

CALIFORNIA COASTAL COMMISSION

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Th24a

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 Staff: Toni Ross-SD
 Staff Report: December 20, 2007
 Hearing Date: January 9-11, 2007

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-078

Applicant: California Department of Transportation Agent: Bruce April

Description: Conduct geotechnical studies (test borings) to evaluate subsoil conditions along Interstate 5 (I-5) near San Dieguito and San Elijo Lagoons.

Site: Various locations adjacent to the east- and west-bound lanes of Interstate 5 near San Elijo and San Dieguito Lagoons, Solana Beach & San Diego, San Diego County.

Substantive File Documents: Certified City of San Diego Local Coastal Program; California Department of Transportation biological memorandums dated January 22, 2007 and March 14, 2007.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project with conditions. Caltrans is proposing to conduct a geotechnical study within their Right-of-Way at locations east and west of Interstate 5 between San Elijo and San Dieguito Lagoons. Concerns raised include impacts to sensitive habitat associated with access for the project and possible unforeseen impacts to wetland and upland habitats due to spillage of drilling fluids. A further possible impact includes noise disturbance to nesting birds during drilling operations. These impacts are not likely but must be addressed due to the sensitivity of the surrounding habitat. Special conditions regarding seasonal restrictions on work, pre- and post-construction biological surveys and revegetation are recommended. As conditioned, all potential adverse impacts on coastal resources are addressed to assure consistency of the development with Chapter 3 policies of the Coastal Act.

Standard of Review: Chapter 3 policies of the Coastal Act

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-078 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. Project Modifications. Only that work specifically described in this permit is authorized. Any additional work requires separate authorization from the Executive Director. **If, during construction, site conditions warrant changes to the project (i.e. access issues), the San Diego District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field.** No changes to the project shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Construction Schedule. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for

review and written approval a final construction schedule identifying the project start and stop dates. The schedule shall include the following:

a. Shorebird Breeding Season:

1. The schedule shall indicate that work will not occur during the shore bird breeding season, between February 15th and August 31st in any year.
2. If, however, it is determines that work is required during the breeding season, the applicant must obtain specific documented approval with justifiable reasoning from the California Department of Fish and Game and/or US Fish and Wildlife Service stating that such work will not disturb sensitive species.

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

3. Construction Impacts/Restoration. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the existing condition of the wetland and upland vegetation within the project limits shall be documented. Within 30 days following completion of the geotechnical borings approved herein, the applicant shall submit to the Executive Director for review and written approval the post-construction survey required in Subsection (a) below. If, based on the post-construction survey, no impacts to wetlands or native upland vegetation have occurred; nothing further is required through this condition. If temporary impacts to wetlands and/or uplands are identified, the post-construction survey shall also include a detailed revegetation plan indicating the type, size, and extent of the plant materials that will be planted, any irrigation system needed and other landscape features required to revegetate the inadvertent temporary wetland and/or upland impacts. Implementation of the approved revegetation plan shall occur within 60 days of the Executive Director's approval of the plan or within such additional time as the Executive Director may grant for good cause. The detailed revegetation plan shall be developed in consultation with the California Department of Fish and Game and shall at a minimum include the following components:

- a. Post-Construction Survey. The extent of impacts to the vegetation and substrate shall be assessed and documented after completion of the project to determine actual impacts. Temporary wetland impacts shall be revegetated at a 1:1 ratio. If the post construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts. Mitigation shall be provided for any identified permanent wetland impacts at a ratio of not less than 4:1.
- b. Temporary upland impacts shall be revegetated at a 1:1 ratio. Drought tolerant native plants, obtained from local stock, if available, shall be utilized to re-establish

the area consistent with its present character. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.

c. The following goals, objectives, and performance standards for the restoration sites:

1. Full restoration of all wetland impacts that are identified as temporary. Restoration of temporarily impacted areas shall include at a minimum, restoration of before-impact elevations, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland plant species.
2. Success criteria and final performance monitoring shall provide at least a 90% coverage of areas disturbed by construction activities within 1 year of completion of construction activities.
3. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards.
4. Submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the restoration sites have been established in accordance with the approved design and construction methods.

