

BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

REGULAR MEETING AGENDA

Sunday, October 14, 2012 at 9:00 a.m.

**Private Residence-
31030 Broad Beach Road, Malibu, California 90265**

Closed Sessions Matters

Under this item, the GHAD Board shall meet in a closed session to discuss matters pursuant to Government Code Sections 54956.8 and 54956.9 (a).

None.

Regular Session Matters

1) **Call to Order**

2) **Roll Call**

3) **Adoption of Agenda**

4) **Approve Summary of Actions from September 16, 2012 Meeting**

Recommendation: Chair to conduct vote on approving Summary of Actions from September 16, 2012 Meeting. If passed, Chair to sign Summary of Actions.

5) **Ceremonial/Presentations**

None.

6) **Consent Calendar**

None.

7) **Public Hearings**

None.

8) **Old Business**

- a. **Permitting and Regulatory Process.** Report to include project regulatory status summary, including:

- (i) CCC Status- Issues to consider include: (a) CCC's request for continuous public access regardless of conditions (even if revetment exposed) and (b) potential responses thereto.
- (ii) SLC & APTR status
- (iii) RWQCB and USACE update
- (iv) Sand Source update: LA, Manhattan Beach, Calleguas Creek sites

Recommendation: Develop strategy to finalize permitting and related matters.

- b. Right of Access Alternatives. Input sought on Right of Access proposal. (GHAD Project Counsel)

Recommendation: Finalize proposed short form Access Agreement for all GHAD parcel owners.

9) **New Business**

None.

10) **GHAD Boardmember Reports**

11) **GHAD Officer Reports**

- a. Treasurer's Report. (GHAD Treasurer). Includes brief discussion of cost to maintain BBGHAD website.
- b. GHAD Manager Report (GHAD Manager)

12) **Public Comment - Non-Agenda Items**

Communications from the public concerning matters which are not on the agenda but for which the GHAD Board has subject matter jurisdiction. The GHAD Board may not act on non-agendized matters except to refer the matters to staff or schedule the matters for a future agenda.

- a. Public Comment on Non-Agendized Items

13) **Future Meeting**

Next Meeting: November __, 2012; __:00 a.m./p.m. Location: TBD, Malibu, CA

14) **Adjournment**

AGENDA ITEM 4

SUMMARY OF ACTIONS
BROAD BEACH GEOLOGICAL HAZARD ABATEMENT DISTRICT
REGULAR MEETING
SEPTEMBER 16, 2012
31330 BROAD BEACH ROAD

1. CALL TO ORDER

Chair Karno called the meeting to order at 9:15 a.m.

2. ROLL CALL

PRESENT: Chair Karno, Vice Chair Grossman, Board Member Marquis, Board Member Lotman, and Advisor Goss. Board Member Marquis arrived at approximately 9:30 a.m. during consideration of Item 8(a).

ABSENT: Board Member Levitan

GHAD STAFF ALSO PRESENT (not Board Members and not subject to Roll Call): GHAD Clerk and Treasurer Barbara Hamm, GHAD Engineer Chris Webb, George Salvaggio from Wetlands Resource Associates, and GHAD Project Counsel Ken Ehrlich.

3. ADOPTION OF AGENDA

Board Member Lotman moved, and Vice Chair Grossman seconded, the approval of the Agenda. GHAD Clerk Barbara Hamm reported that the meeting Agenda was posted at 8:30 a.m. on Thursday September 13, 2012 within the boundaries of the GHAD. The motion approving the agenda passed 3-0.

4. APPROVED SUMMARY OF ACTIONS FROM AUGUST 26, 2012 MEETING

Board Member Lotman moved, and Vice Chair Grossman seconded, the approval of the Summary of Actions from the August 26, 2012 meeting, with various edits read by GHAD Project Counsel. The motion passed 3-0.

5. CEREMONIAL PRESENTATIONS

None.

6. CONSENT CALENDAR

None.

7. PUBLIC HEARINGS

None.

8. OLD BUSINESS

a. Update on Proposed Dune Design

The GHAD Engineer and consultant George Salvaggio briefed the meeting on the updated proposed dune design. The GHAD Engineer specified that, based on input received at the August 2012 BBGHAD Board meeting, the Dune design has been revised to reflect two rows of vegetated dunes and additional details for all GHAD properties. The GHAD Engineer also stated that the presentation ultimately intended for governmental agencies and GHAD property owners has been revised in accordance with Board guidance. The GHAD Engineer specified that, once finalized, the presentation would be uploaded on the BBGHAD's website. Based on Board Member input, it was also determined that BBGHAD representatives would meet with property owners who could potentially incur relatively more impact than others as a result of the proposed dune plan. It was also determined that letters would be sent to each individual homeowner with a site-specific proposed dune design and proposed assess agreement.

At the conclusion of the discussion regarding the proposed dune design, the Chair specified that it appears in the BBGHAD's best interest to assume responsibility for the construction, planting, and maintenance of the restored dune system within the GHAD. To this end, the Chair requested the Board to consider Resolution No. 2012/06, which relates to the BBGHAD's assertion of responsibility for constructing, planting, and maintaining restored dunes within the GHAD. The Chair recognized Board Member Marquis. Board Member Marquis moved that the Board adopt Resolution No. 2012/06. Board Member Lotman seconded the motion. Hearing no further comments or discussion, the Chair called for a vote. The Motion passed 4-0, and the Resolution was enacted. Following the vote on this Resolution, Vice Chair Grossman left the meeting.

b. Permitting and Regulatory Process

The Chair recognized the GHAD Project Counsel, who briefed the Board on the following items:

(i) CCC Status: Project Counsel Ehrlich reported that major deal points exist with the CCC regarding: (a) proposed alteration of the Project to move the eastern 1300' of the emergency revetment landward; (b) the GHAD's request for a privacy buffer seaward of the seaward tow of the restored Dune, and (c) the concept of providing lateral access in the event that the nourished beach erodes to expose the revetment. The chair recognized the GHAD Engineer, who recommended that the GHAD alter its position that no pull back of the eastern 1300' of the current revetment should occur. After further discussion of the pending deal points with the CCC, GHAD Project Counsel was instructed to contact Jack Ainsworth of the CCC staff to further discuss the pending issues and report back to the Board.

(ii) SLC Status & APTR Status: GHAD Project Counsel reported that, despite GHAD requests at further engagement with SLC staff, no substantive discussions on pending issues with the SLC had occurred since the last GHAD Board meeting. GHAD Project Counsel

reported that the GHAD Engineer has been informed that the SLC anticipates circulating the draft APTR during the first half of October 2012.

(iii) RWQCB Update: On September 24, 2012, the GHAD Engineer voluntarily forwarded supplemental information to the RWQCB and requested that the agency expedite its analysis in light of the GHAD's proposed Project schedule of obtaining all permits by early 2013.

(iv) Sand Source Update: GHAD Project Counsel updated the Board on the status of the position of the City of Manhattan Beach. The Board directed GHAD Project Counsel to respond to the City's September 6, 2012 letter with the intent of keeping all sand source options open. GHAD Project Counsel also reported that the GHAD provided additional information to the City of Los Angeles and the GHAD continues to press the City of L.A. for a commitment to offer the sand off of Dockweiler Beach for the Project. GHAD Project Counsel added that the GHAD Engineer has been instructed to develop thorough cost estimates for the potential use of Calleguas Creek sand and same would be forwarded upon completion to Board Member Marquis.

(v) Update from September 7, 2012 Stakeholder Meeting: GHAD Project Counsel reported on the September 7, 2012 meeting with representatives from Heal The Bay and Surfrider Foundation. Representatives of the Los Angeles Waterkeeper and the Santa Monica Bay Restoration Commission were invited, but did not attend the briefing. At the meeting, Heal The Bay expressed its preference that the Project use no sand from the designated marine protection area off of Zuma and Trancas and that it sought to prevent any sand from covering existing habitat at the west end of Broad Beach. GHAD Project Counsel further reported that Surfrider remains opposed to the continued presence of the revetment.

c. Right of Access Alternatives:

As part of the discussion under Item 8a, GHAD Project Counsel was directed to prepare a draft, proposed access agreement for all GHAD owners.

9. NEW BUSINESS

NONE

10. GHAD BOARD MEMBER REPORTS

NONE

11. GHAD OFFICER REPORTS

a. Treasurer's Report

The GHAD Treasurer reported that the GHAD has drawn \$400,000 from its credit facility and that this draw would be used to pay pending invoices through the end of September 2012. The GHAD Treasurer further reported that the Financial Report attached to the Board

packet for the September 16, 2012 meeting is accurate; as of August 31, 2012, the GHAD had cash on hand of \$86,485.89.

b. GHAD Manager Report

NONE

12. PUBLIC COMMENTS: NON-AGENDA ITEMS

NONE.

13. FUTURE MEETING

The next GHAD Board meeting will be on October 14, 2012 at 9:00 a.m. at a private residence located at 31030 Broad Beach Road.

