

Department of Regional Planning  
Response to Issues Raised during the August 21, 2010 Community Meeting

**1. Woodfin is the tallest building and will tower over buildings in the Marina, will the view be obscured?**

The parcel where the Woodfin Hotel is proposed has a permitted height of 140 feet. The Local Coastal Program envisions some waterfront parcels, such as Parcel 9U, to have height flexibility if a view corridor is provided. In the case of the Woodfin Hotel, the project applicant is proposing a 40% view corridor. A 40% view corridor on this Parcel allows the hotel to achieve a maximum of 225 feet. There is no proposal to change the permitted height on Parcel 9U as part of the map and text amendment

**2. What SCE easements are around Marina and what is status of underground pipelines?**

Staff Response: issue is addressed in letter August 9, 2010 from the Department of Beaches and Harbors. Letter attached.

**3. What is the status of oil well deterioration in Marina del Rey?**

Staff Response: The Department of Beaches and Harbors continues to work with the lessee and Sempra Energy Company to determine the status of the wells.

**4. Regarding Mariner's Village complex, is there a well leaking gas underneath this parcel?**

Staff Response: The Department of Beaches and Harbors continues to work with the lessee and Sempra Energy Company to determine the status of the well in the complex.

**5. What noticing was done for the Community meetings, were Neighborhood Councils included?**

**Noticing for Community meetings on August 21 and 24, 2010**

**Notices sent via U.S. Mail:**

16,338 community meeting notices were mailed on 8/2/10. This included all boaters, liveaboards and residents within Marina del Rey. Additionally, we included a 500 foot buffer around Marina del Rey that received notices as well. This list also included Neighborhood Councils and Lessee Associations. The breakdown is as follows:

- Approximately 4,600 boaters
- Approximately 9,000 residents
- Approximately 2,200 within 500 foot buffer

**E-mail noticing**

An e-mail message was sent the week of 8/2/10 to all the members of the Small Craft Harbor Commission, Beach Commission, Design control Board and the Neighborhood Councils. Additionally, the community meetings were announced at the regularly schedule Design Control Board meetings.

**Web posting**

The Department of Regional Planning posted the Draft LCP documents on our website on 8/13/10 as well as the meeting notice and related documents were highlighted on our website to make it more visible to the public. The Department of Beaches and Harbors also posted the meeting notice on their main web page.

**6. What is the latest traffic study and latest environmental study?**

Staff Response - The latest traffic study is dated April 29, 2010 and was prepared by Raju Associates Inc. and was reviewed by the Department of Public Works. The latest environmental study is the Cumulative Impact Report, dated October 2010 prepared by Culbertson, Adams and Associates, Inc. for the purpose of evaluating and addressing the environmental impacts resulting from the Amendment to the Marina del Rey Local Coastal Program.

**7. Marina was created under Harbors and Rivers Act – can't change intent from recreational boating**

Staff Response: Issue addressed in letter dated July 14, 2003 from the Office of County Counsel to the Small Craft Harbor Commission. Letter attached.

**8. What are the emergency management plans for the community?**

Staff Response: The Sheriff Department bases evacuation plans on the situation presented in the emergency. There are Tsunami safety signs posted throughout the Marina and there is a Tsunami Annex to the overall Operational Area Emergency Response Plan, which serves as a guideline that designates operational planning to the individual department's areas of expertise.

**9. Is Marina del Rey a designated Tide land?**

Staff Response: The Marina does not contain tidelands or submerged lands which are subject to the California public trust doctrine or to the regulatory authority of the State Lands Commission. This is due to the historical chain of title leading to County ownership of the Marina. Notwithstanding the above, the Marina is subject to the regulatory authority of the California Coastal Commission under the California Coastal Act. The Marina del Rey Local Coastal Program lawfully regulates the land and water areas of the Marina and the County lawfully exercises coastal permit jurisdiction over the land areas of the Marina while the Coastal Commission retains coastal permit jurisdiction and federal consistency review authority over the water areas. Issue further discussed in July 14, 2003 letter from the Office of County Counsel to the Small Craft Harbor Commission.

**10. Why isn't the County seeking an amendment to for the time share project?**

Staff Response: Changes are proposed to the, "Hotel," land use category to clarify under which circumstances a limited use overnight accommodations, including, but limited to, timeshares, fractional ownership, condo hotels, vacation clubs, and other similar arrangements. Clarification was requested in recommendation number eighteen of the California Coastal Commission's review of the Los Angeles County Periodic Review,

**11. Is there a table that compares total build out to potential build out and that also shows what was approved in 1996 and what it will be after this amendment?**

Staff Response: The Draft Local Use Plan shows a table on page 8-21 titled Development Potential Summary by Development Zone. The table shows the total amount of development potential allowed by the LCP.

**12. Is there going to be a Master Plan for the Marina?**

Staff Response: Per the motion approved by the Los Angeles County Board of Supervisors on September 1, 2009, the Department of Regional Planning was directed to begin the visioning

process for future redevelopment of Marina del Rey, involving members of the public and in consultation with the Board and the Department of Beaches and Harbors, to be completed within five years.

