

**BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT**

**REGULAR MEETING AGENDA**

**Sunday January 5, 2014; 9:00 a.m.**

**Private Residence-  
31330 Broad Beach Road, Malibu, CA 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 November 24, 2013 Meeting**

**Recommendation:** Chair to conduct vote on approving Summary of Actions from November 24, 2013 Meeting. If passed, Chair to sign Summary of Actions.

**5) Ceremonial/Presentations**

None.

**6) Consent Calendar**

None.

**7) Public Hearings**

None.

**8) New Business**

- a. BBGHAD Project Counsel: BBGHAD Project Counsel is in the process of changing law firms. Board to consider Resolution No. 2014-01 relating to legal counsel to the BBGHAD.

9) **Old Business**

- a. **Permitting and Regulatory Process.** (Project Manager, Project Counsel and Engineer). Report to include project regulatory status update, including:
  - (i) Application Status: Update and discussion of revised permit application documents, budget, and financial issues.
  - (ii) CCC: Matters to consider include CDP Status.
  - (iii) SLC & APTR: Status update.
  - (iv) RWQCB and USACE: Permitting update.
- b. **Outreach Update.** (Project Manager) Report to include status update on stakeholder outreach.
- c. **Proposed GHAD Contracting Policy.** Discussion of potential adoption of contracting rules. (Project Counsel).

**Recommendation:** Monitor development of GHAD contracting rules and/or procedures.

10) **GHAD Officer Reports**

- a. Project Manager Report (Project Manager)
- b. Treasurer's Report (GHAD Treasurer)

11) **GHAD Board Member Reports**

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

*Communications from the public concerning matters that 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.*

13) **Future Meeting**

Next Meeting: February 2, 2014; 9:00 a.m. Location: 31330 Broad Beach Road, Malibu, CA 90265

14) **Adjournment**

# AGENDA ITEM 4

## Summary of Actions

### BROAD BEACH GEOLOGICAL HAZARD ABATEMENT DISTRICT REGULAR MEETING

November 24, 2013

31330 Broad Beach Road, Malibu, CA 90265

#### 1. CALL TO ORDER

Chair Karno called the meeting to order at 9:10 a.m.

#### 2. ROLL CALL

PRESENT: Chair Karno, Vice Chair Grossman, and Board Member Lotman.

ABSENT: Board Member Levitan and Board Member Rosenbloom.

BBGHAD STAFF ALSO PRESENT (not Board Members and not subject to Roll Call):  
Project Manager Goss, BBGHAD Engineer Russ Boudreau, and Project Counsel Ken Ehrlich.

#### 3. ADOPTION OF AGENDA

Project Counsel reported that the meeting Agenda was posted at approximately 8:30 a.m. on Thursday November 21, 2013 within the boundaries of the BBGHAD. Vice Chair Grossman moved, and Board Member Lotman seconded, the approval of the Agenda. The Motion approving the Agenda passed 3-0.

#### 4. APPROVED SUMMARY OF ACTIONS FROM OCTOBER 27, 2013 MEETING

Project Counsel noted certain edits for the Summary of Actions from the October 27, 2013 meeting. Subject to Project Counsel's edits, Board Member Lotman, moved and Vice Chair Grossman seconded, the approval of the Summary of Actions from the October 27, 2013 meeting. The Motion passed 3-0.

#### 5. CEREMONIAL PRESENTATIONS

None.

#### 6. CONSENT CALENDAR

None.

#### 7. PUBLIC HEARINGS

None.

#### 8. NEW BUSINESS

**None.**

**9. OLD BUSINESS**

**a. Permitting and Regulatory Process**

The Chair recognized the Project Manager, who stated that the BBGHAD Engineer would begin the report. The BBGHAD Engineer reported that the BBGHAD submitted supplemental CDP application materials to the CCC on October 29, 2013, submitted supplemental materials to the SLC on November 7, 2013, and submitted follow-on materials (air and dune design) to both agencies on November 19, 2013. Thus, the agencies have until December 20, 2013 to inform the BBGHAD if its applications are complete. The BBGHAD Engineer also reported that the BBGHAD has scheduled in-person meetings with the RWQCB and the Army Corps to re-introduce the project and kick-off those agencies' approval processes.