14. ADJOURNMENT

The Chair recognized Board Member Marquis. Board Member Marquis moved to adjourn. Board Member Lotman seconded the motion. The motion passed 3-0. The meeting adjourned at 11:35 a.m.

Approved and adopted by the Broad Beach GHAD
Board on October ____, 2012.

NORTON KARNO, Chair

ATTEST:

BARBARA HAMM, GHAD Clerk

AGENDA ITEM 8a

BROAD BEACH GEOLOGICAL HAZARD ABATEMENT DISTRICT

29169 Heathercliff Road, Suite 212

Malibu, CA 90265

(310)457-6507

September 21, 2012

VIA E-MAIL [WPOWELL@CITYMB.INFO] AND OVERNIGHT MAIL

Wayne Powell
Mayor, City of Manhattan Beach
City Hall
1400 Highland Avenue
Manhattan Beach, CA 90266

Dear Mayor Powell:

Our office received your September 6, 2012 letter to Curtis Fossum of the State Lands Commission, Steve Dwyer of the United States Army Corps of Engineers, and John Ainsworth of the California Coastal Commission. Your letter states that the City of Manhattan Beach opposes dredging and transportation of sand from Manhattan Beach for use in the Broad Beach Geologic Hazard Abatement District's ("BBGHAD") proposed restoration of sand dunes, creation of a public dry sand beach, and expanded public access opportunities at Broad Beach. The BBGHAD, a division of the State of California, is disappointed in the City's stated position and hopes that the City remains open to additional information clarifying the proposed beach restoration project which, hopefully, changes the City's position.

On August 16, 2012, BBGHAD representatives briefed Manhattan Beach's City Manager, Community Development Director, and City Attorney on the proposed project and the offshore sand source sites under consideration. From the BBGHAD's perspective, the meeting was positive, informative, and helpful in educating both the City and the BBGHAD of each other's interests. The BBGHAD left the meeting with the distinct impression that the City would: a) support the BBGHAD's restoration project in general, b) not oppose the BBGHAD's further consideration of using sand from approximately 1/2 mile offshore of Manhattan Beach (the mineral rights to which are owned by the State of California) for the restoration project, and c) act proactively in informing City officials and residents about the potential use of such sand.

City staff informed the BBGHAD that the City Council would be advised of the BBGHAD's initial sand investigation, the BBGHAD's continued consideration of the offshore Manhattan Beach area as a potential borrow site, and the State's ownership of mineral rights to the subject site. The BBGHAD understood that the City Council would "receive and file" information about the beach restoration project and take no action until the parties further discussed the results of the BBGHAD's August 2012 sand investigation work.

Therefore, the City Council's September 4 (actually September 5 as the matter arose after midnight) consideration of the BBGHAD's proposed project and your September 6 letter came as quite a surprise and disappointment-- so, too, did the uncalled for public campaign waged against

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the project, which appeared to pit one community against another. We understand that the City Council held no public comment on the agenda item relating to our beach restoration project, conducted a brief Council member-only discussion past midnight on September 5, 2012, and, based on such a brief late-night discussion, decided to express the views set forth in your September 6, 2012 letter. Since the September 6, 2012 letter and resulting media attention does not identify the basis for any opposition to the proposed consideration of the offshore Manhattan Beach site as a borrow site for the BBGHAD project, we hope that the City further considers, among other points, the following in the appropriate forum:

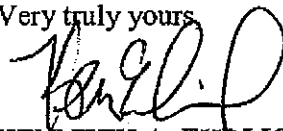
1. Borrow site under consideration is 1/2 mile offshore: The September 6, 2012 letter implies that the borrow site under consideration is either the dry sandy beach in Manhattan Beach or an area immediately adjacent to that area. This is simply untrue. As discussed with City officials, the subject site is approximately 1/2 mile offshore with water depths of approximately 45-80 feet. Moreover, any actual use of this borrow site would occur in fall or winter months, and not in the spring and summer "beach seasons."
2. BBGHAD's proposed methods would have minimal environmental and other impacts: The BBGHAD has purposely chosen to utilize processes for its proposed beach restoration project that have proven themselves over multiple decades on similar projects in southern California, including projects which may some day benefit your community. Communities including multiple beaches in San Diego County, Orange County, Los Angeles County (Long Beach, Redondo Beach, and Santa Monica), and others have benefitted from the safe and effective nourishment of their beaches by borrowing sand in a minimally invasive manner from offshore sites. The offshore equipment dredges in a manner and pattern that minimally impacts the ocean floor and the ocean itself. Following the dredge activity, the borrow sites have also proven to receive additional sand over a period of time.
3. The offshore Manhattan Beach site under consideration contains far more sand than necessary for the project: The proposed restoration would utilize a total of 600,000 cubic yards of beach-quality sand. While the BBGHAD continues to consider multiple sand sources, our initial investigation has proven that the Manhattan Beach offshore site contains well over 2,000,000 cubic yards of beach-quality sand. The sand remains too far offshore to migrate naturally onshore to Manhattan Beach or other beaches and remains effectively stranded in a sand retention basin (similar to other such areas within Santa Monica Bay). If the City ever sought to use this offshore area for the City's own beach restoration purposes, the City could benefit from the BBGHAD's investigative analyses and more than enough sand would exist for such purposes.

Since receiving the September 6, 2012 letter, we have invited further dialogue with City staff on this matter, but we have not had the benefit of a response. We renew our request for

Mayor Wayne Powell
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additional talks with City staff, and even the City Council itself, to more completely explain the BBGHAD's proposed project and all potential consequences of considering (or not considering) the offshore Manhattan Beach site. The BBGHAD sincerely hopes that the City maintains an open mind in working with us to effectuate a project with multiple regional benefits.

Very truly yours,



KENNETH A. EHRLICH,
BBGHAD Project Counsel

KAE:pjo-

cc: Curtis Fossum, SLC
John Ainsworth, CCC
Steve Dwyer, USACE
Michael Kaplan, Esq.
Arletta Maria Brimsey, Esq.
BBGHAD Manager
BBGHAD Clerk

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



CURTIS L. FOSSUM, Executive Officer
(916) 574-1800 FAX (916) 574-1810
California Relay Service from TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-2555
Contact FAX: (916) 574-1835

September 21, 2012

File Ref: W26420

Kenneth A. Ehrlich
Jeffer Mangels Butler & Mitchell LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067-4308

SUBJECT: Status of the Broad Beach Geologic Hazard Abatement District
Application for a New Lease of State Land for the Broad Beach
Restoration Project, City of Malibu, Los Angeles County

Dear Mr. Ehrlich:

Staff of the California State Lands Commission (Commission) has reviewed the items submitted by Moffat & Nichol on behalf of the Broad Beach Geologic Hazard Abatement District, as requested in staff's incomplete application notification letter dated June 29, 2012, to determine if the additional information provided is sufficient for your application to be considered complete as provided by law and the Commission's application requirements. According to the information provided, the application is still incomplete and the following items are still required, as identified in staff's June 29 letter, as follows:

1. Storm Drainage –

- *A plan set, to include at minimum a plot plan and elevation plan, identifying: any recorded easements for existing storm water conveyance structures; the owners and/or responsible parties for each and if any authorizations are required to modify such structures; the locations of all existing storm drain outlets along the project reach that will be modified and or affected by the Project; and a plan detailing how existing storm drain outlet structures will be extended/incorporated into the proposed dune and beach fill area, to include a representative detail of such drainage outlet.*

A letter from Moffat & Nichol dated August 22, 2012 addresses some of the items included above, but indicated that, "The updated plans for storm drain protection will be provided as soon as possible; our intention is to complete them within the next seven (7) days [from the date of this letter]." The letter also indicated that protective devices planned for construction at the storm drain ends are, "...being designed and will be provided to the SLC and the City [of Malibu] for approval as soon as possible with the updated plan set."

However, no plans have been received as of the date of this letter. Once a plan set is received, staff will evaluate such plans for adequacy and will advise you if any additional information regarding the Storm Drainage Plan will be required.

2. Dune Restoration Plan –

- *A Landscaping Plan for the proposed dune restoration, including a dimensional Site Plan identifying the location of the dune system in relation to the existing temporary rock revetment along its length, and a list of proposed plant species.*

With respect to the requested Landscaping Plan, staff is in receipt of related items submitted electronically via email on September 18, 2012. Such plans are being evaluated for adequacy, and you will be advised upon completion of staff's review if any additional information regarding the Landscaping Plan will be required.

3. Public Access –

- *A bona fide mitigation plan to offset or compensate for the loss of existing lateral public access easements.*

The most recent response provided to staff's numerous requests for a reasoned plan to mitigate this important issue is again a restatement of proposed project elements previously presented, and does not represent a mitigation plan sufficient to evaluate the offsetting or loss of existing lateral public access easements. While the GHAD has made clear its opposition to providing a plan to address the loss of use for existing, valid easement interests held in trust and for the benefit of the public, Commission staff continues to view such a plan as a key element of the project. In the interest of advancing efforts to have the GHAD's application considered by the Commission as soon as possible, staff will proceed in processing the GHAD's application as appropriate, notwithstanding the absence of the requested mitigation plan. However, staff will continue discussions with the GHAD to resolve this issue prior to the proposed project being considered by the Commission.

