

4.7 HAZARDS AND HAZARDOUS MATERIALS

This section of the Revised Draft Environmental Impact Report (EIR) describes the hazards and hazardous materials present on and in the vicinity of the project site, if any, and the potential impacts of and on the modified Dana Point Harbor Hotels Project (Modified Project) related to hazards and hazardous wastes, including measures to avoid, minimize, and/or mitigate those impacts.

Pertinent information and findings from the *Phase I Environmental Site Assessment, 24800 Dana Point Harbor Drive* (Phase I ESA) (EBI Consulting 2023) are summarized in this section. The complete report is included as Appendix I to this Revised Draft EIR.

4.7.1 Scoping Process

4.7.1.1 Original Project Scoping

The City of Dana Point (City) received eight comment letters during the public review period of the Initial Study/Notice of Preparation (IS/NOP). For copies of the IS/NOP comment letters, refer to Appendix B of this Revised Draft EIR. One comment letter included comments related to Hazards and Hazardous Materials.

The letter from the South Coast Water District (SCWD) received on October 26, 2020, suggested that the 2021 Draft EIR should include an analysis of all off-site SCWD facilities that may have to be modified as required for the Original Project. The comment letter states that the modifications to the existing sewer line along the southern portion of the project site are outside of the existing project site boundaries. However, the project site analyzed in this Revised Draft EIR is shown in Figure 3.2, Project Vicinity Map/Aerial Photograph, in Chapter 3.0, Project Description, and includes all work proposed within adjacent roadways for utility relocations. The hazards analysis presented in the Phase I ESA prepared for the Modified Project (EBI Consulting 2023) provides an accurate description of the project site and adjoining properties including a description of the adjacent roadways.

4.7.1.2 Modified Project Scoping

A Supplemental NOP for the Modified Project was circulated for public review from July 19, 2024, through August 19, 2024.

Copies of the Supplemental NOP and comment letters received in response to the Supplemental NOP are included within Appendix A of this Revised Draft EIR. No comment letters included comments related to hazards and hazardous materials.

4.7.2 Existing Environmental Setting

Of the approximately 13-acre project site, 9.16 acres are currently developed with the Dana Point Marina Inn on the central portion of the project site and two boater services buildings with surface parking reserved for boaters on the southern portion of the project site. Aerial photographs taken between 1938 and 2016 show the project site as undeveloped coastal waters/beach land not used for any discernable purposes from at least 1938 until as late as 1968, when a structure typically

resembling the present day hotel is depicted on the project site. According to County of Orange records, the Dana Point Harbor began construction in 1968, and the existing hotel was built in 1971. The project site is generally bounded on to the north by Dana Point Harbor Drive, to the west by Island Way, to the east by Casitas Place and restaurant, retail, and marina uses, and to the south by Dana Point Harbor waters and boat docks. Access is currently provided to the project site from Dana Point Harbor Drive to the northeast and from Casitas Place to the east.

4.7.3 Regulatory Setting

Hazardous materials, including hazardous substances and wastes, are regulated by many State and federal laws. Statutes govern the generation, treatment, storage, and disposal of hazardous materials, substances, and waste as well as the investigation and mitigation of waste releases, air and water quality, and human health. As the Modified Project would be located in the same geographic location as the Original Project and would result in the development of the same types of uses on the project site, the regulatory setting presented below is derived from that discussed in the 2021 Draft EIR.

4.7.3.1 Federal Regulations

The primary federal laws regulating hazardous materials are the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 United States Code [USC] §9601 et seq.) and the Resource Conservation and Recovery Act of 1976 (RCRA) 42 USC §6901 et seq.). The purpose of CERCLA, often referred to as “Superfund,” is to identify and clean up abandoned contaminated sites so that public health and welfare are not compromised. The RCRA provides for “cradle-to-grave” regulation of hazardous waste generated by operating entities. Other federal laws applicable to the Modified Project are listed below.

