

H-19

December 3, 2019

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the public hearing and consider an appeal (APL 19-006) by Jerilyn Lopez Mendoza (Coalition for Clean Air), Ann Cantrell, Joe Weinstein and Corliss Lee (Citizens About Responsible Planning), Ann Cantrell and Anna Christiansen (Sierra Club Los Cerritos Wetlands Task Force); Jesse N. Marquez (Coalition For A Safe Environment), and Andrea Hricko (Concerned Faculty of USC and UCLA);

Adopt a Resolution approving and certifying the Mitigated Negative Declaration of Environmental Impact (MND 08-19) for the Long Beach Cruise Terminal Improvement Project, consisting of onshore and maritime improvements in accordance with the provisions of the California Environmental Quality Act (CEQA) and State and local Guidelines; making certain CEQA Findings and Determinations relative thereto; and adopting a Mitigation Monitoring and Reporting Program in accordance with those measures set forth in the MND; and,

Approve a Site Plan Review (SPR 19-026) for the onshore improvements to the Long Beach Cruise Terminal, consisting of expanding the parking structure, filling an abandoned tunnel, and reconfiguring the traffic lanes near the parking garage in the Queensway Bay Planned Development (PD-21) Zoning District (Application No. 1909-08). (District 2)

DISCUSSION

On November 7, 2019, the Planning Commission held a public hearing and accepted the Mitigated Negative Declaration (MND) for the Long Beach Cruise Terminal Improvement Project (Project) at 231 Windsor Way in the Queensway Bay Planned Development (PD-21) Zoning District, and approved, with conditions, a Site Plan Review (SPR) request for the onshore improvements consisting of the expansion of an existing parking structure, the filling of an abandoned tunnel, and reconfiguration of the traffic lanes (Attachment A).

The project site is located in Pier H at the terminus of Queens Highway North. The Pier H area is a 45-acre portion of the overall 103-acre parcel (7436-021-907) within the PD-21 Zoning District, Subarea 4, and has a General Plan Designation of LUD #7, Mixed Use

District. The Project site is currently developed with the Long Beach Cruise Terminal and a 5-story parking structure with an associated ingress/egress roadway system (Attachment B).

Project Description

The Applicant, Carnival Cruise Lines, proposes to make improvements to its facilities at the Long Beach Cruise Terminal to accommodate a new and larger class of cruise ships capable of holding 4,008 passengers, to safely moor the larger cruise ship at the existing berth, and to improve safety at the berth related to ocean swells. The proposed maritime and onshore improvements together include all actions and activities necessary to accommodate the larger vessel and the associated increase in passengers. For context, the maritime improvements include dredging the existing berth to a deeper depth (approximately 33,250 cubic yards of dredge volume), construction of two mooring dolphins and associated catwalks, a passenger walkway bridge extension, and fender replacements.

In addition to the City approvals, including building and grading permits, there are numerous entities that require review, approvals, and permits for the overall Project. Those entities include the City of Long Beach's (City) Harbor Department, United States Army Corps of Engineers, California Coastal Commission, Los Angeles Regional Water Quality Control Board, and the National Oceanic and Atmospheric Administration Fisheries, Office of Protected Resources.

Onshore improvements include expansion of the existing parking structure to the north and south to include 657 new parking stalls, filling of an abandoned 450-foot-long tunnel between Windsor Way and the parking structure, and the reconfiguration of the traffic lanes within the leasehold area near the parking garage, to accommodate the expanded and remodeled structure (Attachment C). Pursuant to Section 21.25.502 of the Long Beach Municipal Code (LBMC). SPR is required for new construction that exceeds 500 square feet in area on City land. Pier H is owned by the City.