Upon receipt and review of all of the above requested items, you will be notified if your application is complete. Once your application has been determined complete, the Commission must act on your application as provided by law.

While not needed for a complete application, please provide clarification on the following:

- Information previously provided by Moffat & Nichol regarding ownership of the storm drains at Broad Beach appears to be inconsistent. Information provided indicates that the city of Malibu owns various storm drains, but also states that the city takes no jurisdiction over them. Please clarify city of Malibu ownership and jurisdiction, including whether the city has approval authority over storm drain modifications.

Please be advised that the Commission cannot consider your application until all the above items have been received, so you are encouraged to submit them as soon as possible in order for us to continue processing your application in a timely manner.

Should you have any questions on this matter, please contact me via telephone at (916) 574-2555 or via email at Kenneth.Foster@slc.ca.gov.

Sincerely,



Kenneth Foster
Public Land Management Specialist

Cc: Broad Beach Geologic Hazard Abatement District
c/o Zan Marquis
Marquis Property Company, Ltd.
29169 Heathercliff Road, Suite 212
Malibu, CA 90265

Chris Webb, Russ Boudreau, Tonia McMahon
Moffatt & Nichol
3780 Kilroy Airport Way, Suite 600
Long Beach, CA 90806

Shelli Haaf - CSLC
Jason Ramos - CSLC
Colin Connor - CSLC

Ehrlich, Kenneth A.

From: McMahon, Tonia [TMcMahon@moffatnichol.com]
Sent: Monday, September 24, 2012 5:15 PM
To: Valerie CarrilloZara
Cc: Webb, Chris; Boudreau, Russ; Ehrlich, Kenneth A.; LB Nye
Subject: Broad Beach Restoration Project File # 11-011 - Release of APTR and Anticipated Construction Date
Attachments: R9_RBSP2_11C023Att1.pdf; R9_RBSP2_11C023Att2.pdf; R9_RBSP2_11C023Att3.pdf; R9_RBSP2_11C023Att4.pdf; R9_RBSP2_11C023Att5.pdf; R9_RBSP_11C023Cert.pdf

Valerie,

Further to my message of 9/18, the APTR (CEQA equivalent document) for the Broad Beach project will be released for agency review on October 1st. The anticipated construction start date is January 1st 2013 in order to avail of the same dredge equipment currently being used for the SANDAG regional beach nourishment project before it returns to the east coast. USACE review and permit issue is on track to facilitate this start date while a Coastal Commission hearing is anticipated, but not yet confirmed, for December.

Accordingly, it is hoped that your office can review the APTR through October with permit approval and issuance in November. This turnaround would align with LA Water Board staff's estimate of a one month review period before permit issuance, as discussed in our last meeting on April 6th, 2012.

We thought it would be useful for your office to see the 401 certification issued by the San Diego water board office for the SANDAG project. The certification itself and all attachments are provided herewith. I look forward to discussing with you how best we can assist you and your staff to meet this project's schedule.

Thank you Valerie,
Tonia

Tonia McMahon
Coastal Department
Moffatt & Nichol
3780 Kilroy Airport Way, Suite 600
Long Beach, CA 90806
(562) 426-9551

10/11/2012

Ehrlich, Kenneth A.

From: Ehrlich, Kenneth A.
Sent: Tuesday, October 02, 2012 10:54 AM
To: 'Aretta Brimsey'
Cc: michael.kaplan@lacity.org
Subject: RE: Dockweiler sand? Status? How can we expedite this? Thanks.
 Thanks. We will provide the requested information.

Re Manhattan Beach: The GHAD is considering an offshore Manhattan Beach site in lieu of the LA site. Candidly, we prefer the LA site, but need to keep our options open. Weeks ago, we received a letter from the Manhattan Beach Mayor which contained various incorrect assumptions and conclusions about the GHAD project. Our letter to the Manhattan Beach mayor sought to correct the record. We cc'd you as a courtesy.

We look forward for all opportunities to brief the Rec & Parks Commission and the Task Force regarding our project. Thanks again.

Kenneth A. Ehrlich of
 JMBM | Jeffer, Mangels, Butler & Mitchell LLP
 1900 Avenue of the Stars, 7th Floor
 Los Angeles, California 90067

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From: Aretta Brimsey [mailto:aretta.brimsey@lacity.org]
Sent: Tuesday, October 02, 2012 10:49 AM
To: Ehrlich, Kenneth A.
Cc: michael.kaplan@lacity.org
Subject: Re: Dockweiler sand? Status? How can we expedite this? Thanks.

Dear Ken,

Yesterday afternoon, Michael Kaplan and I had a telephone conversation with RAP staff regarding your proposed project. We discussed your draft letter of intent. We believe that some of the provisions of the agreement will require further discussion and tweaking. We will provide a more in depth list of issues regarding the letter of intent in a few days. However, since you ask "how can we expedite this" I would ask you to provide any and all information you have regarding how you valued the cost of sand at .25 cents per cubic yard.

On a related matter we recently received a copy of your letter to the Mayor of Manhattan Beach. Is Manhattan Beach a site that you are considering in lieu of the City of LA site or in addition to the City of LA site, or is this letter referring to Manhattan Beach's objection to the use of the City of LA site?

Your project has tentatively been placed on the RAP Facilities and Maintenance Task Force agenda for 10/3/12. If the task force meets staff will provide a brief introduction of your project. You will be invited to attend a future meeting to fully brief the task force and full Board.

We will keep you apprised of our efforts as we move forward with consideration of your proposal.

Aretta Maria Brimsey

On Mon, Oct 1, 2012 at 4:38 PM, Ehrlich, Kenneth A. <KAE@jmbm.com> wrote:

Kenneth A. Ehrlich
 Jeffer Mangels Butler & Mitchell LLP
 1900 Avenue of the Stars, 7th Floor
 Los Angeles, California 90067
 Telephone: (310) 785-5395
 Fax: (310) 203-0567
 E-mail: kae@jmbm.com

10/11/2012

Internet Web Site: <http://www.imbm.com>

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Sent from my BlackBerry Wireless Handheld

--
Arletta Maria Brimsey
Deputy City Attorney
General Counsel Division
213/978-8156
Arletta.Brimsey@lacity.org

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Ehrlich, Kenneth A.

From: Ehrlich, Kenneth A.
Sent: Tuesday, October 02, 2012 3:09 PM
To: 'Arletta Brimsey'; michael.kaplan@lacity.org
Cc: Ehrlich, Kenneth A.
Subject: Dockweiler Beach Sand-- BBGHAD Sand Source Information

Attachments: 2012PRC 7301.2Lease.pdf; PRC8831HiGradeLease2009July.pdf; Hanson Sand Mining Lease Amendment.pdf; PRC8253LeaseAmend2008May.pdf

All-

Please find attached various materials in response to the City's request for all information used to form the basis of the BBGHAD's letter of intent offer to pay a \$.25/cubic yard royalty to City of LA for 600,000 cubic yards of sand located approximately 1/2 mile offshore of Dockweiler Beach. Few examples of sand royalties exist in California. We have found four (4) such examples, three (3) of which are for sand mined on state of CA-owned sand at inland areas and the final example is for sand mined by a commercial entity in the San Francisco Bay near Angel Island. Each of these examples are distinguishable from the current situation in a variety of ways. For example:

- a. The inland sand leases are commercial business transactions with the sand used by the lessee/operator for commercial purposes. Here, the BBGHAD is a public entity and the sand will be used to provide a largely public beach.
- b. The inland sand leases have proven largely uneconomical in the current economy and the lessees/operators have chosen not to produce because of the relatively high royalty and lack of demand for the product. This fact partially explains why the GHAD has offered less than the approximate \$.50/cubic yard royalty contained in the subject leases.
- c. The attached San Francisco Bay-area lease was the result of litigation between the lessee/operator (Hanson) and the state of California. In the litigation, Hanson was alleged to have defrauded the state out of millions of dollars in royalties and appeared quite motivated to settle the litigation. This renders this example essentially a "red herring" for the current analysis. Further, the logistics of mining sand in SF Bay are quite different than in the open ocean off of Dockweiler Beach.
- d. All of the attached examples are for sand quantities far greater and terms far longer than that requested by the BBGHAD. Clearly, the commercial entities can amortize their investments over a relatively long period of time and pass along the royalty payments to their customers in a coordinated, long-term fashion. Here, we seek only a total of 600,000 cubic yards from a one-time nourishment and have no way of amortizing the "investment".

We appreciate the City of LA's consideration of our letter of intent and look forward to further discussions.