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

4. Construction Best Management Practices. The applicant shall comply with the following construction-related requirements:

a. Construction-Related Requirements:

1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;

2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 4. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- b. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:
1. The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
 2. The applicant shall develop and implement spill prevention and control measures;
 3. The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems; and
 4. The applicant shall provide adequate disposal facilities for solid waste produced during construction.
5. Drilling Fluid Monitoring and Spill Contingency Plan.
- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for Executive Director approval a project-specific geotechnical boring Fluid Monitoring and Spill Contingency Plan that includes: (a) an estimate of a reasonable worst case release of drilling fluids into San Elijo and San Dieguito Lagoons caused by project operations; (b) a clear protocol for monitoring and minimizing the use of drilling fluids during geotechnical boring

operations, including criteria for identifying an unanticipated drilling fluid release and proposed fracture sealants; (c) a response and clean-up plan in the event of a spill or accidental discharge of drilling fluids; (d) a list of all clean-up equipment that will be maintained on-site; (e) the designation of the onsite person who will have responsibility for implementing the plan; (f) a telephone contact list of all regulatory and public trustee agencies having authority over the development and/or the project site and its resources to be notified in the event of a spill or material release; and (g) a list of all fluids, additives, and sealants that will be used or might be used, together with Material Safety Data Sheets for each of these materials.

- B. In the event that a spill or accidental discharge of drilling fluids occurs during geotechnical boring operations, all construction shall cease and shall not recommence except as provided in subsection (C) below:
- C. Following discovery of the spill or accidental discharge of drilling fluids, the permittee shall submit to the Executive Director a revised project and restoration plan prepared by qualified professional(s) that provides for: (1) necessary revisions to the proposed project to avoid further spill or accidental discharge of drilling fluids; and (2) restoration of the area(s) affected by the spill or accidental discharge to pre-project conditions. The revised project and restoration plan shall be consistent with any applicable requirements of the USFWS, DFG and/or SDRWQCB. The revised project and restoration plan shall be processed as an amendment to the coastal development permit. Construction may not recommence until after an amendment to this permit is approved by the Commission, unless the Executive Director determines that no amendment is legally required.

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

6. Other Permits. **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**, the permittee shall provide to the Executive Director, copies of all other required state or federal discretionary permits for the development authorized by CDP #6-07-078. The applicant shall inform the Executive Director of any changes to the project required by other state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement.

A) By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from “frac-outs” and flooding; (ii) to assume the risks to

the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

8. Staging and Storage Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, detailed plans incorporated into the construction bid documents for the location of staging areas and of access corridors to the construction sites. The plans shall include, at a minimum, the following:

- a. No storage of equipment, construction materials, or excavated materials shall occur within wetlands or native vegetation areas. Any stockpiles of graded spoils shall be located away from drainage courses, covered at all times, and contained with runoff control measures, until exported from the site to a City of San Diego landfill.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans 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 California Department of Transportation (CalTrans) is proposing to conduct geotechnical investigations to evaluate subsurface conditions within the existing Right-of-Way of Interstate 5 (I-5) between the San Elijo and San Dieguito Lagoon crossings. The information obtained will be used for evaluating alternative retaining wall designs for the larger North Coast Interstate 5 Corridor Project; however this permit only consists of the geotechnical boring component, and by no means suggests the approval of the I-5 expansion project.

A coastal development permit is required for the proposed geotechnical boring because the work will occur within wetlands and native upland areas will be impacted to gain access to the boring sites. There are additional drilling sites in the received project proposal located along the I-5 corridor. However, those boring sites will occur and be accessed primarily along existing roads, and will not result in any impacts to wetlands or native upland habitat and are thus exempt from coastal development permit requirements.

