ditch, staff recommends the adoption of the Alternate L-Ditch Remediation Alternative as the development plan for Parcels H-13, H-14 and HP-5, in place of the plan for development of those parcels described in Chapter 3 (Project Description) of the Final EIR.

### **PORT MASTER PLAN AMENDMENT**

The Proposed Project site is located in Planning District 7, Chula Vista Bayfront. Planning District 7 includes approximately 4.8 miles of the Chula Vista shoreline, including approximately 1,690 acres of tidelands and submerged lands, only a portion of which is located within the project boundary. Planning District 7 is further subdivided into nine planning subareas. As part of the Proposed Project, a PMPA has been prepared to update District and City coastal jurisdictional boundaries and to facilitate proposed development. Please refer to the proposed Precise Plan (Attachment 8). The proposed amendments to the PMP Precise Plan for Planning District 7, Chula Vista Bayfront, are more fully described in Attachment 9 and include the following changes to the PMP:

- Incorporating approximately 97 acres of land at the north end of District 7, formerly under the City's jurisdiction, within the District's trusteeship and jurisdiction and removing up to 33 acres of land from the PMP that would convert to City jurisdiction (and be included in the City's LCP). These land use changes are contingent upon the State Lands Commission's approval of the proposed land exchange with Pacifica.
- Revising the Precise Plan concept for Chula Vista Bayfront, Planning District 7 to reflect the Proposed Project development and land use components, including revising the precise plan text and map, acreage tables, planning subareas map, and project list.

- Revising the allowable uses under certain land use classifications.
- Updating other portions of the PMP as appropriate to reflect the Planning District 7 changes, including incorporating an additional 176 acres of land area previously not included in the PMP, resulting from past land acquisitions.

As a result of the proposed PMP Amendment, a total of 1,962 acres of Chula Vista Bayfront will be allocated to commercial, industrial, public recreation, conservation and public facilities activities. The changes to the PMP land use and water allocations for the Chula Vista Bayfront as a result of the Proposed Project are summarized below:

Land and Water Use Allocation Summary  
For Chula Vista Bayfront: Planning District 7

Land and Water Use Category	Existing (acres)	Proposed (acres)	Net Change (acres)
Commercial	82.5	84.2	+1.7
Industrial	93.6	123.6	+0.0
Public Recreation	24.8	150.1	+125.3
Conservation	1,268.5	1,372.4	+103.9
Public Facilities	220.1	231.6	+11.5
<b>TOTAL</b>	<b>1,689.5</b>	<b>1,961.9</b>	<b>+272.4</b>

## **ENVIRONMENTAL IMPACT REPORT**

### **Final EIR**

The CVBMP Final EIR has been prepared in accordance with CEQA (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines. The Final EIR consists of three volumes, organized as follows: Volume 1 contains the comment letters regarding the Revised Draft EIR and the District's responses to those letters; and Volumes 2 and 3 include the revised version of the Revised Draft EIR and the Appendices to the Final EIR.

Draft EIR: The Draft EIR, dated September 2006 was circulated for a 60-day public review period from September 29, 2006, to November 27, 2006. In response to requests for additional review time, the public review period was extended to January 11, 2007, bringing the total public review period for the DEIR to 105 days. The District received 59 individual comment letters, many of which requested more information and project-specific data, specifically for the project-level components (i.e., the proposed RCC, Pacifica Residential Site, and the Signature Park).

Revised Draft EIR: In response to the numerous public comments on the Draft EIR and substantial additional information concerning the Proposed Project, a Revised DEIR was prepared and circulated to the public. Because the revisions described above were substantial, the entire Revised Draft EIR was re-circulated for public review and

comment. The Revised Draft EIR was circulated for a 60-day public review period (May 23, 2008, to August 7, 2008) to further make project description refinements and revisions that were analyzed throughout the document. Fifty-three (53) comment letters, including nearly 1,000 individual comments, were received on the Revised Draft EIR.

Public comments on the original Draft EIR are included in the administrative record, but the District was not required to provide written responses to them in the Revised Draft EIR. Instead, pursuant to state CEQA Guidelines section 15088.5(f)(1), the District advised the public that new comments must be submitted on the Revised Draft EIR and that the District would respond in writing in the Final EIR only to those comments submitted in response to the Revised Draft EIR.

In addition, a number of events occurred since the Revised DEIR was made available for public review, which resulted in changes to the Revised DEIR that are reflected in the Final EIR. These events include the following:

1. In November 2008, Gaylord Entertainment withdrew its proposal to develop a RCC on Parcel H-3 in the Harbor District. The specific RCC proposed by Gaylord was analyzed in the Revised DEIR at a project level. Although the Gaylord RCC is no longer part of the Proposed Project, the technical studies conducted for the Gaylord development are still valid and applicable to a RCC development. Parcel H-3 retains its land use designation for a RCC and the future development of an RCC on Parcel H-3 is analyzed in the Final EIR at a program level.
2. The Proposed Project includes a proposed land exchange between the District and Pacifica, which was analyzed in the Revised DEIR. On February 2, 2010, the District entered into an Exchange Agreement with Pacifica, which provides for the transfer of approximately 97 acres of land in the Sweetwater District from Pacifica to the District in exchange for the transfer of approximately 33 acres of land in the Harbor District from the District to Pacifica.
3. In response to comments received on the Revised DEIR, the District and the City engaged in outreach efforts with Rohr, Inc., operating as Goodrich Aerostructures, (Goodrich), to address its concerns regarding the potential impacts of the Proposed Project on Goodrich's ongoing and future manufacturing operations and contamination remediation activities. As a result of these outreach efforts, entered into an agreement with agreement with Goodrich, which addressed all of the concerns expressed by Goodrich to its satisfaction.
4. In response to comments received on the Revised DEIR, the District and the City engaged in public outreach efforts with many interested persons and organizations, including representatives of the Bayfront Coalition (and its member organizations). The outreach effort resulted in an agreement with the Bayfront Coalition, the City, the District and the RDA. As a result of the

agreement, additional project design features and mitigation measures above and beyond those required by CEQA and other applicable laws and regulations were added to the Final EIR and the Mitigation Monitoring and Reporting Program (MMRP).

The Final EIR reflects these events and responds to significant environmental points raised in the public and agency comments by making changes in the Revised Draft EIR.

Errata to the Final EIR: After the issuance of the Final EIR in April 2010, an Errata to the Final EIR was prepared to clarify and address the following items:

- The inclusion of additional design features and mitigation measures in the Final EIR, above and beyond those required by CEQA, resulting from an agreement with the Bayfront Coalition (and its member organizations) approved District and City of Chula Vista City Council on May 4, 2010 and May 11, 2010, respectively;
- Minor clarifications and corrections of the text of the Final EIR; and
- Minor changes to the City's General Plan Amendment resulting from the Alternate L-Ditch Alternative; and
- District and City boundary changes resulting from the recent sale of land from the District to SDG&E previously described

The Errata has been prepared to ensure the accuracy and completeness of the Final EIR. It corrects minor errors in the Final EIR and provides additional protection for natural resources and the environment in the project area. The District has reviewed the information in this errata and has determined that it does not change any of the findings or conclusions of the Final EIR and does not constitute "significant new information" within the meaning of CEQA Guidelines section 15088.5. Accordingly, the District finds that recirculation of the Final EIR is not required.

### **Findings of Fact**

CEQA requires the District to make written findings of fact for each significant environmental impact identified in the Final EIR (CEQA Guidelines Section 15091). The purpose of findings is to restate, systematically, the significant effects (or "impacts") of the Proposed Project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the Final EIR that would avoid or substantially lessen the significant effects. The Final EIR identified a number of direct and indirect significant environmental impacts that would result from the Proposed Project. Some of which can be fully avoided by the adoption of feasible mitigation measures, and others that cannot be avoided or reduced to less than significant levels by the adoption of feasible mitigation measures or alternatives.

Significant and Mitigated Impacts: Potentially direct significant environmental impacts which have been mitigated to less-than-significant levels include land/water use

compatibility, traffic and circulation, aesthetics/visual quality, hydrology/water quality, air quality, noise, terrestrial biological resources, marine biological resources, paleontological resources, hazards and hazardous materials/public safety, public services, public utilities, seismic/geology and energy. Potentially cumulative significant impacts that have also been mitigated to less-than-significant levels include traffic and circulation, air quality, marine biological resources, public services, public utilities, and energy.

Significant and Unmitigated Impacts: The FEIR concluded that the Proposed Project may result in the following significant impacts, which would not be mitigated to below a level of significance even after the incorporation of all feasible mitigation measures:

- The Pacifica project would result in significant direct impacts on Land/Water Use Compatibility because it would be inconsistent with the City of Chula Vista General Plan objectives regarding aesthetics and visual resources (LUT 11) and library services and facilities (PFS 11).
- The Proposed Project would result in the following significant direct and cumulative impacts on Traffic and Circulation:
  - The addition of traffic from all phases of the Proposed Project would result in significant direct and cumulative impacts to freeway segments of I-5 between SR-54 and Palomar Street during both a.m. and p.m. peak hours
  - The addition of traffic from the Proposed Project would result in a significant direct impact in that E Street and H Street intersections affected by an at-grade trolley crossing would experience additional delay along the arterial and at adjacent intersections
  - The addition of traffic from Phase III of the Proposed Project would result in a significant cumulative impact on the roadway segment of H Street between Street A and the I-5 ramps
  - The addition of traffic from Phase III of the Proposed Project with the extension of E Street would result in a significant cumulative impact on the intersection of H Street and I-5 southbound ramps during the p.m. peak hours and the intersection of J Street and I-5 northbound ramps during the p.m. peak hours.
- The Proposed Project would result in the following significant direct and cumulative impacts on Aesthetics/Visual Quality:
  - The Pacifica project would result in significant direct impacts in that its proposed buildings will exceed the scale of the existing waterfront development and will block existing views of San Diego Bay for motorists on portions of I-5
  - The Proposed Project would result in a significant cumulative impact in that it would add to the intensification of land uses and further change the character of the area and result in the loss of views of significant landscape features and landforms.
- The Proposed Project would result in the following significant direct and cumulative impacts on Air Quality:

- Emissions from construction activities in all phases would result in a significant direct impact because they would exceed the federal and state standards for criteria pollutants
- Emissions from Proposed Project operations in all phases would result in a significant direct impact because they would exceed the federal and state standards for certain criteria pollutants
- Construction activities associated with the program-level components of all phases would result in a significant direct impact because sensitive receptors located on site would be exposed to emissions that would exceed federal and state standards for criteria pollutants
- Construction activities and project operations in all phases of the Proposed Project would result in significant cumulative impacts on air quality because of the San Diego Air Basin's existing non-attainment status for the federal 8-hour ozone standard and the state ozone, PM<sub>10</sub>, and PM<sub>2.5</sub> standards.
- The Pacifica project would result in significant direct and cumulative impacts on Public Services (Library Services) in that it would worsen the existing shortfall in library square footage and books per capita until new library facilities are constructed or existing facilities are expanded in the City of Chula Vista.
- The Proposed Project would result in a significant cumulative impact on Energy because of uncertainty regarding long-term energy supply.

Alternatives: The Final EIR examined a reasonable range of alternatives to the Proposed Project that could avoid or substantially lessen one or more of the Proposed Project's significant impacts. The alternatives considered in the Final EIR are the No Project Alternative, the Harbor Park Alternative, the No Land Trade Alternative, the Harbor Park Alternative, the Reduced Overall Density Alternative, and the Alternate L-Ditch Remediation Alternative. In considering the feasibility of the alternatives, the District examined the ability of the alternative to avoid or substantially reduce significant unmitigated impacts and its relationship to the project's objectives. The District has determined that none of these alternatives is feasible and would avoid or substantially lessen any of the unavoidable significant impacts, except the Alternate L-Ditch Remediation Alternative, which will be adopted with the Findings. Based on the evidence contained in the record, the District finds that the other alternatives analyzed in the Final EIR that would avoid or substantially lessen any of the unavoidable significant impacts of the Proposed Project are infeasible.

Statement of Overriding Considerations: The Board is required to adopt Findings of Fact and Statement of Overriding Considerations to address those impacts which cannot be avoided or reduced to below significant even after the incorporation of all feasible mitigation measures or alternatives. The District has balanced the specific economic, legal, social, technological, and other benefits of the Proposed Project, including region-wide and statewide environmental benefits, against its unavoidable significant environmental risks in determining whether to approve the Proposed Project. The District finds that, pursuant to CEQA Guidelines section 15093, the benefits of the Proposed Project outweigh its significant adverse environmental impacts and, therefore,

such impacts are considered acceptable. The District further finds that each of the benefits and the fulfillment of the objectives of the Proposed Project is determined to be a separate and independent basis for overriding the unavoidable significant impacts of the Proposed Project. Accordingly, staff recommends the District adopt the Statement of Overriding Considerations.