Attached are:

1. SLC (State Lands Commission) Permit 7301 issued to Hanson in northern San Diego County is for 6.5% of the gross. Due to the economy, they have not produced for several years.
2. SLC Permit 8831 issued to Hi-Grade Materials in Lucerne Valley. Royalty is 6% of the gross.
3. SLC Permit 8253 issued to Vulcan Lands near Victorville. Royalty is 7% of the gross or this year \$0.58/short ton.
4. SLC's sand mining lease in San Francisco Bay, issued to Hanson Marine Operations, Inc. for sand mining activities located in San Francisco Bay near Angel Island. The Lease was amended in 2007 to establish a flat royalty per cubic yard with an annual CPI adjustment (see attached .pdf copy of the amendment). Also please refer to the following link for more background information contained in the 2007 Commission staff report on the amendment:
http://archives.slc.ca.gov/Meeting_Summaries/2007_Documents/10-30-07/Items/103007R46.pdf.



2012PRC
7301.2Lease.pdf



PRC8831HiGradeLe
ase2009July.pd...



Hanson Sand Mining
Lease Amend...



PRC8253LeaseAme
nd2008May.pdf

Kenneth A. Ehrlich of

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Ehrlich, Kenneth A.

From: Ehrlich, Kenneth A.
Sent: Tuesday, October 02, 2012 3:09 PM
To: 'Arletta Brimsey'; michael.kaplan@lacity.org
Cc: Ehrlich, Kenneth A.
Subject: Dockweiler Beach Sand-- BBGHAD Sand Source Information

Attachments: 2012PRC 7301.2Lease.pdf; PRC8831HiGradeLease2009July.pdf; Hanson Sand Mining Lease Amendment.pdf; PRC8253LeaseAmend2008May.pdf

All-

Please find attached various materials in response to the City's request for all information used to form the basis of the BBGHAD's letter of intent offer to pay a \$.25/cubic yard royalty to City of LA for 600,000 cubic yards of sand located approximately 1/2 mile offshore of Dockweiler Beach. Few examples of sand royalties exist in California. We have found four (4) such examples, three (3) of which are for sand mined on state of CA-owned sand at inland areas and the final example is for sand mined by a commercial entity in the San Francisco Bay near Angel Island. Each of these examples are distinguishable from the current situation in a variety of ways. For example:

- a. The inland sand leases are commercial business transactions with the sand used by the lessee/operator for commercial purposes. Here, the BBGHAD is a public entity and the sand will be used to provide a largely public beach.
- b. The inland sand leases have proven largely uneconomical in the current economy and the lessees/operators have chosen not to produce because of the relatively high royalty and lack of demand for the product. This fact partially explains why the GHAD has offered less than the approximate \$.50/cubic yard royalty contained in the subject leases.
- c. The attached San Francisco Bay-area lease was the result of litigation between the lessee/operator (Hanson) and the state of California. In the litigation, Hanson was alleged to have defrauded the state out of millions of dollars in royalties and appeared quite motivated to settle the litigation. This renders this example essentially a "red herring" for the current analysis. Further, the logistics of mining sand in SF Bay are quite different than in the open ocean off of Dockweiler Beach.
- d. All of the attached examples are for sand quantities far greater and terms far longer than that requested by the BBGHAD. Clearly, the commercial entities can amortize their investments over a relatively long period of time and pass along the royalty payments to their customers in a coordinated, long-term fashion. Here, we seek only a total of 600,000 cubic yards from a one-time nourishment and have no way of amortizing the "investment".

We appreciate the City of LA's consideration of our letter of intent and look forward to further discussions.

Attached are:

1. SLC (State Lands Commission) Permit 7301 issued to Hanson in northern San Diego County is for 6.5% of the gross. Due to the economy, they have not produced for several years.
2. SLC Permit 8831 issued to Hi-Grade Materials in Lucerne Valley. Royalty is 6% of the gross.
3. SLC Permit 8253 issued to Vulcan Lands near Victorville. Royalty is 7% of the gross or this year \$0.58/short ton.
4. SLC's sand mining lease in San Francisco Bay, issued to Hanson Marine Operations, Inc. for sand mining activities located in San Francisco Bay near Angel Island. The Lease was amended in 2007 to establish a flat royalty per cubic yard with an annual CPI adjustment (see attached .pdf copy of the amendment). Also please refer to the following link for more background information contained in the 2007 Commission staff report on the amendment:
http://archives.slc.ca.gov/Meeting_Summaries/2007_Documents/10-30-07/Items/103007R46.pdf.



2012PRC
7301.2Lease.pdf



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Lease Amend...



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nd2008May.pdf

Kenneth A. Ehrlich of

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Ehrlich, Kenneth A.

From: Ehrlich, Kenneth A.
Sent: Friday, October 05, 2012 3:36 PM
To: rboudreau@moffattnichol.com; Webb, Chris; McMahon, Tonia
Cc: zandl@aol.com; Grossman, Marshall B.; Ehrlich, Kenneth A.; Barbara Hamm
Subject: BBGHAD-- To Do List following 9/10/12 CCC Mtg

I have the following "to do" list, and want to make sure that we are collectively working on these items:

1. Filing fee- MN to determine value/cost of temp revetment project (consultants, etc.); backpassing, beach/dune maintenance; 1997 rocks. I sense that we can be relatively subjective and favorable to GHAD with these costs because we have no way of substantiating some of them-- such as 1997 rocks, certain temp revetment costs, etc.
2. After-the-fact permitting of 1997/98 rocks-- MN to develop footprint/map of 1997/98 rocks and determine how much rock was brought in.
3. "Bond" for potential relocation of Eastern 1300' of revetment- MN to develop support documents for \$187,500 estimate for removing this portion of revetment. KAE- take MN docs and finalize agreement with CCC.
4. As built Plans- MN to include wave uprush limit line in event revetment is NOT present.
5. Mapping-- include existing AREs/OTDs on septic map, include 10/09 MHTL on same map. Map existing OTDs/AREs-- either graphically or using language to specify location of granted easements.
6. Project Plans-- MN to develop 60% plan set and 60% plan set for "important" or "critical" alternatives.
7. Rationale for Revetment Location: MN to prepare additional analysis re rationale for retaining current revetment placement-- explain adequacy of revetment placement by segment-- break 78-home revetment into logical sections and discuss revetment placement for each segment. Include Malibu LCP provisions re placement of shoreline protective device.
8. Alternatives analysis- incorporate Topanga Underground analysis into Alternatives analysis.
9. Sand Source-- Secure a source. Include pre-revetment surveys for Zuma to determine "before" and "after" conditions.
10. GHAD team to develop and present plan to ensure public access "at all times"-- even after catastrophic storm(s). Interim nourishments?

Russ/Chris/Tonia-- can we talk Monday to determine where we are on these points?

Thanks.


 The logo consists of the letters 'JMBM' in a large, stylized, serif font. The letters are interconnected and have a textured, slightly grainy appearance.

Kenneth A. Ehrlich

Partner

JMBM | Jeffer Mangels Butler & Mitchell LLP

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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



September 28, 2012

Broad Beach Geological Hazard Abatement District
Attn: Mr. Zan Marquis
29169 Heathercliff Rd. Suite 212
Malibu, CA
90265

Cc: Mr. Ken Ehrich
1900 Avenue of the Stars, 7th floor
Los Angeles, CA
90067

Chris Webb, Tonia McMahon, Russ Boudreau, Kim Garvey
Moffat & Nichol
3780 Kilroy Airport Way
Long Beach, CA
90806

RE: Coastal Development Permit Application 4-12-043 (Broad Beach)

The following is in response to your recent submittal and incomplete response letter dated 8/31/12 concerning the proposed shoreline protective work, beach nourishment and related dune habitat restoration at Broad Beach, Malibu. Some of the outstanding requirements have been submitted, however based on our review of the information, the application is *incomplete* for the purposes of filing and scheduling this project for a Commission agenda. We are unable to file and schedule the application for a Commission meeting until the following information is provided:

Administrative

1. Filing Fee. Please note that the submitted filing fee of \$40,000 was not based on the current filing fee schedule. For your information please see the attached filing fee schedule to help determine the correct filing fee amount. However, there also is a discrepancy between the cost of development in your submitted CDP application and the actual development that would be included as part of this project. The estimated cost of development submitted in the CDP application for 4-12-043 indicated that the entire project would cost around 15 Million dollars. On Exhibit C of the Broad Beach Geologic Hazard Abatement District adopted Assessment document Exhibit C, the assumed project expenses amount to approximately 36 Million dollars. However, neither of these estimates seems to include the total cost of construction of the existing temporary emergency rock revetment, or the placement of existing sandbags/sandbag walls and sections of exiting unpermitted rock revetment, which the incomplete response letter dated 8/31/12 stated were now proposed for permanent retention as part of the subject project. If the permanent placement of the emergency rock revetment (permitted for temporary placement in 4-10-003-G) and other existing unpermitted development is to be included as a component of your proposed project, please provide detailed evidence regarding

the final cost of such developments, including but not limited to the cost of materials, construction, consulting, and engineering involved in placement of the emergency revetment. Thus, please submit correct filing fee based on current fee schedule and complete cost estimate including all components of proposed project.

