

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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TH8d

Addendum

February 29, 2008

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item 8d**, Coastal Commission Permit Application **#6-07-092 (Carlsbad Sewer Rehabilitation)**, for the Commission Meeting of March 6, 2008.

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 4 of the staff report, Special Condition #4 shall be corrected as follows:

4. Construction Best Management Practices. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director for review and written approval, a final Storm Water Pollution Prevention Plan (SWPPP) that has been ~~submitted to approved by~~ the San Diego Regional Water Quality Control Board. The SWPPP shall be in substantial conformance with the Storm Water Pollution Prevention Requirements submitted by the City of Carlsbad and dated June 2007. In addition, the SWPPP shall comply with the following construction-related requirements:

2. On Page 7 of the staff report, Special Condition #6 shall be corrected as follows:

6. Spill Contingency/Accidental Discharge. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director for review and written approval, a final, site specific, Spill Contingency Plan that includes, at a minimum, the following requirements:

- a. In the event that a spill or accidental discharge of drilling fluids occurs during drilling operations, all construction shall cease and shall not recommence except as provided below:
- b. Following discovery of the spill or accidental discharge of drilling fluids, the applicant shall immediately implement the above stated Spill Contingency Plan. No work shall continue until all spilled fluids have been contained and/or removed and measures taken to prevent a recurrence consistent with the approved

contingency plan. If the spill or accidental discharge results in a change to the approved project description or to the scope of the impacts to resources, 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 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 US Fish and Wildlife Services (USFWS), California Department of Fish and Game (DFG) and/or San Diego Regional Water Quality Control Board (SDRWQCB). The revised project and restoration plan shall be processed as an amendment to the coastal development permit. The micro-tunneling test borings 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.

3. On Page 8 of the staff report, immediately following Special Condition #8, Special Condition #9 shall be added as follows:

9. As-Built Plans. Within 90 days following completion of the project, the permittee shall submit as-built plans to be reviewed and approved in writing by the Executive Director documenting that the sewer-line was constructed consistent with the Executive Director approved Construction, Landscaping/Re-Planting and Staging/Storage Area plans detailed in Special Conditions #1, 3, 8.

CALIFORNIA COASTAL COMMISSION

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Filed: November 6, 2007
 49th Day: December 25, 2007
 180th Day: May 4, 2008
 Staff: Toni Ross-SD
 Staff Report: February 14, 2008
 Hearing Date: March 5-7, 2008

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-092

Applicant: City of Carlsbad

Agent: Mark Biskup

Description: The project involves relocating and rehabilitating an existing sewer pipeline which has reached its useful life. New sewer pipeline will be installed by utilizing 1,821 lineal feet of micro-tunneling technique and approximately 436 lineal feet of conventional open trench construction. Additionally, 11 access holes will be constructed in the new pipeline alignment and 4 existing access holes will be rehabilitated. A portion of the existing pipe will remain and be abandoned in place.

Site: North shore of Agua Hedionda between Cove Dr. and Hoover St., Agua Hedionda, Carlsbad (San Diego County)

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the project with several special conditions. The project includes relocation and rehabilitation of an outdated and deteriorating sewer line adjacent to Agua Hedionda Lagoon that has become undermined and subject to failure in several areas. The new sewer line will be installed using micro-tunneling in areas of sensitive habitat and trenching in non-sensitive areas. As proposed, the project will result in no impacts to ESHA or wetlands. The primary concerns raised for this project include impacts to marine resources and water quality resulting from potential vertical fractures ("frac-outs") which may occur while drilling, as well as any unforeseen vegetation impacts resulting from construction access and activities. A further possible impact includes noise disturbance to nesting birds during drilling and construction operations. Further, because this project will be contracted after permit approval; plans for construction timing, Storm Water Pollution Prevention Plan, Spill Contingency Plan, and staging areas have not been finalized. Staff is recommending that the Coastal Commission approve a coastal development permit for this development with special conditions including submittal of the above stated final plans for Executive Director approval, seasonal restrictions on work, post-construction biological surveys and revegetation for all impacts. 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.

Substantive File Documents: Agua Hedionda Land Use Plan; Geotechnical Investigation Microtunneling Access Shafts prepared by Terra Costa Consulting Group dated July 9, 2007; Biological Assessment for North Agua Hedionda Interceptor Western Segment Sewer Maintenance prepared by Dudek, dated May, 2004; Biological Resources Letter Report prepared by Dudek, dated May 2007; Final Mitigated Negative Declaration prepared by Dudek, dated July 2007; City of Carlsbad North Agua Hedionda Interceptor Sewer Replacement Project Guidelines Sections 02203, 02140, 01560, 01016 and 13610 dated June, 2007.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-092 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. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final construction plans for the permitted development. Said plans shall be in substantial conformance with the plans submitted by Dudek and Associates, dated July 27, 2007.