**Mitigation Monitoring and Reporting Program**

The MMRP has been prepared in compliance with CEQA Guidelines Section 15097. The MMRP identifies certain changes or alterations (i.e., mitigation measures) required for implementation of the Proposed Project to reduce or avoid significant environmental impacts. Specifically, the MMRP identifies the environmental issue area, mitigation measures, and party responsible, timing, and procedure for documenting the mitigation implementation. For this EIR, the Project Design Features and Best Management Practices, which are components of the Proposed Project and not mitigation measures, have also been included in the MMRP in order to track responsibility, timing, and procedures for their implementation.

Copies of the Final EIR, Findings of Fact and Statement of Overriding Considerations, and MMRP have been provided to the Board for their consideration.

**Port Attorney's Comments:**

The Port Attorney has reviewed and approved the requested documents for form and legality.

**Environmental Review:**

This proposed Board action completes the CEQA process for this project.

**Equal Opportunity Program:**

Not applicable.

**PREPARED BY:** Lesley M. Nishihira  
Senior Redevelopment Planner, Land Use Planning

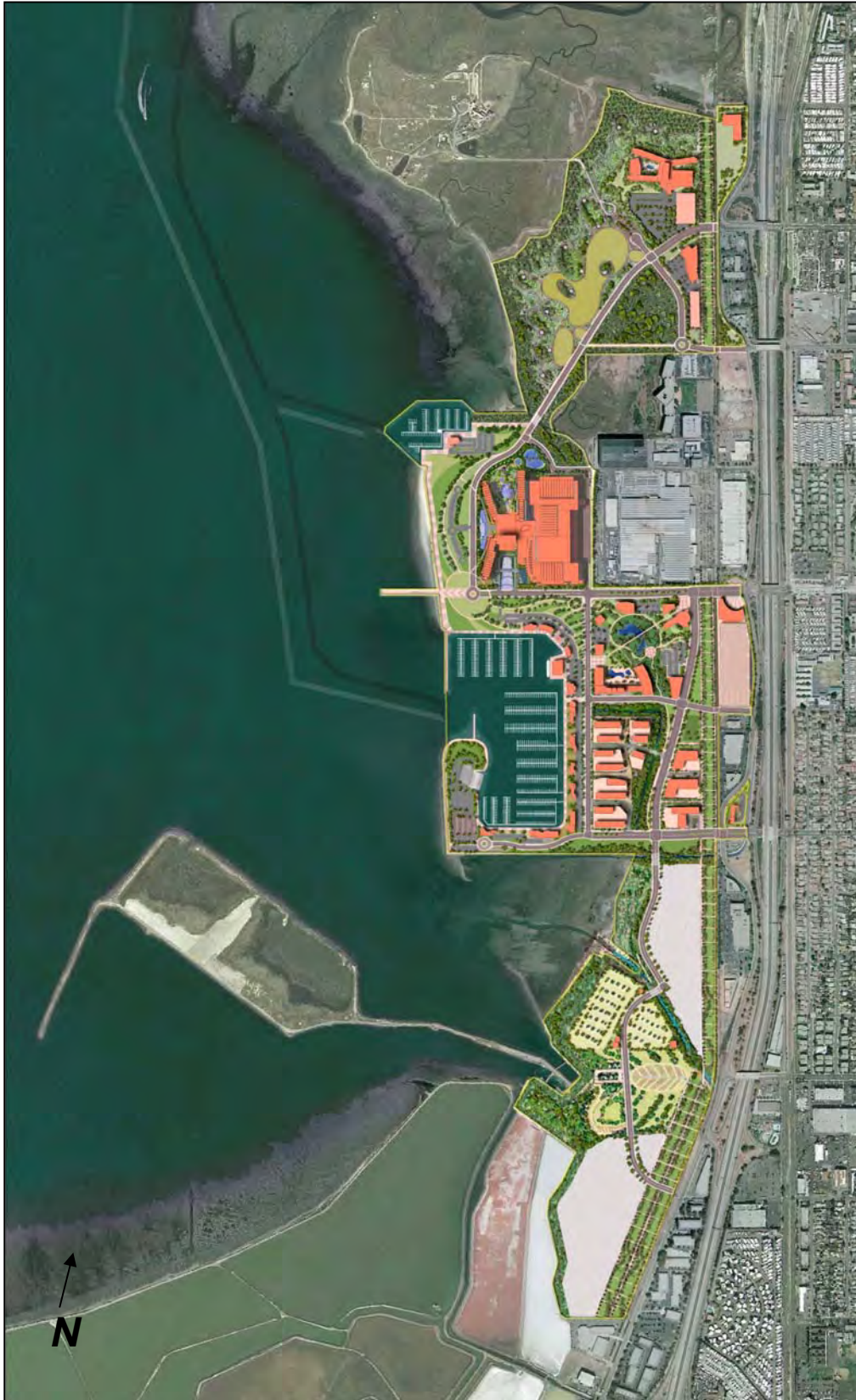
**Attachments:**

1. Proposed Project Boundary
2. Proposed Project Illustrative Plan
3. Proposed Project Parcel Plan and Development Phases
4. Proposed Land Use and Development Program for Sweetwater District
5. Proposed Land Use and Development Program for Harbor District
6. Proposed Land Use and Development Program for Otay District
7. SDG&E Land Exchange Map
8. PMP Precise Plan for Planning District 7
9. Draft PMP Amendment









**Chula Vista Bayfront Master Plan**

**Proposed Project Illustrative Plan**





**Sweetwater District Summary:  
Proposed Land Uses and Development Program/Height Ranges**

Parcel Number	Proposed Use	Approximate Program Range	Maximum Stories	Maximum Height (feet)
<b>Public Space</b>				
<b>Phase I</b>				
S-2	Signature Park	18 acres	1	N/A
SP-1	Ecological Buffer	41 acres	N/A	N/A
SP-3	Nature Center Parking and Access Road	3 acres	N/A	N/A
<b>Phase II</b>				
SP-2	Seasonal Wetland	14 acres	N/A	N/A
S-2A	Open Space	3 acres	N/A	N/A
<b>Phase III</b>				
—	Public Infrastructure Only	—	—	—
<b>Phase IV</b>				
SP-4, SP-5, SP-7	SP-6, Open Space	10 acres	N/A	N/A
<b>Development</b>				
<b>Phase I</b>				
	Public Infrastructure Only			
<b>Phase II</b>				
—	Public Infrastructure Only	—	—	—
<b>Phase III</b>				
—	Public Infrastructure Only	—	—	—
<b>Phase IV</b>				
S-1	Resort Hotel	500–750 rooms	2 to 8	40 to 100
S-3	Mixed Use Office/Commercial Recreation	60,000–120,000 square feet	2 to 3	30 to 45
S-4	Office	120,000 square feet	8	125

\*S-5 Existing 1-acre park will remain.

Attachment No. 5 to Agenda Sheet

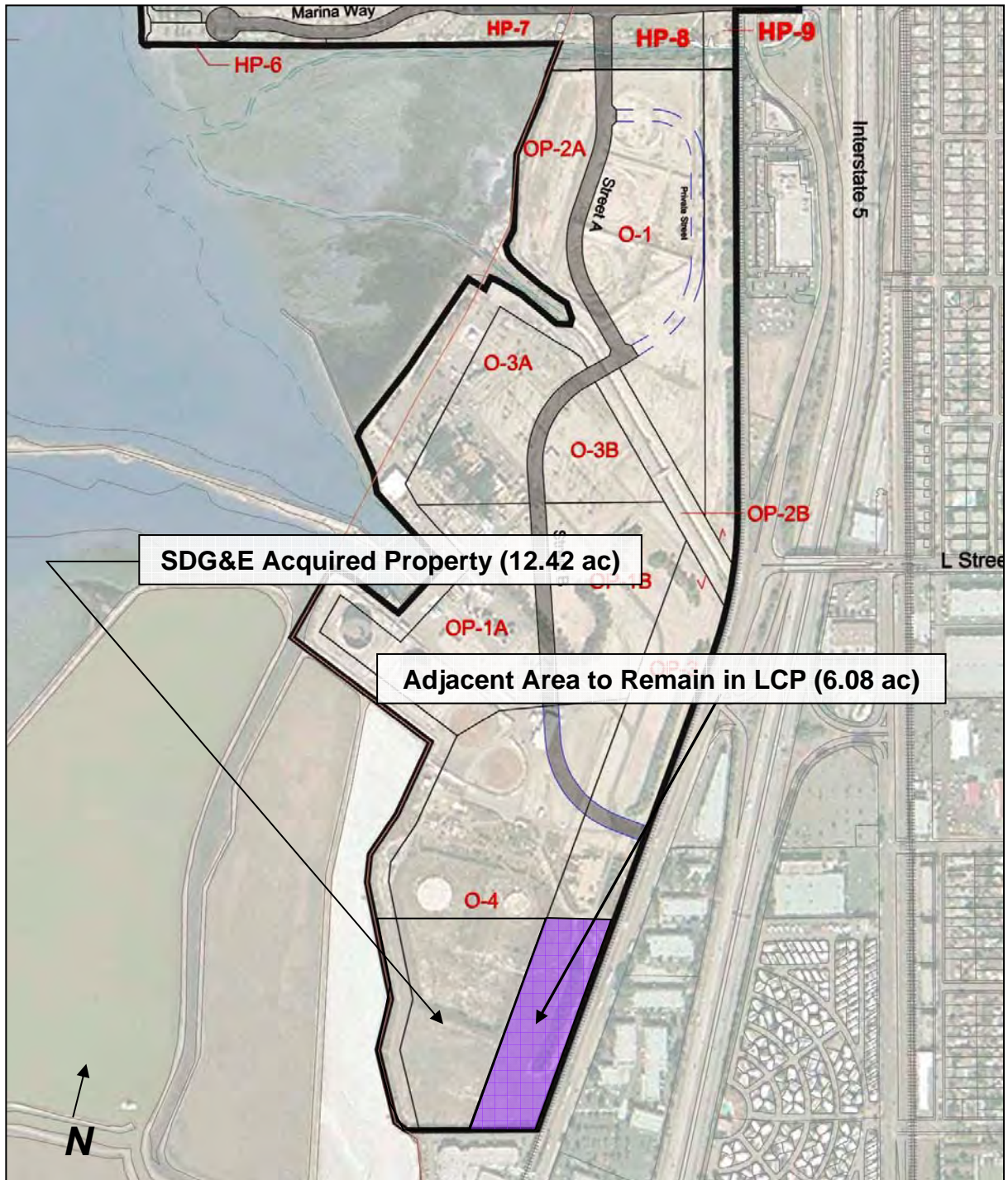
Harbor District Summary:  
Proposed Land Uses and Development Program/Height Ranges

Parcel Number	Proposed Use	Approximate Program Range	Maximum Stories	Maximum Height (feet)
<b>Public Space</b>				
<b>Phase I</b>				
HP-1, H-8	Signature Park	17 acres	1	N/A
HP-3	Shoreline Promenade (abutting HP-1 and H-8)	3 acres	N/A	N/A
HP-5	Wetlands and Buffer	9 acres	N/A	N/A
H-9 (Interim Use)	Interim Park/Landscaping	2 acres	N/A	N/A
<b>Phase II</b>				
HP-3	Shoreline Promenade (abutting H-9)	1 acre	N/A	N/A
HP-6, HP-7, HP-8	Parks	8 acres	1	N/A
HP-11	Existing Wetlands	3 acres	N/A	N/A
HP-28	H Street Pier (first half)	0.4 acre	N/A	N/A
<b>Phase III</b>				
HP-9, HP-12, HP-13, HP-14, HP-15	Park/Open Space	18 acres	N/A	N/A
HP-3	Shoreline Promenade (abutting HP-14, HP-15, and H-21)	3 acres	N/A	N/A
<b>Phase IV</b>				
H-1A	Signature Park	5 acres	N/A	N/A
HP-3	Shoreline Promenade (abutting H-1 and H-1A)	2 acres	N/A	N/A
HP-28	H Street Pier (second half)	0.4 acre	N/A	N/A
HW-3	Commercial Harbor	4 acres	N/A	N/A
HW-7	Navigation Channel	60 acres	N/A	N/A
<b>Development</b>				
<b>Phase I</b>				
H-3	Resort Conference Center (RCC)	1,500-2,000 hotel rooms	N/A	240
H-3	Conference Space	415,000 square feet (net)	N/A	120
H-3	Restaurant	100,000 square feet	Included in RCC	
H-3	Retail	20,000 square feet		

Otay District Summary:  
Proposed Land Uses and Development Program/Height Ranges

Parcel Number	Proposed Use	Program Range	Maximum Stories	Maximum Height (feet)
<b>Public Space</b>				
Phase I				
—	Public Infrastructure Only	—	—	—
Phase II				
—	Public Infrastructure Only	—	—	—
Phase III				
OP-1A, OP-1B	South Park	24 acres	1	N/A
OP-3	Open Space	27 acres	N/A	N/A
OP-2A, OP-2B	Ecological Buffer/Telegraph Creek Channel	27 acres	N/A	N/A
Phase IV				
—	Public Infrastructure Only	—	—	—
<b>Development</b>				
Phase I				
—	Public Infrastructure Only	—	—	—
Phase II				
—	Public Infrastructure Only	—	—	—
Phase III				
O-1	Industrial Business Park Use	18 acres	N/A	N/A
O-3A, O-3B	RV Park	175 to 236 RV spaces	1 to 2	15 to 35
O-4	Industrial Business Park Use	28 acres	N/A	N/A
Phase IV				
—	Public Infrastructure Only	—	—	—







