

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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49th Day: July 19, 2007
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Staff: Ellen Lirley-SD
Staff Report: August 13, 2007
Hearing Date: September 5 - 7, 2007

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-066

Applicant: City of San Diego Agent: Lubna Arikat/Kerry Santoro

Description: Repair and replacement of various mechanical features within eleven existing components of the Mission Bay Stormwater Intercept System at various locations in the general area of Mission Bay. Eight of the facilities are in Mission Bay itself, and the other three are in the Ocean Beach community along the San Diego River Channel. Repair activities include replacement of several kinds of valves and vault covers and installation of several new valves and flap gates.

Site: Eleven sites along, or near, the shorelines of Mission Bay and the San Diego River Channel, Mission Bay Park and Ocean Beach, San Diego, San Diego County.

Substantive File Documents: Certified Mission Bay Park Master Plan and Ocean Beach Community Plan

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the various repair and replacement activities proposed herein, with a special condition prohibiting construction activities during both the summer beach season and bird nesting season, which typically overlap to some degree. Other potential issues with this type of repair activity would be how sites are accessed and whether there are any sensitive biological resources at the work sites. In this particular application, all sites will be accessed, and motorized equipment operated from, improved public rights-of-way; all in-water work will be done by hand, and there are no biological resources near any of the sites. The work will occur within Mission Bay Park, an area of deferred certification, and within tidal areas of Ocean Beach, such that all eleven sites are within the Coastal Commission's permit jurisdiction, and Chapter 3 of the Coastal Act is the legal standard of review.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-066 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Construction Timing. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval a detailed construction schedule, incorporated into the construction bid documents, identifying the approximate timeframes and sequence of construction for each of the eleven sites. The schedule shall include, at a minimum, the following:

- a. Construction activities shall not occur between Memorial Day Weekend and Labor Day of any year.

- b. No work shall occur during the breeding seasons of any threatened or endangered avian species nesting in the vicinity, including Belding's savannah sparrows, California least terns, and Light-footed clapper rails (breeding seasons span from March through August), unless authorized by the California Department of Fish and Game (DFG) or the U.S. Fish & Wildlife Service (Service).
- c. Each site shall be restored to pre-construction conditions immediately following completion of the repair activities in that area.

The permittee shall undertake the development in accordance with the approved schedule. Any proposed changes to the approved schedule shall be reported to the Executive Director. No changes to the schedule shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City proposes to repair and/or replace various mechanical features within eleven existing components of the Mission Bay Stormwater Intercept System (MBSIS) at various locations in the general area of Mission Bay. The eight facilities in Mission Bay itself are all in the southern part of the bay, with three sites in the Quivira Basin area (Sites V-17, V-19 and V-19A), four sites along the bayshore of south Mission Beach (Sites I-13, V-15, V-32 and V-33), and one site at Perez Cove (Site I-12). The remaining three sites are in the Ocean Beach community, with two along the San Diego River Channel near the end of Bacon Street (Sites V13 and V-14), and one in the West Point Loma Boulevard/Famosa Slough area (Site I-11).

Most of the proposed repair activities are common to most sites, and include removal of tide flex valves, installation of flap gate valves, and installation of new vaults and vault cover hatches or replacement of the same facilities where they already exist, along with minor repairs that vary from site to site. One site (V-33) consists only of installing a new sluice gate valve within an existing vault. Each of the project sites is a storm drain outfall that discharges into the bay or river and upland of each of these outfalls is a vault containing the equipment that diverts the low flows to the sewage system. It is in and around these vaults and outfall discharges that the work will occur. A map identifying the various site locations and a written description of the work at each site are attached as exhibits. The intent of all proposed activities is to upgrade the MBSIS, which was installed in the 1980's, and whose purpose is to divert low stormwater flows to the sewer system, thereby reducing the amount of pollutants and bacteria entering Mission Bay and the San Diego River Channel. No expansion or extension of the facilities at any site is proposed.

The project sites are either within areas of deferred certification in the City's LCP or within the Commission's original jurisdiction area, as some work will occur in the tidal

zone. Thus, the Commission retains permit jurisdiction over proposed development in these areas, and the legal standard of review is Chapter 3 policies of the Coastal Act, with the certified LCP used as guidance.