Two procedures will be used to evaluate the subsurface soil conditions 1) the Mud Rotary (MR) method and 2) Cone Penetration Test (CPT). The MR uses a self-contained mud circuit consisting of a mud tub at the surface and a mud pump. Wet mud (bentonite) is pumped through the center of a hollow drill rod sunk to a maximum of 200 feet. The mud is expelled through ports in the drill bit and is used to cool the bit and carry drill cuttings back up to the surface to the mud tub. The cuttings settle out in the mud tub and are collected in 55-gallon drums for disposal offsite. The 4.25-inch diameter hole will be backfilled with bentonite slurry. Each of the MR boring locations may require a maximum of 19.7 cubic feet of bentonite backfill.

The CPT consists of pushing the cylindrical steel probe into the ground at a constant rate of 0.79-inch/sec while measuring the resistance to penetration until maximum tip pressure is reached not to exceed a maximum depth of 150 feet. The cone penetrometer has a conical tip, a 1.4-inch diameter body and a 23.25-inch long friction sleeve. The CPT is considered an in-situ test in which the cone displaces the subsurface soils so there is no soil brought to the surface for disposal offsite. The 1.5-inch diameter hole would collapse into itself so there would not be any backfill material required. In cases where the hole does not close completely, dry bentonite grains would be used as backfill. If necessary, each of the CPT locations may require a maximum of 1.6 cubic feet of bentonite backfill.

Caltrans conducted brief biological surveys to determine the vegetation and wildlife located within and adjacent to the proposed geotechnical drillings. These surveys indicated that some disturbed habitat occurs in adjacent areas and as such small amounts of temporary impacts are proposed in association with the project. These temporary impacts will result from the grading/trampling of vegetation for access to drilling sites. The drilling locations will be accessed from existing roads and areas within the existing Right-of-Way and not from the freeway, therefore no impacts to public access will result from this project.

2. Project Locations.

West of Interstate 5/Southbound Via de la Valle Onramp.

Access at this site is proposed from the west side of I-5 from the southbound onramp to I-5 from Via de la Valle (ref. Exhibit #1, 2 attached). Access to the test locations will be by minor grading of a temporary 10-foot wide access road down the I-5 slope. At the base of the slope and within the wetland habitat area, no grading will be required; the access would be creating by driving over and crushing the vegetation or by chain and

mowing the vegetation to ground level and allowing the roots to remain and sprout. Further the applicant has also proposed to place matting on all sensitive vegetation that will be driven over to minimize impacts.

The access road for this project will disturb .04 acres of disturbed Coastal Sage Scrub on the slope and about .24 acres of disturbed coastal brackish marsh located at the base of the slope. As proposed, the area would be seeded with a native seed mix after borings/drilling have been completed. Four MR borings and 6 CPT's would be conducted on this site, needing a maximum of 88.4 cubic feet of Bentonite as backfill.

East of Interstate 5/ South San Elijo Lagoon.

Access to this location would be by an unpaved sewer easement maintenance road accessed from Santa Inez Drive in Solana Beach (ref. Exhibit #3, 4 attached). Two MR borings and one CPT would be drilled within and/or immediately adjacent to the maintenance road needing a maximum of 41.0 cubic feet of bentonite backfill.

To avoid impacting the sewer line within the road, the borings would be taken at the edge of the road or within a few feet of the road. If it is necessary to bore off the road, small areas of coastal sage scrub (30 square inches in total) may be affected. The federally threatened California coastal gnatcatcher has been observed in the vegetation adjacent to the site.

3. Water Quality & Marine Resources. Sections 30230, 30231, 30232 and 30240 of the Coastal Act apply to the proposal 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 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.

Section 30232

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The first geotechnical boring site on the west side of I-5 (ref. Exhibit #1, 2) contains coastal sage scrub, coastal brackish marsh and wetland species. Grading would be required in the coastal sage scrub area for access, however no grading is proposed within the marsh or wetland areas. As discussed above, mats would be laid over the marsh and wetland vegetation and then driven directly over. While some trampling may result from these actions; the impacts to marsh and wetland species can be considered temporary. The second site located on the eastern side of I-5 (ref. Exhibit #3, 4) also contains coastal sage scrub. The project as proposed would conduct the borings within the existing unpaved and un-vegetated maintenance road. However, the sewer line is located below this maintenance road, so it may become necessary to place the borings directly adjacent to the road and within the coastal sage scrub habitat. There are three major concerns associated with the proposed project; the trampling and removal of vegetation, the accidental spilling or leakage of drilling fluid into sensitive habitat and the disruption of protected avian species nesting in the surrounding habitat. The project sites are located in areas that contain sensitive habitat.

