

NOTICE OF EXEMPTION

To: Assessor/Recorder/County Clerk
Attn: Fish and Wildlife Notices
1600 Pacific Highway, Suite 260
San Diego CA 92101
MS: A-33

From: **CITY OF CARLSBAD**
Planning Division
1635 Faraday Avenue
Carlsbad, CA 92008
(442) 339-2600

Subject: Filing of this Notice of Exemption is in compliance with Section 21152b of the Public Resources Code (California Environmental Quality Act).

Project Number and Title: Agua Hedionda Lagoon Maintenance Dredging - SUP2024-0006 (DEV06068)

Project Location - Specific: Agua Hedionda Outer Lagoon, Carlsbad State Beach – APNs 210-010-45-00, 760-252-03-00, 210-010-13-00, 204-310-01-00, 760-166-58-00, 760-252-08-00, 210-10-49-00, 210-010-35-00, 206-070-16-00

Project Location - City: Carlsbad

Project Location - County: San Diego

Description of Project: Channelside Water Resources LP (Channelside) is proposing to conduct maintenance dredging within the Outer Basin of Agua Hedionda Lagoon (Lagoon) in Carlsbad, California. The Lagoon is a 235-acre estuary comprising the Inner Basin, Middle Basin, and Outer Basin. Maintenance dredging within the Lagoon has been conducted routinely since 1954, when the now-decommissioned Encina Power Station opened. Historical sediment removal ensured adequate flow of cooling water to the Encina Power Station, located on the southern edge of the Outer Basin, until its closure in 2018. The Carlsbad Desalination Plant is located at the same site as the Encina Power Station and currently uses the power plant's intake and outfall facilities for the desalination process. Dredging is required to remove the flood-tide shoal and maintain the intake water flow for the Carlsbad Desalination Plant. Dredging has typically been conducted every 2 to 3 years, with the most recent events occurring in 2018 and 2021. Since 1999, dredged material from the Lagoon has been placed on nearby Carlsbad State Beaches. Similar to past operations, dredged material will be characterized to determine suitability for beach nourishment at the adjacent North, Middle, and South Carlsbad State Beaches. The amount of sand placed on each of the receiver beaches will be determined based on existing and historical beach widths and profiles, the consideration of recreational use of each beach, and the avoidance of impacts to sensitive hard bottom habitat. Maintenance dredging using a hydraulic dredge is planned in the Outer Basin to a design depth of -22 feet mean lower low water plus 2 feet of overdredge allowance. The total volume of material proposed for dredging is estimated to be 451,400 cubic yards (cy), consisting of 392,400 cy above design depth and 59,000 cy of allowable overdredge. The staging area would be located at the Tamarack parking lot and the project would use the following equipment: dredger, barge, tugboat, discharge pipe, float line, work skiffs, front end loader, forklift, and dozer. The project is anticipated to include the following phases: (1) Mobilization, (2) Middle Beach Replenishment, (3) South Beach Replenishment, and (4) North Beach Replenishment and (5) Demobilization. The overall construction schedule anticipates approximately 110 days of construction.

The project is located within the Agua Hedionda Segment of the city's Local Coastal Program, where the California Coastal Commission retains coastal development permitting authority. The applicant will need to obtain a Coastal Development Permit from the Coastal Commission after the permitting process has concluded with the city. The project site has a General Plan designation of Open Space (OS) and a zoning designation of Open Space (OS).