- **Clean Air Act (CAA) (42 USC Section 7401 et seq.):** Protects the public from exposure to airborne contaminants known to be hazardous to human health. Under the CAA, the United States Environmental Protection Agency (EPA) established National Emissions Standards for Hazardous Air Pollutants.
- **Clean Water Act – National Pollutant Discharge Elimination System (Section 402[p]) (33 USC Section 1342[p]):** Regulates discharges and spills of pollutants, including hazardous materials to surface waters and groundwater.
- **Safe Drinking Water Act (42 USC Section 300(f) et seq.):** Regulates discharges of pollutants to underground aquifers and establishes standards for drinking water quality.
- **Toxic Substances Control Act (15 USC Section 2601 et seq.):** Regulates manufacturing, inventory, and disposition of industrial chemicals, including hazardous materials.
- **Federal Insecticide, Fungicide, and Rodenticide Act (7 USC Section 136 and 40 Code of Federal Regulations [CFR] Parts 152–171):** Regulates the manufacturing, distribution, sale, and use of pesticides.

- **Hazardous Materials Transportation Act (49 USC Section 5101 et seq. and 49 CFR, Parts 101, 106, 107, and 171–180):** Regulates the transport of hazardous materials by motor vehicles, marine vessels, and aircraft.
- **Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101-615):** Regulates the safe transport of hazardous material intrastate, interstate, and for foreign commerce.
- **Emergency Planning and Community Right to Know Act (42 USC Section 11001 et seq. and 40 CFR, Parts 350.1 et seq.):** Regulates facilities that use hazardous materials in quantities that require reporting to emergency response officials.
- **National Emissions Standard for Asbestos (Title 40, Code of Federal Regulations, Section 61 Subpart M):** Regulates emissions standards for asbestos and waste disposal from demolition activities.
- **Title 29, Code of Federal Regulations, Section 1926.62:** Regulates environmental procedures relating to lead exposure during construction.

4.7.3.2 State Regulations

The State of California has established many laws and regulations that expand on federal laws. Laws and regulations applicable to the Modified Project are listed below.

- **California Public Resources Code (PRC) Section 21151.4:** Requires the lead agency to consult with any school district with jurisdiction over a school within 0.25 mile of a project about potential effects on the school if the project might reasonably be anticipated to emit hazardous air emissions or handle an extremely hazardous substance or a mixture containing an extremely hazardous substance.
- **Porter-Cologne Water Quality Control Act (California Water Quality Code, Section 13000 et seq.):** Regulates water quality through the State Water Resources Control Board and the Regional Water Quality Control Boards, including oversight of water monitoring and contamination cleanup and abatement.
- **Hazardous Materials Release Response Plans and Inventory Law (California Health and Safety Code, Section 25500 et seq.):** Requires facilities using hazardous materials to prepare Hazardous Materials Business Plans.
- **Hazardous Waste Control Act (California Health and Safety Code, Section 25100 et seq.):** Regulates the identification, generation, transportation, storage, and disposal of materials deemed hazardous by the State.
- **Safe Drinking Water and Toxic Enforcement Act (Proposition 65, California Health and Safety Code, Section 25249.5 et seq.):** Regulates the discharge of contaminants to groundwater.

- **Cortese List Statute (California Government Code, Section 65962.5):** Requires the Department of Toxic Substances Control (DTSC) to compile and maintain lists of potentially contaminated sites throughout the State and includes the Hazardous Waste and Substances Sites List.
- **Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program) (California Environmental Protection Agency [CalEPA] 2012):** Consolidates, coordinates, and makes consistent the administrative requirements, permits, inspections, and enforcement activities of six environmental and emergency response programs. CalEPA and other state agencies set the standards for their programs, while local governments implement the standards. These local implementing agencies are called Certified Unified Program Agencies (CUPA).
- **State of California Division of Oil, Gas, and Geothermal Resources Regulatory Program (DOGGR):** Supervises the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells throughout the State. The regulatory program set forth by DOGGR for the management of these resources emphasizes the appropriate development of oil, natural gas, and geothermal resources in the State through sound engineering practices that protect the environment, prevent pollution, and ensure public safety.
- **California Emergency Services Act:** Requires the Governor's Office of Emergency Services (Cal OES) to establish and update the Standardized Emergency Management System (SEMS) as needed for emergency response and evacuation. SEMS facilitates response prioritization, interagency cooperation, and the efficient flow of resources and information and incorporates the following:
 - Incident Command System (field-level emergency response system)
 - Interagency coordination for allocation of resources
 - Mutual aid (providing emergency resources from non-affected jurisdictions)
 - Operational Area Concept (coordinate damage information, resource requests and emergency response within the affected area)