The leakage of hydraulic fluids through old hoses or machinery can occur when equipment is poorly maintained. The introduction of any fuels, oils, hydraulic fluids, etc. could be potentially harmful to the inhabitants of the sensitive habitat if not properly managed during field work. Further, if any of the bentonite backfill used during the MR boring process accidentally leaked from either the equipment or through fractures in the substrate, subsequent smothering of habitat may result. The likeliness of either a vertical fracture or of equipment leakage is slim; however, due to the sensitivity of the surrounding habitat protection measures in addition to those proposed as part of this application are necessary. As such, two special conditions are recommended to better protect the existing habitat and wildlife. Special Condition #5 requires the applicant to submit for the Executive Director's approval a Drilling Fluid Monitoring and Spill Contingency Plan. This plan will be required to include standards for response and

cleanup efforts should a spill during drilling or by equipment occur. This plan will provide the applicant detailed procedures for cleaning up any spills as quickly and as thoroughly as possible, thereby protecting the surrounding native vegetation. Further, Special Condition #4 requires the applicant to comply with construction phase Best Management Practices, to ensure that the quality of habitat at all project locations will be maintained throughout the project. Therefore, as conditioned, the project is consistent with all applicable policies of the Coastal Act relative to protection of water quality.

The second major concern involves impacts to native habitat associated with gaining access to boring sites and during the boring efforts themselves. As proposed, work at both sites may potentially result in impacts to native vegetation. The first site, located on the west side of Interstate 5, north of San Dieguito Lagoon and adjacent to the southbound onramp for Via de la Valle will result in impacts to .04 acres of disturbed Coastal Sage Scrub on the slope and about .24 acres of disturbed coastal brackish marsh located at the base of the slope. The Commission's staff ecologist has been to the project sites and agrees with the applicant that the impacts associated with accessing these sites would be considered temporary and not permanent impacts. As proposed, the area impacted would be seeded with a native seed mix after borings/drilling have been completed. The second site, located on the east side on I-5 and south of San Elijo Lagoon may result in impacts to small areas of coastal sage scrub (30 square inches in total) if site conditions are such that it is necessary to bore off the road and in the habitat area.

Because of these potential impacts, there are additional measures necessary to protect sensitive habitat. Special Condition #3 requires the applicant to submit a detailed revegetation plan indicating the type, size, extent and location of all plant materials used for revegetation. Special Condition #3 also requires the applicant to conduct both pre- and post-construction vegetation surveys to document the existing habitat and conditions before and after the proposed geotechnical surveys; should any impacts result from the proposed project, Special Condition #3 also requires the applicant to restore any wetland/upland habitats at the appropriate ratios, and requires the applicant to monitor the restored habitat after one year to ensure that all impacted vegetation has been adequately re-established. This condition also requires that if any permanent wetland impacts occur, an amendment to this permit will be necessary and mitigation or not less than 4:1 will be required. Special Condition #8 requires the applicant to stage all equipment in areas that do not contain wetlands or native vegetation. Further, Special Condition #1 requires that only the work specifically described in this permit is authorized and that any additional work requires separate authorization from the Executive Director. Therefore, if site conditions require modifications to the access paths, drilling sites, etc. the Executive Director will be notified prior to these modifications being made in the field. As conditioned, the project will be required to survey, monitor and revegetate all native habitats that may be impacted by the geotechnical drilling project, and only as such, can this project be found consistent with the Chapter 3 policies of the Coastal Act.