Name of Public Agency Approving Project: City of Carlsbad

Name of Person or Agency Carrying Out Project: Channelside Water Resources LP

Name of Applicant: Paul Rajmaira

Applicant's Address: 4590 Carlsbad Boulevard, Carlsbad, CA 92008

Applicant's Telephone Number: 832-488-8298

Name of Applicant/Identity of person undertaking the project (if different from the applicant above):
AnchorQEA - Blair Jenet - 9700 Research Drive, Irvine, CA 92618 - 703-408-3413

Exempt Status: (Check One)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269 (b)(c));
- Categorical Exemption - State type and section number: Class 1, 15304(g) – Minor Alterations to Land
- Statutory Exemptions - State code number: _____
- Common Sense Exemption (Section 15061(b)(3))

Reasons why project is exempt: The California Environmental Quality Act ("CEQA"), and its implementing regulations ("CEQA Guidelines"), adopted by the Secretary of the California Natural Resources Agency, list classes of projects that have been determined not to have a significant effect on the environment and as a result are exempt from further environmental review under CEQA. City staff completed a review of the Project and its potential environmental impacts pursuant to CEQA and concluded that the Project qualified for an exemption pursuant to CEQA Guidelines section 15304(g) – Minor Alterations to Land.

CEQA Guidelines Section 15304 is a Class 4 exemption for existing facilities. It includes subsection (g), which states "maintenance dredging where the spoil is deposited in an area authorized by all applicable state and federal regulatory agencies." Dredging of the lagoon and deposition of spoil nearby has occurred regularly for over 60 years and is vital to maintain water flow to both past and present critical infrastructure.

City approval of the Project is conditioned upon the applicant complying with all federal, state, and local regulations. Besides the city, this requires the Project applicant to obtain approval, permits, and clearances as necessary from the Army Corps of Engineers, United States Fish and Wildlife Service, the California Coastal Commission and the California State Lands Commission before the Project may initiate.

Exceptions to the Use of Categorical Exemptions:

Planning staff evaluated all the potential exceptions to the use of Categorical Exemptions for the proposed Project (in accordance with CEQA Guidelines Section 15300.2) and determined that none of these exemptions apply as explained below:

- Cumulative Impact - "All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time, is significant." The Project does not have the potential to have significant impacts due to cumulative impacts from successive dredge cycles. Maintenance dredging of the lagoon has been occurring on a bi-annual basis for over 60 years as it is required to maintain the structure of the lagoon to previously provide a reliable source of cooling water for the former Encina Power Station and currently provide a reliable source of supply water for the Carlsbad Desalination Plant. Construction of the power station and accompanying lagoon dredging in the early 1950s created a littoral cell which causes the disturbance of sediment movement and creates a self-contained zone of erosion. Though the power station was retired in 2018 and subsequently demolished, the need for regular lagoon dredging continues to ensure a water supply for the desalination plant. Due to the cyclical deposition of sand into the lagoon caused by the littoral cell, dredging is necessary to return the eroded sand onto the North, Middle, and South Beaches, which it originated from. Dredging the

lagoon is a restorative process which reduces the impacts of erosion. The completion of successive dredges will not have a significant effect because the project area's health and structure are dependent on the completion of periodic dredge cycles. Furthermore, before the Project commences, all necessary federal, state and local approvals and permits must be obtained.

- Significant Effect - "A categorical exemption shall not be used for any activity where there is a reasonable possibility that the activity will significantly affect the environment due to unusual circumstances. There are no unusual circumstances related to the land within the Project footprint that would have a significant impact. The Project area has been regularly dredged for more than 60 years and has been extensively studied and monitored by state and federal agencies, reducing the likelihood that the project will encounter unusual circumstances which may have significant impacts. A previous unusual circumstance which occurred within the project area, the discovered presence of *Caulerpa taxifolia* within the Agua Hedionda Lagoon, has been mitigated by the California Coastal Commission's requirements to follow the Caulerpa Control Protocol which requires the applicant perform a comprehensive survey prior to the start of dredging activities. Federal legislation passed under the Noxious Weed Act has also limited the likelihood of accidental contamination due to its prohibition of the interstate sale or transport of *Caulerpa* strains. The Project is subject to obtaining all necessary state, federal and local approvals and permits before any dredging may occur.
- Scenic Highway - "A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway." The Project does not have the potential to disturb scenic resources within a state-designated scenic highway. While the Project is located within a mile of California Interstate 5, the freeway segment the Project is located nearest to is not included in the state's list of designated State Scenic Highways as pursuant to Section 263 of the Government Code.
- Hazardous Waste Site - "A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code." The Project does not have the potential to disturb hazardous waste sites. A review of available records did not identify any hazardous waste sites within the project footprint which are included on any list compiled pursuant to Section 659.62.4 of the Government Code.
- Historical Resources - "A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource." The Project does not have the potential to disturb historical resources. A review of the National Register of Historical Places indicated that the project footprint does not include any parcels that have been designated as historic places, a determination consistent with previous reviews conducted by certified district engineers of the Army Corps of Engineers. Additionally, previous dredge cycles have not resulted in the discovery of cultural or historical resources, therefore the discovery of new resources is highly unlikely. Continued compliance with all state and federal regulations is required for the proposed and any subsequent dredging cycles.