Local agencies involved in emergency response and evacuation include the Orange County Sheriff's Department (OCSD) and the Orange County Fire Authority (OCFA).

4.7.3.3 Regional Regulations

Orange County Health Care Agency. The Orange County Health Care Agency (HCA) is the CUPA for the County of Orange and the City of Dana Point, and has jurisdiction over the following six programs:

- Hazardous Materials Disclosure
- Business Emergency Plan
- Hazardous Waste
- Underground Storage Tank

- Aboveground Petroleum Storage Tank
- California Accidental Release Prevention

OCFA is the administering agency for the chemical inventory and business emergency plan regulations for the City. OCFA's disclosure activities are coordinated with the HCA. OCFA's Hazardous Materials Services Section (HMSS) is staffed with technical and administrative personnel who are assigned implementation and management of the disclosure program.

County of Orange Emergency Response Plan. The County's Emergency Response Plan provides a detailed summary of the countywide organization and identifies the responsibilities of each component agency in the event of a disaster. The Orange County and Operational Area Emergency Operations Center (OC OA/EOC) is used for managing disaster response and recovery for County agencies and departments and for constituents served by the County. The OC OA/EOC coordinates disaster response and recovery for its operational area (including all political subdivisions of Orange County) and coordinates operations resource requirements and availability with the State Regional Operations Center. The OC OA/EOC acts as a central point for coordination and the operational, administrative, and support needs of emergency workers. The OC OA/EOC is staffed with personnel from all agencies within the County and various operational area jurisdictions and agencies.

4.7.3.4 Local Regulations

City of Dana Point Public Safety Element. Hazards are addressed in the Public Safety Element of the City's General Plan (1995). Specifically, the City's Public Safety Element establishes a Public Safety Plan to implement goals of the Emergency Preparedness Plan. As described in the City's General Plan Public Safety Element, the City also contracts with a variety of agencies for emergency services to minimize impacts during emergency situations. The following goals and policies are applicable to the Modified Project:

Goal 3: Reduce the risk of the community's inhabitants from exposure to hazardous materials and waste.

Policy 3.1: Cooperate with the County to implement applicable portions of the County's proposed Hazardous Waste Management Plan.

Policy 3.5: Encourage and support the proper disposal of hazardous household waste and waste oil.

City of Dana Point Municipal Code. Hazards are addressed in several chapters of the City's Municipal Code, as described below.

Chapter 2.20 (Emergency Organization). Chapter 2.20, Emergency Organization, of the City's Municipal Code calls for the preparation and implementation of an Emergency Plan to provide services within the City in the event of an emergency. This chapter of the Municipal Code also establishes a Disaster Council that gives orders and disseminates information in the event of an emergency to provide for the protection of life and property to preserve public order and safety, and to provide for the emergency service functions of the City.

Chapter 8.24 (California Fire Code). Chapter 8.24 in the City's Municipal Code establishes a variety of regulations related to hazards including recommendations for development on land containing or emitting toxic substances, hazardous materials documentation procedures, preparation of hazardous materials management plans, storage tank regulations, etc. In addition, this chapter includes regulations that reduce the amount of fuel (vegetation) and require debris clearing in an effort to reduce fire hazards. Additional provisions aimed at fire prevention include construction standards for new structures and remodels, road width standards and configurations designed to accommodate the passage of fire trucks and engines, and requirements for minimum fire flow rates for water mains.