**13. What traffic mitigation is being done for the surrounding area around Marina del Rey?**

Staff Response: Traffic impacts will be analyzed for each project and traffic mitigation measures will be included to mitigate traffic effects of the project and its cumulative effects on a regional level. Additionally, the Circulation Chapter has been extensively revised to mitigate any potential traffic impacts.

**14. Concern regarding egrets being thrown out of their nest by trees being cut down.**

Staff Response: The nesting of Egrets and other birds in Marina del Rey is discussed extensively in the Conservation & Management Plan for Marina del Rey, dated August 19, 2010, prepared by Robert A. Hamilton & Daniel S. Cooper Hamilton Biological, Inc. and the proposed amendment includes appropriate polices to address even potential impacts.

**15. What improvements are being done at the intersection of Ocean and Pacific**

Staff response: regional improvements for traffic will be analyzed and implemented in project specific Environmental Impact Reports.



*To enrich lives through effective and caring service*  
August 9, 2010



Mr. John Davis  
P.O. 10152  
Marina del Rey, CA 90295

**Santos H. Kreimann**  
Director

**Kerry Silverstrom**  
Chief Deputy

Ms. Patricia McPherson, President  
Grassroots Coalition  
Patricia [mcperson1@verizon.net](mailto:mcperson1@verizon.net) (via e-mail only)

Dear Mr. Davis and Ms. McPherson:

### **REQUEST FOR PUBLIC RECORDS**

This is in response to your memo to the Small Craft Harbor Commission dated July 13, 2010, a copy of which is attached, requesting certain records and a response to certain questions directed at the Los Angeles County Department of Beaches and Harbors ("Department"). Your memo was received in our offices on July 13, 2010. Due to the extensive nature of your request for public records, and the need to consult with other agencies and search for and collect records from other offices, pursuant to Government Code section 6253(c), we sent you a letter on July 22, 2010 extending the time in which to respond to your request until August 6, 2010.

The Department has made a good faith effort to review and make available for inspection and copying all non-exempt records in the possession of the Department responsive to your request. However, the Department will not make available for inspection or copying records that are exempt from disclosure under the California Public Records Act (CPRA). Please also be advised, however, that the CPRA only requires the Department to make available for inspection or copying public records in its possession that are subject to disclosure pursuant to the CPRA. To the extent your request seeks responses to questions rather than the production of public records, the Department is not compelled to respond pursuant to the CPRA. We have, however, provided responses as a courtesy to the extent the information requested is within our ability to provide.

With regard to your specific questions and/or requests, the Department has found the following:

- Question 1 on page 1 of your request, the current lessee of Mariner's Village is the Marina Admiralty Company, a California Limited Partnership. There has been no change of ownership. A judgment ordering dissolution of the partnership was vacated on appeal in 2008, and the California Supreme Court declined to review the appellate decision. Thus, there is no order of dissolution and the partnership still exists and has not sold the leasehold to another entity.

- Regarding questions 1 through 3 on page 2 of your request, the Department has no records regarding the current status of Del Rey 1 and 2, nor does it have well records for Nos. 6, 7, and 8. The County has no records regarding any gas samplings performed on behalf of lessee.
- Regarding questions 4 through 6 on page 3 of your request, the Department has no records of any notification given by lessee regarding the situation as described on page 2 of the attachment, nor does the Department have any permits in its offices regarding the restorative work in its offices or gas samplings performed on behalf of lessee.
- Regarding question 1 at the bottom of page 3 of your request referring to what follow up actions were taken, the Department has searched its records and requested records from the Department of Public Works regarding the 2 pipelines in question. Neither our Department nor the Department of Public Works has been able to find any documents regarding the status of either pipeline. The Department of Public Works reported that the 4-inch pipeline was not abandoned and did not have any records in its files about the 6-inch pipeline.
- Regarding your requests lettered a-h on pages 3 and 4 of your request, the Department has the following responses:
  - a. "Please provide documentation of the abandonment of the SOCALGAS oil pipeline."  
Response: The Department has no records of any abandonment.
  - b. "What easement if any exists on any current County documents and for what Purpose would SOCALGAS have a current easement right surrounding the Marina?"  
Response: The Department has the following documents that are available for your review:
    1. Assignment from Union Oil of California to Southern California Gas. Co. dated October 2, 1959 and recorded in the Official Records of Los Angeles County, Book D672, Pages 138-149, of certain easements and rights of way. (12 pages)
    2. Quitclaim Deed from Union Oil Company of California to the County of Los Angeles dated January 9, 1959 and recorded in the Official Records of Los Angeles County, Book D356, Pages 958-960. (3 pages)
    3. Los Angeles County Assessor Map No. 88 (18 pages)
    4. Document entitled "Oil Wells, Oil Fields, and Landfill Sites." (one page)
    5. Document referred to as MdR Oil Wells. (one page)

- c. "What is the current use of the SOCALGAS pressurized line that failed in 2004? Was the line abandoned and if so, how?"

Response: The Department has no knowledge of the current use of the pressurized pipeline referred to above. The Department has no records regarding the abandonment of the pipeline but, to the best of its knowledge, the pipeline was not abandoned.

- d. "What is the current condition of both pipelines surrounding the Marina?"

Response: The Department has no records indicating the current condition of the pipelines referred to above.

- e. "What is the current status and condition of the lines as they pass through Area A as shown on the e2003 NAVTEC map used for the 2004 Small Craft Harbor Commission Meeting?"