2. Biological Resources. The following Coastal Act policies related to biological resources are most applicable to the proposed development, and state, in part:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (6) Restoration purposes.
- (7) Nature study, aquaculture, or similar resource dependent activities. ...

Portions of the proposed repair and maintenance activities will occur within the tidal zone, although the applicant is proposing work methods that will minimize or avoid potential adverse impacts to the marine environment. The proposed repair work will involve the use of many vehicles, including a backhoe, a truck-mounted davit crane, a long lift crane, a bob-cat loader, and various flat bed and work trucks. However, all vehicles will be parked and operated from improved rights-of-way, and will not enter the waters of Mission Bay or the San Diego River Channel. Workers will enter the water on foot to conduct the flex valve replacements, and some hand tools and hand-carried pneumatic tools will be used for that work. All work within the marine environment will be conducted only during low tide cycles, when the facilities are most accessible. Since the project will maintain and enhance the performance of the existing low-flow diversion system, implementation of the project will result in a beneficial impact on marine resources.

Eelgrass is an aquatic plant that grows primarily within the first few feet of water along the shoreline, since deeper water does not get enough sunlight for eelgrass to thrive. This marine resource provides food for many bacteria and other micro-organisms, which feed invertebrates, which in turn feed fish. When it dies, eelgrass is washed ashore where it feeds other invertebrates, which then feed shorebirds. Although eelgrass is quite common throughout much of Mission Bay, the applicant has submitted information documenting that there are no eelgrass resources in the immediate vicinity of any of the proposed project sites, which are all stormwater outfalls. Therefore, implementation of the proposed repairs will not result in adverse impacts to eelgrass resources.

In at least one location, sediment will have to be moved in order to reach the facility and conduct the repairs associated with removing the tide flex valves and installing flap gate valves. Over time, sediment has settled in this area, preventing easy access to the site. This movement of materials within coastal waters could be considered dredging/filling pursuant to Section 30233 of the Coastal Act, cited above. However, the proposed activities will have no adverse impact on wetlands, as no wetland resources exist near any of the proposed work sites. Moreover, if wetlands were present, the project would qualify as an allowed use, since it is an incidental public service to conduct maintenance activities on existing outfall lines.

In summary, the project is consistent with Sections 30230 and 30233, since there will be no adverse impacts on marine resources and the project will serve to enhance those resources. In addition, Special Condition #1 prohibits, among other things, work from occurring during sensitive bird species nesting seasons, unless there are no nests present in the vicinity, or authorization is granted by the California Department of Fish and Game and the U.S. Fish and Wildlife service. As conditioned, the Commission finds the proposed development consistent with the cited Coastal Act policies.

3. Water Quality. The following water quality Coastal Act policy is most applicable to the proposed development, and states:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The MBSIS was initially created to address water quality issues in Mission Bay and nearby areas, such as the San Diego River Channel. Prior to installation of the low-flow diverter facilities, large amounts of stormwater/urban runoff entered the bay, carrying with it significant levels of various contaminants generated in upstream urban areas. The MBSIS significantly decreased the quantity of water flowing into the bay during the dryer months of the year, by diverting that water into the City's sewer system for treatment and release several miles out to sea. In addition, it is the dry weather and "first flush" flows that carry the most contaminants; thus, diverting these flows to the sewage system for treatment results in a significant benefit to water quality in Mission Bay, the San Diego River and ultimately the Pacific Ocean

Various components of the MBSIS have been in use for approximately twenty years, and maintenance of those facilities is now required to keep the system operating optimally. Mission Bay Park is used year-round by millions of people, and accommodates many water-contact sports, including swimming, sailing, water-skiing, rowing, etc. Before the MBSIS was in place, large portions of Mission Bay were closed to public use for extended periods due to contamination of the waters. Although some closures still occur, the number has been significantly reduced through operation of the MBSIS. The Commission finds the proposed repair and maintenance activities, as conditioned, are consistent with Section 30231 of the Coastal Act, cited above.