Furthermore, the City Council of the City of Dana Point has also adopted, by reference, CCR Title 24, Part 9, known and designated as the 2016 California Fire Code (CFC) and the Orange County Fire Authority Guidelines, to regulate and minimize hazardous conditions that may impact life and/or property from fire or explosion.

Chapter 9.41 (Hazardous Waste Facilities). Chapter 9.41 of the City's Municipal Code establishes standards to control the location, design, and maintenance of hazardous waste facilities to protect the health, life, and environment of residents in the City. For example, this chapter defines procedural requirements related to applications for hazardous waste facilities.

Dana Point Harbor Revitalization Plan and District Regulations. The Dana Point Harbor Revitalization Plan and District Regulations (DPHRP&DR) were certified by the California Coastal Commission on October 6, 2011. The DPHRP&DR establish land use policies and development standards for upgrades to the visitor serving and marina services areas of Dana Point Harbor. The following goals and policies related to hazards are applicable to the Modified Project:

Policy 6.2.5-1: Design safe and efficient vehicular access to streets to ensure efficient vehicular ingress and egress. (Coastal Act Section 30252)

Policy 6.2.5-6: Provide for the safe transport of hazardous materials.

Policy 7.3.1-1: Protection against the spillage of crude oil, gas, petroleum products or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur. (Coastal Act Section 30232)

Policy 7.3.1-2: Promote pollution prevention and elimination methods that minimize the introduction of pollutants into coastal waters and the generation of polluted runoff and nuisance flows.

Policy 7.3.1-11: Gasoline and marine repair facilities shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, car battery acid, coolant, gasoline and other pollutants to storm water system.

Policy 8.2.1-4: Design and site new development to avoid hazardous areas and minimize risks to life and property from sea level rise, coastal and other hazards.

Policy 8.2.1-2: New development shall be sited and designed on the most suitable portion of the Harbor while ensuring protection and preservation of natural and sensitive site resources by providing for the following:

- Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss;
- Analyzing the natural resources and hazardous constraints of planning areas and individual development sites to determine locations most suitable for development;
- Promoting clustering of development on the most suitable portions of a site taking into account geologic constraints, sensitive resources and natural drainage features;
- Preserving and protecting riparian corridors, wetlands and buffer zones;
- Minimizing disturbance of natural areas, including significant trees, native vegetation and root structures;
- Using natural drainage as a design element, maximizing the preservation of natural contours and native vegetation; and
- Limiting land disturbance activities such as clearing and grading, limiting cut-and-fill to reduce erosion and sediment loss and avoiding steep slopes, unstable areas and erosive soils.

The Dana Point Harbor District Regulations (DPHDR) are intended to govern the Dana Point Harbor Revitalization Plan as well as continued operations and maintenance of the Harbor facilities in accordance with Section 30514 of the California Coastal Act. The DPHDR identify Special Provisions that contain specific requirements applicable to hazards and hazardous materials:

- **Special Provision 15.** Lead-based Paints: Lead-based paint removal shall be performed in accordance with California Code of Regulations Title 8, Section 1532.1 that provides for worker exposure limits, exposure monitoring, and mandates good working practices. Removal of lead-based paints from boats moored in the water through sanding or other means shall be prohibited.
- **Special Provision 16.** Asbestos Abatement: Should asbestos be determined to be present within any existing Harbor structures, removal shall be done by a licensed removal contractor in compliance with SCAQMD Rule 1403 and all applicable state and federal requirements.
- **Special Provision 32.** Hazardous Materials: Any activity conducted in Dana Point Harbor that involves the handling of hazardous materials shall be required to comply with all applicable local, state and federal laws and regulations regarding the handling, storage or transportation of these materials. Additionally, during major constructions operations, a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented that specifies hazardous spill prevention, remediation and management practices.

4.7.4 Methodology

The analysis in this section indicates whether potential hazards or hazardous materials impacts are present due to past or present use of the project site and/or properties in the immediate vicinity of the project site. This section analyzes the potential impacts of the Modified Project as compared to existing conditions based on the setting described in the Phase I ESA prepared for the Modified Project (EBI Consulting 2023), which is available as Appendix I to this Revised Draft EIR.