The third major concern is the potential disturbance to any nearby nesting bird species. Both project sites are located in close proximity to areas where protected bird species are

known to inhabit. The applicant has documented sightings of protected shore birds at both locations. At the first geotechnical boring site (ref. Exhibit #1, 2) coastal California gnatcatchers have been sited within the coastal sage scrub. Further the marsh below the utility road may provide habitat for federally- and state-listed endangered light footed clapper rail and the Belding's savannah sparrow. Gnatcatchers have also been observed in coastal sage scrub adjacent to the utility road at the second (ref. Exhibit #3, 4) of the proposed boring locations. The applicant has proposed to avoid all direct impacts to avian species by scheduling the geotechnical borings outside their breeding season. As such, to document this proposal, Special Condition #2 requires the applicant to complete all geotechnical drilling activities outside the broadly accepted avian breeding season starting February 15th and ending August 31st. However, if the applicant is required to work during the breeding season, Special Condition #2 requires the applicant to obtain written permission from the Wildlife Agencies prior to modifying the project schedule.

A further condition, Special Condition #6, requires the applicant to submit all other necessary permits to the Coastal Commission prior to issuance of permit. Due to the inherent risk of geotechnical drilling adjacent to low-lying sensitive habitat, Special Condition #7 requires the applicant to waive liability and indemnify the Commission against damages that might result from the proposed geotechnical borings. The risks of the proposed development include impacts to sensitive habitat and wildlife resulting from the geotechnical borings and accessing the site. Although the Commission has sought to minimize these risks, the risks cannot be eliminated entirely. Given that the applicant has chosen to conduct the geotechnical borings despite these risks, the applicant must assume the risks.

In conclusion, as conditioned, the potential impacts associated with the proposed project will be minimized. Special conditions regarding accidental spill of drilling mud, restoration of any impacted habitat and restriction of work outside the breeding season will protect the sensitive resources located within and adjacent to the project sites.

4. Public Access. Portions of the project are located between the first public road and the sea therefore the Commission must make a specific finding that the development is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act. Pub. Res. Code Section 30604(c).

Section 30210

...maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs.

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.

The proposed project will be maintained within the existing Caltrans right-of-way. As such no impacts to public access including public access trails, use of Interstate 5, or general access to the beach will be impacted by this project. Therefore, the proposed project is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The project will occur within 2 jurisdictions; the City of San Diego and the City of Solana Beach. While the project site west of I-5 and south of Via De La Valle is within the City of San Diego, which has a certified LCP, the work will occur entirely within Caltrans right-of-way, which is excluded from the City's LCP. The second project site will occur within the City of Solana Beach, which has not yet obtained a certified local coastal program. As such, all the proposed work is contained within the Coastal Commission's jurisdiction and the Chapter 3 policies of the Coastal Act remain the standard for review. Previous findings have demonstrated that the project, as conditioned, is consistent with all cited Coastal Act policies. Therefore, the Commission finds that approval of the project will not prejudice the ability of the City of Solana Beach to obtain a fully certified LCO or the City of San Diego to continue to implement its fully certified LCP.

6. 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 conditions requiring a Spill Contingency Plan and restricting work during breeding season 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.