Response: The Department has no records that indicate the condition of the lines referred to above.

- f. "What well is SOCALGAS referring to in the quote cited above and how the well relates to the pressurized gas line that failed?"

Response: The Department has no records that indicate which well is being referred to in the cited quote.

- g. "What wells are used by SOCALGAS as gas/water-injection/withdrawal in the Marina-county owned property?"

Response: Please see the documents referred to in response to question b above. The Department has no other records that would respond to this question.

- h. "Please explain the discrepancy with the easement line surrounding the Marina that is shown on the '04 Commission Meeting papers and the 1993 EIR Playa Vista document created by Camp Dresser & McGee (CDM) as SOCALGAS EASEMENTS. The CDM shows differing easements."

Response: The maps depict different things. Per the Ongoing Activities Report, the Navtech map shows the configuration of the 4-inch pipe system, which is generally depicted as within the street right of way in Marina del Rey, while the CDM map (which depicts almost entirely a different area) depicts Southern California Gas Company Easements on Parcel 113, under the Main Channel, and in Playa del Rey. It is unclear as to whether or not the CDM map is intended to be an all-inclusive depiction of Southern California Gas Company Easements or only those easements connected to or impacting Playa del Rey. The Department cannot at this time confirm what underlying data was used to create either map, and therefore, cannot attest to their accuracy. It should be noted that the CDM map was not created by or for the County.

Mr. John Davis  
August 9, 2010  
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We estimate that there are approximately 35 pages of documents responsive to your request; 17 standard size pages and 18 oversized pages. The County's standard charge for copying standard-sized documents is \$.03 per page. We will let you know the cost of reproducing the 18 pages of the oversized Los Angeles County Assessor Map if you wish to have us reproduce it. The cost of reproducing all the documents except for the Los Angeles County Assessor Map is \$0.51.

We will commence the retrieval and assembly process upon receipt of your initial check and will notify you when the documents are ready for inspection or copying, as you prefer. Please give us at least 24 hours advance notice before you wish to review or pick up the documents. The number of pages of documents may vary slightly and if there is a refund due you will be provided with same when you pick up the documents. If, however, there are more than the currently estimated number of pages of documents responsive to your request we will require the additional copying charge sums necessary to make up any difference.

Alternatively, we will make the documents available for your inspection during regular business hours provided an appointment time is made. You may request copies of any or all documents after your inspection and we will compute copying charges at that time.

If you wish to discuss further focusing of your request, please contact me at your convenience.

If you have any questions please call me at (310) 305-9506. Our offices are open Monday through Thursday, 7:00 a.m. to 6:00 p.m.

Very truly yours,

SANTOS H. KREIMANN, DIRECTOR



Don Geisinger, Senior Real Property Agent  
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LLOYD W. PELLMAN  
County Counsel

July 14, 2003

**TO:** SMALL CRAFT HARBOR COMMISSION

**FROM:** RICHARD D. WEISS  
Principal Deputy County Counsel  
Public Works Division

**RE:** Marina Ownership and Jurisdictional Issues

Your Commission has asked our office to address issues raised by members of the public regarding the ownership of, and jurisdiction over, the land and water areas of Marina del Rey, particularly with respect to the interests of the federal government and the California Coastal Commission.

As indicated below, we have concluded that the County owns the fee interest in the land areas and virtually all of the water areas of Marina del Rey. The federal government owns two easements whose boundaries currently encompass the entrance and main channel areas of the Marina. Those easements provided for the initial construction of the entrance, jetties and main channel and give the federal government ongoing authority to maintain the easement areas as navigable waters of the United States. The federal easements do not deprive the County of any authority over the land or water areas of the Marina so long as that authority is not exercised so as to conflict with the above-identified federal rights. The federal government has also occupied a small portion of the land and water area of the Marina since the early 1960s through a lease granted by the County.

The Marina does not contain tidelands or submerged lands which are subject to the California public trust doctrine or to the regulatory authority of the State Lands Commission. This is due to the historical chain of title leading to County ownership of the Marina. Notwithstanding the above, the Marina is subject to the regulatory authority of the California Coastal Commission under the California Coastal Act. The Marina del Rey Local Coastal Program lawfully regulates the land and water areas of the Marina and the County lawfully exercises coastal permit jurisdiction over the land areas of the Marina while the Coastal Commission retains coastal permit jurisdiction and federal consistency review authority over the water areas.

Finally, the federal legislation adopted in the 1950's which led to the federal participation in the development of the Marina and ongoing maintenance authority did not provide absolute restrictions on the nature or intensity of landside or waterside development of the Marina or deprive the County of jurisdictional land use control over the Marina.

I.

**The County Owns the Land and Water Areas of the  
Marina while the Federal Government Owns Easements  
Over the Entrance and Main Channel Areas**

County Ownership

Representatives of the public have asserted that the County granted significant portions or all of its property rights and jurisdiction over the Marina to the federal government by virtue of a 1958 "perpetual right of way and easement." This is not correct. Although, the County has granted easement rights to the federal government, including the above-referenced 1958 easement, the rights conveyed to the federal government do not deprive the County of the ownership, control or jurisdictional rights that the County currently exercises in the Marina.