Environmental Review

The Initial Study and Mitigated Negative Declaration (IS/MND) was prepared for the project and circulated for public review in accordance with the California Environmental Quality Act (CEQA). The initial period of public review occurred from June 20, 2019 to July 19, 2019 (Attachment D). To reflect editorial changes made in response to letters received during the initial public review period, the document was recirculated between August 28, 2019 to September 26, 2019. Comment letters were also received on the recirculated IS/MND. A response to comments on the recirculated MND was prepared by the City's CEQA Consultants. The MND demonstrates that the project would not result in a significant effect on the environment with the incorporated mitigation measures, and that the project is consistent with all required findings (Attachment E). In both cases, the MND was circulated for public comments. A Notice of Intent (NOI) was filed with the Los

Angeles County Clerk, mailed to the Long Beach Harbor Department, various other local and State agencies, and published in the Long Beach Press-Telegram, as required by law.

During the public hearing at November 7, 2019 meeting, the Planning Commission accepted the Long Beach Cruise Terminal MND and conditionally approved the SPR findings (Attachment F, G). Six pieces of written correspondence were received prior to the Planning Commission hearing (Attachment H) in support of, and opposition to, the project and were made available at the public hearing. The project proposal is subject to the Mitigation Monitoring and Reporting Program (Attachment I), which is designed to ensure compliance with the adopted mitigation measures during project implementation.

Mitigation measures were identified and required for four resource areas, including air quality, biological resources, noise, and tribal cultural resources. These mitigation measures include higher Tier engines for construction equipment and tug boats, the use of qualified biological monitors prior to and throughout construction, a variety of noise control activities, and use of a certified archaeologist, should tribal cultural resources be found during construction.

Appeal

Within the ten-day appeal period a total of five appeals were received (Attachment J). Appellants include:

- 1) Jerilyn Mendoza, Coalition for Clean Air;
- 2) Ann Cantrell and Anna Christiansen, Sierra Club Los Cerritos Wetlands Task Force;
- 3) Joe Weinstein, Corliss Lee, and Ann Cantrell, Citizens About Responsible Planning (CARP);
- 4) Andrea Hricko, Concerned Faculty of USC and UCLA; and,
- 5) Jesse Marquez, Coalition for a Safe Environment (CFASE).

Generally, the Appellants assert that: (1) the City approved the MND without consultation from the City's Harbor Department; (2) an environmental impact report is necessary to assess environmental issues including air quality, kelp, marine mammals, birds, fish habitat, noise, and dredge disposal; (3) the baseline is faulty; (4) dredge material contamination level is higher than documented in the MND; (5) proposed mitigation measures are too lenient; (6) the City violated CEQA by segmenting the project; (7) the MND failed to incorporate mitigation measures for potential ship-whale strikes; (8) the MND fails to achieve emission reduction; (9) there is an underestimation of the emission inventories; and, (10) lack of sanctions if mitigation measures are not met.

In accordance with the Guidelines for Implementation of CEQA, the City acted as the lead agency for the preparation of the environmental review of the Project. In its capacity as lead agency, the City prepared a MND assessing the maritime and onshore

improvements in the 20 resource areas and found the impacts of the project would be less than significant with mitigation incorporated. The Planning Bureau staff from the Development Services Department consulted with the Harbor Department in accordance with the CEQA, which included early consultation in determining lead agency, prior to determining the level of environmental review, as well as during the public review of the MND (Government Code Sections 15051, 15063(g), 15073(c)).

From the beginning of the review process for the Project, the City has continually partnered with the Harbor Department to conduct its environmental review of the Project as it includes both maritime and landside changes to accommodate the larger class of cruise ship and improve the safety and customer experience at the Long Beach Cruise Terminal. This consultation included conferring with the Harbor Department's air quality expert to assist in the research and preparation of the IS/MND.

Staff finds each of the appeals of the Project to be without merit because the environmental review and consultation with responsible agencies was conducted in accordance with State CEQA Guidelines (Attachment K). As such, staff recommends that the City Council deny the appeals and uphold the decision of the Planning Commission.