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1187

SEE 1167 MAP

SEE 1188 MAP

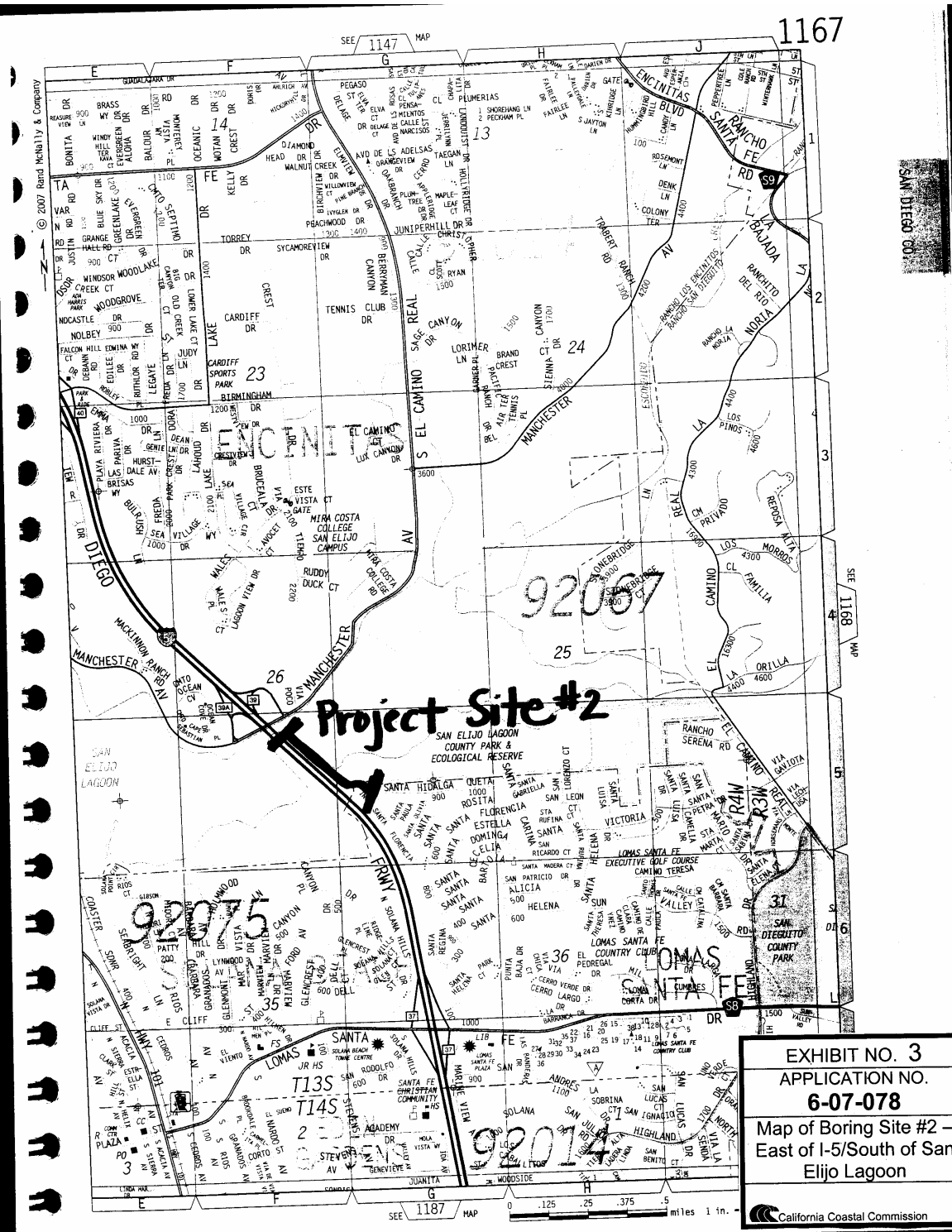
SEE 1207 MAP

0 .125 .25 .375 .5 miles 1 in. =



Figure 3. Vegetation Communities, Boring Locations and Access

EXHIBIT NO. 2
APPLICATION NO.
6-07-078
Aerial of Site #1 –West of I-5/Southbound Via de la Valle Onramp
California Coastal Commission



1167

SAN DIEGO CO.

SEE 1168 MAP

Project Site #2

SAN ELIJO LAGOON COUNTY PARK & ECOLOGICAL RESERVE

EXHIBIT NO. 3
APPLICATION NO.

6-07-078

Map of Boring Site #2 -
East of I-5/South of San
Elijo Lagoon

California Coastal Commission



Figure 3. Vegetation Communities, Sensitive Species, and Boring Locations Adjacent to San Elijo Lagoon

- Boring
- * Core Penetration Test
- BG
- CAM
- CBM(D)
- CSS
- CSS(D)
- DEV
- DH
- FMM
- MF
- NNG
- NNW
- ORN
- OV
- SM
- SWS
- SWS(D)
- Light-footed clapper rail
- Bendir's savannah sparrow
- ▲ California grackle

EXHIBIT NO. 4
APPLICATION NO.
6-07-078
Aerial of Site #2 - East of I-5/South of San Elijo Lagoon
California Coastal Commission