*San Diego Unified Port District  
Port Master Plan Amendment*



**DRAFT**

*Chula Vista Bayfront Master Plan  
&  
Port Master Plan Amendment*

**REVISED SWEETWATER PARK PLAN (PROPOSED PROJECT)**

*Existing/Proposed Plan Text  
and  
Plan Graphics*

*May 2010*

*Note: Text to be **deleted** shown in ~~strike-out~~ and text to be **added** shown in underline.  
Text in italics is for clarification only and is not part of the Plan Amendment.*



**TABLE 4  
PORT MASTER PLAN  
LAND AND WATER USE ALLOCATION SUMMARY**

<u>LAND USE</u>	<u>ACRES</u>	<u>WATER USE</u>	<u>ACRES</u>	<u>TOTAL ACRES</u>	<u>% OF TOTAL</u>
<b><u>COMMERCIAL</u></b>	<b><u>373.5 368.2</u></b>		<b><u>383.0 390.0</u></b>	<b><u>756.5 758.2</u></b>	<b><u>14 13%</u></b>
Marine Sales and Services	<u>48.8 16.6</u>	Marine Services Berthing	17.7		
Airport Related Commercial	38.0				
Commercial Fishing	8.3	Commercial Fishing Berthing	18.8		
Commercial Recreation Sportfishing	<u>304.4 301.0</u>	Recreational Boat Berthing Sportfishing Berthing	<u>335.4 342.4</u>		
	4.3		11.1		
<b><u>INDUSTRIAL</u></b>	<b><u>1206.4 1241.9</u></b>		<b><u>217.7 212.2</u></b>	<b><u>1424.1 1454.1</u></b>	<b>26%</b>
Aviation Related Industrial	152.9	Specialized Berthing	<u>170.5 165.0</u>		
Industrial Business Park	<u>113.7 152.1</u>	Terminal Berthing	47.2		
Marine Related Industrial	<u>322.1 318.6</u>				
Marine Terminal	149.6				
International Airport	468.1				
<b><u>PUBLIC RECREATION</u></b>	<b><u>280.5 405.5</u></b>		<b><u>681.0 681.3</u></b>	<b><u>961.5 1086.8</u></b>	<b>18 19%</b>
Open Space Park/Plaza	<u>49.0 69.1</u>	Open Bay/Water	<u>681.0 681.3</u>		
Golf Course	<u>146.4 206.6</u>				
Promenade	97.8				
	<u>17.3 32.0</u>				
<b><u>CONSERVATION</u></b>	<b><u>399.2 477.2</u></b>		<b><u>1058.6 1084.6</u></b>	<b><u>1457.8 1561.8</u></b>	<b>27 28%</b>
Wetlands	<u>304.9 375.9</u>	Estuary	<u>1058.6 1084.6</u>		
Habitat Replacement	<u>94.3 101.3</u>				
<b><u>PUBLIC FACILITIES</u></b>	<b><u>222.9 240.8</u></b>		<b><u>394.3 387.9</u></b>	<b><u>617.2 628.7</u></b>	<b>12 11%</b>
Harbor Services	<u>2.7 2.6</u>	Harbor Services	10.5		
City Pump Station	0.4	Boat Navigation Corridor	<u>284.6 274.3</u>		
Streets	<u>249.8 237.8</u>	Boat Anchorage	25.0		
		Ship Navigation Corridor	<u>50.0 53.9</u>		
		Ship Anchorage	24.2		
<b><u>MILITARY</u></b>	<b>25.9</b>		<b>125.6</b>	<b>151.5</b>	<b>3%</b>
Navy Fleet School	25.9	Navy Small Craft Berthing	6.2		
		Navy Ship Berthing	119.4		
<b><u>TOTAL LAND AREA</u></b>	<b><u>2508.4 2759.5</u></b>	<b><u>TOTAL WATER AREA</u></b>	<b><u>2860.2 2881.6</u></b>		
<b>MASTER PLAN LAND AND WATER ACREAGE TOTAL</b>				<b><u>5368.6 5641.1</u></b>	<b>100%</b>

# Commercial Recreation



Land use demand forecasts have established a basis for anticipating continued demand for commercial recreational type facilities due to trends drawn

from the convergence of numerous factors, of which the most significant are expendable income, paid holidays, leisure time, population, education, travel habits, and new modes of transportation. All of these are increasing while the average number of working hours is decreasing. It seems likely that activities associated with water-based pursuits will continue to be among the most popular. The trends are almost certain to have considerable repercussions on the full range of leisure services. Tourism in the San Diego Bay region is a significant economic base activity, and at the national level, it figures highly in maintaining the balance of payment.

Activities associated with commercial recreation contribute to the economic base of the region with full-time jobs, secondary employment for part-time help, and spin-off employment opportunities in construction, warehousing, trucking, custodial, and personal services. It is the intent of this Master Plan to create attractive destinations in carefully selected locations around the bay to serve the needs of recreationalists for lodging, food, transportation services, and entertainment. Site amenities are to be enhanced and over-commercialization is to be avoided by the balanced development of commercial and public recreational facilities.

Commercial recreation allocations of the Land and Water Use Map include approximately [287301](#) acres of land and about [343354](#) acres of water area, including sportfishing and recreational craft berthing. The Commercial Recreation category includes hotels, restaurants, convention center, recreational vehicle parks, specialty shopping, pleasure craft marinas, water dependent educational and recreational program facilities and activities, [dock and dine facilities](#), and sportfishing, which are discussed or illustrated in the various District Plans.

**Hotels and Restaurants** located on San Diego Bay cater to markets involving leisure recreation, tourism, business travel and specialized conference facilities accommodating conventions, training, seminars and meetings. Of growing importance are the attractions or amenities of the restaurant, which caters to the varied age groups dining for pleasure, and the hotel as a provider of more than just rooms.

Hotels constitute a significant part of the local recreation industry and, as generators of ancillary business such as restaurants and specialty shops, have an important influence on land use. Uses typically associated with hotels, frequently in the same building or on the same site, include lodging; coffee shop; cocktail lounge and restaurant; specialty shops for gifts, sundries, cigarettes, candy, liquor, clothing and sporting goods; tourist information and travel services; auto service station; personal services such as dry cleaning, barber and beauty shop; convention, banquet and conference rooms; and recreational facilities such as swimming pools, cabanas, game rooms, tennis courts, putting green, boat and bicycle rental or charter, and theatrical entertainment. In addition to the man-made structures and organized sports facilities, hotel locations on the bay feature waterfront locations with easy access to beaches, scuba diving and snorkeling, deep sea fishing, sailing, water skiing, boat rides, and "whale watching" during the whale migration season. New hotel locations are allocated in Planning Districts 2, 3, 6, 7 and possibly 8.

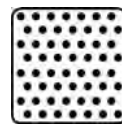
**Specialty Shopping** involves the planned assembly of stores, frequently operating within a unified building complex, designed to give patrons a varied selection of retail goods, personal services, and entertainment facilities. Activities typically found in specialty shopping areas include restaurants and the retail sale of ice cream, dessert items, beverages and sandwiches; artisan activities associated with the production and sale of hand-crafted gift items, and original works of art; professional office

space; retail shops handling gifts, novelties, clothing, jewelry, and home furnishings; wholesale and retail fish sales, fish and seafood processing, and unloading docks for vessels and trucks. Characteristic of shopping centers, the specialty shopping developments allocated on tidelands are usually managed and operated as a unit. Shopping areas will feature a major open space format, separate pedestrian traffic from vehicular movement by emphasizing pedestrian mall and plaza developments improved with landscaping, sitting areas, fountains and sculpture. Specialty shopping areas are allocated in Precise Plans for Planning Districts 3 and 6.

**Pleasure Craft Marinas** are encouraged to provide a variety of services for boats and boat owners. Services could possibly include in-season wet and dry berthing and dock lockers; boat rentals, charter and sales; sailing schools and membership sailing clubs; fueling docks; launching for transients; automobile parking; dockside electricity; fresh water and telephones; holding tank pumpout stations and disposal facilities for waste oil and hazardous substances; restrooms and showers; repairs; maintenance; off-season storage; ice and fuel. Accessory facilities provided as part of a full-service marina or in the commercial recreational areas and within close proximity to the marinas should include shopping areas for groceries, medicine and clothing; restaurants; shoreside living and recreational accommodations for boatmen; marine supplies; boating equipment; navigation instruments; marine electronics; and sailmaking. Users requiring water frontage are given preference because it is desirable to maintain a dynamic waterfront in recreational areas, which is functionally sound and capable of providing essential services to the operation of a small craft harbor. Proposed recreational boating facilities, to the extent feasible, are to be designed and located so as not to interfere with the needs of the commercial fishing industry.



**Recreational Vehicle / Camping** parks provide low cost, visitor serving recreational opportunities for enjoying scenic and commercial amenities on the Bay. Such parks may contain ancillary facilities such as offices, pool/spas, snack bars, general stores, meeting spaces, game rooms, laundry rooms, associated parking spaces, and playground equipment. Recreational Vehicle/Camping park designated areas are found in Planning District 7.



**Recreational Boat Berthing.** Water area used primarily for recreational craft storage, refueling, boat brokerage storage area, sailing school docking, water taxi, excursion ferry and charter craft operations, guest docking, boat launching, sewage pump out, water craft rental, boat navigation corridors, breakwaters for recreational craft protection, navigation facilities, aids to navigation, floats, docks, piers, breakwaters, wave attenuation structures, seawalls, shoreline protection, and any other necessary or essential facilities for providing water-side docking refuge to recreational marine craft and commercial passenger vessels.



**Sportfishing.** Deep-sea sportfishing is big business in California and San Diego enjoys a major share of that activity. The local fleet takes a large portion of the State's total sportfishing catch of the larger sport fish – yellowtail, yellowfin, albacore, and giant sea bass. Sportfishing brings new revenue into the region from customers heavily drawn from the Los Angeles metropolitan area, and from a small but important segment of out of state fishermen.

The intensity of sportfishing activities reflects the cyclical nature of the sportfishing operations (half day and full day), and the seasonal nature of sportfishing for certain fish species that produces a winter slack season. The size of the local sportfishing fleet also increases two to three times during the peak period from April to September. Operating schedules for most boats provide for pre-dawn



## **Industrial-Business Park**

is a land use category that permits a wide range of industrial and business uses sited in development that emphasizes clustering of buildings, extensive landscaping, landscaping, and shared open space.

[This land use category would also allow for industrial distribution and related facilities.](#)

Coastal dependent developments, including, but not limited to, Marine Related Industrial or Commercial uses, shall have priority over other developments on or near the shoreline. The development of industrial-business parks can be an asset to the bay region because of the stimulating effect such developments usually have on the local economy by attracting new businesses as well as retaining existing firms that might otherwise leave the area. The industrial-business park area is reserved for the types of industrial activities associated with the manufacture, assembling, processing, testing, servicing, repairing, storing or distribution of products; wholesale sales; retail sales that are incidental to permitted uses; transportation and communication uses; parking; industrial, construction, government and business services; and research and development. The Industrial-Business Park classification will also integrate other land uses within the industrial environment. Such integration is prompted by recognition of the fact that the traditional industrial park, while carefully providing for efficient operation for industrial purposes, typically has ignored many community, employee and tenant needs. This use group would allow industrial, commercial, professional, business service, and recreation uses and facilities.

Hotel, restaurant, integrated meeting and conference space, [cultural](#), specialized retail store, and business-professional office uses would be allowed in a campus setting. Permitted recreational uses include, but are not limited to, landscaped areas, promenades, public walkways, parks, picnic areas, and active sports facilities [\(where associated with a business park campus and intended for employees\)](#). A 1000-foot separation shall be maintained between any childcare facility and any facility using or storing hazardous materials, whichever facility is developed first.

# Public Recreation Uses

## Land Use Objectives & Criteria

**Parks, plazas, public accessways, vista points and recreational activities on Port lands and tidelands should:**

- provide a variety of public access and carefully selected active and passive recreational facilities suitable for all age groups including families with children throughout all seasons of the year.
- enhance the marine, natural resource, and human recreational assets of San Diego Bay and its shoreline for all members of the public.
- provide for clear and continuous multi-lingual information throughout Port lands and facilities to and about public accessways and recreational areas.

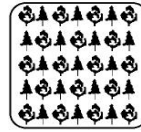
## Master Plan Interpretation

A growing population, greater discretionary incomes and more leisure time all contribute significantly to the increasing demand for both active and passive outdoor recreational opportunities. The public recreation opportunities developed on tidelands by the Port District along with the commercial recreation opportunities developed by private investment provide a balanced recreation resource for San Diego Bay. When thoughtfully planned, both public recreational developments and commercial recreational developments benefit from each other as off-site improvements, although as a matter of planning policy, commercial activities within public recreation areas will be limited. Recreational areas must be of the appropriate type and size to be efficiently developed, administered and maintained by the Port District at a reasonable cost. This Plan places primary emphasis on the development of public facilities for marine oriented recreational activities for the purposes of fishing, boating, beach use, walking and driving for pleasure, nature observation, picnicking, children's playing, bicycling and viewing.