4. Public Access. The following Coastal Act policies related to public access are most applicable to the proposed development, and state:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

As previously mentioned, Mission Bay Park is a highly popular public recreational venue. In addition to the water-contact sports identified in the last finding, the park is used extensively for picnicking, walking, bicycling, playground activities, and similar pursuits. It also contains numerous commercial facilities, including hotels, restaurants, marinas, and the SeaWorld theme park. On weekends year-round, and all day during the summer, roads through the Park, as well as the public parking lots, are heavily used, to the point of congestion, and even gridlock, at times. Construction of the proposed repairs will intermittently impact various areas of Mission Bay Park by adding large construction equipment to the flow of traffic, and accessing the specific sites from streets that serve as major coastal access routes. Therefore, Special Condition #1 prohibits construction activities during the summer months between the Memorial Day weekend and Labor Day of any year.

Although the potential adverse impacts of project construction on public access have been discussed, the project will also result in public access benefits. The MBSIS has significantly improved the water quality of bay waters, and reduced the number of times the water is unsafe for public use. Keeping the system in good condition and fully operational, as this project proposes, will help maintain water quality at a level suitable for water-contact sports. The Commission finds that the special condition will minimize the adverse access impacts, and the water quality aspects will protect, and potentially improve public access overall. Therefore, the Commission finds the proposed development, as conditioned, consistent with the cited Chapter 3 policies of the Coastal Act.

5. Visual Resources. The following Coastal Act policy related to visual resources is most applicable to the proposed development, and states, in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

All of Mission Bay Park, as well as the area along the San Diego River Channel, is scenic, with the visual amenities representing a large part of the popularity of these areas. In this particular case, the facilities to be repaired are underground, and underwater in some instances. Thus, the facilities will be no more visible after the proposed repairs are

implemented than they are at present. However, the construction activities themselves will be visible, and such activities are generally not thought of as scenic. Therefore, Special Condition #1 prohibits construction activities during the summer season, when beach and park use are at their peak. As conditioned, the Commission finds the project consistent with Section 30251 of the Coastal Act, since project implementation will only occur at times when the least number of park guests are present.

6. Local Coastal Planning. Mission Bay Park is primarily unzoned. The Mission Bay Park Master Plan (land use plan) has been certified, but there is no implementation plan as yet. Thus, Mission Bay Park remains an area of deferred certification, where the Coastal Commission retains coastal development permit jurisdiction. Ocean Beach is a certified part of the City of San Diego LCP, with the City issuing coastal development permits for most of the area. However, the particular locations of three proposed project components are within the tidal zone. Thus, these are in the Coastal Commission's original jurisdiction. In both cases, the Coastal Act is the legal standard of review, although the certified LCP is used for guidance.

The proposed development consists of repair and maintenance of the City's stormwater system, and is conditioned to be undertaken in a manner that is most protective of all identified resources. Thus, the proposed development is consistent with the Mission Bay Park Master Plan provision to maintain the intercept system and Ocean Beach Community Plan policy to improve its stormwater/drainage facilities. Moreover, it has been found consistent with all applicable Chapter 3 policies of the Coastal Act. No other local discretionary actions are required as a result of the improvements proposed herein. Therefore, the Commission finds that approval of the project will not prejudice the ability of the City of San Diego to prepare a fully certifiable LCP for its Mission Bay Park segment and continue implementation of most portions of the Ocean Beach segment.