The Chair asked if recent oral questions from CCC staff are routine in that agency's review of CDP applications. The Project Manager responded that the BBGHAD has submitted thousands of pages of supplemental materials and that CCC staff is likely at the beginning of its review of the new materials, which makes the recent questions appear predictable and routine. The Project manager added that BBGHAD staff plan to conduct an on-site meeting with various agencies interested in the habitat affects of the project, such as the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, and the state Department of Fish and Wildlife-- and that proactive planning will occur before such meeting.

**b. Project Outreach**

The Chair recognized the Project Manager. The Project Manager reported that meetings have occurred with 4 potential project lobbyists. Based on these meetings, the Project Manager recommended retention of Susan McCabe. The Project Manager added that the best scenario would be to retain a lobbyist after the CCC deems the CDP application complete, but we will need to wait until at least December 20th to learn if that will be possible in the near term. Alternatively, and depending on the CCC's December 20th communication, it may benefit the BBGHAD for the lobbyist to engage on attempting to have the agency deem the application complete. The Project Manager stressed the need to move as quickly as possible in the CDP process because, if the BBGHAD seeks a September 2014 construction start date, some CCC approval conditions could take weeks or even months to clear. The Vice Chair added that post-approval conditions must be considered carefully as they can be onerous. The Chair recognized George Novogroder, who stressed that any lobbyist retained by the BBGHAD must be close with at least 8-9 Commissioners to be successful in moving the project forward.

**MOTION:** Board Member Lotman moved to authorize the Project Manager retain a lobbyist for no more than 6 months for a total compensation amount not to exceed \$125,000, and the Project Manager shall negotiate compensation and other retention terms with the lobbyist subject to approval of terms by the Vice Chair and the Project Manager. There was no further discussion. The Vice Chair seconded the Motion. The Chair called for a vote and the Motion passed 3-0.

The Chair recognized the Project Manager, who suggested that adding a second daily work shift for project construction would increase the likelihood of completing the project within a single work season (September to May). The Project Manager stated that Don Schmitz, a local Malibu lobbyist, may be helpful with the City or other agencies which may have input on the "two-shift" concept. The Project Manager acknowledged that additional work must be completed before pursuing or retaining Mr. Schmitz, but the "two shift" concept remains important.

**MOTION:** The Vice Chair moved to authorize the Project Manager to engage a local lobbyist to work with local entities on local issues (including but not limited to the viability of a second daily work shift for project construction) for a total compensation amount not to exceed \$5,000, and the Project Manager shall negotiate compensation and other retention terms with the local lobbyist subject to approval of terms by the Vice Chair and the Project Manager. Board Member Lotman seconded the Motion. Hearing no further discussion, the Chair called for a vote. The Motion passed 3-0.

**c. Project Financing**

The Chair related that he has received correspondence from City National Bank regarding a non-binding pricing indication and terms for permanent project financing. The Chair stated the importance of having such a pricing indication in place in hopes that the key agencies deem the BBGHAD's applications complete and actual construction work may begin in or around September 2014.

**MOTION:** The Chair moved that, within the next 15 days, the BBGHAD may incur costs of no more than \$20,000 as an expense deposit in connection with the Project's proposed permanent financing from City National Bank. The Chair stated that, until the BBGHAD knows that its applications are complete with the CCC and SLC, he will instruct City National Bank not to begin drafting the proposed documents. Hearing no further discussion, the Chair called for a vote. The Motion passed 3-0.

**d. Proposed GHAD Contracting Policy**

No report.

**10. GHAD OFFICER REPORTS**

**a. Project Manager**

The Project Manager reported that he has begun a thorough examination of proposed Project logistics as they relate to pricing and budget. He stated that he is not yet prepared to offer an amended Project budget because important component costs remain to be negotiated. The Project Manager discussed the preferred business arrangement for the trucking component of the Project, including desired insurance parameters. The Vice Chair asserted the need to ensure that all vendors have sufficient insurance in place prior to beginning construction. Board Member Lotman suggested that the BBGHAD consider purchasing a hedge on truck fuel. The Project Manager agreed that this idea merits further consideration.

**b. Treasurer Report**

The Treasurer reported that, as of December 1, 2013, the BBGHAD will have cash on hand of approximately \$288,000. The Treasurer anticipates that BBGHAD funds will be bolstered after December 2013 property tax payments are received in early January 2014.

The Vice Chair mentioned that Project Counsel has proposed a 2014 hourly rate of \$650 for his services and others in his firm at a 10% discount off of their standard rates. The Chair requested that the BBGHAD agendaize hourly rates and other business arrangements for Project Counsel for the next BBGHAD Board meeting.