Public hearing notices were distributed on November 19, 2019 in accordance with the requirements of Chapter 21.21 of the Long Beach Municipal Code.

This matter was reviewed by Assistant City Attorney Michael J. Mais and by Budget Analysis Officer Julissa José-Murray on November 20, 2019.

TIMING CONSIDERATIONS

City Council action is requested on December 3, 2019. Section 21.21.504.B of the Zoning Regulations requires a public hearing for an appeal to the City Council to take place within 60 days of receipt of an appeal, the first of which was filed on November 13, 2019.

FISCAL IMPACT

This recommendation has no staffing impact beyond the budgeted scope of duties and is consistent with existing City Council priorities. There is no fiscal or local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



LINDA F. TATUM, FAICP
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:



THOMAS B. MODICA
ACTING CITY MANAGER

ATTACHMENTS: CITY COUNCIL RESOLUTION
ATTACHMENT A – PLANNING COMMISSION STAFF REPORT – NOVEMBER 7, 2019
ATTACHMENT B – LOCATION MAP
ATTACHMENT C – PLANS
ATTACHMENT D – MITIGATED NEGATIVE DECLARATION 08-19 AND COMMENT LETTERS
ATTACHMENT E – TOPICAL RESPONSE TO MND COMMENTS – RECIRCULATION AND EDITS
ATTACHMENT F – CONDITIONS OF APPROVAL
ATTACHMENT G – SITE PLAN REVIEW FINDINGS
ATTACHMENT H – PUBLIC COMMENTS
ATTACHMENT I – MITIGATED MONITORING PROGRAM
ATTACHMENT J – APPEALS
ATTACHMENT K – RESPONSE TO APPEALS

1 RESOLUTION NO.

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH APPROVING AND CERTIFYING THE
5 MITIGATED NEGATIVE DECLARATION (MND-08-19) FOR
6 THE LONG BEACH CRUISE TERMINAL IMPROVEMENT
7 PROJECT IN THE CITY OF LONG BEACH; MAKING
8 CERTAIN CEQA FINDINGS; AND ADOPTING A MITIGATION
9 MONITORING AND REPORTING PROGRAM

10
11 WHEREAS, the City prepared a Draft Initial Study/Mitigated Negative
12 Declaration (MND) for the Long Beach Cruise Terminal Improvement Project ("Project")
13 dated June 2019, which reflected the independent judgment of the City as to the potential
14 environmental impacts of the Project. The Draft Initial Study/ Mitigated Negative
15 Declaration was circulated for public review and comment from June 20, 2019 to July 19,
16 2019, for a 30-day comment period, and thereafter the Mitigated Negative Declaration
17 was recirculated for an additional 30-day public comment period from August 28, 2019 to
18 September 26, 2019; and

19 WHEREAS, on November 7, 2019, the Planning Commission held a
20 properly noticed public hearing on the Project at which time all interested parties had the
21 opportunity to present evidence and be heard regarding those portions of the Project
22 before the Planning Commission. Thereafter, the Planning Commission certified and
23 approved the Mitigated Negative Declaration as being compliant with the California
24 Environmental Quality Act (CEQA), and those portions of the Project before the Planning
25 Commission for consideration were approved. The action of the Planning Commission
26 was subsequently appealed to the City Council for its review and determination; and

27 WHEREAS, on December 3, 2019, the City Council held a properly noticed
28 public hearing on the Appeal and the Project at which time all interested parties had the

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1 opportunity to present evidence and be heard; and

2 WHEREAS, the City has incorporated public comments and revisions, if
3 any, to the Initial Study/Mitigated Negative Declaration as recirculated; and

4 NOW, THEREFORE, the City Council of the City of Long Beach does
5 hereby find, determine and resolve:

6 Section 1. The City Council adopts the Re-Circulated Mitigated Negative
7 Declaration presented to the City Council, after reviewing and considering the information
8 contained in said Mitigated Negative Declaration, and prior to deciding whether to
9 approve the proposed Project. The Mitigated Negative Declaration has been thoroughly
10 reviewed and analyzed by the City's staff, Planning Commission, and the City Council.
11 The draft documents circulated and re-circulated for public review reflect the City's own
12 independent judgment, and the Mitigated Negative Declaration as certified and approved
13 by this Resolution also reflects the independent judgment of the City Council.