**Recreation Area/Open Space** is a category illustrated on the Land and Water Use Element Map to portray a wide array of active and passive recreational areas

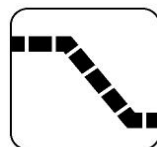
allocated around the bay. More specific information on public recreational areas is provided at the Planning District level under the following use categories.

**Park, Plaza** is a use category designating



landscaped urban type recreational developments and amenities. Users are generally drawn from the region so that access to the site needs to link

with regional and statewide roadways, regional bicycle ways, and regional mass transit, and provide adequate traffic facilities to handle large volumes of traffic and peak use demands. Parks and plazas encourage and accommodate public access to and along the interface zone of land and water. Recreational facilities frequently associated with parks include public fishing piers, boat launching ramps, [dock and dine facilities](#), beaches, historic and environmentally interpretive features, public art, [cultural uses](#), vista areas, scenic roads, bicycle and pedestrian ways, water dependent educational and recreational program facilities and activities, [small food and beverage vending, specialty retail involving gifts, novelties, clothing, and jewelry; group activities of nearby businesses; and other park-activating uses](#). Maintenance of park and other landscaped areas shall be provided through integrated pest management and Best Management Practices to avoid or minimize the application of chemicals to such areas.



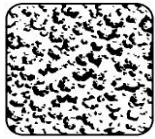
**Promenade** indicates the shoreline public pedestrian promenade-bicycle route system that is improved with landscaping, lighting, directional and informational signage and other street fixtures, works of art, and seating. Many short trips, especially recreation related, can involve walking or bicycling

rather than motorized transportation. There are many assumed benefits of walking and bicycling; it is inexpensive, exerts no adverse impact on the environment, contributes to the physical well-being of the individual, and affords an unfettered opportunity to enjoy the

amenities of San Diego Bay.

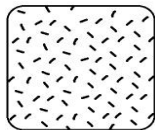


Pedestrian and bicycle facilities located on tidelands should: insure physical access to the water's edge unless safety, security or compatibility reasons negate; be accessible to parking and mass transit facilities; and link appropriate portions of the waterfront for continuous longitudinal access. A variety of route locations is encouraged to extend the pedestrian and bike environment through parks, commercial development and by the working port areas. Special provision for persons with disabilities shall conform to applicable Law.



**Open Space** provides amenities contributing to a more satisfying and stimulating environment. These areas include landscaped traffic inter-change and median strips, and isolated narrow and irregular shoreline areas where use and development potential is severely limited and where publicly placed works of art can enhance and enliven the waterfront setting. The Open Space designation may also include secondary buffers (i.e., "Limited" or "Transition" buffers) and/or setback areas from biologically significant resources deserving protection and preservation.

Public access within open space buffer areas is limited to passive uses, such as outlooks, picnic areas, and/or spur-trails. Such uses should include interpretive and educational opportunities while allowing coastal access in a manner that will ensure the protection and preservation of sensitive habitat areas.



**Golf Course** is used in Planning District 6 to illustrate this 98-acre land allocation. The continuation of this use is anticipated for the duration of the planning period.



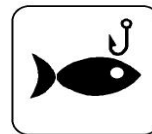
**Open Bay** is a category allocated to water areas adjoining shoreline recreational areas, the boat launching ramp, fishing pier, vista areas and other public recreational facilities where the need for open water is related to the proper function of the shoreside activity. Multiple use of open bay water areas for recreational and for natural habitat purposes is possible under this use category designation.

**Boat Launching Ramp** indicated by symbols on the Planning Maps, provides facilities for launching thousands of trailerable pleasure craft throughout the year for purposes



of boating, fishing, regattas, and water skiing. The requirements for new or expanded launching ramps need to be carefully considered since boat access areas and parking areas for both car and boat trailer consume large land areas. While existing boat launching ramps are to continue operation during the planning period, alternatives other than providing new launching areas should be considered due to the high land consumption involved. Dry stack storage, which accommodates trailerable size boats, is proposed in Planning District 6.

**Public Fishing Pier** areas include the pier structures, necessary land support area adequate for parking and access, and the surrounding water area. Boating activities near the pier, which may interfere with fishing, are discouraged. Commercial activities relating to



food and beverage, and bait and tackle sales and rental are generally associated with the activity. While pier site selections should be based on a number of criteria, including fish species surveys, fish habitat or artificial reef-like improvements are frequently desirable. Three existing piers are used by fishermen at all hours of the day and night currently. Three more piers are recommended in Planning Districts 2, 3 and 6. Fishing piers are indicated by symbol on the Land and Water Use Maps.



**Public Access** has been highlighted by symbol on the Plan maps for public recreational areas. The development of these physical accessways is only one of the four access categories established in this Plan and discussed in Section III of this document.

**Vista Areas** include points of natural visual beauty, photo vantage points, and other panoramas. It is the intent of this Plan to guide the arrangement of development on those sites to preserve and enhance such vista points. Major vista areas are indicated by symbol on the Plan maps.



# Conservation

## Land Use Objectives & Criteria

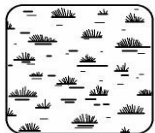
Natural marine resource utilization activities on tidelands should:

- be planned and located so as to present minimum conflicts with existing and proposed incompatible uses.
- promote the multiple utilization of the unique plant, shellfish, fish and wildlife resources of the bay.
- encourage the protection and restoration of functional areas which have a high ecological value.
- be accessible to the public for non-appropriative uses consistent with nature interpretive functions.
- enhance the open space character of San Diego Bay.

## Master Plan Interpretation

Areas included in the conservation group are scheduled for little or no development. The intent is to preserve, maintain and enhance natural habitat areas so that biological productivity will be sustained.

Areas of extraordinary biological significance are identified and given special protection under four categories of use: wetlands, estuary, salt ponds and habitat replacement. Much of the shallow water areas located in the South Bay are considered to have great potential for restoration.



### Wetlands

Wetland areas are undeveloped arealands having high biological productivity that are alternately covered with water and exposed to air. They occur in the South Bay in Planning Districts 7 and 9. Wetlands total 392 acres, although the delineations isare conceptual in nature and may fluctuate with changing natural cycles.

Wetlands may house unique forms of life, some species of which are considered rare or endangered. In any case, they are recognized in the plan as important natural habitat for

microscopic plant and animal life which form basic food for larger fish. They also provide breeding and nesting sites for migratory or native birds.

Wetlands are to be preserved, protected and, where feasible, restored. Development shall be limited to restoration, nature study or similar resource-dependent activities. Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Any diking, filling or dredging occurring in these areas shall maintain or enhance functional capacity of the wetlands.

The Wetlands designation may include identified buffers and/or setbacks from delineated wetland areas. This land use designation may include areas designated for mitigation, or areas that have been identified for potential wetland enhancement, restoration and/or creation opportunities. Such mitigation would be implemented in conjunction with development projects, or could be implemented and banked for use as mitigation for future development projects.



An **Estuary** is the confluence of a river with the ocean, especially an area of the sea at the lower end of a river. In the Master Plan, estuaries comprise the shallow, sub-merged areas of South San Diego Bay and are valuable in much the same way as are wetlands. The warm shallow water nurtures microscopic plants that are eaten by the small fish inhabiting the estuary.

The Otay River, historically the source of the South Bay estuary, now contributes little fresh water to the area; however, natural tidal fluctuations provide some salt-water exchange. The northerly extent of the estuary area occurs where development in the form of dredging has deepened the water to a point where the productivity and its biological importance is significantly reduced. Estuary designation is found in Planning Districts 7, 8 and 9.



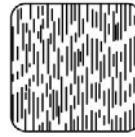
Development in estuaries is limited to new or expanded boating facilities (including entrance channels), intake and outfall lines, restoration work, nature study, aquaculture, and resource-dependent activities. Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats, and water circulation. Diking, filling or dredging in existing estuaries shall maintain or enhance the functional capacity of the wetland or estuary.

Use of the water surface for boating, fishing and similar water oriented recreational uses is also permitted; however, efforts should be made to reduce potential environmental damage.



**Salt Ponds** occupy the extreme southerly end of San Diego Bay (Planning District 9). The shallow, diked ponds are used to produce salt by solar evaporation. The ponds and dikes have proved to be suitable habitat for many bird species, providing nesting, resting and specialized feeding areas for local and migratory aquatic birds.

A continuation of salt production is proposed in the South Bay. This activity provides for salt production, maintains bird habitat, and provides open space and vistas, which enhance the appearance of the South Bay. Reutilization of some salt ponds for mariculture uses has potential for development. See Planning District 9 description for further information.



## Habitat Replacement, an

~~area of about 55 acres,~~ is delineated in Planning District 7 for the creation of a marsh island to be used to replace wildlife

habitat removed during other development around the bay. ~~This project is under construction.~~ Habitat replacement refers to the concept of recreating, as closely as possible, the type of environment conducive to the maintenance, protection and growth of wildlife species deemed important. This might include endangered species as well as economically environmentally significant wildlife. The Habitat Replacement designation may also include buffers and/or setback areas from biologically significant resources deserving protection and preservation. Buffer areas may consist of enhanced, restored, or created vegetation appropriate to that habitat area resulting from mitigation deemed necessary for development projects.

Uses which conflict with the above objective would be prohibited in habitat replacement areas. After creation of the area by diking, dredging and filling, the only activities which would be permitted would be nature study, academic research and instruction related to the area, and similar resource dependent activities. It is not anticipated that public access would be provided or allowed unless detrimental environmental conflicts could be avoided.

# **CHULA VISTA BAYFRONT: Planning District 7**

Planning District 7 includes all Port District lands within the City of Chula Vista. As shown on the Precise Plan map (Figure 19), these District lands extend beyond the U.S. Pierhead Line (the usual Port District boundary) to the city limits.

Historically, harbor development in the South Bay has lagged behind the North Bay because of shallow water, distance from the harbor entrance, environmental concerns, and other factors. However, by about 1990, Port land on the Chula Vista Bayfront had been developed into public parks, excursion pier, boat launching ramp, recreational vehicle (RV) park, marinas, boatyards, warehouses, and a recreated wildlife habitat island. Police and emergency waterborne services are provided to the South Bay from the Harbor Police substation near the boat launching ramp. The Chula Vista Bayside Park Pier provides public fishing and large vessel berthing, and the Marina Parkway Pier provides berthing and landside automobile parking for users. The major development on the Chula Vista Bayfront ~~is—was~~ an aircraft parts manufacturing plant, which ~~occupies occupied~~ both District lands and uplands, ~~and has consolidated its operations north of H Street and now occupies only uplands.~~

Marine and biological resources are abundant throughout the entire planning district, primarily due to its proximity to San Diego Bay and the estimated 3,940-acre San Diego Bay National Wildlife Refuge.

Over recent years, the Port has acquired approximately 291 acres of uplands in this district, including the former Goodrich South Campus, park area, and properties at the south end of the district containing the existing switchyard and power plant. Most recently, as part of the Chula Vista Bayfront Master Plan (CVBMP) and in an effort to improve land use compatibility at the north and middle portions of the planning district, the Port completed a land exchange with a private entity. The exchange enables residential and non-trust related retail and office development to occur on approximately 33 acres of former Port properties now under the City's jurisdiction,

and places approximately 97 acres of land at the north end of the district, formerly under the City's jurisdiction, within the Port's trusteeship and jurisdiction. In addition, the City has acquired from the Port a vacant parcel for a proposed fire station. Planned uses for the acquired land areas are further described in each of the planning subareas.

## **Precise Plan Concept**

With the goal of transforming the district into a world-class bayfront, the Port developed the Chula Vista Bayfront Master Plan (CVBMP) in 2005. The CVBMP resulted from a cooperative planning effort with the City of Chula Vista, which involved extensive public outreach and community participation.

The CVBMP is intended to guide the development of approximately 540 acres of the Chula Vista Bayfront over the next 24-year period. The ~~P~~plan Concept for District lands—proposes a multiple-faceted land use allocation within this ~~P~~planning ~~D~~district, including environmental conservation and development of public park and commercial recreational uses. ~~The Proposed~~ development ~~proposal~~—emphasizes public waterfront amenities ~~and public access~~ to enhance the bayfront's natural and economic resources. The plan increases public access opportunities while restoring and protecting natural resources, serving to attract visitors from outside the region as well as local residents to use the marine related recreational facilities and public areas. Additionally, the plan strengthens the bayfront's connection to the Chula Vista urban core and neighborhoods to the east by extending the City's traditional street grid to ensure pedestrian, vehicular, bicycle, and transit, and water linkages. Recreation-boating marinas have been developed to meet part of the ~~increasing regional demand for recreational boating and wet storage marinas. A recreational vehicle park provides short-term parking spaces for visitors so they can enjoy the Chula Vista Bayfront. Other public recreational opportunities can be found in the large Bayside Park, the public boat launching ramp and its existing peninsula, and Marina View Park.~~

Although planning policy encourages marine-related industrial uses, the plan provides the flexibility to attract new industrial and business-commercial development to this planning district. To accomplish this goal, the plan allocates a large amount of land in the Chula Vista Bayfront Planning District for Industrial-Business Park use. Much of the land is currently vacant or underutilized. As the South Bay regional economy expands in the future, the Industrial-Business Park designation will both stimulate and accommodate appropriate industrial and commercial redevelopment, thereby enabling the Chula Vista Bayfront to realize its full potential.