In addition, based on all available information, we have confirmed that unpermitted development has occurred on the subject site, including but not limited to the construction of rock revetment in 1998 on several parcels within the project reach, installation/retention of geofabric sandbags, and unpermitted stairways on the proposed as-built revetment. In the incomplete response letter dated 8/31/12 it is stated that after the fact approval of all existing unpermitted rock revetment and sandbags is now proposed as part of the overall project. As such, please revise and clarify all project descriptions, documents and technical analyses to include these proposed project components. Also, please note that when after-the-fact authorization is requested for existing unpermitted development, additional fees for after-the-fact authorization will apply pursuant to the correct Filing Fee Schedule, attached for your convenience.

2. Cost Valuation. The submitted cost valuation for the project is incorrect and does not address all proposed project components, (including, but not limited to, construction of rock revetment, geofabric sand installation/removal, etc.). Please submit complete cost valuation for project prepared by qualified contractor.

3. Proof of the applicant's legal interest in the property. We are in receipt of the adopted BBGHAD Plan of Control; however, this document does not provide evidence that BBGHAD has legal ability to implement all components of the project (including, but not limited to, construction of rock revetment, sand bags, beach nourishment, and dune habitat restoration). Please provide evidence that BBGHAD has legal ability to implement all components of the proposed project throughout the proposed term of the project, including authorization from all persons or entities which have an ownership interest in the property superior to that of the applicant must be provided (including, but not limited to, owner authorization for all areas of the project that would be located on private lands, State Lands Lease Agreement for all portions of the project located on Public Trust Lands, and evidence from the appropriate managing entity for offshore donor sites granting approval for all proposed dredging/sediment transport operations)

Project Description and Plans

5. Project Description

The Project Description located in your CDP application and in Attachment C fails to include a concise and clear description of the main project components. Please submit a project description that adequately and clearly states the separate project components including but not limited to the construction work, methodology and quantities of materials necessary for each separate project component.

(i) Rock Revetment. Emergency Permit 4-10-003-G granted temporary authorization only of the rock revetment on site. Pursuant to the conditions of that permit, the rock revetment must be removed in its entirety if permanent authorization is not obtained. However, the proposed project description fails to clearly address the revetment, instead referring to it as an existing structure. If

permanent authorization of the temporary emergency revetment (without any modifications to the revetment permitted in emergency permit 4-10-003-G) is included in the proposed project, please revise the project description to include authorization of the 'as built' 4,100 linear ft. rock revetment on site. Also, identify that the revetment is a temporary structure and that the current CDP application seeks authorization for the permanent authorization of the entire revetment structure. The CDP review must treat the proposed project as new development. As such it is important that the application establish that some type of shore protection is needed for the inland development, that the proposed protection will avoid or minimize adverse impacts to coastal resources (normally through using as small and as inland a footprint as possible), and that any unavoidable impacts will be thoroughly mitigated. For us to fully evaluate the impacts from the proposed project, please discuss any modification, construction, realignment or augmentation of the existing temporary emergency rock revetment be proposed as part of the project and include them in the project description. If sections of the existing temporary emergency rock revetment located below the Mean High Tide Line established by the State Lands Commission are proposed to be modified or removed, as indicated in the incomplete response letter dated 8/31/12, please detail where this development would occur within the project boundaries and submit a comprehensive plan set showing all proposed modifications to the temporary emergency revetment.

(ii) *Existing Unpermitted Development.*

Based on all available information, we have confirmed that unpermitted development has occurred on the subject site, including but not limited to the construction of rock revetment in 1998 on several parcels within the project reach, installation/retention of geofabric sandbags (including both new unpermitted sand bags on several properties and the failure to remove sand bags which were temporarily authorized by emergency permits by the City of Malibu for a period not to exceed 90 day), and several new unpermitted stairways/guard rails on the proposed as-built revetment. Please either provide revised project information including but not limited to full complete plan sets, project descriptions, technical analysis, and any necessary approvals for the existing unpermitted development proposed to be retained as part of the subject CDP application. For locations where sand bags have been covered by revetment, please provide the engineering analysis to show how the sand bags are important to the design, and how they improve stability over the traditional design of revetments. If any existing unpermitted development is not proposed for after the fact approval or planned for removal please submit evidence that the subject development(s) received the required coastal development permit or revise/clarify project description to either: (a) remove the unpermitted development or (b) request after-the-fact authorization, or (c) a combination of these two actions.

Are the existing unpermitted sections of rock revetment located on Broad Beach (including the unauthorized revetments constructed in 1998 that appear to be located in the same location as the new proposed revetment) that were not approved through a Coastal Development Permit or through the Emergency Permit 4-10-003-G proposed to be retained in their existing locations as part of the proposed project? If so, please specifically include the after the fact authorization of the unpermitted rock revetment sections in the project description and include detailed planned sets showing the footprint, location, and elevation of all revetment sections. For further information about the exact location of all unpermitted revetment sections please contact the Enforcement staff in our Ventura office.

(iii) *Project Schedule.* Please provide a construction schedule for the proposed project detailing all project components, their necessary storage and staging requirements, and their length of

operation. Indicate the time periods throughout the year(s) where construction would be scheduled to occur, to include all beach replenishment operations, backpassing or any other longer term components of the proposed project.

(iv) *Jurisdiction.* Please clarify whether the proposed application is development located within the Commission retained permit jurisdiction or whether you are requesting authorization for proposed development, including development within the City of Malibu's LCP jurisdiction pursuant to a consolidated permit action by the Commission. If a consolidated CDP is sought by the applicant please submit sufficient evidence that the City of Malibu supports the consolidated CDP process for the subject project.

(v) *Other Permits.* Please provide documentation of all necessary permits for the proposed project including all permits and approvals necessary to conduct the proposed sand dredging and replenishment operations including authorization from the City of LA for dredging operations at the proposed Dockweiler site or other final proposed dredging/sand source sites. Show preliminary or final approvals by all other necessary government agencies (City of Malibu, Los Angeles County, U.S. Army Corps of Engineers, Regional Water Quality Control Board, Calif. Dept. Fish & Game, and Caltrans). Specifically, provide evidence that State Lands Commission has issued a lease agreement and authorization for all project components including but not limited to permanent placement of revetment, beach nourishment including placement/dredging of sand at each donor/receiver site(s). Additionally, as the subject project site is located within an Area of Specific Biological Significance (ASBS) and a State Marine Conservation Area (SMCA), please provide evidence that all components of the proposed project are consistent with the requirements of the Water Quality Control Boards designated ASBS guidelines and regulations as well as the California Department of Fish and Game's State Marine Conservation Area guidelines and regulations.

(vi) "Approval-in-Concept" form completed by the City or County Planning department or other responsible department.

(vii) *Performance Bond.* In addition, Emergency CDP 4-10-003-G required the applicant to post a performance bond (within 90 days of the date of the emergency permit) equal to the value of the cost for the complete removal of emergency structure and related materials from the eastern portion of the beach (approximately 1300 linear ft. of rock revetment & sand bags between 30928 Broad Beach Road and 30760 Broad Beach Road) and restoration of the beach to its approximate natural elevations. To date, that condition of the emergency permit has still not been complied with. Please submit evidence that applicant has complied with this condition.

6. As-Built Plans. Please submit two sets of full-size, final and complete "As-Built" plans of all existing shore protection (revetment, sand bags, unpermitted development to be removed or requested to be retained after-the-fact, etc.) with representative cross-sections prepared by a registered engineer. The full size plan set must show the project footprint in relation to the applicants property boundaries (including surveyed benchmarks), all septic systems, all recently surveyed Mean High Tide Lines (winter and Summer) including the Mean High Tide Line recently surveyed by the State Lands Commission, the Wave Uprush Limit Line, all existing residential structures (including decks and patios), and show all existing easements and deed restricted areas on each parcel. The plan set must also show the location of the as-built temporary emergency rock

revetment in relation to the above referenced plan elements for all legal properties included in the project application.

7. Project Plans

(i) Project plans submitted were incomplete and failed to show all proposed development. Please submit two sets, of full-size, detailed (approximately 60% complete) plans of all proposed alternatives (see Section 5 for more details about alternatives), with representative cross-sections prepared by a registered engineer. The full size plan sets must show the alternative project footprints in relation to the applicants property boundaries (including surveyed benchmarks), all septic systems, recently surveyed Mean High Tide Lines (winter and Summer), the Wave Uprush Limit Line, all existing residential structures (including decks and patios) and private property boundaries, landscaping, sensitive dune habitat areas, and show all existing easements and deed restricted areas on each parcel. The plan sets must also show the location of the as-built temporary emergency rock revetment in relation to the above referenced plan elements for all legal properties included in the project application. Indicate on the plans the existing revetment location and the proposed locations for the stock pile and staging areas, proposed sand nourishment extent, the proposed backpassing activities and proposed 'dune restoration' area. Drawing must be to scale with dimensions shown. Plans must be approved by the City or County Planning Department and stamped "Approval-in-Concept." We need two (2) more set(s).