The purpose of the Phase I ESA is to identify recognized environmental conditions (RECs) and certain environmental conditions in connection with the project site at the time the property reconnaissance was completed. An REC is defined as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property (1) due to a release to the environment, (2) under conditions that indicate an existing release or a past release, or (3) under conditions that pose a material threat of a future release of any hazardous substances or petroleum products into structures on the property or into the ground, ground water, or surface water of the property. A Controlled REC (CREC) is a past REC that has been addressed to the satisfaction of the applicable regulatory authority with the use of required controls, while a Historical REC (HREC) is a past REC that has been addressed to the satisfaction of the applicable regulatory authority without the use of required controls.

The Phase I ESA included an evaluation of the following:

- Physical characteristics of the project site through a review of referenced sources for topographic, geologic, soils and hydrologic data.
- Project site history through a review of referenced sources such as land deeds, fire insurance maps, city directories, aerial photographs, prior reports, and interviews.
- Current project site conditions, including observations and interviews regarding the following: the presence or absence of hazardous substances or petroleum products; generation, treatment, storage, or disposal of hazardous, regulated, or biomedical waste; equipment that utilizes oils which potentially contain polychlorinated biphenyls (PCBs); and storage tanks (aboveground and underground).
- Usage of surrounding area properties and the likelihood for releases of hazardous substances and petroleum products (if known and/or suspected) to migrate onto the project site.
- Information in referenced environmental agency databases and local environmental records, within specified minimum search distances.
- Past ownership through a review of available prior reports and local municipal files.

The Phase I ESA also included consideration of the following potential environmental conditions that are outside the scope of ASTM Practice E 1527-13 (standard practices for conducting Phase I environmental site assessments): asbestos-containing materials (ACM), lead-based paint (LBP), lead in drinking water, radon, and mold.

4.7.5 Thresholds of Significance

The thresholds for hazards and hazardous materials impacts used in this analysis are consistent with Appendix G of the *State CEQA Guidelines*. The Modified Project may be deemed to have a significant impact with respect to hazards and hazardous materials if it would:

- Threshold 4.7.1:** Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;
- Threshold 4.7.2:** Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- Threshold 4.7.3:** Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- Threshold 4.7.4:** Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment;
- Threshold 4.7.5:** For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area;
- Threshold 4.7.6:** Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- Threshold 4.7.7:** Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires.

The Initial Study prepared for the Original Project in September 2020, included as Appendix B to this Revised Draft EIR, substantiated that there would be no impacts associated with Thresholds 4.7.5 and 4.7.7, as there were no airports within 2 miles of the project site; and the project site was located in an urbanized area where wildfire was not considered a likely risk to people or structures. In addition, the Initial Study substantiated that impacts associated with Thresholds 4.7.1, 4.7.3, 4.7.4, and 4.7.6 would be less than significant. With compliance with federal, State, and local laws regulating the management and use of hazardous materials, the Original Project was found to result in a less than significant impact with regard to the routine transport, use, or disposal of hazardous material. Because the Original Project did not involve activities that would result in the emissions of hazardous materials or acutely hazardous substances, and because the closest school was determined to be greater than 0.25 mile away from the project site, the Original Project's impacts on schools were determined to be less than significant. Because the project site was not listed as having any active hazardous conditions on the DTSC Hazardous Waste and Substances Site List (Cortese List, compiled pursuant to Section 65962.5 of the Government Code), and development of the project site would not interfere with evacuation routes and would not impair implementation

of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan, the Original Project was found to result in less than significant impacts related to these topics. As the Modified Project would be located on the same site as the Original Project and would comply with the same federal, State, and local laws regulating the management and use of hazardous materials, the conclusions of the Initial Study prepared for the Original Project remain the same for the Modified Project. Therefore, these thresholds will not be addressed in the following analysis.

4.7.6 Project Impacts

Threshold 4.7.2: Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less Than Significant with Mitigation Incorporated.