~~The Plan provides for a range of development options from complete industrial to complete commercial, with the most likely a combination of both land use types. Two possible scenarios are presented in this plan. One scenario concentrates on industrial development for the approximately 80 acres of Industrial-Business Park zoned land, with up to one million square feet of floor area. Approximately 20 of these acres are expected to be allocated to a 250,000 square-foot biomedical and pharmaceutical manufacturing plant employing about 400-600 people.~~

~~The second scenario consists of a combination of industrial and commercial development on the 80 acres. A parcel of approximately 14 acres located to the north of "H" Street and to the east of Marina Parkway is already developed for industrial purposes. The remaining 66 acres of Industrial-Business Park land would be available for up to 600,000 square feet of commercial buildings.~~

~~Both scenarios provide for the extension of "H" Street from its present terminus to Bayside Parkway, as well as associated public accessways, landscaping, and park/open space areas. Public access from H Street extended, G Street, and Bayside Parkway would be maintained and enhanced.~~

The CVBMP concept proposes to redevelop underutilized and vacant areas with a mix of land uses, along with a new roadway and infrastructure system throughout the planning district. A variety of public amenities are proposed, including: a signature park and other open space areas, ecological buffers, cultural uses, piers, a new commercial harbor

and reconfiguration of marina slips, a community boating center, a ferry terminal, navigation channel improvements, an RV park, a continuous and comprehensive pedestrian pathway system, bicycle paths, ample parking areas, and public art. Proposed development includes hotel and conference facilities, retail/entertainment, cultural, and office. Much of the planning area is designated Industrial Business Park to maximize flexibility in approving future development proposals. A maximum of 2,850 hotel rooms are allowed within the boundaries of the CVBMP.

There are a multitude of existing and proposed recreational opportunities within the district. Recreation boating marinas have been developed to meet part of the increasing regional demand for recreational boating and wet storage marinas. An RV park provides short-term parking spaces for visitors to enjoy the Chula Vista bayfront. Other public recreational opportunities can be found at the large Bayside Park that includes a public fishing pier, the Chula Vista Bayfront Park with its public boat launching ramp, and Marina View Park. Planned recreational improvements include two large parks, a community boating center, a new pier, as well as a continuous open space system that is fully accessible to the public and seamlessly connects the bayfront to the region. This open space system would create a comprehensive greenbelt linkage throughout the entire district with a continuous pedestrian walkway, or "baywalk", and a bicycle path that would tie into the regional Bayshore Bikeway system. The CVBMP emphasizes an active commercial harbor with public spaces at the water's edge as well as enhanced existing and newly created visual corridors to the Bay.

The plan also includes ecological buffers adjacent to environmentally sensitive resources in order to ensure such habitat areas are protected and preserved. Best management practices and natural retention basins will be implemented throughout the planning area to prevent degradation to sensitive areas and to curb storm water pollution to the bay. Additional measures for the protection of natural resources and the environment, including specific planning, design, education, implementation and management elements have been incorporated into the CVBMP.

To ensure adequate coastal access is provided for the public, the CVBMP includes appropriately allocated on-site parking spaces to be developed with bayfront commercial and recreational uses. Additionally, commercial development throughout the planning district is required to participate in and contribute a fair share to the implementation of an employee shuttle system that connects users to a collector parking structure located near Interstate 5, thereby ensuring the availability of bayfront parking for the public.

These scenarios are cited to indicate only the magnitude or possible range of development. The ultimate use will depend on the development market and on opportunities created by more flexible land use classifications. Implementation of the CVBMP is envisioned to occur in four phases over the next 24 years, and will be contingent upon and subject to many factors, such as availability and timing of public financing and construction of public improvements, terms of existing long-term leases, actual market demand for and private financing of proposed development, lease negotiations, approvals for and demolition and/or relocation of existing uses, approvals for new uses, and other approvals.

## **Land and Water Use Allocations**

A total ~~4,690~~of 1,960 acres of Chula Vista Bayfront are allocated to commercial, industrial, public recreation, conservation, and public facilities activities (Table 18).

### **Chula Vista Bayfront Planning Subareas**

Nine planning subareas have been delineated (see Figure 20) to facilitate a description of the plan planning district.

#### **D Street Area**

The D Street Area includes approximately 63 acres of land and water area designated for Marine Sales and Service, Habitat Replacement, Estuary, Open Bay, Boat Navigation Corridor, and Ship Navigation Corridor uses. A 33.2-acre portion of the northwest corner of the City of Chula Vista lies within Port District jurisdiction. Under the Plan, tidelands have been reserved for marine

Marine Sales and Service uses, which would take advantage of the deep water channel in the Sweetwater Flood Control Channel, and for ~~the~~ the ~~habitat~~ Habitat replacementReplacement.

It is intended that the tideland uses will not only utilize the valuable deep water to a high potential and provide the income to develop public recreation areas, but will establish a buffer zone between the National City Marine Terminal (with its associated industrial uses) and the ultimate use of the uplands. The D Street Fill area adjacent to the Sweetwater Flood Control Channel, designated as Estuary, mitigates the loss of intertidal and shallow sub-tidal habitat resulting from the National City Marine Terminal Wharf Extension project.

### **Gunpowder Point Shoreline**

Between the D Street Area and G Street lies a very small sliver of land (2 acres) and a broad intertidal mud flat. This area will be preserved as wetlands and has been designated as such, as discussed in Section III under the Conservation category. This subarea totals approximately 223 acres and includes mostly land area designated for Wetlands use, along with some water areas designated as Estuary. To provide for the long-term protection and management of the sensitive habitat known as the Sweetwater Tidal Flats (running north from the boatyard to the Sweetwater River Channel), the Port will enter into a cooperative agreement with the US Fish and Wildlife Service that will address the placement of educational and enforcement signage, long-term maintenance, and additional protection measures such as increased monitoring and enforcement. The cooperative agreement will be executed prior to development commencement in the Sweetwater or Harbor districts.

### **Chula Vista Bayfront Master Plan**

The CVBMP planning area consists of the northern Sweetwater District, the middle Harbor District, the southern Otay District, Chula Vista Harbor, and Boat Channel subareas. The Sweetwater District proposes the lowest intensity development and focuses on lower scale, environmentally sensitive and

ecologically themed uses. In contrast, the Harbor District is intended to provide a significant link from the City to the Bayfront and includes the highest intensity development. Lastly, the Otay District proposes moderate intensity mixed-use development. Each of the districts contain substantial amounts of open space and public amenities, and are seamlessly connected by greenbelt linkages that include pathways for pedestrians and bicyclists. A maximum of 2,850 hotel rooms are allowed within the boundaries of the CVBMP. Each CVBMP district, or planning subarea, is further described below.

### **Sweetwater District**

The Sweetwater District, acquired by the Port as part of the aforementioned land exchange, is approximately 97 acres in size and is generally undeveloped and consists predominantly of fallow fields.

Public spaces and development planned for this subarea focus on lower scale, environmentally sensitive and environmentally themed uses. Land use designations include Open Space, Habitat Replacement, Wetlands, Park/Plaza, Industrial Business Park, and Promenade.

Undeveloped land along the northern and western boundaries of the district will be established as a 400-foot-wide ecological buffer. The buffer is intended to preserve and protect the adjacent Sweetwater Marsh Wildlife Refuge from planned development and to provide a gradual transition from undeveloped native landscape to developed areas. From west to east, the buffer consists of a 200-foot-wide "no-touch" zone, a 100-foot-wide "limited use" zone, and a 100-foot-wide "transitional use" zone. The no-touch zone primarily consists of wetland and upland habitat mitigation. To prohibit access by the public and nuisance predators into the sensitive habitat areas, the eastern boundary of the no-touch zone will include six-foot-high vinyl-coated chain link fencing. Fence installation shall include land contouring to minimize visual impacts of the fence. The limited Use zone will contain outlook stations, open space areas, and a meandering trail system. The transitional use zone will accommodate increased recreational uses such as picnic areas and trails, and consists

of revegetated open space. The southwestern portion of the buffer, which is designated as Wetlands, consists of lands identified for potential enhancement, restoration or creation of wetland mitigation areas. Upland habitat mitigation will be established in the no-touch zone area within the Habitat Replacement-designated portions of the buffer. The outlook stations, which will be connected by meandering trails designated as Promenade, will provide viewing areas of the bay and wildlife, and will include educational elements such as kiosks, sculptures, or interpretive signs.

In addition, an 18-acre signature park is proposed with greenbelt linkages to park areas in the Harbor District. The park is envisioned as a passive use, meadow-type open space with amenities such as: landscaping, lighting, restrooms, drinking fountains, bicycle racks, children play areas, picnic areas, benches, trash receptacles, interpretive signage, landscaped berms, public art, decomposed granite paving, and parking. The park is to be passive in nature, be low-impact and contain minimal structures. Allowed structures include restrooms, picnic tables, shade structures and overlooks, and are limited to single-story heights. No athletic field amenities or unattended food vending will be allowed. The park will utilize low water-use ground cover alternatives where possible and trails will not be paved. Due to the immediate adjacency to sensitive habitat areas, amplified sound equipment and issuance of park use permits for group events will be prohibited. The signature park parcel is assigned the Park/Plaza land use designation. An approximately 100-foot-wide buffer will separate the existing seasonal wetland, located between E and F Streets, from adjacent development.

At the northern end of the district, planned development includes: a resort hotel with approximately 500 to 750 rooms and associated meeting space, restaurants, and retail shops; a parking area and access road for the Chula Vista Nature Center; and a low-intensity mixed use office/retail building of approximately 60,000 to 120,000 square feet in size. Building heights in the Sweetwater District range from 30 to 100 feet, with higher structures situated towards Interstate 5, and structure heights stepping down approaching the Refuge.



Roadway improvements planned include the extension of E Street into the Harbor District, and re-routing of the terminus of F Street to connect to the E Street extension. A trail connection west of the F Street terminus will be limited to emergency vehicles and pedestrian and bicycle access. Each of the new roadways, as well as the connecting trail, include the Promenade land use designation to indicate pedestrian and bicycle connections to the rest of the planning district.

## **Harbor District**

The Harbor District includes a total of approximately 223 acres of land area, of which approximately 191 acres lie within District jurisdiction. As a result of the land exchange previously described, an interior portion of this subarea falls under the City's jurisdiction and is intended for private residential, general office, retail and hotel development – all of which has been planned in conjunction with the CVBMP. In addition, a 1.8-acre vacant parcel north of J Street and adjacent to Interstate 5 has been transferred from Port to City ownership and jurisdiction and its proposed use is a fire station.

The Harbor District encompasses the greatest diversity of existing uses, including the majority of the planning district's developed commercial uses and areas accessible by the public. Existing uses include a boat yard, yacht club, marinas, restaurants, RV park, former industrial and supporting parking facilities, and waterfront parks.

Proposed development in the Harbor District is the highest intensity of the master plan and encourages an active, vibrant mix of uses and public spaces. Land use designations within this subarea include Open Space, Wetlands, Park/Plaza, Industrial Business Park, Commercial Recreation, and Promenade.

Public amenities in this subarea include Park/Plaza-designated land areas, which include the existing Bayside Park that will be improved as an extension of the Sweetwater District Signature Park with similar amenities. Other public spaces to remain in the subarea include the existing Marina View and Chula Vista Bayfront Parks, both designated as Park/Plaza, and the existing fishing pier. The

existing boat launch ramp, restrooms, and Harbor Police facility within Chula Vista Bayfront Park will remain. In contrast to the passive use emphasis of the Sweetwater District park areas, parks within the Harbor District are planned to accommodate flexible spaces and programmable elements that allow for more active uses or events.

A community boating center or recreational marina is proposed on the water's edge, north of the enlarged Bayside Park on the site of the existing boatyard. The establishment of the boating center and surrounding park area is subject to the relocation of the existing boatyard or termination of its existing lease. The existing boatyard use may continue to operate until the site is redeveloped to a conforming Commercial Recreation use. Prior to redevelopment, additional boat repair capacity will be identified. The community boating center may include an aquatic center, marina support uses, low cost visitor-serving boating opportunities, dock and dine facilities, a water transportation dock, and boat launch uses. The adjacent water area is designated Recreational Boat Berthing and is envisioned to contain a new 200-slip marina.

The community boating center and marina support land area ~~The land lying north of G Street~~ is designated for Commercial Recreation, except for the adjacent conservation designations of Wetlands, Open Space, and Park/Plaza. The 100-foot-wide Open Space designation north of the expanded park area abutting the boating center ~~Habitat Replacement, which~~ would serve as a buffer between future commercial development ~~adjacent to and~~ the surrounding adjacent habitat. The extent of buffer coverage will depend upon future resource conditions and will be reevaluated as new development proposals are submitted.