14 Section 2. The City Council finds that based on the whole record before
15 it, including the Re-Circulated Mitigated Negative Declaration and any comments
16 received, there is no substantial evidence that the Project, as mitigated, will have a
17 significant effect on the environment.

18 Section 3. That the mitigation measures and the Mitigation Monitoring
19 and Reporting Program ("MMRP") set forth in the MND will mitigate or avoid all significant
20 environmental effects that can feasibly be mitigated or avoided. The City Council hereby
21 adopts the MMRP attached hereto as Exhibit "A," and incorporated herein by this
22 reference as though set forth in full, word for word.

23 Section 4. The City Council has made its decision to adopt, approve, and
24 certify the Mitigated Negative Declaration in light of all the testimony and evidence
25 presented at or prior to the close of the noticed public hearing, including letters, reports,
26 comments, analyses, etc., which the City Council after review and comment by its staff
27 critically reviewed, corrected, and augmented where necessary, as set forth in the record
28 and procedural findings on this Project.

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Section 5. The City Council, in adopting the Mitigated Negative Declaration for this Project, of which these findings are a part, did so through the exercise of their independent judgment and review after finding substantial evidence, in light of the record as a whole, to support the adoption of the Mitigated Negative Declaration.

Section 6. Consistent with Public Resources Code Section 21081.6(a)(2), the documents which constitute the record of proceedings for approving this project and the MND are located in the Development Services Department, Planning Bureau, 411 W. Ocean Blvd., 3rd Floor, Long Beach, CA 90802.

Section 7. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__ by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk



MITIGATION MONITORING AND REPORTING PROGRAM

CEQA requires that when a public agency completes an environmental document which includes measures to mitigate or avoid significant environmental effects, the public agency must adopt a reporting or monitoring plan. This requirement ensures that environmental impacts found to be significant will be mitigated. The reporting or monitoring plan must be designed to ensure compliance during project implementation (*Public Resources Code* Section 21081.6).

In compliance with *Public Resources Code* Section 21081.6, this Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the proposed Long Beach Cruise Terminal Improvement Project. The MMRP is intended to provide verification that all mitigation measures identified in the Recirculated Draft IS/MND prepared for the project are monitored and reported. Monitoring will include 1) verification that each mitigation measure has been implemented; 2) recordation of the actions taken to implement each mitigation; and 3) retention of records in the project file.

This MMRP delineates responsibilities for monitoring the project, but also allows the City of Long Beach flexibility and discretion in determining how best to monitor implementation. Monitoring procedures will vary according to the type of mitigation measure. Adequate monitoring consists of demonstrating that monitoring procedures took place and that mitigation measures were implemented.

Reporting consists of establishing a record that a mitigation measure is being implemented, and generally involves the following steps:

- The City distributes reporting forms to the appropriate entities for verification of compliance.
- Departments/agencies with reporting responsibilities will review the Initial Study, which provides general background information on the reasons for including specified mitigation measures.
- Problems or exceptions to compliance will be addressed to the City as appropriate.
- Periodic meetings may be held during project implementation to report on compliance of mitigation measures.
- Responsible parties provide the City with verification that monitoring has been conducted and ensure, as applicable, that mitigation measures have been implemented. Monitoring compliance may be documented through existing review and approval programs such as field inspection reports and plan review.
- The City prepares a reporting form periodically during the construction phase and an annual report summarizing all project mitigation monitoring efforts.
- Appropriate mitigation measures will be included in construction documents and/or conditions of permits/approvals.