Title information and other records maintained by the County Department of Public Works, demonstrate that the County of Los Angeles owns the fee title to the land and water areas of Marina del Rey, except for a small portion of the main channel that is seaward of Ocean Front Walk (Ocean Front Walk is essentially parallel to the shore line at the seaward edge of the development on both sides of the entrance channel to the Marina). That particular water portion of the Marina is owned by the state, operated by the City of Los Angeles and was franchised to the County in 1957 to allow for the excavation of the Marina's main channel.

The County acquired its fee title to the Marina through various decrees of condemnation and deeds of record. The Marina is a manmade harbor that was predominantly dry land (with some portions of the area now known as Basin H being characterized as salt marsh with tidal channels) prior to the excavation project undertaken by the Army Corps of Engineers in the late 1950's to excavate the main channel and to commence the project that resulted in the development of the Marina.

Federal Property Rights in the Marina

The United States of America owns two permanent easements affecting the Marina and has also operated a coast guard facility in the Marina since approximately 1962 under a lease from the County. The two easements cover existing water areas of the Marina main channel and entrance and specifically indicate that their purpose is to allow for the federal government's construction and maintenance of the entrance and main channel facilities of the Marina to create and preserve their navigability. The easements did not transfer full ownership of the Marina to the federal government and do not presently affect the County's proprietary or regulatory authority over the water or land areas of the Marina beyond preserving the federal government's right to ensure that the entrance and main channel are preserved as navigable waters of the United States.

The 1957 Easement - The County granted the United States a permanent easement for constructing and maintaining the entrance channel, jetties and appurtenances for the Marina in a document recorded on October 1, 1957, in the Official Records of the County Recorder at Book 55733, page 92 (the "1957 Easement"). See Attachment "A" - "1957 Easement." The 1957 Easement covers an area near the very entrance of the main channel extending from the previously mentioned Ocean Front Walk, westerly to a point approximately 150 feet beyond the end of the rock jetties. The 1957 Easement authorized the federal government to enter upon, dig, or cut away and remove any or all of the involved property as may be required for the "Playa del Rey Inlet and Harbor" (the initial project name for Marina del Rey) and to maintain the portion cut away and removed as part of the navigable waters of the United States. The easement only authorizes the federal government to construct and maintain the entrance channel jetties and appurtenances within that easement area.

The 1958 Perpetual Right of Way and Easement - A second easement was granted by the County to the United States to provide for the construction and maintenance of the remainder of the main channel area of the Marina. This "Perpetual Right of Way and Easement" is dated November 18, 1958, and was recorded in the Official Records of the County Recorder on December 5, 1958, in Book D296, pager 840 (the "1958 Easement"). See Attachment "A" - "1958 Easement." That easement extends along what is now the main channel from the easterly edge of the 1957 Easement to approximately the bulkhead at the end of the main channel. The 1958 Easement does not cover the Marina moles or the Marina basins. The 1958 Easement grants to the federal government the perpetual right and easement to enter upon, dig, or cut away and

remove any or all portions of the easement area for the Playa del Rey Inlet and Harbor project as is required for the construction of the main channel and to maintain the portion cut away as part of the navigable waters of the United States.

Selected portions of the water areas of some Marina leaseholds along the main channel are within the outer boundaries of the 1958 Easement. However, to the extent those portions of the lease parcels contain any improvements, they contain docks and boat slips which are in furtherance of the Marina's use for small crafts and recreational boat use. Additionally, construction of improvements in such areas are subject to federal review to ensure that they do not conflict with the navigability of the harbor.

The 1958 Easement specifically reserves to the County all rights and privileges in the easement area as may be used and enjoyed without interfering with or abridging the rights and easements conveyed to the federal government.

As indicated, the two federal easements do not cover the moles or basins of the Marina. The easements specifically only cover the entrance, jetties and main channel area and do not otherwise directly affect any of the County's rights in its ownership or operation of the Marina, except as to having authorized the past federal construction of the entrance, jetties, and main channel and the ongoing maintenance of the entrance and main channel facilities to retain their navigability.

There is nothing in either easement that purports to transfer the fee ownership of the Marina from the County to the federal government, or to deprive the County of proprietary or regulatory authority over the land or water areas of the Marina, except to the extent that such activities would conflict with the federal rights identified above.

The Coast Guard has also leased facilities near the Department of Beaches and Harbors' administrative headquarters on Fiji Way for a number of years. The terms of that lease do not in any way affect the proprietary or regulatory authority of the County over any other land or water portion of the Marina. As a result of the Coast Guard lease, the federal government has had an ongoing presence in the Marina since its virtual inception.

In accordance with the 1957 and 1958 Easements, the federal government retains responsibility to dredge the entrance and main channel areas to preserve the navigability of those areas. Additionally, the Army Corps of

Engineers reviews waterside Marina development applications for impacts on the navigability of the Marina water areas. We are aware of no evidence that suggests that the federal government has ever alleged that the County is violating the United States' rights under the 1957 or 1958 Easements.

## II.

### **The Marina Does Not Include Public Trust Tidelands or Submerged Lands**

Representatives of the public have suggested that the Marina includes submerged lands or tidelands that are held in public trust under the laws of the State of California. This is not correct. The Marina contains no submerged lands or tidelands that are subject to the California public trust doctrine.