The anchor component of the district is a large resort conference center proposed just east of Bayside Park. The resort conference center will be a destination attracting visitors from, and providing public amenities to, the region. The resort conference center will include approximately 1,500 to 2,000 hotel rooms, approximately 100,000 square feet of restaurant space, approximately 20,000 square feet of retail, a conference center with up to approximately 415,000 square feet of

meeting space (with a maximum of 200,000 square feet of contiguous exhibit and flex space in a single enclosed room), expansive open space areas, and other ancillary uses. The maximum heights for the resort conference center components are 240 feet for the hotel and 120 feet for the convention center. Any proposal to construct more than 1,600 rooms as part of the resort conference center will require evaluation of the impacts areas needing additional analysis and the need for additional mitigation measures to reduce significant impacts, if any, associated with any increase in rooms.

South of H Street, the plan allows for an approximate 500-room resort hotel with conference room, retail, and open space, and other ancillary hotel uses. An additional 200,000 square feet of cultural/retail uses and integrated open space would be developed on the site. East of this site, the plan includes approximately 100,000 square feet of mixed-use office/commercial recreation uses wrapped around a 1,100 to 3,000-space collector parking garage. The garage is intended to function as remote employee and/or visitor parking to supplement on-site parking needs for bayfront businesses. Heights in the Harbor District will generally not exceed two stories immediately adjacent to the water, with a maximum height of 300 feet away from the shoreline.

A new ferry terminal/restaurant is proposed on the harbor that will provide water transportation linkages to the central portion of the bay. New visitor-serving retail and marina support uses totaling approximately 25,000 to 50,000 square feet will be established around the northern periphery of the harbor. An additional approximately 75,000 to 150,000 square feet of retail and marina support uses and parking are planned around the south end of the harbor. Marina support uses may include: offices, restrooms, showers, lockers, ship chandlery, boat/bicycle rentals, bait and tackle sales, delicatessens, and snack bars. The waterside components of the marinas are further described as part of the Chula Vista Harbor subarea.

Roadway improvements include the extension of H Street that will connect to the E Street extension in the Sweetwater and Harbor districts. The H Street extension, which will

end with a pedestrian connection and a new pier, will provide a significant link from eastern Chula Vista to the waterfront. Modifications to Marina Parkway and new access roads are also proposed throughout the Harbor District.

A shoreline pedestrian promenade or "baywalk" is planned to wrap around the perimeter of the park and harbor front businesses, connecting the pedestrian and bicycle greenbelt linkage to the other subareas, while maximizing public visual and physical access to the water. The baywalk will contain public amenities such as pedestrian-scale landscaping, lighting, and furniture, providing public seating and gathering spaces while offering views of the harbor.

The eastern areas of the district within existing right-of-way/easement areas are planned for landscaping and pedestrian/bicycle trails as part of the greenbelt system that will link to the rest of the City.

### ***G Street Corridor***

The land lying north of G Street is designated for Commercial Recreation, except for the conservation designations of Wetlands and Habitat Replacement, which would serve as a buffer between future commercial development adjacent to the surrounding habitat. The extent of buffer coverage will depend upon future resource conditions and will be reevaluated as new development proposals are submitted. The parcels formerly designated as Marine Related Industrial are envisioned to be part of a future redevelopment project which is planned to be compatible with the surrounding conservation land uses. The public promenade will be extended along the entire water frontage of the Commercial Recreation site.

The existing boatyard use may continue to operate until the site is redeveloped to a conforming Commercial Recreation use. Prior to redevelopment, additional boat repair capacity will be identified. The shoreline south of G Street has been developed as an extension of the Chula Vista Bayside Park, with promenade, restrooms, parking, landscaping, lawn areas, and picnic facilities. The Bayside Park shoreline promenade will, as a long-term objective, be extended along

the Chula Vista Harbor to connect with the promenade on the Marina Way arm.

Shoreline erosion protection is provided by stone rip-rap. Both the beach and the rip-rap require periodic maintenance. The park terminates at the Chula Vista Bayside Park Pier, which provides protective wave attenuation for the marina, berthing for vessels, and access for fishing.

Approximately 11 acres of vacant land bounded by Marina Parkway, G Street, Bayshore Parkway, and Bayside Park has been designated as the site for initial development of the biomedical-pharmaceutical manufacturing plant mentioned in the Precise Plan Concept for the Chula Vista Bayfront. Ultimately, the plant will include another ten acres of land east of Sandpiper Way in the Marina Parkway Corridor subarea.

### ***Marina Parkway Corridor***

Most of the Marina Parkway Corridor subarea is either vacant or leased to an aircraft parts manufacturer. Under the plan concept, H Street will be extended from its present terminus to Marina Parkway, creating a third major entry into the Chula Vista Bayfront.

All of this planning subarea has been designated for Industrial-Business Park uses (except the small area to the south that is part of Marina View Park). When future economic conditions change to stimulate redevelopment demand, this demand can be accommodated under the Industrial-Business Park classification. As mentioned in the Plan Concept section of this planning district, the proportion of industrial or commercial development, which would ultimately be allocated would depend on the type and amount of uses attracted to the Bayfront. The property north of H Street, which is currently leased to an aircraft manufacturer, would likely be retained in industrial use, however.

### ***Bayside Parkway Area***

The Bayside Parkway planning subarea contains two uses: a recreational vehicle park, under the Commercial Recreation use category, and a shoreline recreation park, shown on the precise plan as Park.

A nine-acre shoreline park fronts on both the boat access channel and the boat basin. Park uses include a landscaped leisure site for local residents and visitors, a restful lunchtime picnic spot for nearby workers, and a recreational resource for the public. To provide additional access to the coast, a promenade is shown coming off the access street and continuing around the park back to Marina Parkway.

## ***Chula Vista Harbor***

The basin created by dredging and filling at the south end of the Planning District is used primarily for recreational boat berthing. The Chula Vista harbor basin includes approximately 50 acres of water area and is protected by two structures: a 300-foot-long rock breakwater extending north from the Marina Way arm and a 650-foot-long wave attenuation pier extending south from Bayside Park. They are separated by about 200 feet of channel. The harbor is currently occupied by two marinas totaling approximately 900 boat slips. The existing Chula Vista Boat Launch has been upgraded with additional shore protection.

An essential component of the CVBMP is the creation of an active commercial harbor that encourages public access to the water and activity on the water. To facilitate the development of this activated harbor, the existing marina boat slips will be reconfigured to create an approximately 4-acre open water area. The new open water area will enhance boating activity on the water and is envisioned to be utilized for ferry loading and unloading, water taxis, dinner boats, harbor cruises, visiting historic vessels, and boat rentals.

Landside improvements around the harbor, including commercial development and public amenities, are further described above in the Harbor District subarea.

The water areas within the Harbor have been designated as Recreational Boat Berthing, Specialized Berthing, and Boat Navigation Channel.

Two marinas occupy most of the boat basin. One, occupying about four acres of land on Marina Parkway, has about 560 slips in the north half of the basin. The other, south of the first, occupies almost three acres of land and



has room for 350 boats. Both marinas have facilities, for the convenience of their patrons.

The commercial recreation area is developed with a restaurant and associated marine sales and service establishments. Since many potential customers come from the nearby marinas, parking needs are reduced. The design provides a visual focal point and identification symbol for the boat basin.

The vacant six-acre parcel north of Marina Way will be developed with Commercial Recreation uses compatible with the existing marinas. A hotel/motel of approximately 200 rooms, with a restaurant and ancillary retail shops, is anticipated.

The Chula Vista Boat Launch has been upgraded with additional shore protection, landscaping and picnic facilities. Public access to the water is provided by a promenade around the outside edge of the arm. The entire south edge of the arm is designated as a leisure park, offering landscaped viewing areas and additional parking.

### **Otay District**

The Otay District is approximately 124 acres in size and includes recently acquired upland areas. This subarea was characterized by industrial uses, including the existing SDG&E electrical switchyard and South Bay Power Plant. Uses within this district will be designed in consideration of the adjacent sensitive habitat areas.

The proposed development for the Otay District consists of a mix of uses, including industrial and low-cost visitor serving recreational uses. The extreme northern and southern parcels are designated for Industrial Business Park use. The southern Industrial Business Park parcel could include industrial distribution and related facilities, or other uses allowed under the Industrial Business Park designation. Land use designations for this subarea include Open Space, Park/Plaza, Habitat Replacement, Wetlands, Industrial Business Park, Commercial Recreation, and Promenade.

A new approximately 24-acre passive South Park is proposed and will include amenities

such as: pedestrian trails, landscaping, berms, lighting, restrooms, drinking fountains, benches, picnic areas, outlook areas, trash receptacles, public art, filtration basins, and parking. The park is to be passive in nature, be low-impact and contain minimal structures. Allowed structures include restrooms, picnic tables, shade structures and overlooks, and are limited to single-story heights. No athletic field amenities or unattended food vending will be allowed. The park will utilize low water-use ground cover alternatives where possible and trails will not be paved. Due to the immediate adjacency to sensitive habitat areas, amplified sound equipment and issuance of park use permits for group events will be prohibited.

Abutting the north side of this park area is Commercial Recreation-designated property that is intended to provide low-cost visitor serving recreational uses. Specifically, this area is to be developed as an RV park that will include approximately 236 RV parking spaces and ancillary uses such as offices, pool/spa, snack bar, general store, meeting space, game room, laundry facilities, and playground equipment. Both parcels could allow for camping activities. The existing concrete Telegraph Canyon Creek channel is proposed to be replaced with a more natural vegetated channel. Efforts to naturalize and vegetate the creek will be maximized as is consistent with its function as a storm water conveyance.

An ecological buffer will be provided along the western boundary of the district between J Street and the RV park. The buffer will consist of a 100 to 200-foot-wide no-touch zone, within which public access is prohibited, to buffer the adjacent J Street Marsh and wildlife reserve from proposed development. The buffer, which is designated as Habitat Replacement and Wetlands, will be utilized for wetland and upland habitat mitigation and will prohibit public access. To prohibit access by the public and nuisance predators into the sensitive habitat areas, the eastern boundary of the no-touch zone will include six-foot-high vinyl-coated chain link fencing. Fence installation shall include land contouring to minimize visual impacts of the fence.

The construction of the northern Industrial Business Park parcel, South Park, and RV park in this district is subject to demolition of

the existing power plant, and demolition and relocation of the existing switchyard.

New roadways will be constructed throughout the Otay District to serve new uses. A new bike path is proposed alongside the new roadways. A shoreline pedestrian trail is proposed in the Otay District, and its design will ensure protection of the adjacent sensitive habitat areas. Like the Harbor District subarea, the eastern portion of this subarea within existing right-of-way/easement areas are planned for landscaping and pedestrian/bicycle trails that will connect to the shoreline pedestrian and bike trail in the Otay District. This district will also contain parking areas. The pedestrian/bicycle trail in the Otay District will be part of the greenbelt system that will link the CVBMP area together, and link it to the rest of the City greenbelt.

### ***Boat Channel***

The water area directly west of the Chula Vista Bayfront is occupied by the main boat channel providing access to the harbor, which is designated Boat Navigation Corridor on the Precise Plan. Areas outside the channel will remain in the Estuary category.

The CVBMP proposes to realign and straighten the existing navigation channel in order to increase accessibility to the harbor. The realignment will utilize an existing abandoned access channel and remove the “dog leg” portion of the current channel, thereby enhancing boat access between the Chula Vista Harbor and the northern portions of San Diego Bay. In addition, the new channel will be located further away from sensitive resources located along the shoreline west of the Sweetwater District.

### ***Outer South Bay***

The remaining water area in Chula Vista is scheduled to stay designated as estuary. Limited surface water use for boating and fishing, for example, will be permitted but other uses will be discouraged.

### ***Wildlife Reserve***

South of the Chula Vista Harbor lies a large tidal mud flat, the San Diego Gas and Electric

Company (SDG&E) dike, and the South Bay Wildlife Reserve, a 55-acre island which was built from dredged material and where native habitat has been established. The Master Plan has four—three designations for this subarea: Wetlands, Estuary, and Habitat Replacement, and Marine Related Industrial.

The Wetlands (refer to the Master Plan Interpretation section on Wetlands, page 33), includes the area known as the J Street Marsh and is roughly the mud flat and marsh area exposed to air during low tide. It is undeveloped, except for a small channel that was used as a water intake trough for the SDG&E thermal power plant. The function of the SDG&E dike is to separate this cool water intake from the warm water outfall area located on the south side of the dike. Other than potential habitat restoration activities, no alterations to the former—existing intake/discharge channel area are proposed; however it is the intent of this plan to preserve the surrounding wetlands in their natural state but to retain and maintain the intake channel. To provide for the long-term protection and management of the J Street Marsh sensitive habitat area, the Port will enter into a cooperative agreement with the US Fish and Wildlife Service that will address the placement of educational and enforcement signage, long-term maintenance, and additional protection measures such as increased monitoring and enforcement. The cooperative agreement will be executed prior to the redevelopment of the Otay District.

Estuary refers to the shallow water outward of the wetlands which is not exposed at low tide. This area will not be developed; however, limited surface water activities such as boating and fishing would be permitted. Efforts should be made to avoid or reduce potential environmental damage.

The Habitat Replacement concept involves engineering, dredging, planting and developing a valuable supratidal salt marsh habitat as part of a master-planned complex. Unauthorized access by humans and predators will be greatly discouraged by fencing the SDG&E dike, although controlled access will be provided for nature instruction and research. Its location reduces conflicts between development and preservation activities, and its size enables other shoreline

projects to be completed by substituting the inferior habitats at the project sites for a carefully nurtured and highly productive habitat.

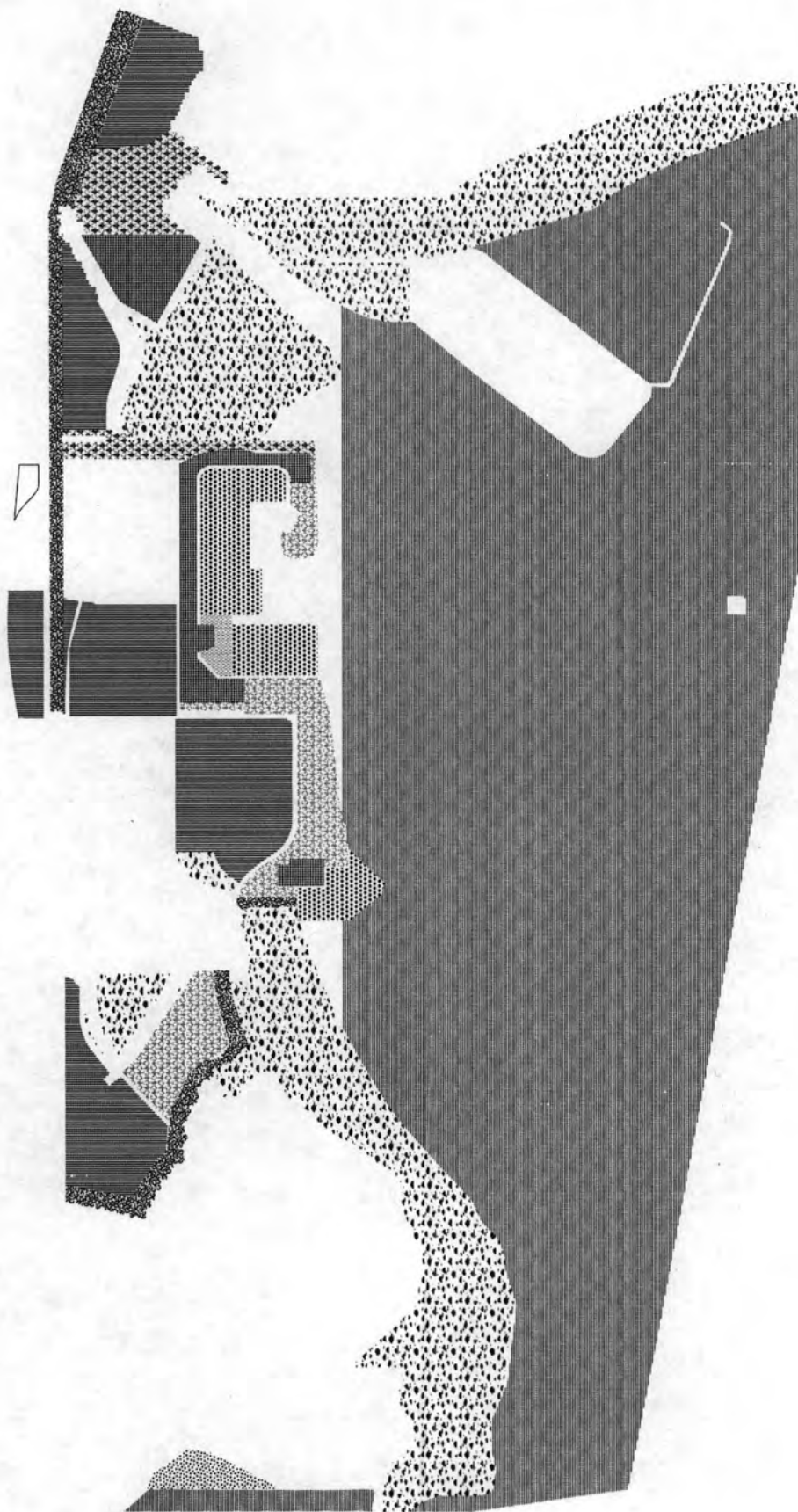
The Port District provides continual protection and management, as part of a comprehensive South Bay wildlife preserve program.

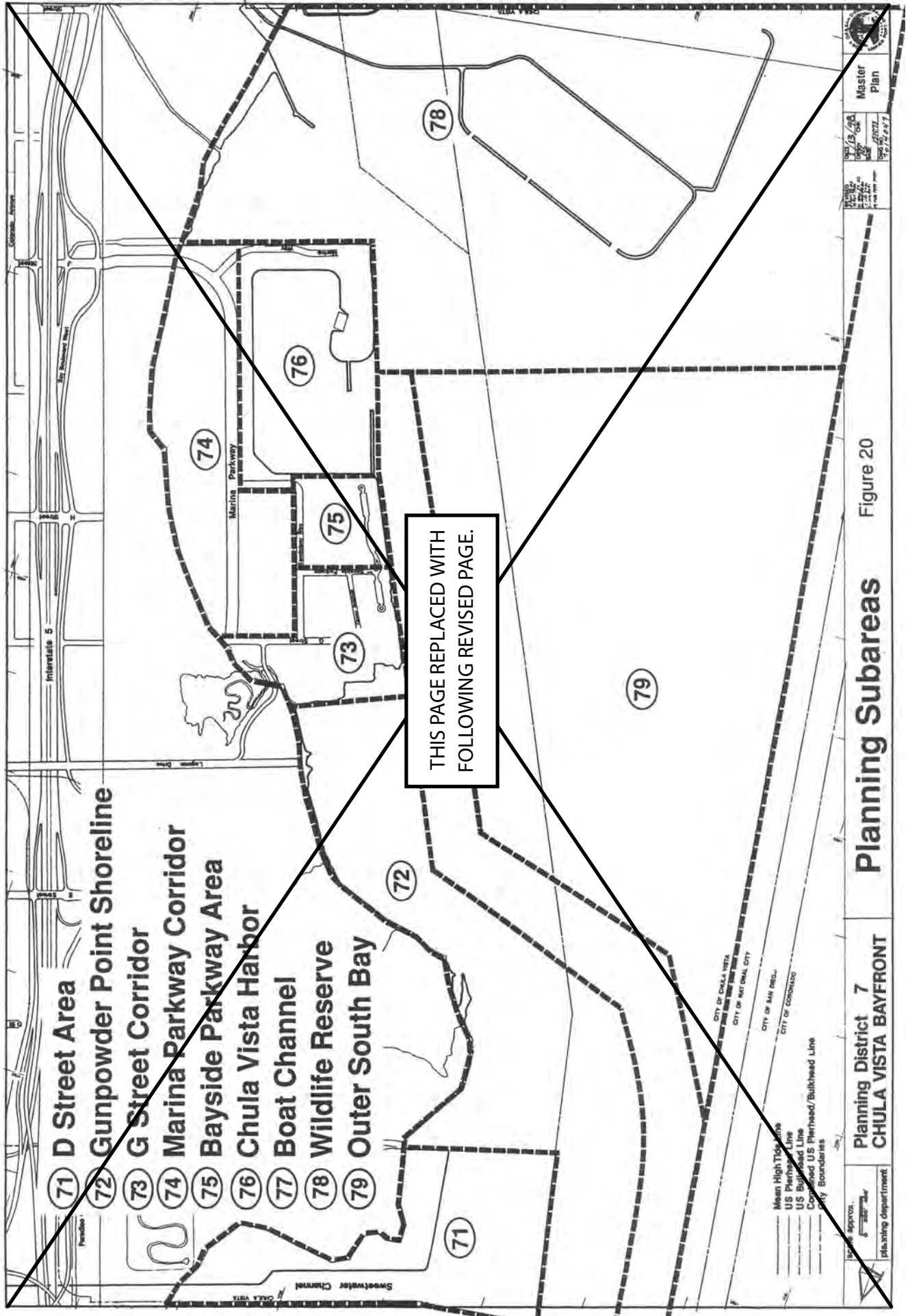
A narrow strip of District-owned land, designated Marine-Related-Industrial Wetlands, follows along the eastern edge of this planning subarea. It is currently leased for an electric generating plant to the existing power plant operator, and is expected to remain in this use for the future but upon demolition of the existing power plant, is intended for mitigation and/or restoration area that will include an ecological buffer between existing and created wetland areas and upland use.

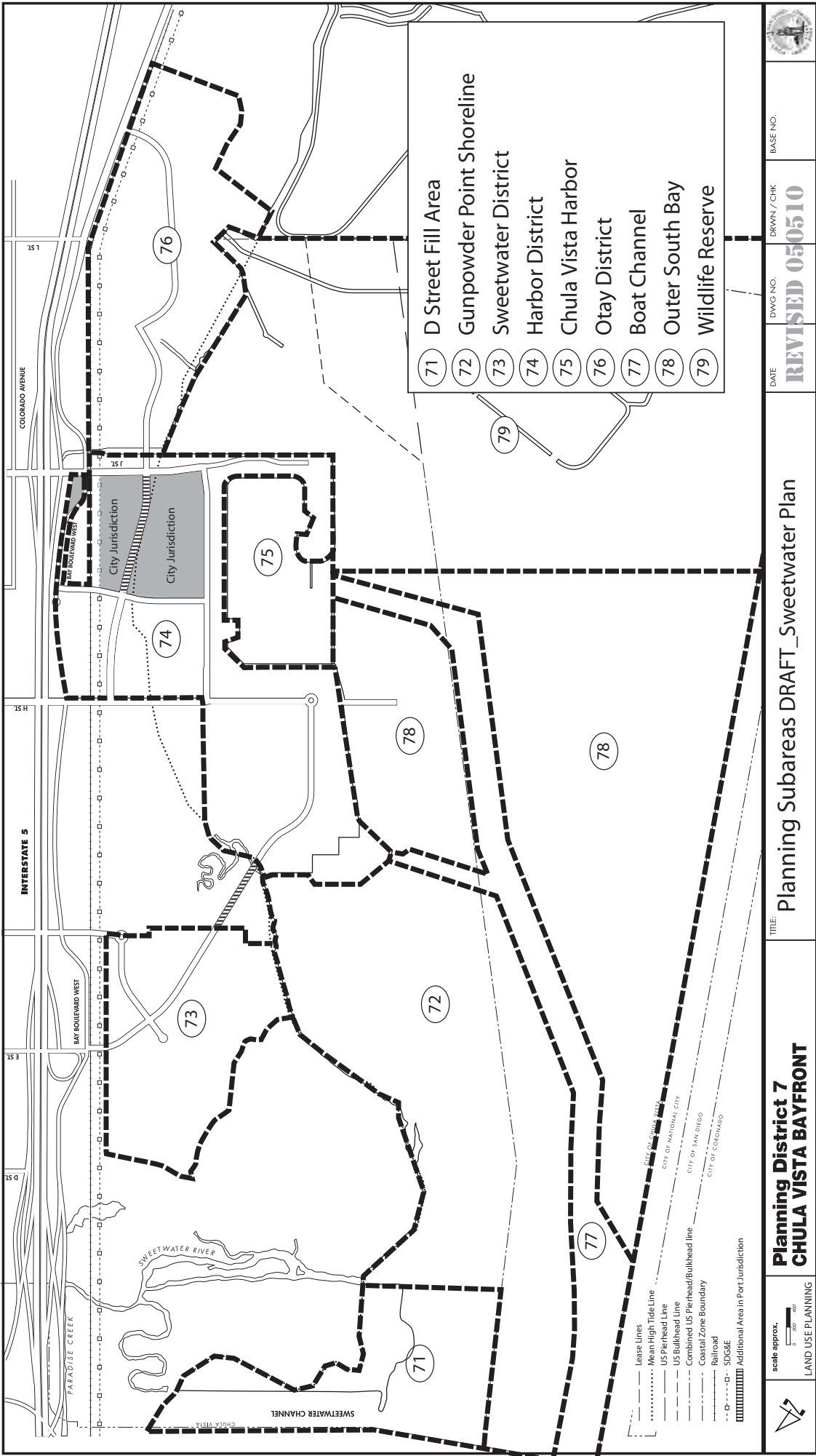
TABLE 18 Precise Plan Land and Water Use Allocation					
CHULA VISTA BAYFRONT: PLANNING DISTRICT 7					
LAND USE	ACRES	WATER USE	ACRES	TOTAL ACRES	% OF TOTAL
<b>COMMERCIAL</b>	<b>48.5</b> <b>43.2</b>		<b>34.0</b> <b>41.0</b>	<b>82.5</b> <b>84.2</b>	<b>5 4%</b>
Marine Sales and Service	9.7 7.5				
Commercial Recreation	38.8 35.7	Recreational Boat Berthing	34.0 41.0		
<b>INDUSTRIAL</b>	<b>84.1</b> <b>119.6</b>		<b>9.5</b> <b>4.0</b>	<b>93.6</b> <b>123.6</b>	<b>6%</b>
Industrial Business Park	80.6 119.6				
Marine-Related Industrial	3.5	Specialized Berthing	9.5 4.0		
<b>PUBLIC RECREATION</b>	<b>23.9</b> <b>148.9</b>		<b>0.9</b> <b>1.2</b>	<b>24.8</b> <b>150.1</b>	<b>1 8%</b>
Open Space	50.1				
Park/Plaza	21.3 81.5	Open Bay/Water	0.9 1.2		
Promenade	2.6 17.3				
<b>CONSERVATION</b>	<b>327.3</b> <b>405.2</b>		<b>941.2</b> <b>967.2</b>	<b>1268.5</b> <b>1372.4</b>	<b>75 70%</b>
Wetlands	233.0	Estuary	941.2		
	303.9		967.2		
Habitat Replacement	94.3 101.3				
<b>PUBLIC FACILITIES</b>	<b>23.3</b> <b>41.2</b>		<b>196.8</b> <b>190.4</b>	<b>220.1</b> <b>231.6</b>	<b>13 12%</b>
Harbor Services	0.4	Boat Navigation Corridor	166.8		
			156.5		
Streets	23.2 41.2	Ship Navigation Corridor	30.0 33.9		
<b>TOTAL LAND AREA</b>	<b>507.1</b> <b>758.1</b>	<b>TOTAL WATER AREA</b>	<b>1,182.4</b> <b>1,203.8</b>		
<b>PRECISE PLAN LAND AND WATER ACREAGE TOTAL</b>				<b>1,689.5</b> <b>1961.9</b>	<b>100%</b>