Construction. Construction activities associated with the Modified Project would include site preparation and demolition activities, building construction, paving, and the implementation of native, drought tolerant landscaping, and pedestrian improvements. The purpose of the Phase I ESA is to evaluate the project site for potential RECs that may be present and/or off-site conditions that may impact the project site.

According to the Phase I ESA, no RECs were observed on the project site during the site survey. Historically, the project site and surrounding properties were undeveloped until as early as 1968, when the project site was developed with basic infrastructure as part of the Dana Point Harbor and the subsequent hotel uses, and the surrounding area was developed with commercial development. The site reconnaissance identified hazardous substances or petroleum products in connection with the existing uses on the project site, including cleaning compounds, janitorial supplies, and pool treatment compounds. The site reconnaissance did not identify evidence of significant leaks, spills, or the improper handling of petroleum or hazardous substances that might impact the environmental condition of the project site. Based on this information, historic uses on the project site and surrounding properties are not likely to have resulted in the potential for current adverse impacts to the project site or the site's subsurface.

While a search of federal or State regulatory databases did not reveal the existence of any RECs, several HRECs were recorded within the project site and its immediate vicinity. Specifically, a search of the State Water Resources Control Board (SWRCB) GeoTracker online database returned the following results for the "subject property," which encompassed all of Dana Point Harbor:

- **24705 Dana Drive (approximately 0.24-mile south of project site):** identified as a leaking storage tank (LST) site; however, as of 1995, the Orange County Health Care Agency determined that conditions had been remediated, no further action was required at the site, and the case was marked closed. Based upon the documented regulatory closure, this release case is considered to be an HREC, and does not presently pose a hazard to the project site.
- **34512 Embarcadero Place (approximately 0.26-mile east of project site):** identified as a LST site. Two 7,500-gallon gasoline underground storage tanks (USTs), one 3,000-gallon gasoline

UST, and one 280-gallon waste oil UST were removed from the site in 1998. Following this removal, soils testing within the site revealed the presence of elevated concentrations of total petroleum hydrocarbons, benzene, methyl tert butyl ether (MTBE). As such, approximately 18 tons of soil were excavated and transported off-site for disposal, and monitoring wells were installed. After this removal, contaminant levels were measured to be declining to a level below concern. Based on remediation activities and low contaminant concentrations over the monitoring period, this case was granted closed status. Based upon the documented regulatory closure, this release case is considered to be an HREC, and does not presently pose a hazard to the project site.

- **34661 Puerto Place (approximately 0.34-mile east of project site):** identified as a Registered Storage Tank (RST) site and a LST site. One 500-gallon waste oil UST was removed from the site in 1998, and two 10,000-gallon gasoline USTs, two 10,000-gallon diesel USTs, and one 4,000-gallon gasoline/oil mix UST remained at the Subject Property. In 1995, soil contamination resulting from a leaking diesel pipe was identified. A diesel sheen was installed in 1997, absorbent materials were applied to the waterway, and the piping was repaired. Approximately 1,500 to 2,150 gallons of diesel fuel were recovered from a recovery well. Following these remediation efforts, low concentrations of TPH and MTBE were detected in seawater samples, and no elevated concentrations of contaminants were identified in groundwater samples collected from monitoring wells. A 500-gallon waste oil UST was removed from the site in January 1998. As such, this release case was granted closed status in 2002. Based upon the documented regulatory closure, this release case is considered to be an HREC, and does not presently pose a hazard to the project site.
- **24501 Dana Drive (approximately 0.27-mile south of project site):** identified as a LST site; however, as of 1996, the Orange County Health Care Agency determined that no further action was required at the site, and the case was marked closed. Based upon the documented regulatory closure, this release case is considered to be an HREC, and does not presently pose a hazard to the project site.
- **34553 Casitas Place (within project site):** identified as a LST site; however, as of 1995, the Orange County Health Care Agency determined that no further action was required at the site. Based upon the documented regulatory closure, this release case is considered to be an HREC, and does not presently pose a hazard to the project site.

Based upon the current regulatory status, separating distance, presumed hydrogeologic gradient relative to the project site and the reported nature/extent of impact, it is considered unlikely that conditions associated with the cases listed above represent an environmental concern to the project site. Therefore, the Phase I ESA concluded that the potential for environmental impacts to the project site from any of the database listings would be low.