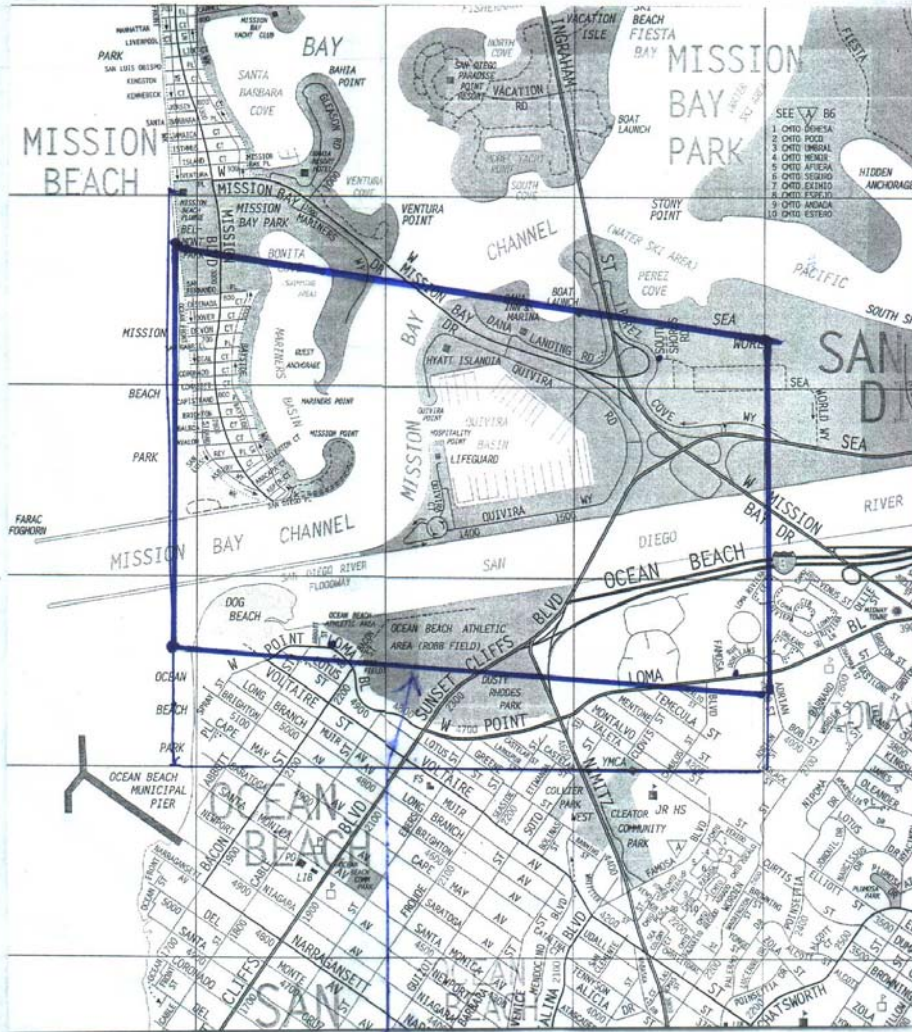
7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including a condition addressing construction timing will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