**TABLE 19: Project List**

CHULA VISTA BAYFRONT: PLANNING DISTRICT 7					APPEALABLE ↓ DEVELOPER ↓ SUBAREA ↓			FISCAL YEAR
1. SHORELINE MAINTENANCE: Maintain stone revetment and replenish Beach <u>at Bayside Park</u>	<u>75</u> <u>74</u>	P	N		<u>2002</u> <u>ONGOING</u>			
<del>2. MARINE-RELATED INDUSTRY: Construct marine-related industrial Development</del>	73	I	N		2002			
<del>3. BIOMEDICAL/PHARMACEUTICAL MANUFACTURING: Construct facility</del>	73	I	N		2002			
42. *H STREET EXTENSION: Extend H Street to Marina Parkway	74	P	Y		1997			
<u>3. *H STREET EXTENSION: Extend H Street from Marina Parkway to E Street Extension and construct utilities</u>	<u>74</u>	<u>P</u>	<u>Y</u>		<u>2008-2012</u>			
<del>5. HOTEL/RESTAURANT: Construct hotel and restaurant</del>	76	I	Y		1998			
64. STORM DRAIN: Construct, enhance, and maintain storm drain	73/74	P/ T	N		1997-2000			
75. * D STREET FILL MITIGATION SITE: Excavate and construct a salt marsh habitat as mitigation for the National City Marine Terminal Wharf Extension	71	P	N		2001			
<u>6. *E STREET EXTENSION: Extend E Street from Sweetwater District to Harbor District and construct utilities</u>	<u>73/74</u>	<u>P</u>	<u>Y</u>		<u>2008-2012</u>			
<u>7. *F STREET TERMINATION: Termination of F Street segment/Lagoon Drive and construction of new roadway connection to E Street, as well as pedestrian/bike trail connection on former F Street segment</u>	<u>73</u>	<u>P</u>	<u>N</u>		<u>2008-2012</u>			
<u>8. *MARINA PARKWAY REALIGNMENT: Realignment and narrowing of Marina Parkway from J Street to H Street, construct utilities. Construct improvements to Marina Way.</u>	<u>74</u>	<u>P</u>	<u>Y</u>		<u>2008-2012</u>			
<u>9. *HARBOR DISTRICT ROADWAY AND INFRASTRUCTURE IMPROVEMENTS: Reconfiguration of existing and construction of new interior roadways, as well as necessary utility improvements to support planned projects</u>	<u>74</u>	<u>P</u>	<u>N</u>		<u>2008-2012</u>			
<u>10. *SWEETWATER DISTRICT WETLAND AND UPLAND HABITAT MITIGATION: Creation, restoration, and enhancement of identified wetland and upland habitat areas, as well as the establishment of ecological buffers, as mitigation for CVBMP development</u>	<u>73</u>	<u>P</u>	<u>N</u>		<u>2008-2012</u>			
<u>11. *SWEETWATER PARK: Development of 18-acre signature park in Sweetwater District, including associated public amenities, promenades, and parking areas</u>	<u>73</u>	<u>P</u>	<u>N</u>		<u>2008-2012</u>			
<u>12. *NATURE CENTER PARKING AREA: Construct new 50 to 100-space parking area and access road for Chula Vista Nature Center</u>	<u>73</u>	<u>I</u>	<u>N</u>		<u>2008-2012</u>			

13. <u>*SWEETWATER PARK EXTENSION: Extension of Sweetwater signature park into Harbor District, including improvements to existing Bayside Park</u>	74	P	N	<a href="#">2008-2012</a>
14. <u>*HARBOR DISTRICT BAYWALK: Development of new Baywalk promenade along the shoreline</u>	74	P	N	<a href="#">2008-2012</a> <a href="#">2013-2017</a> <a href="#">2018-2031</a>
15. <u>*MARINA VIEW PARK IMPROVEMENTS: Reconfiguration of park and parking areas to accommodate reconfigured J Street/Marina Parkway and Marina Way, construct pedestrian promenade</u>	74	P	N	<a href="#">2008-2012</a>
16. <u>*H STREET PIER (FIRST HALF): Construct new pier at terminus of extended H Street corridor above existing open water area (eastward only of existing navigation channel)</u>	74	P	Y	<a href="#">2008-2012</a>
17. <u>RESORT CONFERENCE CENTER: Construct resort conference center, including 1,500 to 2,000 hotel rooms, 100,000 square feet of restaurant, 20,000 square feet of retail, up to 400,000 square feet of net meeting space, and other associated ancillary uses</u>	74	T	Y	<a href="#">2008-2012</a>
18. <u>HARBOR RESORT HOTEL AND CULTURAL/RETAIL: Construct 500-room resort hotel with associated conference room, retail, and ancillary uses, along with up to 200,000 square feet of cultural/retail uses and integrated open space</u>	74	T	Y	<a href="#">2008-2012</a>
19. <u>NORTH HARBOR RETAIL AND MARINA SUPPORT: Construct visitor-serving retail and marina support uses totaling 25,000 to 50,000 square feet around northern periphery of Chula Vista Harbor</u>	74	T	Y	<a href="#">2008-2012</a>
20. <u>*OTAY DISTRICT ROADWAY AND INFRASTRUCTURE IMPROVEMENTS: Reconfiguration of existing and construction of new interior roadways, as well as necessary utility improvements to support planned projects</u>	76	P	N	<a href="#">2013-2017</a>
21. <u>*OTAY DISTRICT WETLAND AND UPLAND HABITAT MITIGATION: Creation, restoration, and enhancement of identified wetland and upland habitat areas, as well as the establishment of ecological buffers, as mitigation for CVBMP development; Replacement of existing concrete Telegraph Canyon Creek channel with wider, naturally vegetated channel</u>	76	P	N	<a href="#">2013-2017</a>
22. <u>*CHULA VISTA BAYFRONT PARK IMPROVEMENTS: Reconfiguration of existing boat trailer parking lot</u>	74	P	N	<a href="#">2013-2017</a>
23. <u>*SOUTH PARK: Development of 24-acre park in Otay District, including associated public amenities, promenades, and parking areas</u>	76	P	N	<a href="#">2013-2017</a>
24. <u>*OPEN SPACE IMPROVEMENTS: Construct greenbelt improvements, such as landscaping and trails for pedestrians and bicyclists, along SDG&amp;E and Coronado Branch Railroad rights-of-way</u>	74/76	P	N	<a href="#">2013-2017</a>
25. <u>SOUTH HARBOR RETAIL AND MARINA SUPPORT: Construct 75,000 to 150,000 square feet of visitor-serving retail, marina support, and parking uses around southern periphery of Chula Vista Harbor</u>	74	T	Y	<a href="#">2013-2017</a>
26. <u>RECREATIONAL VEHICLE PARK: Construct new recreational vehicle park with supporting ancillary uses</u>	76	T	N	<a href="#">2013-2017</a>

<a href="#">27. INDUSTRIAL BUSINESS PARK USES: Development of uses consistent with Industrial Business Park designation</a>	<a href="#">76</a>	<a href="#">Y</a>	<a href="#">N</a>	<a href="#">2013-2017</a>
<a href="#">28. *CHULA VISTA HARBOR RECONFIGURATION AND MARINA SUPPORT: Reconfiguration and reduction of existing marina slips to create new open water commercial harbor, and development of landside marina support facilities</a>	<a href="#">75</a>	<a href="#">P</a>	<a href="#">Y</a>	<a href="#">2018-2031</a>
<a href="#">29. *BOAT CHANNEL REALIGNMENT: Realign and straighten existing boat navigation channel</a>	<a href="#">77</a>	<a href="#">P</a>	<a href="#">N</a>	<a href="#">2018-2031</a>
<a href="#">30. *H STREET PIER (SECOND HALF): Construct second phase of new pier at terminus of extended H Street corridor (extension into former navigation channel)</a>	<a href="#">74</a>	<a href="#">P</a>	<a href="#">Y</a>	<a href="#">2018-2031</a>
<a href="#">31. SWEETWATER RESORT HOTEL: Construct 500 to 750 room resort hotel with associated meeting space, restaurants, and retail shops</a>	<a href="#">73</a>	<a href="#">I</a>	<a href="#">Y</a>	<a href="#">2018-2031</a>
<a href="#">32. MIXED-USE OFFICE/COMMERCIAL RECREATION AND COLLECTOR PARKING GARAGE: Construct approximately 100,000 square feet of mixed-use office/commercial recreation and a 1,100 to 3,000-space collector parking garage.</a>	<a href="#">74</a>	<a href="#">T/ P</a>	<a href="#">N</a>	<a href="#">2018-2031</a>
<a href="#">33. COMMUNITY BOATING CENTER: Construct community boating center, which may include an aquatic center, low cost visitor-serving boating opportunities, dock and dine facilities, water taxi dock, boat launch, and associated on-site parking</a>	<a href="#">74</a>	<a href="#">T/ P</a>	<a href="#">N</a>	<a href="#">2018-2031</a>
<a href="#">34. COMMUNITY BOATING CENTER MARINA: Construct 200-slip marina for associated Community Boating Center (slips relocated from Chula Vista Harbor)</a>	<a href="#">74</a>	<a href="#">T/ P</a>	<a href="#">Y</a>	<a href="#">2018-2031</a>
<a href="#">35. MIXED-USE OFFICE/RETAIL BUILDING: Construct low-intensity mixed-use office/retail building of 60,000 to 120,000 square feet in size, along with associated on-site landscaping and parking improvements</a>	<a href="#">73</a>	<a href="#">I</a>	<a href="#">Y</a>	<a href="#">2018-2031</a>
<a href="#">36. FERRY TERMINAL: Construct ferry terminal with second story restaurant/retail totaling 10,000 to 25,000 square feet of building area</a>	<a href="#">74</a>	<a href="#">I</a>	<a href="#">Y</a>	<a href="#">2018-2031</a>
<div> <div>P- Port District T- Tenant</div> <div>N- No Y- Yes</div> <div>* Project proposed in District's Capital Improvement Program</div> </div>				

## PLANNING DISTRICT 9

### ***South Bay Salt Ponds***

This subarea ~~includes both leased and unleased areas. A parcel is leased to San Diego Gas and Electric Company for a warm water outlet and dispersal area as part of the South Bay Power Generating Plant operation. The remaining area~~ is predominantly submerged bay tidelands, including the terminus channel of the Otay River. The water area remaining under Port District control is included in the Estuary classification.

#### **Project List**

No specific projects are identified, although it is anticipated that some environmental enhancement or mitigation project may be identified later as plans are implemented around the bay.

TABLE 22					
Precise Plan Land and Water Use Allocation					
SOUTH BAY SALT LANDS: PLANNING DISTRICT 9					
<u>LAND</u> USE	ACRES	<u>WATER</u> USE	ACRES	<u>TOTAL</u> ACRES	%OF TOTAL
CONSERVATION	192.0		605.5	797.5	100%
Wetlands	192.0	Estuary Salt Ponds	185.3 420.2		
<u>TOTAL LAND AREA</u>	<u>192.0</u>	<u>TOTAL WATER AREA</u>	<u>605.5</u>		
PRECISE PLAN LAND AND WATER ACREAGE TOTAL				797.5	100%