**11. BBGHAD BOARD MEMBER REPORTS**

No Board Members presented any reports.

**12. PUBLIC COMMENT: NON-AGENDA ITEMS**

The Chair recognized Jane Arnault, who asked, if a construction accident occurs during Project construction and the liability exceeds available vendor insurance, who would be responsible for the exceedence? The Vice Chair responded that additional facts would be needed to best answer the inquiry, but the BBGHAD may or may not incur such liability under appropriate facts.

**13. FUTURE MEETING**

The next BBGHAD Board Meeting will be on January 5, 2014, followed by February 2, 2014. The meetings will be at 9:00 a.m. at a private residence located at 31330 Broad Beach Road.

**14. ADJOURNMENT**

Board Member Lotman moved for adjournment, with a second from the Vice Chair. The Motion passed 3-0. The meeting adjourned at 11:22 a.m.

Approved and adopted by the Broad Beach GHAD  
Board on January \_\_\_\_, 2014.

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NORTON KARNO, Chair

ATTEST:

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BERNADETTE O'NEILL, Clerk

# AGENDA ITEM 8a



**BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT  
BOARD OF DIRECTORS**

Adopted this Resolution on January 5, 2014, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**RESOLUTION NO. 2014/01**

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**RESOLUTION REGARDING RETENTION OF BBGHAD PROJECT COUNSEL AND RELATED LEGAL MATTERS**

**WHEREAS**, on September 12, 2011, the Malibu City Council adopted Resolution No. 11-41, approving and ordering the formation of the Broad Beach Geologic Hazard Abatement District (BBGHAD), as a distinct and separate legal entity from the City and appointing an initial five-member Board of Directors ("BBGHAD Board"); and

**WHEREAS**, the BBGHAD is a political subdivision of the state of California, governed by state law (Cal. Pub. Res. Code §§ 26500 *et seq.*), and constitutes a legal entity separate and distinct from the City of Malibu with operations independent of City functions; and

**WHEREAS**, pursuant to California Public Resources Code § 26586, the BBGHAD Board may appoint officers, staff, and consultants to assist in managing and effectuating the functions of the BBGHAD, and delegate to such officers, staff, and consultants such powers as may be appropriate under the circumstances; and

**WHEREAS**, pursuant to California Public Resources Code § 26579, the BBGHAD may enter into contracts and agreements with a private organization or person to carry out the purposes and mission of the BBGHAD; and

**WHEREAS**, in addition to a Treasurer and Clerk, the BBGHAD requires the services of, among others, legal counsel a) to prepare and process applications and other permits and documents with interested agencies to implement projects and improvements consistent with the Plan of Control and the proposed beach restoration project and b) with experience advising GHADs; and

**WHEREAS**, Kenneth Ehrlich is a member of the State Bar of California in good standing and has served as the BBGHAD's Project Counsel since the BBGHAD's inception. Mr. Ehrlich has significant general environmental and land use expertise, and had developed expertise in GHAD law. More specifically, he processed the emergency revetment applications for the temporary improvements to Broad Beach for the Trancas Property Owners Association

Board Meeting 1/5/2014  
Item No. 8.a

(TPOA), has served as counsel for the TPOA in various regulatory and litigation matters for over a decade, and has been working with TPOA and other private property owners in preparing and processing applications for beach repair and nourishment with interested agencies; and

**WHEREAS**, Kenneth Ehrlich is in the process of transitioning his law practice from Jeffer Mangels Butler & Mitchell LLP to Elkins Kalt Weintraub Reuben Gartside LLP ("Elkins Kalt").

**The BBGHAD BOARD OF DIRECTORS HEREBY RESOLVES THAT:**

1. Kenneth Ehrlich shall continue to serve as BBGHAD Project Counsel, and shall continue to be responsible for preparing and processing applicable applications for improvements as contemplated in the Plan of Control with all necessary agencies and shall serve as the day-to-day legal advisor to the BBGHAD. As necessary, Mr. Ehrlich may utilize the services of other professionals and staff within Elkins Kalt so as to perform his duties in the most complete, efficient, successful, and cost effective manner.

2. The Chair of the BBGHAD Board of Directors, on behalf of the BBGHAD Board, is authorized to negotiate and execute any necessary agreements with BBGHAD Project Counsel and Elkins Kalt.