(ii) Please submit two set(s) of detailed final grading with cross-sections and quantitative breakdown of grading amounts (cubic yards of cut and fill) for all areas where sand/fill placement will occur. Submitted plans state that they are in draft form only and not final. Plans must be to scale and prepared by a registered engineer.

(iii) Please provide 8.5x11 inch copies of tall plans.

Technical Reports and Analyses

Biology

Please submit a biological analysis, prepared by a qualified biologist with experience in beach and marine ecology, identifying the baseline conditions of the site prior to installation of any of the proposed development (revetment, etc.) and a complete analysis of habitat impacts resulting from the proposed project, including the permanent authorization and the initial construction of the rock revetment, beach nourishment, etc which specifically please address the following:

8. Temporary Emergency Revetment, Sandbags, Existing Unpermitted Revetment Sections.

(a) As the permanent retention of the emergency revetment, unpermitted sandbags, and unpermitted revetment sections are all now included in the subject proposed project, please submit information and analysis documenting the conditions that existed on Broad Beach prior to construction of the temporary emergency rock revetment, sandbag walls, and existing unpermitted revetment sections including but not limited to the following habitats: kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones – epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth. Include:

- Available species composition (richness and diversity) and density data for the above specified respective habitats obtained from peer reviewed literature, gray literature, biology reports, and/or environmental impact reports.
- Documentation, habitat use, and/or locations of any sensitive species including but not limited to the endemic beach isopod, *Tylos punctatus*, pismo clam, *Tivela stultorum*, black abalone, *Haliotis cracherodii*, grunion, *Leuresthes tenuis*, and snowy plover, *Charadrius alexandrinus*.
- Associated figures, data, graphs, charts and photographs.

(b) Please describe the habitat impacts that resulted from construction of the existing temporary emergency rock revetment including but not limited to impacts to the following habitats: kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones – epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth. In this analysis please include the impacts that resulted from all activities related to construction of the temporary emergency rock revetment including but not limited to any habitat impacts that resulted from storage and staging, beach sand sculpting, inundation/removal/degradation of any existing dune habitats, water pollution and runoff from construction activities/equipment.

(c) Please describe the habitat impacts on kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones - epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, or Trancas estuary and creek mouth habitats impacts relating to the construction, formation and placement of any and all plastic sandbags along the shoreline area that occurred concurrently and prior to the emergency revetment construction. Please address and provide a quantitative analysis of the sand sculpting that occurred (including all bulldozing activities on the beach) to facilitate and form the sandbag walls now proposed for permanent retention as part of the subject project. Identify and quantify what habitat impacts resulted from all construction, formation and placement activities that were associated with the initial construction of all sandbags/sandbag walls within the project boundaries.

(d) Please describe the anticipated long-term effects on kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones - epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth habitats resulting from permanent authorization of the rock revetment, the unpermitted sandbags, and the unpermitted revetment sections. Including but not limited to the following:

- An analysis of the long-term natural sand trends functioning under normal conditions without the entire rock revetment in place and with the entire rock revetment in place. Include a discussion of natural dune formation processes and any interference or impact a permanent revetment could cause during the project duration. If different sand trends and erosion processes are anticipated at the East and West end of the project area, please identify and discuss the unique characteristics of each end of the project site in the analysis.
- An analysis of all the potential scenarios of beach conditions that could occur over time, including detailed information regarding any habitat impacts that could occur if the beach nourishment/dune restoration and revetment structure all fail to succeed individually or collectively. Specifically, please address potential impacts to dune habitat that could

occur if the beach nourishment/dune restoration fails and the revetment becomes exposed, including but not limited to the anticipated impacts resulting from extreme storm events, sea level rise and wave overtopping.

- An analysis of the habitat impacts that will occur with the permanent retention of all existing unpermitted sandbags that are proposed as part of the project, specifically addressing the habitat impacts that could result from the deterioration of the sandbag fabric and its ongoing release into the beach and marine environment.

(e) Please provide a comprehensive analysis of all potentially feasible locations that the temporary emergency revetment and unpermitted revetment sections could be located on Broad Beach. Specifically, identify the impacts to the kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones - epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth habitats resulting from each alternative considered as if the temporary revetment/ unpermitted revetment sections were not present on Broad Beach. All alternatives should be considered from the baseline conditions (i.e. the state of the shoreline present prior to emergency construction of the rock revetment). None of the alternatives or alternatives analysis discussions should refer to or address the rock revetment as a permanent structure

9. Proposed Beach Nourishment

(a) Please conduct comprehensive and quantitative surveys (in summer and winter) to accurately characterize the existing seasonal baseline conditions of all Broad Beach habitats, including but not limited to:

- Surveys that enable accurate mapping of the current areal extent of kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, rocky intertidal, sandy beach, wrack, and coastal strand and dune habitats at maximum low tide and maximum high tide in summer and winter.
- Quantitative surveys in summer and winter (transects, quadrats, cores, photo plots, etc. as necessary) that accurately characterize the community composition (species distribution and density) of kelp/eelgrass/surfgrass, rocky reef, sandy beach (upper, mid, lower zones - epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth habitats. In order to ensure that the respective sampling designs are adequate to accurately characterize each respective habitat, please produce species area curves for each sampling method used. An adequate number of samples is indicated by the point at which the curve begins to level off and the probability of encountering new species declines.

(b) Provide an associated analysis of the habitat impacts to kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones - epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredunes, and Trancas estuary and creek mouth habitats associated with the proposed beach nourishment element of the project including but not limited to noise, timing, sand placement, sand depth, associated turbidity plume, and associated construction storage and staging. The analysis should include but not be limited to:

- Figures illustrating the extent and depth each affected habitat will be covered. Use planar images and cross-sections to show burial at different stretches of coastal line (not only does

habitat structure differ from the western most portion of the project site to the eastern most portion of the project site, but the proposed project also uses different slopes and beach widths along the length of the site). Include diagrams of the projected turbidity plumes and their estimated habitat reach.

- Locations of any proposed pipelines and an evaluation of their possible impacts on the surrounding habitat.
- Short and long-term description and impact analysis of habitat type conversions that will occur as a result of the proposed beach nourishment project (e.g. response to burial of rocky intertidal and sandy beach communities; anticipated recovery trajectories, if possible, based on organism recruitment patterns, etc.)

(c) Please include an analysis of the impacts to kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones – epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth habitats and the associated biological communities that would occur as a result of long-term beach maintenance activities including but not limited to backpassing, beach sculpting, and recurrent beach nourishment.

(d) Please include an analysis of the habitat impacts to kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones – epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth habitats associated with each project alternative considered.

(e) Please provide a detailed strategy for minimizing, to the greatest extent possible, all adverse impacts to kelp/eelgrass/surfgrass, rocky reef, shallow soft bottom subtidal, sandy beach (upper, mid, lower zones – epifauna and infauna for each zone including shorebirds), wrack, rocky intertidal, coastal strand, southern foredune, and Trancas estuary and creek mouth habitats from all activities associated with sand nourishment. The strategy should include ecological considerations of timing, sensitive resource avoidance, sand deposition location, and enhanced habitat recovery, at a minimum.

(f) Please provide a dune restoration plan designed by a qualified ecologist that incorporates native coastal strand and southern foredune species. The plan must be implemented across the entire project area in order to restore native dune habitat. In this restoration plan please address the potential for recurring beach nourishment and backbassing operations to impact the proposed dune restoration area. Identify and quantify the potential impact this could have on the Broad Beach Dune habitat.

(g) Please specify how the salinity of the dredged sand proposed for use to construct the dunes will be addressed to ensure the success of native dune restoration. Provide details and evaluate all associated impacts. One solution that has been proposed is use of a clean cap of sand. If this is the preferred solution please address the following: where will this sand come from?, what are the habitat conditions at that site?, and how will the habitat be affected by removing the sand?

10. Beach Nourishment Donor Site.

(a) Please provide comprehensive, quantitative baseline summer and winter surveys of all final proposed sand nourishment donor site(s) in order to characterize the epi-floral/faunal (diver transect

and video surveys) and in-floral/faunal (grab samples) species composition. In order to ensure that the respective sampling designs are adequate to accurately characterize the donor site (s), please produce species area curves for each sampling method used. An adequate number of samples is indicated by the point at which the curve begins to level off and the probability of encountering new species declines. The donor site sampling design should include:

- Sediment cores/grabs (e.g. Smith/McIntyre) designed to sample a minimum of one foot below the sediment surface.
- Diver transects and video surveys
- Bait station sampling to document carnivorous motile species.

(b) Please include an analysis of the habitat impacts that would occur at the sand nourishment donor sites as a result of the long-term management of the proposed Broad Beach shoreline, including recurrent sand dredging operations. The analysis should include, but not be limited to an analysis of the long term impacts to sand transport in the littoral cell of the donor site, information regarding the estimated reoccurrence of beach nourishment activities (i.e would the same donor site be used after the initial dredging operation if additional beach nourishment becomes necessary in the future? If so, how often), and any impacts to the existing habitats at the donor sites, specifically addressing the estimated reach of the turbidity plume, the habitat and organisms that will be affected by the plume, the possible length of time the plume would remain, etc.

(c) The applicant's consultant states that ecological recovery of the sand donor site (s) is expected to occur relatively quickly; within 1 to 4 years. Please provide a review of peer-reviewed literature as well as other sources of information that supports this perspective.

11. Impacts to Habitat Summary Table. Please provide us with a table that presents the type, location, and acreage of habitats that would be impacted due to the placement of sand, beach nourishment operations, and revetments (this should include the retention of existing revetments) and by offshore dredging and at sand donor sites. This information should also be provided in table format for all other alternatives that are being analyzed.

Engineering

Please submit two copies of a comprehensive, current (not more than 1 year old), site-specific coastal engineering, geology and soils report (including maps) prepared in accordance with the Guidelines for Engineering Geologic Reports, prepared by the State Board of Registration for Geologists & Geophysicists (7/98). Copies of the guidelines are available from the Coastal Commission District Office which address the following

12. Temporary Emergency Revetment.

(a) Please provide detailed modeling and analysis of seasonal and interannual shoreline profile changes in response to the existing temporary emergency revetment and all feasible alternative shoreline protective options over the next 20 years and for the expected economic life of the inland development. Sea level rise and the occurrence of extreme storm events (El Nino conditions) should be evaluated as inputs in this analysis. Seasonal and interannual shoreline cross sections should be provided for each alternative so that changes in slope and depth, habitat changes and beach conditions can be analyzed.

Please provide an analysis of the efficiency of design of the temporary emergency revetment and the level of shoreline protection that the existing temporary emergency rock revetment provides to the primary residences along Broad Beach. Are there any other revetment alignments, formations, rock sizes or structure types that would provide increased protection of some or all existing Broad Beach residences for their economic lifespan?

Section 30253 of the Coastal Act requires (in part):

"New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."*

As stated previously, the CDP review must treat the proposed project as new development. As such it is important that the application establish that some type of shore protection is needed for the inland development, that the proposed protection will avoid or minimize adverse impacts to coastal resources (normally through using as small and as inland a footprint as possible), and that any unavoidable impacts will be thoroughly mitigated. For example, in those situations where sand bags have been covered by revetment, please provide the engineering analysis to show how the sand bags are important to the design, and how they improve stability over the traditional design of revetments.

Provide an analysis of structural integrity and stability of the proposed shoreline protective structure (as-built revetment) and of the proposed alternatives. In this analysis please indicate the estimated life of each alternative and describe any anticipated maintenance and repairs of this alternative in the future. The conditions normally used to determine structural stability include: (1) a seasonally eroded shoreline; (2) a shoreline that has experienced long-term erosion appropriate to the design life of the structure; (3) still water level with elevation from a low pressure system, high tide and sea level rise appropriate to the design life of the structure; and (4) storm waves comparable to the 100-year storm event.

(b) Please include adequate analysis addressing what existing development will the proposed project protect? What is the erosion risk to each site and what is the time frame for the risk? Many of the buildings are setback from the shoreline; over what time period can they be expected to be at risk from erosion. Please include an analysis of the minimal level of shoreline protection that would be necessary to protect only the principal residential structures and the septic systems (Not including the yard/patio areas, tennis courts, garden sheds, ancillary structures, residential beach accessways or vegetation). Please provide the sea level rise conditions and erosion rates or episodic erosion conditions that are assumed in the analysis of erosion risk.

(c) At a minimum, please provide an analysis for all potential hard armoring structure alternatives that address the issues raised by Section 30235 of the Coastal Act: (1) is there an existing structure or public beach; (2) is the existing structure or public beach in danger from erosion; (3) will the proposed alternatives provide protection to the existing structure or beach that is in danger from erosion; (4) will the proposed alternative minimize impacts on local sand supply; and (5) will the proposed alternative be the least environmentally damaging feasible alternative.

(d) Impacts related to the initial construction and permanent retention of the 4,100 linear ft. temporary rock revetment consisting of 33,000 tons of rip rap, as well as proposed nourishment, should be evaluated as part of the proposed project. This evaluation should include analysis of the long-term effects of the revetment on shoreline sand supply and coastal processes including the potential for wave reflection and scouring that could occur from the permanent retention of the structure, public access and recreation, visual resources, and sensitive dune habitat and beach habitat. Moreover, the analysis should evaluate the effects of sea level rise and other foreseeable factors that affect the shoreline relative to the proposed project and a range of alternatives in order to adequately assess potential impacts.

13. Unpermitted Revetment Sections and unpermitted sandbags/sandbag walls.

Please provide detailed technical analysis of the structural stability and function of the unpermitted revetment sections and the unpermitted sandbags now proposed for permanent retention. Include a detailed plan set showing cross sections, elevations and the location of all unpermitted rock revetment and unpermitted sandbags located within the project boundaries.

If any unpermitted development is included in the proposed project, please provide an analysis of the efficiency of design of these unpermitted developments and the level of shoreline protection that they provide to the primary residences along Broad Beach. What level of structural integrity do these existing unpermitted developments provide to the existing temporary emergency rock revetment? Are there any other alignments, formations, rock sizes or sandbag structure types that minimize or avoid impacts to coastal resources while providing acceptable protection of some or all existing Broad Beach residences? What is the anticipated long term stability of these unpermitted developments? Is there potential for them negatively effect the structural integrity of the existing temporary rock revetment, or any other component of the proposed project, over the duration of the project? Sea level rise and the occurrence of extreme storm events (El Nino conditions) should be evaluated as inputs in this analysis.

14. Beach Nourishment.

(a) Please continue and provide pre-monitoring surveys of the sand levels, beach profile and sand trends at Broad Beach, and add in control profiles for the western portion of Zuma Beach. Include an analysis regarding any potential adverse or beneficial impacts that could occur at Zuma Beach as a result of the proposed beach nourishment project component.

(b) The proposed sand back-passing triggers are ambiguous and it seems that there will be conditions under which no backpassing would be possible. Please provide detailed and unambiguous triggers for back passing, triggers for new nourishment, and analysis of the impacts to Broad and Zuma Beach from the proposed frequent project maintenance activities. As the beach profile and conditions are substantially different on the east and west end of the beach, please identify the specific conditions that would trigger the need for backpassing or beach nourishment over each segment of the project area. Would these triggers be based on engineering surveys? What specific protocols would be in place to control the occurrence and timing of these maintenance activities? Clarify the relationship and dynamic between potentially competing elements of the proposed project, including dune restoration and beach nourishment maintenance activities.

15. Adaptive Management.

(a) Please provide a comprehensive adaptive management plan that identifies the triggers that would necessitate sand backpassing and sculpting activities and beach nourishment operations beyond the initial deposition of 6000,000 cubic yards proposed in the current project description.

(b) Since the beach and dune nourishment are proposed as part of the overall protection effort, they should be maintained for as long as the hard armoring structures are likely to remain in place. What is the preferred alignment and structural formation of the dune restoration that would best ensure the long-term success of the proposed dune restoration area without any additional beach nourishment during an extended time period? Please provide an analysis of potential long term beach management operations that would be necessary to maintain the proposed beach profile over the next 10, 20, 40, 60 and 100 years.

(c) Please provide an analysis of the stability and coastal resource impacts from project alternatives, including, but not limited to project (1. replacement of the emergency revetment and sand bags with a more permanent revetment design, located closer to the structures at risk, 2. replacement of the emergency revetment and sand bags with a vertical seawall, located closer to the structures at risk, and 3. removal of the temporary revetment and sand bags and reliance upon regular beach nourishment). Are there alternatives that would reduce the need for long term active management of the beach and continuous backpassing operations?

16. Economic Assessment. Please submit an economic analysis, prepared by a qualified economic analyst, addressing both the recreational costs and benefits of the proposed rock revetment and dune and beach nourishment operations. The analysis must assess both adverse impacts, as well as any benefits, to public access and recreation that would result from the project both along Broad Beach and downcoast areas of the shoreline.