Asbestos containing building materials are generally classified as friable or non-friable. Friable materials are those that can be crumbled, pulverized, or reduced to powder by hand pressure, or by normal use or maintenance can be expected to emit asbestos fibers into the air. Non-friable ACM is a potential concern if it is damaged by maintenance work, demolition, or other activities, at which

time it may be considered friable. A limited visual screening survey for the presence of ACM was conducted at the project site. The existing boater service buildings were not included in the limited visual screening. However, based on the age of the existing structures, the presence of these materials can be assumed. The Phase I ESA identified suspect friable ACM in the form of textured wall surfacing materials and sheetrock/joint compound composite material. Additional ACM may be present in inaccessible areas, including, but not limited to, roofs, pipe chases behind solid walls and ceilings, concealed floor coverings, the interior of machinery or equipment, and/or water and sewer systems. Asbestos may be present in some of the roofing, flooring, wall and ceiling materials, caulking/putties, adhesives, spackling compounds, and insulation materials, as well as other building materials that may have been used.

Polychlorinated biphenyls (PCBs) are a chemical component of many dielectric fluids, heat transfer fluids, hydraulic fluids, lubricating oils, paints, or coatings manufactured prior to July 2, 1979. Equipment that may potentially contain PCBs includes electrical equipment such as transformers or capacitors or hydraulically operated equipment, such as elevators, compaction equipment, or manufacturing equipment. The manufacture and distribution in commerce of PCBs was banned for use in 1979 by the United States Congress when it enacted the Toxic Substance and Control Act (TSCA). Transformers and fluid-containing electrical equipment were identified to the north of the central portion of the existing hotel building.

Based on the information above, hazardous waste might be generated during demolition, excavation, or other activities that require the removal of potential hazardous building materials (e.g., ACMs, lead-based paint, mercury, and PCBs) or unknown hazardous materials. The demolition of structures containing hazardous building materials requires specialized procedures and equipment and appropriately certified personnel. Procedures for handling and disposal of hazardous building materials are specified in Mitigation Measure 4.7-1 (MM 4.7-1), Demolition Plan. Consistent with the recommendations presented in the Phase I ESA, the plan will specify how to appropriately contain, remove, and dispose of hazardous building materials to protect human health and the environment. If any suspected hazardous materials are unearthed during construction, work would be stopped and the OCFA would be notified so it can evaluate the suspected hazardous materials and determine the appropriate action to minimize human health and safety risks. If necessary, OCFA could require testing, removal, and disposal of the materials at appropriate facilities in accordance with State and federal regulations. Procedures for handling suspect or unknown hazardous materials are specified in Mitigation Measure 4.7-2 (MM 4.7-2), Construction Contingency Plan. Therefore, construction of the Modified Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment with the implementation of MM 4.7-1 and MM 4.7-2.

Operation. Hazardous substances associated with the proposed hotel uses would be limited in both amount and use such that they can be contained (stored or confined within a specific area) without impacting the environment. Project operation would involve the use of potentially hazardous materials typical of hotel uses (e.g., solvents, cleaning agents, paints, pool chemicals, fertilizers, and pesticides) that, when used correctly and in compliance with existing laws and regulations, would not result in a significant hazard to visitors or workers in the vicinity of the project site. Although the Modified Project proposes vehicle parking, there would be no vehicle cleaning or maintenance areas

on the project site. Therefore, an operation of the Modified Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. No mitigation would be required.

4.7.7 Level of Significance Prior to Mitigation

Impacts related to hazards affecting the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment during construction of the Modified Project would be potentially significant.