The California public trust doctrine applies to submerged lands and tidelands that were acquired by the state, in its sovereign capacity, when it was admitted to the United States. Under the public trust doctrine, title to such lands is held in trust by the state for "commerce, navigation and fishery," and any private owner holds such lands subject to the limitations imposed by that public trust. Such lands are sometimes referred to as sovereign lands of the state.

Ungranted public trust submerged lands or tidelands (those not transferred by the state to a city or county) are under the exclusive administration and control the State Lands Commission. Public trust tidelands that are granted to a city or county are subject to the terms of such grant and are still subject to the public trust purposes identified above.

In 1984, the United States Supreme Court determined that the tract of land which includes Marina del Rey was not California public trust tidelands and was not subject to any public trust easement on behalf of the state or other entity (*Summa Corp. v. California*, 466 U.S. 198). The Supreme Court's decision was based on the conclusion that the property comprising the Ballona Lagoon (which includes the Marina del Rey area) was once a portion of the Rancho Ballona.

According to property records traced by the Supreme Court, Rancho Ballona was originally deeded to the Machado and Talamantes families in 1839 by the Governor of the Californias, when this land was still part of Mexico. Following that grant, California was ceded to the United States by Mexico pursuant to the Treaty of Guadalupe Hidalgo. Pursuant to the Federal Act of 1851, the interests of the Machado and Talamantes families in Rancho Ballona was confirmed through federal patent proceedings. That patent proceeding failed

to recognize any public trust interest of the government in the Rancho Ballona. The Supreme Court concluded that this chain of events led to the conclusion that the State of California never obtained any public trust rights in the Rancho Ballona.

With the exception of that portion of the entrance area of the Marina seaward of the earlier referenced Ocean Front Walk and subject to the 1957 easement granted to the federal government, the County's title to Marina del Rey stems directly from successors in ownership to the Machado and Talamantes families and is likewise not subject to a public trust easement in favor of the State of California. Accordingly, with the exception of the portion of the entrance area of the Marina seaward of Ocean Front Walk, the Marina is not properly considered sovereign lands of the State of California, subject to a state public trust easement, or subject to the administration or control of the State Lands Commission.

**III.**  
**THE MARINA DEL REY LOCAL COASTAL PROGRAM IS VALID AND**  
**THE COUNTY RETAINS COASTAL DEVELOPMENT PERMIT**  
**JURISDICTION OVER THE LAND AREAS OF THE MARINA WHILE**  
**THE COASTAL COMMISSION RETAINS**  
**JURISDICTION OVER THE WATER AREAS**

Members of the public have contended that the Marina del Rey Local Coastal Program ("LCP") is illegal in that the Marina is excluded from the Coastal Zone as federally owned property. They have also argued that the California Coastal Commission ("Coastal Commission") has exclusive jurisdiction over the consideration of development within the Marina and the County lacks authority to consider or issue coastal development permits for the Marina.

These contentions are not substantiated by the applicable law or by actions of the federal government or the Coastal Commission. A certified Marina LCP has been in effect for a number of years without any known objection by the federal government. That LCP recognizes the authority of the County to issue coastal development permits for all land areas within the Marina and for the Coastal Commission to issue such permits for the water area. Further, under federal law, projects undertaken by the federal government within the Marina LCP area are subject to review by the Coastal Commission for a determination of consistency with the goals and policies of the Coastal Act.

Coastal Commission vs. County Authority in the Coastal Zone

The California Coastal Act ("Coastal Act") was adopted in 1976 and is the successor statutory scheme to the Coastal Zone Conservation Act of 1972. The Coastal Act creates policies for the preservation and enhancement of the state's coastal zone resources. The boundaries of the state's coastal zone are established in official maps that were adopted as part of the 1975-1976 state legislative session. The California Coastal Commission ("Coastal Commission") was also required to prepare and file with the County Clerk of each Coastal County more detailed maps delineating the respective permit jurisdictions of the Coastal Commission and each coastal city and county.

The Coastal Act provides that upon certification by the Coastal Commission of a city or county's LCP, the city or county shall have jurisdiction to issue coastal development permits for development in the area covered by the LCP, essentially except for those portions that are tidelands, submerged lands or other public trust lands. In such areas the Coastal Commission retains the jurisdiction to consider and issue coastal development permits.

The Coastal Commission has certified an LCP for Marina del Rey and has prepared the maps required under state law that depict the respective permit jurisdictions of the County and the Coastal Commission for the areas within the Marina. The Coastal Commission has recognized that the Marina does not include public trust tideland areas subject to the jurisdiction of the State Lands Commission in light of the earlier referenced 1984 United States Supreme Court decision in *Summa Corp. v. California*. Accordingly, as depicted in the official coastal boundary maps prepared by the Coastal Commission, the Coastal Commission exercises original permit jurisdiction over the water areas of the Marina, while the County has permit jurisdiction over the land areas.

Federal Jurisdiction Over the Marina

The jurisdiction of California over its coastal areas is subject to the paramount authority of the federal government over the nation's coastal resources. The federal Coastal Zone Management Act of 1972 ("federal CZMA") provides that the coastal states may exercise regulatory authority over the nation's coastal areas only if the federal government has approved a coastal management program for that state.