The analysis must fully evaluate and compare both the benefits and adverse impacts of the proposed project relative to all feasible project alternatives (including the alternatives addressed in the Alternatives Analysis required by Item 15 below, which includes a 'no project' alternative where no shoreline protection was in place within the project boundaries) and not only the preferred alternative. It must also assess the beach and recreational values for the project as it changes with time. For example, the proposed alternative includes back shore armoring that would fix the back beach location and limit the available beach width available for public use during times of erosion or in between back-passing and nourishment efforts. An alternative with a more landward relocation of the hard shore protection would have fewer limitations on available beach width. The economic analysis must be based upon the recreational value of the range of all possible future beach conditions, relative to expected sea level rise, and not only upon the design template. If the changes to surfing from the regular burial of the bar breaks can be determined, then surfing should be included in the valuation of project alternatives. The submitted economic assessment attached to the incomplete response letter dated 8/31/12 was a DRAFT document and stated that:

"This study is based on limited data. In particular, our estimate of attendance at Zuma Beach and our estimates of the distribution of this attendance across reaches is limited and changes in these estimates could significantly alter the estimates in this study. Our knowledge of Broad Beach attendance is also limited, but as this analysis shows, almost all of the recreational benefits will occur at Zuma Beach. Our estimates are also based on the erosion model created by Moffatt and Nichol, which they have said is conservative"

Please provide a final economic assessment based on additional data that considers the recreational costs and benefits of the proposed rock revetment, unpermitted sand dunes/rock revetment sections, dune and beach nourishment operations related to all project alternatives, including but not limited to the 'no project' alternative.

17. Alternatives Analysis. The submitted alternatives analysis is inadequate and fails to analyze all feasible alternatives to the proposed project that would serve to minimize adverse impacts to coastal resources. Please submit an analysis, prepared a qualified coastal engineering professional, of all feasible alternatives to the proposed project that would serve to minimize adverse impacts to coastal resources.

The alternatives analysis must include an evaluation of all alternatives that would allow for a shoreline protection device on site to be located as far landward as feasible and designed in a manner that would minimize adverse impacts to coastal resources. The alternatives to be evaluated should include, but not be limited to: beach nourishment with no permanent shoreline protection device; relocation of the revetment or other hard armoring structure to a further landward location, relocation of the revetment or hard armoring structure inland of all the AREs that already exist; landward relocation of the downcoast portion of the revetment where the beach is wider; and the use of a vertical seawall in order to minimize the footprint of the structure on the sandy beach. Specifically, since a seawall option would be viable for this beach area, the long-term option of placing a vertical wall further inland of the proposed location for the rock revetment (including installation of a wall immediately seaward of the residences to be protected) should be considered as an option in conjunction with the proposed beach and dune restoration. The beach nourishment and dune restoration could still be constructed, as planned, but with the seawall as the last line of defense instead of the revetment. Also, please include information regarding different possible alignments of a seawall and identify the effectiveness of such a shoreline protective device compared to the effectiveness of the existing temporary emergency revetment.

Where shoreline protection is proven necessary because an on-site septic system/leach field is located on the sandy beach seaward of an existing residence, alternatives should be evaluated that would include relocation of septic systems to further landward locations and/or landward of the residence in order to allow for the furthest landward location of the revetment or vertical seawall. Further, alternative methods of sewage disposal that would eliminate the need for on-site septic systems/leach fields on individual beachfront lots, such as, but not limited to, a use of a single sewage package treatment plant that would serve all the homeowners within the project area should be evaluated. Moreover, the removal of existing private patios, private landscaping, lawns, and accessory structures located on the sandy beach seaward of these residences should be considered in the analysis of alternatives to allow for the construction of a shoreline protection device in a further landward location than the proposed revetment while still protecting the primary residence on each site. To reiterate, all feasible alternatives to the proposed revetment in its as-built location, including but not limited to, the above referenced alternatives, should be fully evaluated.

An analysis of mitigation measures that would minimize or mitigate impacts to coastal resources that cannot be avoided through project alternatives should also be included in the project materials.

18. DEVELOPMENT ON A BEACH OR BLUFF

Please submit the following information as part of your CDP submittal:

- a) All projects on a beach require State Lands Commission determination of location of most landward property line. (State Lands Commission, 100 Howe Street, Suite 100, Sacramento, CA 95825-8202, phone (916) 574-1800. Please make reference to your Coastal Development Permit file number when contacting the State Lands Commission. Please provide us with information regarding this correspondence and the determination of the most landward property line as part of your CDP submittal.
- b) For projects on a coastal bluff or shoreline - a stringline map showing the existing, adjacent structures, decks and bulkheads in relation to the proposed development is required as part of the CDP submittal. The stringline is to be prepared in accordance with the attached guidelines.
- c) For shoreline development and/or protective devices (seawalls, bulkheads, groins & rock blankets) - project plans with cross-sections prepared by a registered engineer. The project plans must show the project foot-print in relation to the applicant's property boundaries (include surveyed benchmarks), septic system, Mean High Tide Line (winter and summer), and the Wave Uprush Limit Line.
- d) For shoreline development and/or protective devices a geotechnical report and wave uprush study needs to be prepared in accordance with the Commission guidelines.

Depending on what additional information is submitted in response to this letter, we may need more clarification and possibly more information as a result of our review of the information to schedule the proposed project for Commission action. Should you need any clarification or have any questions regarding the list of items above, please give me a call.

Sincerely,

Melissa Ahrens
Coastal Program Analyst

AGENDA ITEM 11a

**Broad Beach GHAD
Cash Flow**

Cash in Bank : 8/31/12 86,485.89

Sources of Cash:

Advances from Individual Homeowners (Actuals)-Sep -
Advances from Line of Credit-Sep 400,000.00

Invoices Paid thru 9/30/12

Paid

Moffatt & Nichols	167,272.36
Jeffer Mangels	45,498.96
ENGEO	2,755.00
State Lands Comm-Staff Costs	10,497.40
Colantuono & Levin	4,852.50
Bank charges/Int on Line of Credit	240.04
Cash Paid Out	<u>(231,116.26)</u>

Cash Balance as of 9/30/12 255,369.63

Sources of Cash:

Advances from Individual Homeowners -
Advance from Line of Credit/Loan -

Current Payables in hand:

ENGEO	1,020.00
Moffatt & Nichol	166,409.21
Verizon	38.34
Total Invoices Due	<u>(167,467.55)</u>

Estimated Cash on Hand - 10/12/12 87,902.08

Forecasted Invoices thru Oct

Moffatt & Nichols	25,000.00
Jeffer Mangels	40,000.00
State Lands Commission-Staff	2,324.00
State Lands Commission-Consultant	50,000.00
Total Forecasted	<u>(117,324.00)</u>

Estimated Cash on Hand - 10/31/12 (29,421.92)

Broad Beach GHAD
 Projection thru 12/31/12
 As of: 10/1/12

Items	Actuals Paid FS				Projection			Totals
	Transferred, 2011	Nov 2011-Sep 2012	Oct, 2012	Nov, 2012	Dec, 2012	Nov, 2012	Dec, 2012	
Expenses transferred from FS acct - 2011		172,702						1,742,232
Moffatt & Nichols-Approved	1,569,530	495,347	166,409	117,234	65,000			843,930
Moffatt & Nichols-Projected		65,872	25,000	20,000				108,872
Moffatt & Nichols-Final Engr & Constr Documents/Bid				100,000	150,000			250,000
Moffatt & Nichols-Constr Support/Mgmt/Monitor/Surveys								
Project Construction-Hard Cost								
Project Construction-20% Contingency								
GHAD Bond Legal		635,366	40,000	40,000	40,000			1,101,426
GHAD Bond Underwriting	346,060	54,228	1,020	5,000	5,117			115,232
Jeffer Mangels	49,867	33,189						66,779
ENGE0	53,590	2,500						2,500
Morgan, Miller & Blair		39,798						41,492
Beil, McAndrews & Hillachik	1,694	7,478						7,478
Weindel Rosen								
Colantoni & Levin, PC								
PSQMAS	17,584							17,584
Fee-City of Malibu		40,000						40,000
Fee-Coastal Commission		59,340						59,340
Fee-Water Board				7,172				7,172
Fee-Fish & Game								
Fee-Army Corp of Engr ?								
Fee-LA County Fees for Using Bulldozer on beach?								
Fee-State Lands Commission additional Permit fees								
State Lands Comm-Staff Costs	86,384	87,676	2,324	50,000	111,024			176,384
EIR Consultant- AMEC Earth & Environ	183,283	145,642	50,000					549,949
Quality Mapping	14,934	1,176						16,110
Topanga Underground	5,000	7,000						10,000
AON-E&O Insurance	6,286							6,286
Line of Credit-fee/costs		11,240						11,240
Office / Phone/Web Site/Coping/Transcripts		5,451	38	1,800	1,800			5,451
Accounting Administration		11,022						11,022
Soft Cost Contingency								
Total Uses	2,332,212	1,852,026	284,732	341,206	382,941			5,193,176
Sources of Cash:								
Advances from Individual Homeowners (Actuals)	1,580,278	1,436,750						3,017,028
Advt Advances from Individual Retirement Homeowners	261,579							261,579
Advances from TPOA General Fund	550,000	200,000						750,000
Advance - L of C/Loan (Bal-\$2,589,000)		411,000						411,000
GHAD Bond								
GHAD ASSESSMENTS								
Repayment of Advances to Homeowners								
Repayment of Advances to TPOA General Fund								
Total Sources	2,391,857	2,047,750						4,439,607
Commutative Running Balance:	59,645	255,568	(29,422)	(370,628)	(755,569)			(755,569)