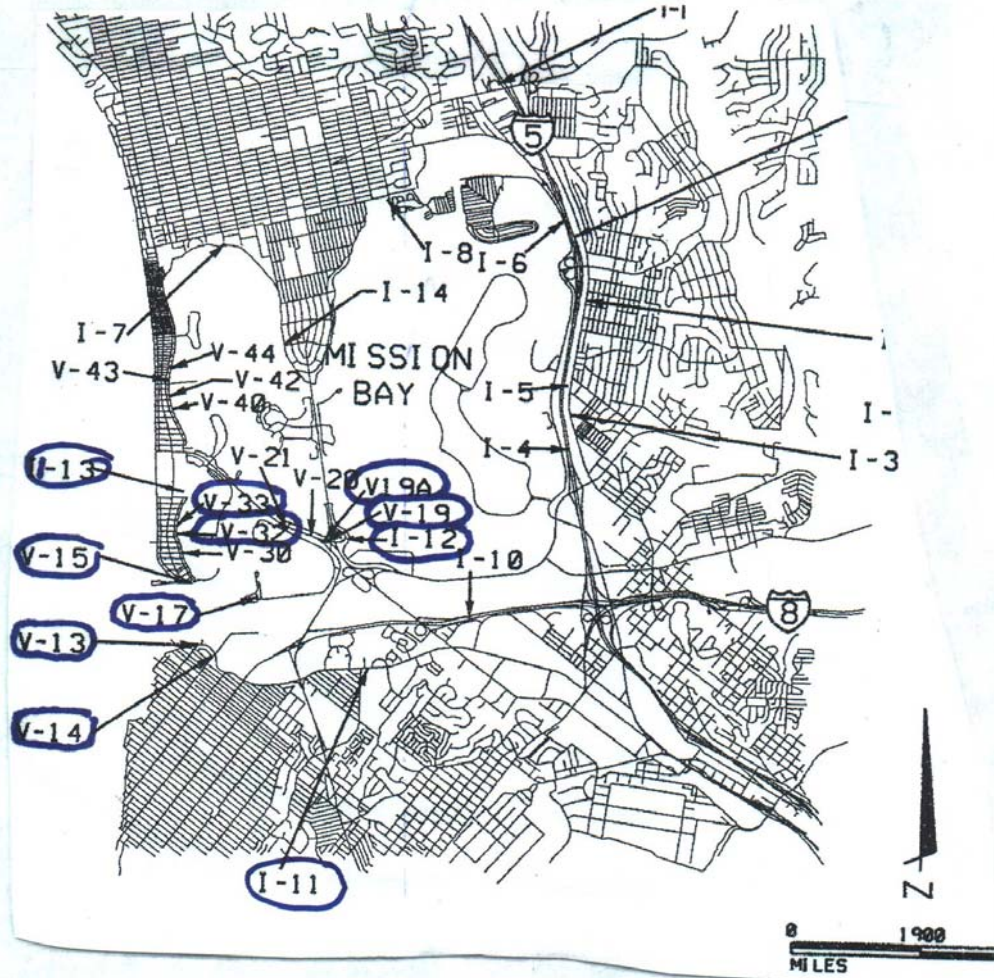
6-07-066



All sites within frame

EXHIBIT NO. 1
APPLICATION NO.
6-07-066
Vicinity Map
 California Coastal Commission