The federal government approved the California Coastal Act as the major element of California's Coastal Management Program in 1978. As a result, the Coastal Act can be applied by California to the coastal zone areas of the state, and federal activities within California's coastal zone are subject to review for consistency with the goals and policies of the Coastal Act.

The federal CZMA provides that all lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the federal government are excluded from the coastal zone. However, even for such lands, their exclusion does not exempt them for review under a state coastal management program, if it has been approved by the federal government. Since the federal government has approved the Coastal Act as part of a valid California coastal management program, federal lands excluded from the coastal zone must also be reviewed for consistency with the Coastal Act policies.

In 1974 the federal General Services Administration prepared a listing of real property owned by the United States which contains an entry for Marina del Rey. This document was provided to the Coastal Commission. In 1976, two years after the above-referenced list was provided, the United States Attorney General ruled that only lands actually owned by the federal government were to be considered excluded from the coastal zones of the coastal states under the federal CZMA.

As indicated earlier in this memorandum, the federal government does not own fee title to property in Marina del Rey. Rather, it has two easements for construction and maintenance of the entrance and main channel area of the Marina and has had a lease covering a small land and water portion of the Marina for use by the Coast Guard since approximately 1962. Consequently, the federal government could not assert any ownership interest in the land areas of the Marina over which the County has coastal permit jurisdiction.

The official maps prepared by the Coastal Commission depicting the coastal zone areas of Marina del Rey have never depicted the Marina as being excluded from the Coastal Zone. Staff from the Coastal Commission have informally indicated to us that they are not aware of any contention by the federal government that the Marina LCP is illegal or inappropriately vests jurisdiction over the land areas of the Marina to the County and the water areas to the Coastal Commission. We are likewise aware of no such contention by the federal government in that regard. As recently as 2001, the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration reviewed the Coastal Commission's administration of the Coastal Act as part of

California's approved Coastal Management Program and determined that it satisfactorily implemented federal law relating to coastal areas.

Furthermore, whether excluded or not from the coastal zone, federal activities within the main channel area of the Marina (the only area in which the federal government possesses easement rights) are subject to review by the Coastal Commission for consistency with Coastal Act policies as is specifically mandated by the federal CZMA. As an example, the dredging projects that the federal government has undertaken in the entrance and main channel areas of the Marina have properly been subjected to federal consistency review by the Coastal Commission under both state and federal law.

#### IV.

#### **THE FEDERAL LEGISLATION AUTHORIZING FEDERAL FUNDING FOR AND PARTICIPATION IN THE CREATION OF MARINA DEL REY HAS NOT DEPRIVED THE COUNTY OF JURISDICTION OVER THE MARINA OR RENDERED EXISTING OR PROPOSED MARINA DEVELOPMENT ILLEGAL**

Members of the public have suggested that the County's development and operation of Marina del Rey is in some manner prohibited by, or inconsistent with, the federal legislation adopted in the 1950's that authorized federal funding and participation in the creation of the Marina. We have found no basis for support of those contentions.

Congress first adopted H. R. 7481, dated January 25, 1954, which called for the improvement of a small boat harbor at Playa del Rey substantially in accordance with the recommendations of the Chief of Engineers of the Department of the Army in his report on the project dated August 8, 1952. That bill was referred to the Congressional Committee on Public Works.

Federal participation in the construction and funding of Marina del Rey was subsequently specifically authorized by Public Law 780 - 83d Congress, chapter 1264, also known as the River and Harbor Act of 1954. Such River and Harbor Acts have been adopted periodically by Congress to authorize Army Corps of Engineers civil works projects involving river and harbor facilities.

The River and Harbors Act of 1954 authorized the project then known as "Playa del Rey Inlet and Harbor" to be implemented in accordance with that certain "House Document Numbered 389" and further provided that federal participation in the provision of entrance jetties, the entrance channel, interior

channel and central basin was not to exceed 50 percent of the cost of such facilities.

House of Representatives Document No. 389, dated May 13, 1954, as referred to in the River and Harbors Act of 1954, primarily consists of a compilation of letters, comments and recommendations that had been prepared over the time period from 1948-1954 concerning the proposed Playa del Rey Inlet and Harbor project. Document No. 389 contains the August 8, 1952 report of the Chief of Engineers of the Department of the Army and the recommendations for the project prepared by the Board of Engineers for Rivers and Harbors. The recommendations contained in the August 8, 1952, specifically provide for provision of the proposed harbor project with an estimated cost to the United States of \$6.1 million on the conditions, among others, that local interests:

- provide the necessary rights of way to the United States for the creation of the entrance jetties, entrance channel, and central basin;
- secure and hold in the public interest lands bordering the proposed harbor improvements to a width sufficient for proper functioning of the harbor;
- provide adequate berthing and other facilities for small craft;
- provide adequate parking areas, access roads, and landscaping of the piers; and
- maintain and operate the entire project except aids to navigation entrance jetties, and project depths in the entrance channel.

A subsequent revised plan of improvement for Marina del Rey was approved by the Chief of Engineers of the Department of the Army on June 29, 1956. That revised plan did not substantially change the obligations of the "local interests" with respect to the proposed Marina project and added provisions relating to the relocation of a sewer line and tide gates at the main Venice Canal, and requiring that the County bear the cost of dredging the side basins of the Marina.

We have found nothing in the August 8, 1952, report of the Chief of Engineers, the revised requirements contained in the plan revisions approved in 1956 by the Chief of Engineers or the other historical documents cited that purport to exclude any particular uses of the Marina, that purport to remove authority from the County of Los Angeles to determine appropriate uses on the

land areas of the Marina project, or that purport to transfer ownership or jurisdiction of the Marina to the federal government other than the stated requirements to provide the rights-of-way necessary to allow the federal government to create and maintain the jetties, entrance channel and central basin. In fact the requirement that local interests provide for and operate all portions of the project other than the portions subject to ongoing federal responsibility indicates that the federal government was not purporting to exercise exclusive control over such other portions of the overall project.

As indicated earlier in this memorandum, the federal government, through the Coast Guard, has had an ongoing presence in the Marina since approximately 1962. The federal government has also undertaken several maintenance dredging projects in the Marina since its initial construction and we are advised that representatives of the Army Corps of Engineers are frequent visitors in the Marina. Notwithstanding all of the above, we are unaware of any contention by the federal government that the County has violated the terms of the federal approvals rendered in the 1950s that led to federal participation in the development of the Marina.

We will be available to answer any questions you may have regarding the contents of this memorandum at your July 23, 2003, commission meeting.

RW/

Enclosure

Department of Regional Planning  
Response to Issues Raised during the August 24, 2010 Community Meeting

- 1. Is the Raju Associates, Inc. Right-Sizing Parking Study flawed because it assumes that all four parking lots next to mother's beach are equal and that individual parking could be subtracted from one parking lot and added to another?**

Staff Response: The right-sizing parking study identified five activity areas, by which to analyze parking demand. Within each activity area, each specific lot was evaluated based on existing utilization patterns in terms of occupancy of the parking supply for both typical and peak holiday weekday and weekend days. The Mother's Beach Activity Area includes four parking lots: parking lot 8 on Parcel OT, parking lot 9 on Parcel NR, parking lot 10 on Parcel IR and parking lot 11 on Parcel GR. Appendix A2 of the right-sizing parking study depicts parking demand utilization surveys for each lot and this was the basis for determine the appropriate number of parking spaces needed.

- 2. Will there be sufficient parking for paddlers, what changes are being made to the loading zone? Where would parking for kayakers be located?**

Staff Response: An adequate parking supply for kayakers and paddlers will be taken into consideration for any redevelopment planned on parking lots adjacent to Marina Beach. The loading area that currently exists adjacent to Marina Beach on Palawan Way will remain. Parking for paddlers would be provided at Parcel IR (near the picnic shelters) or at NR (across Palawan).

- 3. Boaters are most likely to go out with groups first thing in the morning or at dusk, how would those parking spaces be accessed? Would it be open at those early morning hours?**

Staff Response: Public Parking in the Marina is and will continue to be open 24 hours accessible to all users.

- 4. Paying for parking will create hardship for recreational boaters.**

Staff Response: Paying for parking is not unique to the Marina.

- 5. For Kayakers a 3 block walk would be a hardship.**

Staff Response: Parking at Parcel IR (near the picnic shelters) or at NR (across Palawan) is closer than three blocks.

- 6. Does the traffic study include all projects? And does it include weekend trips?**

Staff Response: The Raju Associates, Inc. traffic study includes many sets of tests of the pipeline projects and overall build out of the marina with and without improvements, and comparisons of the projected performance of the analysis locations under these scenarios to comparable conditions estimated in the 1991/94 DKS study. The study does include weekend trips.

- 7. Loss of parking at NR. That is the only lot that provides low cost access to the Marina.**

Staff Response: There are other lots that provide low cost access to the Marina. Parking lots on IR and GR are contiguous to Marina Beach and those lots are remaining parking.

**8. Is this plan going to eliminate 32 public acres? How can this be considered public taking away 32 acres of public land and puts it under lessee control?**

Staff Response: Although there are 32 acres proposed to change land use mentioned in the LUP, that number does not take into account the expansion of parking lot GR, the expansion of Chace Park or the proposed wetland park on Parcel 9U.

**9. What is the residential population of Marina today? What will the population total once projects are approved?**

Staff Response: According to the United States 2000 Census, the unincorporated area of Marina del Rey has a population of 8,176 people. 2010 census data will be available in February 2011. No data is available for population forecast.

**10. What is current hotel workforce population? And if projects are approved what are the numbers?**

Staff Response: The existing hotels in the Marina (including Jamaica Bay Inn) employ a current workforce of approximately 700 people. The proposed Amendment does not include any additional hotel uses.

**11. What is the daily tourist population? What will it be if projects are approved?**

Staff Response: There is no formal no data on daily tourist population, Best estimates, indicate an average of 2,000 people per day, with a hotel occupancy of roughly 75% on 1,000 rooms, with roughly 1/3 of the occupied rooms having more than 1 person, so that would be roughly 1,000 people per day in the hotels, and another 1,000 in local restaurants, etc. No data is available for future tourist population.

**12. What are the daily pass through vehicle trips? Cars using admiralty to pass through? What to you anticipate it to be once playa del rey and other city projects are approved?**

Staff Response: Through traffic is the portion of traffic that has no origin or destination in the Marina. In other words, it is the traffic that passes through the Marina without stopping. An analysis of through traffic in the Marina was conducted as part of the Marina Del Rey Traffic Study, dated January 1991, by DKS Associates. The traffic survey showed that through traffic in the evening peak constitutes about 8 to 9 percent of the peak period and peak hour traffic volumes on major segments of Admiralty Way. We have no additional data to indicate the percentage of through traffic has changed, or that the percentage of through traffic will change when additional development in the City of Los Angeles is completed.

**13. What are the total number of car trips per day and what are they anticipated to be once projects are completed?**

Staff Response: Traffic Counts were taken as part of the Draft Traffic Study for the Marina Del Rey Local Coastal Program Amendment, dated April 29, 2010, by Raju Associates, Inc. This study, which is on the Department of Beaches and Harbors' website, contains traffic projections for the year 2020, with future build out traffic conditions.

Traffic counts on public roads in Marina del Rey can also be found at the County Department of Public Works' (DPW) website. The following is a link to find traffic counts on DPW's website: <http://dpw.lacounty.gov/tnl/trafficcounts/>

Traffic counts on public roads maintained by Caltrans can be found on Caltrans' web site. The following is a link to find traffic counts on Caltrans' website: <http://traffic-counts.dot.ca.gov/>

**14. How many cars can the five exits in Marina handle in the event of an earthquake?**

Staff Response: A tsunami is a more likely reason to evacuate the coastal area than an earthquake. The Marina has good traffic circulation, with the several access points that can be used in case of an emergency evacuation. We cannot provide a number on the amount of cars that can exit the Marina in the event of an emergency, because it is dependent on several factors, including whether or not the traffic signals will be operational, how LADOT would operate the traffic signals if they are operational, and the amount of traffic congestion on Lincoln Boulevard and Washington Boulevard, which are outside the County's jurisdiction. In the event of an emergency the Sheriff and LAPD are in charge of evacuation procedures in the Marina area, and each type of emergency would be handled on a case-by-case basis.

**15. What is the current water usage in the Marina? What do you expect it to be with all projects completed?**

Staff Response: The current water usage in the Marina is approximately 1,300 acre-feet per year. Depending on the build out, the water usage would range from 2,400 to 3,600 acre-feet per year.

**16. What is the current waste water discharge in the Marina? What do you expect it to be with all the projects completed?**

Staff Response: For the four projects included in the sewer area study (Parcels 10/FF, OT, 33/NR, & 52/GG), the Department of Public Works estimates that the current wastewater discharge from those parcels is 43,000 gallons per day. The estimated discharge after redevelopment for the Marina is approximately 280,000 gallons per day.

**17. There are a significant number of changes other than pipeline projects, where does this power to make changes come?**

Staff Response: Local Coastal Programs (LCPs) are basic planning tools used by local governments to guide development in the coastal zone, in partnership with the Coastal Commission. LCPs contain the ground rules for future development and protection of coastal resources in the 75 coastal cities and counties. The LCPs specify appropriate location, type, and scale of new or changed uses of land and water. Each LCP includes a land use plan and measures to implement the plan (such as zoning ordinances). Prepared by local government, these programs govern decisions that determine the short- and long-term conservation and use of coastal resources. While each LCP reflects unique characteristics of individual local coastal communities, regional and statewide interests and concerns must also be addressed in conformity with Coastal Act goals and policies. Following adoption by a city council or county board of supervisors, an LCP is submitted to the Coastal Commission for review for consistency with Coastal Act requirements. Marina del Rey has a certified Local Coastal Program, which was certified in 1996.

After an LCP has been finally approved, the Commission's coastal permitting authority over most new development is transferred to the local government, which applies the requirements of the LCP in reviewing proposed new developments. The Commission reviews and approves any amendments to previously certified Local Coastal Programs.

The proposed changes to the Marina del Rey, Local Coastal Program were outlined in a motion approved by the Board of Supervisors on September 1, 2009, which directed the Department of Regional Planning to begin the amendment process.

**18. Currently Del Rey Shores has trees and birds and nature – the redevelopment of it will replace it with concrete and a high rise building.**

Staff Response: The Del Rey Shores project was approved by the Board of Supervisors on January 27, 2009 and its potential impacts have been analyzed and addressed in the projects certified Environmental Impact Report. This project is consistent with the current Local Coastal Program and is not part of the amendment which is currently being considered.

**19. A question was raised regarding language on Page 46 of the Marina del Rey Land Use Plan and whether the intent of Marina del Rey was being changed.**

Staff Response: To clarify the statement in question and it is stated as follows “Marina del Rey was originally planned as a small craft harbor. Now, many other recreational, residential, and commercial uses have been developed, making it a multi-use area. SHOULD THE FUTURE USE OF THE MARINA FOCUS ON RECREATIONAL BOATING AS THE PRIMARY USE OF THE AREA?” This is the original language as adopted in the 1996 LCP. At the time the style of the document was to pose issues that might be of interest in the form of a question. This statement has not been changed in the proposed Major Amendment and as written does not intent to change the intent of Marina del Rey as a small craft harbor for recreational boating.