Minor changes to the MMRP, if required, would be made in accordance with CEQA and would be permitted after further review and approval by the City. Such changes could include reassignment of monitoring and reporting responsibilities, plan redesign to make any appropriate improvements, and/or modification, substitution or deletion of mitigation measures subject to conditions described in *CEQA Guidelines* Section 15162. No change will be permitted unless the MMRP continues to satisfy the requirements of *Public Resources Code* Section 21081.6.



LONG BEACH CRUISE TERMINAL IMPROVEMENT PROJECT
Final Initial Study/Mitigated Negative Declaration and Application Summary Report

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MITIGATION MONITORING AND REPORTING CHECKLIST

Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
AIR QUALITY							
AQ-1	<p>Prior to issuance of a Demolition or Grading Permit, the City Engineer shall confirm that the following Best Management Practices (BMPs) are included in the Grading Plan and specifications to reduce construction emissions in accordance with the Port of Long Beach's Air Quality Best Management Practices for Construction Activities:</p> <ul style="list-style-type: none"> • Off-road Engine Tier: Construction terrestrial off-road equipment shall be required to meet final Tier 4 emissions standards. • Electric Dredges: Dredging equipment shall be powered electrically by a shore power connection. • Construction Tug Boat Engine Tier: If appropriately sized and available, tug boats with Tier 3 or higher engines shall be used during construction. At a minimum, all tug boat engines shall meet Tier 2 emissions standards. 	Review of Project Plans and Specifications; Construction Inspections	Prior to Issuance of a Demolition or Grading Permit; During Construction	City of Long Beach City Engineer			
AQ-2	Prior to approval of project plans, the Applicant shall provide proof to the City of Long Beach Development Services of a written commitment from a qualified seller/lessee detailing the purchase or lease of unencumbered Emission Reduction Credits sufficient to reduce the project's	Review of Written Commitment	Prior to Approval of Project Plans	City of Long Beach Development Services			

EXHIBIT "A"



LONG BEACH CRUISE TERMINAL IMPROVEMENT PROJECT
Final Initial Study/Mitigated Negative Declaration and Application Summary Report

Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	construction-related nitrous oxide (NOx) emissions to below the South Coast Air Quality Management District's threshold of 100 pounds per day for the duration of proposed dredging activities.						
BIOLOGICAL RESOURCES							
BIO-1	During pile driving activities, the construction contractor shall utilize a "soft start" initiation of the pile driving equipment to give nearby birds a chance to vacate the immediate construction area before full-force pile driving is initiated. The "soft start" initiation shall consist of an initial set of strikes at reduced energy followed by a one-minute idling period to allow wildlife to move out of the area.	Construction Inspection	During Pile Driving Activities	City of Long Beach City Engineer			
BIO-2	The project applicant shall retain a qualified biological monitor (defined as an individual with the minimum qualifications of a Bachelor of Science Degree or Bachelor of Arts Degree in biology or related environmental science with a demonstrated familiarity with the natural history, habitat affinities, identification of marine species, and other laws and regulations governing the take of marine species and also approved by the City of Long Beach) to be present during all in-water work and pile driving and dredging activities, to verify that marine mammals and green sea turtle (<i>Chelonia mydas</i>) are not present within the construction area. Should marine mammals or green sea turtles be observed, the biological monitor shall have the flexibility and power to exercise Stop Work Authority in determining whether construction activities can continue or halt until the marine animal(s) swim far enough away, as determined by	Review of Project Plans; Construction Inspections	During Plan Check Review; During Construction	City of Long Beach Development Services			

EXHIBIT "A"