6-07-066





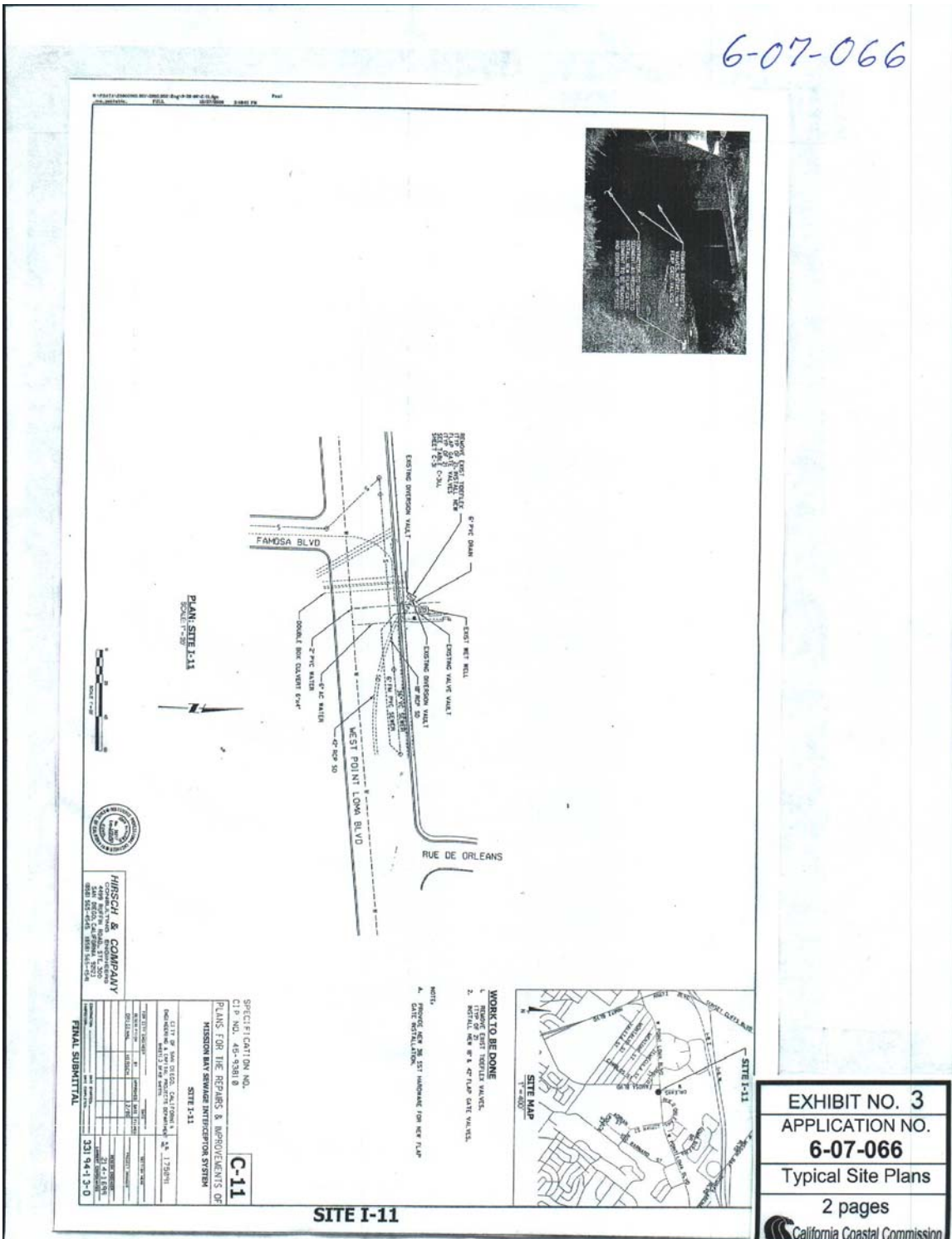
 = Sites in
ccc jurisdiction

EXHIBIT NO. 2
APPLICATION NO.
6-07-066
Locations of Work
 California Coastal Commission

6-07-066



HISCOX & COMPANY
4400 MISSION BLVD., SUITE 200
SAN FRANCISCO, CALIF. 94112
415-774-1100

SPECIFICATION NO. C-11
C.I.P. NO. 45-4-9381 B
PLANS FOR THE REPAIRS & IMPROVEMENTS OF
MISSION BAY SEWAGE INTERCEPTION SYSTEM
SITE I-11

DATE OF PLAN: 11/28/93
DATE OF LAST REVISION: 11/28/93

FINAL SUBMITTAL

EXHIBIT NO. 3
APPLICATION NO.
6-07-066
Typical Site Plans
2 pages

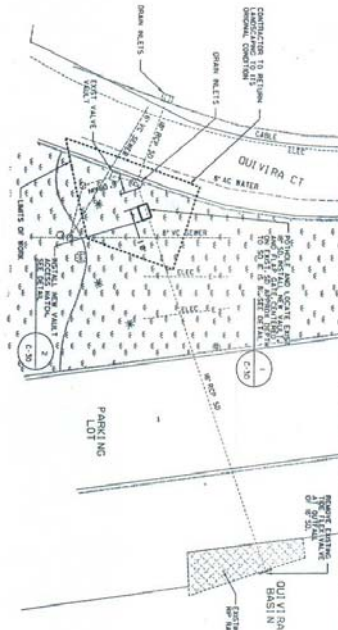
California Coastal Commission

6-07-066



- CONSTRUCTION NOTES:
- 1. CONCRETE REINFORCEMENT TO REMAIN IN PLACE.
 - 2. CONCRETE REINFORCEMENT TO BE REMOVED TO COMPLY WITH THE REQUIREMENTS OF THE PLAN.

PLAN, SITE V-17
SCALE: 1" = 20'



- WORK TO BE DONE
1. REMOVE EXISTING CONCRETE FOOTING AT EXISTING LOCATION.
 2. CONCRETE TO BE REMOVED TO COMPLY WITH THE REQUIREMENTS OF THE PLAN.
 3. VERIFY ALL UTILITIES ARE DEEPER THAN THE PROPOSED FOUNDATION.
 4. REMOVE EXISTING FLOOR SLAB.
- NOTE:
A. PROVIDE 18\"/>



HINSEY & COMPANY, INC.
14481
14481
14481

SHEET PICATION NO. **C-19**
CIP NO. 45-9381 B
PLANS FOR THE REPAIRS & IMPROVEMENTS OF
MISSION BAY SHWAGE INTERCEPTION SYSTEM
SITE V-17