3. The BBGHAD Project Counsel shall continue to serve at the pleasure of the BBGHAD Board. The BBGHAD Project Counsel shall continue to represent the BBGHAD as an entity and does not represent any individual employee, officer, consultant or BBGHAD Boardmember.

4. This Resolution shall become effective immediately upon its passage and adoption.

ATTEST:

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Clerk of the BBGHAD Board

# AGENDA ITEM 9a

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

Our 75<sup>th</sup> Year



1938 - 2013

JENNIFER LUCCHESI, Executive Officer  
(916) 574-1800 Fax (916) 574-1810  
California Relay Service TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

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

December 20, 2013

File Ref: W26420

Via email and U.S. Mail

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 additional information submitted on November 21, 2013 by Moffat & Nichol on behalf of the Broad Beach Geologic Hazard Abatement District (BBGHAD), as support for the BBGHAD's revised project description dated October 10, 2013, to determine if the information provided is sufficient for your client's application to be considered complete as provided by law and the Commission's application requirements.

With regard to the information provided on November 21, 2013, Commission staff has no comments or questions at this time. However, please refer to staff's previous information request letter dated December 11, 2013 for additional information required for a complete application, based on the current project description, and additional information required before the application can be considered by the Commission.

Based on discussions during the conference call on December 10, 2013 between BBGHAD representatives, Moffat & Nichol staff, and Commission staff, the following clarifying information is also requested in your response to staff's previous information request letter:

Exhibit I, Trancas Creek Survey- temporary bridge structure crossing the mouth of Trancas Creek, for vehicle/equipment access during project construction-

1. Provide written clarification that the proposed structure would only be constructed as necessary for access to the project site should the mouth of Trancas Creek

breach into the Pacific Ocean, and information discussing site conditions that would trigger the installation and removal of the structure, such as the encroachment of the Trancas Creek mouth or water table depth into a construction access zone, weather events, stream gauge data, etc. Please be advised that the applicable permitting agencies will likely impose specific criteria during the project planning process and as conditions of project approval. In addition to site plan features previously requested, please also depict the eastern limits of the construction staging area at the Zuma Beach parking lot. In lieu of a new site plan, plan sheet CS-2 of the 60% design plans previously submitted may be modified to include the requested information, with the requirement that it depict the eastern limits of the project area, Trancas Creek, and the eastern limit of project and construction activities at the Zuma Beach parking lot.

2. For proposed construction access when the mouth of Trancas Creek is not breached, please provide a site plan (or a modified version of the previously submitted plan sheet CS-2 with the same general properties as that discussed in item 1, above) depicting a defined construction access zone between the Zuma Beach staging area and the project area, of the minimum width necessary across/past the mouth of Trancas Creek. The construction access zone should be sited at the maximum feasible distance from the surface elevation of Trancas Creek so as to minimize potential impacts to the Creek and its mouth. The plan should also show a recently surveyed mean high tide line location, and include contour lines at an interval sufficient to clearly illustrate the existing natural grade.
3. For all proposed temporary bridge structures, please provide a written explanation of how each alternative attempts to comply with the design criteria detailed in the previous letter. If the proposed alternatives do not comply with the criteria, then provide and analyze additional alternatives that can feasibly meet the criteria, or provide justification as to why the criteria is infeasible.

As Commission staff's previous letter requested, please provide direction as to the BBGHAD's previously stated desire to include a 'revetment only' project alternative in the Commission's Draft Analysis of Impacts to Public Trust Resources and Values (DAPTR). If this alternative is to be included, please provide an anticipated time-line for submittal of all relevant project information. Please be advised that AMEC, the Commission's consultant for preparation of the DAPTR, cannot provide a revised scope of work estimate until this information has been provided.

While not required for a complete application, please provide the following information as soon as possible:

- All agency consultation letters between the U.S Army Corps of Engineers, National Marine Fisheries Service, and the U.S. Fish and Wildlife Service regarding consultation on Essential Fish Habitat for federally managed species, and Endangered Species Act consultation for federally listed species.

Upon receipt and review of outstanding items requested in this letter and in the previous letter dated December 10, 2013, 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.

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](mailto:Kenneth.Foster@slc.ca.gov).

Sincerely,



Kenneth Foster  
Public Land Management Specialist

cc: Mark Goss  
c/o Jeffer Mangels Butler & Mitchell LLP  
1900 Avenue of the Stars, 7th Floor  
Los Angeles, CA 90067-4308

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

**CALIFORNIA COASTAL COMMISSION**

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



December 20, 2013

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

Cc: Mr. Ken Ehrich  
1900 Avenue of the Stars, 7<sup>th</sup> 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 concerning the proposed shoreline protective work, beach nourishment and related dune habitat restoration at Broad Beach, Malibu. Your submittal, the bulk of which was received by California Coastal Commission (CCC) staff on October 29, 2013, included some materials responsive to our February 8, 2013 letter notifying you that the above-referenced application was incomplete. Additionally, as part of your October 29, 2013 submittal, a letter submitted by the BBGHAD's representative stated the following:

*"[...] We enclose all of the additional studies and analyses requested in the "incomplete" letters received to date, with the exception of Attachment J, Air Quality Impacts Analysis, and dune design sheets 32 through 42 of the revised 60% project plan set in Attachment H ("follow-on items"). The BBGHAD anticipates that it will submit the follow-on items no later than November 19, 2013, and requests that the agencies, in the interim, refrain from claiming that the applications are incomplete without receipt of the follow-on items. This scenario will also give the agencies additional time to understand the scope and breadth of the current submittal without triggering a 30-day PSA consideration period."*

As such, and consistent with your request, we are treating both your October 29 submittal and your subsequent submittal as a single, combined response to our February 8 letter, and the date of that submittal was recorded as the day that the remaining materials detailed in the statement above were submitted to CCC staff- 11/2113.

Although many of the Commission's outstanding information and document requirements have now been submitted, based on our review of the information, the application *remains 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:

### 1. Project Plans.

(a) There are discrepancies between the mean high tide line delineations shown for the different alternatives in the most recently submitted project plans dated August 2013. Specifically, there is a discrepancy between the 2009 and 2010 mean high tide line delineations shown on Sheets 1A-1 through 2-10 and 3A-1 through 6B-7, and the respective legends shown on those sheets for Alternative 3. This appears to be an error, as in Alternatives 1-2, the 2009 MHTL appears to be in the footprint of the previously identified 2010 MHTL. As such, please clarify and correct this error and submit a revised plan set for the proposed alternatives.

(b) The most recently submitted revised project description (Exhibit A) indicates that the applicant is now proposing to utilize inland sourced sand material, which will require the use of a portion of the Zuma Beach Public parking lot for a staging area over the duration of the construction phase of the project. The proposal describes that the material will need to be transported over the existing Trancas creek estuary outlet, which will require the construction for a temporary bridge structure. As such, please submit a plan set that clearly illustrates the design, dimensions and locations of the proposed temporary bridge structure and any associated support systems.

### 2. Analysis of Inland Sand Source Material

(a) The recently submitted revised engineering report (Exhibit L) in the 11/2113 submittal utilizes a sand grain size of 0.89mm in the majority of its components and graphical representations of anticipated sand trends within the proposed project. The project description and other project materials identify that the Grimes Quarry will be the primary sand source utilized for the beach nourishment and dune restoration project components. However, as the median sand grain size of the material at the Grimes facility is identified as 0.69mm and not 0.89, please modify or augment all relevant engineer materials to resolve this discrepancy and revise the analysis based on the 0.69 mm sand grain size of the Grimes sediment.

(b) The recently submitted Inland Material Analysis (Exhibit G) included information related to the revised project description, which now includes the use of an inland sand source site for the proposed beach nourishment and dune restoration components of the project. The Inland Material Analysis included a comprehensive review of the median grain sizes available at all identified inland sand source sites and their appropriateness for beach nourishment and dune restoration purposes. However, all of the identified grain sizes at the inland sand source site were more than twice as coarse as the native broad beach median grain size of 0.25mm. Additionally, it appears that the proposed inland sand source material has a significantly larger percentage of 'fines' than the existing broad beach native sand. Both of these factors can affect the aesthetic quality of the beach, the nearshore water quality, the geomorphology of the beach profile, recruitment, survival, and persistence of beach and dune organisms, and the success of the dune restoration and other various proposed project components. The submitted report did not include a feasibility analysis that identified feasible methods to either (1) reduce the amount of fines in the proposed sand material or (2) to sort or size the sand in order to better match the broad beach native sand material. As such, please include a feasibility analysis and associated cost estimate analysis of each of the following:

1. Removing the fine materials, of sizes less than 0.08mm, to make the sediment more compatible with the Broad Beach sand.
2. Removing the coarse grained material, greater than approximately 2mm to make the sediment more compatible with the Broad Beach sand.
3. Sorting/sizing the proposed inland source material to obtain a grain size that matches the native broad beach dune sand material



3. Alternatives Analysis. The submitted alternatives analysis is inadequate because it fails to analyze “all feasible alternatives to the proposed project that would serve to minimize adverse impacts to coastal resources,” as requested in our February 8, 2013 letter. Specifically the analysis needs to include the following alternatives in order to satisfy the filing requirements:

(A) Ensitu Septic System Relocation Feasibility Analysis. In response to Item #17 in our filing letter dated February 8, 2013, you submitted a Septic System Relocation Feasibility Analysis prepared by Ensitu engineering Inc. (Ensitu analysis). Item #17(c) stated the following filing requirement:

*“(c) 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.”*

The Ensitu analysis did not fully satisfy the filing requirements that staff detailed in #17 of our last filing letter as the analysis did not examine all feasible alternatives that would result in the furthest landward location of septic systems and associated leach fields resulting in the furthest landward location of a shoreline protective device along the beach, consistent with the requirements of Coastal Act policy 30235 and 30253. Therefore, in order to complete this analysis please submit the following information:

i. City of Malibu staff have indicated to CCC staff that the use of an alternative onsite wastewater treatment system (AOWTS) is required for new developments on beachfront properties located on top of sandy substrate, such as the properties that were analyzed as part of the submitted Ensitu analysis. The City of Malibu has also indicated that the use of an AOWTS results in an improved treatment of wastewater such that a future septic system is not required for these beachfront properties. In the event that a leach field reaches filtration capacity it is feasible to excavate the leach field area and replace the footprint with a new volume of sand materials eliminating the need for the identification of a “future” field in a different location on the site. As such, to complete your analysis of all feasible alternatives that would result the landward most location of all septic systems and associated leach fields within the project boundaries, please submit a revised alternative analysis for the septic systems and leach fields that does not include the use of a ‘future’ leach field on any of the properties within the project area.

ii. City of Malibu Staff have also explained to CCC staff that under section 18.8 (Alternative Systems) of their certified Local Coastal Program (LCP) implementation plan they commonly utilize an application rate of 2 gal/sq.ft./day for properties with leach fields located in the sand. The City is able to recommend that this rate is sufficient when used in conjunction with alternative onsite wastewater treatment methods, which improve the treatment of wastewater that leaves the septic tank and enters the leach field and which would be required by the City for new development projects within the project boundaries that increase the wastewater generation rate. This rate of 2 gal/sq. ft./day is derived from the Uniform Plumbing Code. The submitted Ensitu septic analysis utilizes an application rate of 1.2 gal/sq.ft./day, which results in a leach field area that, for specific properties, can be up to 260% larger than the size of the leach field area required if the application rate of 2 gal/day/sq.ft. is used. The home sizes identified in the Ensitu analysis range from 2 bedrooms to 8 bedrooms, with 5 bedrooms being the median size. Utilizing an application rate of 2

gal/sq.ft./day, the smallest leach field size required would be 225 sq. ft., the median 450 sq. ft. and the largest 725 sq. ft. In comparison, the submitted Ensitu report utilizes an application rate of 1.2 gal/sq.ft./day, which results in proposed leach field areas that are much larger than those that would potentially be required by the City if the individual homeowners were applying for separate development permits on their properties. Using the application rate of 1.2 gal/sq.ft./day, the Ensitu analysis concludes that the smallest leach field area would need to be 500 sq. ft., the median 1,250 sq.ft., and the largest 2,000 sq. ft. As the use of a the 2 gal/sq.ft./day application rate in conjunction with an AOWTS seems to be a feasible and commonly utilized option for beachfront properties throughout the City of Malibu, please submit a Septic System Relocation Feasibility Analysis that includes the option of utilizing a 2 gal/sq.ft./day application rate for any leach fields within the project area that need to be relocated or modified in order to be placed in the landward most location on each specific property within the project boundaries and in order to cover the smallest area, so as to enable the most landward relocation of the shoreline protective device.