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	the biological monitor, from the construction area.						
BIO-3	<p>If ground-disturbing activities or removal of any trees, shrubs, or any other potential nesting habitat are scheduled within the avian nesting season (generally from March 1 through August 31 for passerines and January 1 through August 31 for raptors), a pre-construction clearance survey for nesting birds shall be conducted within three days prior to any ground disturbing activities.</p> <p>The qualified biologist conducting the clearance survey shall document the negative results if no active bird nests are observed on the project site or within the vicinity during the clearance survey with a brief letter report indicating that no impacts to active bird nests would occur before construction can proceed. If an active avian nest is discovered during the pre-construction clearance survey, construction activities shall stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer shall be 500 feet. A biological monitor shall have the flexibility in delineating the boundaries of the buffer area and be present to monitor the active nest to ensure nesting behavior is not adversely affected by construction activities. Results of the pre-construction survey and any subsequent monitoring shall be provided to the California Department of Fish and Wildlife (CDFW) and other appropriate agencies.</p>	Completion of Pre-Construction Nesting Birds Clearance Survey	Within 3 Days Prior to Initiation of Ground Disturbing Activities	City of Long Beach Development Services Department, Project Biologist			
NOISE							
N-1	Prior to issuance of Pile Driving or Dredging Permits, the applicant shall prepare a Construction Noise Control Plan, to the satisfaction of the City of	Review of Project Plans and Specifications;	Prior to Issuance of Pile Driving or Dredging	City of Long Beach City Engineer			

EXHIBIT "A"



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	<p>Long Beach City Engineer, to minimize noise levels at off-site uses during construction activities. The Construction Noise Control Plan shall include:</p> <ul style="list-style-type: none"> • A vibratory hammer (versus a pile driver) shall be used during construction to partially install steel pipe piles, while an impact pile driver will be used to proof the piles and set them to their final depth. Vibratory hammers are frequently employed as a mitigation measure to reduce environmental impacts on aquatic wildlife since they generally produce noise levels 10 to 20 dB lower than impact pile drivers (Buehler et al. 2015). • A qualified marine mammal biological monitor shall be present during dredging and pile driving portions of construction. • Pile driving shall only occur 45 minutes after sunrise to 45 minutes before sunset which allows biological monitors time to complete their pre- and post-construction surveys. • A "soft start" shall be conducted prior to the initiation of full-power pile driving at the beginning of each day or following a 30 minute or longer break in pile driving, to warn any marine mammals to move away from the construction area. This shall involve an initial set of strikes at reduced 	Construction Inspections	Permits; During Construction				

EXHIBIT "A"



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	<p>energy followed by a 1-minute waiting period (to allow wildlife to move out of the area).</p> <ul style="list-style-type: none"> • Bubble curtains shall be implemented in association with pile driving. Use of an air bubble curtain can generally reduce sound pressure levels by 5-10 dB, with higher effectiveness at higher sound levels (Buehler et al. 2015). • Number of piles installed per day shall be limited to five. • Heavy equipment, such as dredges, operating from barges or nearshore shall be idled for 15 minutes prior to full-force power. • Low noise equipment shall be utilized for garage construction where feasible. The contractor shall work to make sure that construction motorized equipment is well tuned, in a state of good repair, and appropriate effective mufflers shall be utilized on all gasoline or diesel-powered construction equipment. 						
TRIBAL CULTURAL RESOURCES							
TCR-1	If evidence of subsurface tribal cultural resources is found during construction, all activity within 50 feet of the find shall cease and the construction contractor shall contact the City of Long Beach Development Services Department. With direction	Construction Inspection	During Construction	City of Long Beach Development Services Department; Project Archaeologist			

EXHIBIT "A"



LONG BEACH CRUISE TERMINAL IMPROVEMENT PROJECT
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Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
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	from the Development Services Department, an archaeologist certified by the County of Los Angeles shall be retained to evaluate the discovery prior to resuming grading in the immediate vicinity of the find. If warranted, the archaeologist shall collect the resource and prepare a technical report describing the results of the investigation. The test-level report shall evaluate the site including discussion of significance (depth, nature, condition, and extent of the resources), final mitigation recommendations, and cost estimates.						

EXHIBIT "A"