FINAL SUBMITTAL

SITE V-17

6-07-066

Site ID	Jurisdiction	Work Description	Construction Description	Area of Impact
I-11	CA Coastal Commission	The work includes removal of two tide flex valves, installation of new flap gate valves, removal of sediment covering the existing tide flex valves and installation of a new vault cover hatch. The work will be performed near the intersection of West Point Loma Blvd and Farnose Blvd.	The work will be completed using a rubber tired backhoe, truck-mounted davit crane, bob-cat type loader and misc. flat-bed and work trucks. Access will be West Point Loma Blvd.	Approx. 2,000 SF
I-12	CA Coastal Commission	The work includes removal of the tide flex valve within the tidal zone in Perez Cove, installation of a new flap gate valve and vault, and replacement of a valve vault cover hatch. The work will be performed in the employee parking lot at Sea World.	The work will be completed using a rubber tired backhoe, asphalt saw, truck-mounted davit crane, bob-cat type loader and misc. flat-bed and work trucks. Access will be the Sea World parking lot.	Approx. 3,000 SF
I-13	CA Coastal Commission	The work includes removal of the tide flex valve within the tidal zone in Mission Bay (opposite Belmont Park), installation of a new flap gate valve and vault, and replacement of a valve vault cover lifting device. The work will be performed at the end of San Fernando Place.	The work will be completed using a rubber tired backhoe, concrete breaker, truck-mounted davit crane, bob-cat type loader and misc. flat-bed and work trucks. Access to will be San Fernando Place.	Approx. 2,000 SF
V-13 & 14	CA Coastal Commission	The work includes removal of the tide flex valves within the tidal zone adjacent to the San Diego River and installation of new flap gate valves mounted on the existing headwall. The work will be performed at the end of Bacon Street.	The work will be completed using a truck-mounted davit crane, bob-cat type loader and misc. flat-bed and work trucks. Access to will be Bacon Street.	Approx. 1,000 SF
V-15	CA Coastal Commission	The work includes removal of a tide flex valve within the tidal zone in the San Diego River and installation of a new flap gate valve mounted on the existing storm drain pipe. The work will be performed at the end of Mission Blvd.	The work will be completed using a long lift crane, bob-cat type loader and misc. flat-bed and work trucks. Access to will be Mission Blvd.	Approx. 1,000 SF
V-17	CA Coastal Commission	The work includes removal of the tide flex valve within the tidal zone in Quivira Basin and installation of a new flap gate valve and vault. The work will be performed adjacent to the parking lot in Quivira Basin.	The work will be completed using a rubber tired backhoe, long lift crane, bob-cat type loader and misc. flat-bed and work trucks. Access to will be Quivira Court.	Approx. 3,000 SF
V-19	CA Coastal Commission	The work includes removal of the tide flex valve within the tidal zone in Quivira Basin, installation of a new flap gate valve and vault, and replacement of a valve vault at an existing motorized valve. The work will be performed along Quivira Road.	The work will be completed using a rubber tired backhoe, asphalt saw, truck-mounted davit crane and long lift crane, bob-cat type loader and misc. flat-bed and work trucks. Access will be along Quivira Road.	Approx. 3,000 SF
V-19A	CA Coastal Commission	See V-19 Above		
V-32	CA Coastal Commission	Remove existing tide flex valve and vault, install new vault with flap gate valve and incidental concrete work. The work will be performed within the sand opposite Bayside walk at the extension of Cohasset Ct.	The work will be completed using a rubber tired backhoe, concrete breaker, truck-mounted davit crane, bob-cat type loader and misc. flat-bed and work trucks. Access will be along the sand from the southerly end of Mission Blvd and from Bayside Lane.	Approx. 2,000 SF
V-33	CA Coastal Commission	Install new sluice gate valve with an existing vault. The work will be performed in the sand opposite Bayside Walk at the extension of Deal Ct.	The work will be completed using a truck-mounted davit crane and misc. flat-bed and work trucks. Access will be along the sand from the southerly end of Mission Blvd and from Bayside Lane.	Approx. 2,000 SF

Note:
All work on flap valve replacements will be performed manually with hand tools and/or hand carried pneumatic powered tools during low tide cycles. Any mechanized equipment needed to assist with the removal/replacement will remain within improved right of way areas, such as cranes and compressors. As a result, there will be no impacts to wetlands or environmentally sensitive habitat areas.

EXHIBIT NO. 4
APPLICATION NO.
6-07-066
Description of Work