Additionally, please note that the provisions of the Malibu LCP on which you rely to argue for the use of the 1.2 gal/sq.ft./day application rate and the need for a future leach field area are not controlling here, since we have established that this application will be processed pursuant to Public Resources Code section 30601.3, subdivision (b) of which states that the standard of review for such permit applications is Chapter 3 of the Coastal Act, not the LCP. Since Chapter 3 does not impose any requirement for a future leach field or a 1.2 gal/sq.ft./day flow rate, it is entirely reasonable and appropriate for staff to request that your alternatives analysis not be limited by such parameters. Additionally, since the BBGHAD is legally defined as a subdivision of the state, the applicant would not be required to receive local approvals from the City of Malibu for any development authorized in a Coastal development Permit that the CCC approves.

iii. It appears from the submitted plan sets associated with the Ensitu report that there are a number of properties where the septic tank and/or leach field was not relocated to the landward most feasible location on the subject property. On 15 lots (addresses 31260, 31284, 31228, 31122, 31118, 31108, 31064, 31054, 31042, 31030, 31020, 3100, 30980, 30966, and 30860) it appears that the septic tank and/or leach field can be relocated either landward of the residence or within an interior courtyard on the property. As such, please revise the submitted septic alternative plan sets and associated analysis to indicate the placement of the septic systems/leach field on these properties in the most feasible landward location.

iv. The submitted plan sets associated with the Ensitu report indicate that there are six (6) properties within the project boundaries that currently rely on existing seepage pits located landward of the residences instead of a septic system and leach field on the sandy beach. Clearly, on these properties, the existing septic pits would constitute the most landward feasible location for septic facilities to be located. However, the submitted Ensitu report analyzed the replacement of these existing functioning septic seepage pit systems located landward of these residences, with a septic system and leach field located further seaward. This is inconsistent with Staff's request that the applicant analyze all feasible alternatives to relocate existing septic systems as *landward* as feasible. Please revise the submitted analysis to maintain the existing seepage pits and only show those septic system improvements/relocations necessary to allow for the furthest landward location of a shoreline protective device along Broad Beach.

(B) Proposed Alternatives. The submitted alternatives analysis fails to adequately examine the distinct characteristics of the west, middle, and east sections of Broad Beach. The differences among these beach segments is evident in the diverse sensitive habitat types naturalized in each section (rocky intertidal, sandy beach, and dune habitat for instance) and in the varying distances that the houses in each segment are located landward of the MHTL. Each of these segments should be evaluated to determine the location where the proposed revetment and beach nourishment or other alternative shoreline protective development would be the most effective at protecting the existing primary structures and septic systems, maintaining and enhancing public access and public views, and avoiding impacts to sensitive native habitats. The legal boundaries of the GHAD entity should not dictate the length and location of the proposed revetment and

beach replenishment. Instead the alternatives analysis should address the need for the proposed shoreline protective development and the feasible alternatives that would result in avoidance or reduction of impacts to public trust resources. As such, please submit the following revised alternatives:

- i. From the submitted engineering analysis (Exhibit L) and the related current wave uprush limit line it appears that the majority of the downcoast (eastern) properties would not currently require a shoreline protective device in order to protect an existing primary structure or associated septic system/leach field. As such, please provide an alternative that analyzes the potential for the use of only beach nourishment and dune restoration on the easternmost segment of the beach.
- ii. From the submitted engineering analysis (Exhibit L) and the related wave uprush limit lines it appears that the upcoast (western) properties (31536 Victoria Pt. Road to 31346 Broad Beach Road) would not currently require a shoreline protective device in order to protect a primary structure or associated septic system/leach field. It also appears that many of these properties already have an existing functional shoreline protective device, are built on a raised pillar foundation system, or are located on top of a hard substrate bluff a significant distance above the beach area. Additionally, the proposed beach nourishment and dune creation on this end of the beach would result in direct impacts to 2 acres of rocky intertidal habitat and other sensitive marine resources such as eelgrass, inconsistent with Coastal Act policy 30230. Therefore, in order to examine all feasible alternatives which could avoid or minimize impacts to these coastal resources and which place a shoreline protective device only where necessary to protect a primary residence or related primary septic system/leach field, please provide an alternative that analyzes the potential for no beach nourishment or dune restoration on the west end of the beach.