4.7.8 Standard Conditions and Mitigation Measures

Mitigation Measure 4.7-1

Demolition Plan. Prior to the issuance of any demolition or grading permits, the Project Applicant shall provide a Demolition Plan to the Director of the County of Orange (County) Public Works Department, or designee, for review and approval. The Demolition Plan shall include the procedures for pre-demolition surveys and testing for hazardous building materials such as asbestos, lead-based paint, mercury, and polychlorinated biphenyls, and removal and disposal of hazardous building materials. All inspections, surveys, and analyses shall be performed by appropriately licensed and qualified individuals in accordance with applicable regulations. All identified hazardous materials shall be removed, handled, and properly disposed of by appropriately licensed contractors according to all applicable regulations during demolition of structures. The Construction Contractor shall provide documentation (e.g., all required waste manifests, sampling, and air monitoring analytical results) to the Director of the County Public Works Department, or designee, showing that abatement of hazardous building materials has been completed in full compliance with all applicable regulations.

Mitigation Measure 4.7-2

Construction Contingency Plan. Prior to the issuance of any demolition or grading permits, the Project Applicant shall provide a Construction Contingency Plan to the Director of the County Public Works Department, for review and approval. The Construction Contingency Plan shall include provisions for emergency response in the event that unidentified hazardous materials, petroleum hydrocarbons, or hazardous or solid wastes are discovered during demolition or construction activities. The Construction Contingency Plan shall address field screening, contaminant materials testing methods, mitigation and contaminant management requirements, and health and safety requirements for construction workers. The Construction Contractor shall implement the Construction Contingency Plan during all construction activities. The plan shall

indicate that if construction workers encounter underground tanks, gases, odors, uncontained spills, or other unidentified substances, the Construction Contractor shall stop work, cordon off the affected area, and notify the Orange County Fire Authority (OCFA). The OCFA responder shall determine the next steps regarding possible site evacuation, sampling, and disposal of the substance consistent with local, State, and federal regulations. If an unexpected release of oil and/or chemical substances into the environment occurs resulting in an imminent threat to public, the Construction Contractor shall notify the National Response Center by calling 1-800-424-8802 immediately. The Construction Contractor shall clean up any unexpected releases under appropriate federal, State, and local agency oversight.

4.7.9 Level of Significance after Mitigation

Impacts related to hazards affecting the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment under the Modified Project would be less than significant with the implementation of MM 4.7-1 and MM 4.7-2.

4.7.10 Cumulative Impacts

As defined in Section 15130 of the *State CEQA Guidelines*, cumulative impacts are the incremental effects of an individual project when viewed in connection with the effects of past, current, and probable future projects within the cumulative impact area for hazards and hazardous materials. The cumulative impact area for hazardous materials consists of: (1) the area that could be affected by Modified Project activities, such as the release of hazardous materials, and (2) the areas affected by other projects whose activities could directly or indirectly affect the presence or fate of hazardous materials on the project site. Typically, only projects adjacent to or abutting the project site are considered because of the limited potential impact area associated with the release of hazardous materials into the environment. Cumulative projects included as part of the Dana Point Harbor Revitalization include the establishment of a new Visitor Serving Commercial area (Commercial Core project) and the Dana Point Marina Remodel project.

The contribution of hazardous materials use and hazardous waste disposal with implementation of the Modified Project is minimal, and combined hazardous materials effects from past, present, and reasonably foreseeable projects within the City and immediate area would not be significant. As previously stated, operation of the Modified Project would involve the use of potentially hazardous materials (e.g., solvents, cleaning agents, paints, fertilizers, and pesticides), that when used correctly and in compliance with existing laws and regulations, would not result in a significant hazard to visitors or workers in the vicinity of the project site.

Furthermore, the Modified Project and all other projects in the cumulative area are required to comply with the existing regulations related to hazards and hazardous materials. Compliance with federal, State, and local regulations would prevent the Modified Project, as well as other projects, from creating cumulative impacts in terms of hazards and hazardous materials.

Impacts associated with hazards and the use of hazardous materials on site would be controlled through application of MM 4.7-1 and MM 4.7-2. For the reasons outlined above, implementation of the Modified Project would not result in an incremental contribution to cumulative impacts related to hazards and hazardous materials that are cumulatively considerable; therefore, cumulative hazards and hazardous materials impacts are considered less than significant. No mitigation is required.

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