Planning staff also evaluated the two potential exceptions to the use of Categorical Exemptions as defined by Section 19.04.070 B. of the Carlsbad Municipal Code and determined that neither applies as explained below:

- "Grading and clearing activities affecting sensitive plant or animal habitats which disturb, fragment, or remove such areas as defined by either the California Endangered Species Act (Fish and Game Code Sections 2050 et seq.), or the Federal Endangered Species Act (16 U.S.C. Section 15131 et seq.); sensitive, rare, candidate species of special concern; endangered or threatened biological species or their habitat (specifically including sage scrub habitat for the California Gnatcatcher); or archaeological or cultural resources from either historic or prehistoric periods."
- "Parcel maps, plot plans, and all discretionary development projects otherwise exempt but which affect sensitive, threatened or endangered biological species or their habitat (as defined above), archaeological or cultural resources from either historic or prehistoric periods, wetlands, stream

courses designated on U.S. Geological Survey maps, hazardous materials, unstable soils or other factors requiring special review, on all or a portion of the site."

The Project will not create significant impacts for the aforementioned species or cultural or historical resources. While the Agua Hedionda Lagoon hosts a number of sensitive plant and animal species, the project area and previous dredging have been extensively studied, monitored, and conditioned by state and federal agencies, reducing the likelihood that the scope of work will negatively impact these species. The Project is conditioned to comply with state and federal requirements.

The impacts to *Zostera marina*, known as eelgrass, are mitigated by the applicant's adherence to the California Eelgrass Mitigation Policy and completion of eelgrass surveys conducted by the Army Corps of Engineers which surveyed the location and growth of eelgrass within the lagoon. The identified dredge footprint of the Project was designed respondent to the results of the survey.

The impacts to the *Sternula antillarum browni*, known as the California least tern, are mitigated by the Project's required compliance with state and federal requirements to conclude dredging prior to April 15 in observance of the tern's breeding season. However, surveys conducted by the U.S. Fish and Wildlife Service (USFWS) detailed in the agency's 2020 publication of the 5-year species review indicate that there have been no observed pairs of terns nesting in the outer lagoon in recent history, so the restriction is included as a project design feature to eliminate any potential conflicts. The outer lagoon is the portion of Agua Hedionda Lagoon where dredging has continuously occurred in the past and where it is proposed.

The impacts to the *Leuresthes tenuis*, known as grunions, are mitigated by the California Coastal Commission's pre-dredge survey requirements which require a biologist to closely monitor for spawning activity prior to and during the dredge cycle. Monitoring reports conducted for previous dredge cycles did not indicate project interference with grunion runs. Additionally, the Project's state and federal requirements to conclude prior to April 15 coincides with the California Department of Fish and Wildlife's designated closed observation grunion run schedule.

No cultural or historical resources have been discovered or disturbed during previous dredge cycles. Therefore, it is highly unlikely that the dredging will uncover new resources.

For the reasons stated above, the action is categorically exempt from CEQA under CEQA Guidelines Section 15304(g).

Lead Agency Contact Person: Nicole Morrow, Assistant Planner **Telephone:** 442-339-5438



ERIC LARDY, City Planner



Date

Date received for filing at OPR: