

## **EXHIBIT A USACE/NMFS MOU DISCUSSION**

### **Background:**

The Carmel River Watershed is approximately 246 square miles and drains into Carmel Bay. This Watershed has very large variations in seasonal and yearly discharge rates. The lagoon is not connected to the ocean during times of low or no river flow, when ocean waves build a barrier beach across the mouth of the lagoon and close the lagoon's outflow channel. When river inflow is relatively low, an equilibrium is reached between river and groundwater inflow, outflow through the barrier beach, and evapotranspiration. When river flow increases in the fall and early winter, lagoon water levels can rise to flood stage threatening private properties along the northern edge of the lagoon, as well as a restroom facility and parking lot owned by State Parks.

Since at least the early 20th century, when the Lagoon has risen to levels that threatened private property, the sandbar has been mechanically managed (breached) in order to lower the lagoon's water level to below flood stage. Since 1973 emergency sandbar management was carried out by Monterey County, Monterey County Water Resources Agency, and State Parks. On average at least one mechanical breach has occurred yearly, with as many as three or four management actions occurring in some years.

In 1992, regulatory agencies informed the County that its ongoing sandbar management did not qualify as emergency actions due to the predictability of flooding at Carmel River Lagoon. In response, the County prepared an Interim Sandbar Management Plan and Breaching Criteria and submitted it to the various regulatory agencies. The County updated the agencies in the years following; however, a lack of supporting data and analysis was expressed by the agencies and sandbar management continued without permits.

Several local, state and federal agencies, together with several non-governmental organizations have been working together since about 2000 to develop a sustainable, long-term management plan for the Lower Carmel River and Carmel Lagoon. A technical advisory committee of public agencies developed a "Study Plan for Long-Term Adaptive Management of the Carmel River State Beach and Lagoon." This Plan was released in 2007, which outlines multiple additional studies necessary to seek permits for a long-term solution to managing Carmel River.

Representatives from the Carmel River Watershed Conservancy (CRWC), Homeowners for Effective Lagoon Management (HELM), and Carmel River Steelhead Association met with Congressman Sam Farr and Supervisor Dave Potter to talk about the best way to solve this ongoing flooding problem. The group agreed that a vinyl sheet wall was the best solution among the Lagoon TAC solutions and a concept Ecosystem Protective Barrier was developed. CRWC and HELM hosted community meetings and neighborhood meetings throughout 2005-2011 to secure community support for this project. Support was limited to a solution that had minimal visual impacts.

Several agencies and organizations have sought funding for those studies, and for individual construction projects. Monterey County Resource Management Agency has been tasked to help

coordinate the various projects and agencies in the most economically and operationally efficient manner.

When John Laird was appointed Secretary of the Department of Natural Resources, he assisted with the State Department of Fish and Game (now CA Fish and Wildlife) funding a feasibility study that was passed through the Wildlife Conservation Board. CRWC was awarded \$145,000 but determined that the grant contract was infeasible for them to manage and asked MCWRA to assume management of the project. MCWRA processed an RFP for professional services and selected a team led by Whitson Engineers. Concurrently, the Resource Management Agency (RMA) received \$54,000 from Monterey Peninsula Water Management District as part of a larger Integrated Regional Watershed Management Planning (IRWMP) grant they received through the Department of Water Resources. RMA coordinated with MCWRA to utilize Whitson Engineers on a similar feasibility study for the Scenic Road Project.

In 2010, MCWRA submitted an application for a permit to manage the sandbar. A Biological Opinion (BO) from National Marine Fisheries Service was expected around May 2011 to help better define a solution.

In September 2011, RMA assumed a lead role for the Carmel Lagoon management. A meeting with National Marine Fisheries Service (NMFS) and US Army Corps of Engineers (USACE) identified that the MCWRA permit would result in a Jeopardy Opinion (JO). They informed us that the EPB/Scenic projects would be considered mitigation for a jeopardy opinion (JO), and we could avoid the JO if we withdrew that application and filed a new application for the EPB and Scenic Road Protection projects. These agencies stated that they would work with us to issue emergency permits for 2011/12, but identified a specific timeframe (October 2012) for the County to obtain a non-emergency permit.

In November 2011, the County obtained emergency permits from the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), California Coastal Commission (CCC), and the California Department of Fish and Wildlife (CDFW) to manage lagoon water levels and install a sand ramp for public beach access. USACE consulted with the NMFS and the US Fish and Wildlife Service (USFWS) as part of permit review.

RMA worked with USACE to develop a draft Memorandum of Understanding. This document was reviewed by National Marine Fisheries Service (NMFS) and US Fish and Wildlife Services (USFWS) as consulting agencies to USACE. In September 2012, a draft Memorandum of Understanding (MOU) was completed for management of the Carmel River Lagoon. This MOU:

- Establishes a long-term plan to balance protection of private property with protection of federally listed species.
- Recognizes that mechanically managing the Carmel River Lagoon over the long run is not in the best interest of the County, USACE, and NMFS.
- Identifies two long-term solutions as alternatives to performing sandbar management: the Ecosystem Protective Barrier (EPB) and the Scenic Road Protection Structure (SRPS).
- Agrees to allow an Interim Sandbar Management Plan (ISMP) for temporary (5 years) management of the sandbar while we develop the EPB and Scenic projects (design, environmental review, construction).

- Establishes a target schedule to complete the projects by 2018.

Since we have been working on this agreement and working only under approved permits, the timeframe for being under a non-emergency was extended to October 2013.