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 10b

**Broad Beach GHAD****Cash Flow**

Cash in Bank : 11/30/13	427,159.74
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**Sources of Cash:**

GHAD Assessment funds	23,649.25
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**Invoices Paid thru 11/25/13****Paid**

ENSITU	14,115.00	
ENGEO	2,946.00	
Environ	13,331.20	
JMBM	71,914.94	
City National "Expence Deposit"	20,000.00	
Linscott, Law & Greenspan Engineers	8,535.33	
Administration	7,626.02	
Verizon	28.24	
		(138,496.73)

Cash Balance as of 12/31/13	312,312.26
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**Sources of Cash:**

GHAD Assessment funds	
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**Current Payables in hand:**

Moffatt & Nichol	83,977.04
JMBM	36,570.18
DB Neish	15,176.00
Ensitu	2,430.00
Linscott, Law & Greenspan Engineers	520.50
Administration	9,258.25
Verizon	56.16

Total Invoices Due	(147,988.13)
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Estimated Cash on Hand -1/31/13	164,324.13
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**Broad Beach GHAD**

Projection thru 1/31/14

AS of: 1/2/14

These budget numbers have not been adjusted yet

Uses:

- M&N Preliminary Planning/Support/booklet/aerial
- M&N 2.0 Field Investigation/Sand Survey
- M&N 3.0 Project Entitlement
- M&N 4.0 Preliminary Engr & Schematic Design
- M&N 5.0 Final Engineering & Constr Documents
- Jeffer Mangels-GHAD Admin & Assessments
- Jeffer Mangels-Beach Restoration Permitting & Entitlements
- ENGECO
- ENSITU
- Quality Mapping
- Topanga Underground
- Morgan, Miller & Blair
- Bell, McAndrews & Hiltachy/Kindel Gagan
- Wendel Rosen
- Colantuono & Levin, PC
- Fee-City of Malibu
- Fee- Coastal Commission
- Fee-Water Board
- Fee-Fish & Game
- Fee-Army Corp of Engr ?
- Fee- State Lands Commission additional Permit fees
- State Lands Comm-Staff Costs
- EIR Consultant- AMEC Earth & Environ
- GHAD Bond Legal/Underwriting
- Tax Exempt Opinion
- Line of Credit-fee/costs/Interest
- AON-E&O Insurance
- Office / Phone/Web Site/Coping/Transcripts
- Accounting Administration
- Soft Cost Contingency/Advocacy Representation

Total Uses

Sources of Cash:

- Advances from Individual Homeowners (Actuals)
- Addl Advances From Individual Revetment Homeowners
- Advances from TPOA General Fund
- GHAD ASSESSMENTS

Total Sources

Cummulative Running Balance

	Budget	Adjustments	Revised Budget	Actuals Paid FS Transferred, 2011	Actuals Paid Nov 2011-Nov 2013	Projection Jan-14	ction Totals
	465,391	426,411	891,802	465,391	426,411		891,802
	1,219,002	983	1,219,985	585,054	773,850	18,959	1,457,858
	572,115	389,866	961,981	215,085	823,335	62,776	1,308,003
	336,000	-	336,000	304,000	32,000		336,000
	-	338,102	338,102	-	189,136	2,242	242,585
	146,884	497,452	644,336	244,158	399,594	7,823	644,336
	587,535	404,562	992,097	101,902	860,340	28,747	992,097
	115,232	8,176	123,408	49,867	63,891		123,408
	14,934	1,170	16,104	14,934	70,860	2,430	73,290
	3,000	7,000	10,000	3,000	7,000		10,000
	65,039	61,576	126,615	53,590	13,189		66,779
	1,694	-	1,694	1,694	10,265		10,265
	-	-	-	-	39,798		41,492
	-	-	-	-	7,648		17,532
	17,584	-	17,584	17,584			17,584
	30,000	35,000	65,000		77,472		65,000
	40,000	18,340	58,340		58,340		58,340
	7,172	2,000	9,172				9,172
	-	-	-				-
	-	-	-				-
	176,384	196,546	372,930	79,343	211,134		372,930
	549,949	283,818	833,767	190,324	516,727	521	833,767
	400,000	(370,000)	30,000				30,000
	-	25,000	25,000				25,000
	-	16,000	16,000				16,000
	6,286	15,513	21,799	6,286	15,456		21,799
	-	6,150	6,150		6,123		6,150
	27,000	-	27,000		39,919		27,000
	100,000	(50,000)	50,000				48,652
	19,009,000	2,313,665	21,322,665	2,332,212	4,679,074.84	147,988	7,762,950
				1,580,278	1,436,750		3,017,028
				261,579	200,000		261,579
				550,000	3,271,342		750,000
						23,649	3,287,674
				2,391,857	4,908,092	23,649	7,316,281
				59,645	288,663	164,324	(446,669)