The permittee shall undertake the 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 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.

2. Post Construction Survey. The existing condition of the upland vegetation on the subject site has been documented. The extent of impacts to the vegetation shall be assessed and documented in a post-construction survey 90 days after the completion of the project to determine actual impacts. If no impacts have occurred, no mitigation will be necessary. This condition will allow for the potential of natural restoration of any unforeseen temporary impacts. Mitigation measures will be necessary if any impacts are detected by the 90-day post-construction survey.

- a. If the 90-day post-construction survey identifies that temporary impacts remain, the area 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.
- b. If the 90-day post-construction survey identifies that permanent upland impacts have occurred, a permit amendment is required to address the identified impacts.
- c. The following goals, objectives, and performance standards shall apply to any necessary restoration:
 1. Full restoration of all upland impacts that are identified as temporary, beyond the 90 day self-recovery period. Restoration of temporarily impacted areas shall include, at a minimum, removal of all non-native plant species, and replanting with locally collected native 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 initial restoration work, of post-restoration plans demonstrating that the revegetated areas have been established in accordance with the approved design and construction methods.
 5. A survey taken 1 year after revegetation identifying the quantity and quality of the restored plants. If the survey demonstrates the revegetation has been unsuccessful, in part or in whole, the survey shall include a plan for remediation and further surveys / reports until the site(s) are fully restored.
- d. All surveys, reports or other documentation of the post-construction impacts shall be submitted to the San Diego office of the Coastal Commission within 30 days of completion.

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

3. Landscaping/Re-Planting Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, final landscaping plans for planting all areas impacted by microtunneling, trench digging, staging areas, maintenance road, unanticipated impacts, etc. in consultation with the California Department of Fish and Game and/or the U. S. Fish & Wildlife Service. The plan shall include the following:

- a. A plan showing the type, size, extent and location of all plant materials used. The landscape palate shall include the use of drought-tolerant, native and non-invasive species, which are obtained from local stock, if available. Only species typical of coastal sage habitats shall be utilized, such that the vegetation will be compatible with surrounding natural areas. 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.
- b. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

- c. A planting schedule that indicates that the planting plan shall be implemented within 60 days of the post construction survey.
- d. A written commitment by the applicant that all required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.
- e. Five years from the date of issuance of the coastal development permit, the applicant shall submit a landscape monitoring report for review and written approval of the Executive Director. The report shall be prepared by a licensed Landscape Architect or qualified Resource Specialist, and certify that the on-site landscaping is in conformance with the landscape/planting plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved planting plans. Any proposed changes to the approved planting plans shall be reported to the Executive Director. No changes to the planting 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. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director for review and written approval, a final Storm Water Pollution Prevention Plan (SWPPP) that has been approved by the San Diego Regional Water Quality Control Board. The SWPPP shall be in substantial conformance with the Storm Water Pollution Prevention Requirements submitted by the City of Carlsbad and dated June 2007. In addition, the SWPPP shall comply with the following 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. Adequate disposal facilities for waste materials produced during construction shall be provided;
5. 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;
6. Measures shall address 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, which shall be located as far away from the receiving waters and storm drain inlets as possible;
7. Spill prevention and control measures shall be developed and implemented;
8. Equipment and machinery shall be maintained, refueled and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
9. Equipment and machinery that is not in use shall be stored off the beach;
10. Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone; and
11. All dewatering activities shall comply with Regional Water Quality Control Board requirements.

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

5. 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, the San Diego District office of the Coastal Commission shall be contacted immediately prior to any changes 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.

6. Spill Contingency/Accidental Discharge. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director for review and written approval, a final, site specific, Spill Contingency Plan that includes, at a minimum, the following requirements:

- a. In the event that a spill or accidental discharge of drilling fluids occurs during drilling operations, all construction shall cease and shall not recommence except as provided below:
- b. Following discovery of the spill or accidental discharge of drilling fluids, the applicant shall immediately implement the above stated Spill Contingency Plan. No work shall continue until all spilled fluids have been contained and/or removed and measures taken to prevent a recurrence consistent with the approved contingency plan. If the spill or accidental discharge results in a change to the approved project description or to the scope of the impacts to resources, 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 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 US Fish and Wildlife Services (USFWS), California Department of Fish and Game (DFG) and/or San Diego Regional Water Quality Control Board (SDRWQCB). The revised project and restoration plan shall be processed as an amendment to the coastal development permit. The test borings 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.

7. 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. Work may be permitted during the shore bird breeding season if the applicant has specific documented approval with justifiable reasoning from DFG and/or USFWS.

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.

8. Staging/Storage Area. All staging and storage shall be maintained within the proposed staging areas located outside of sensitive habitat. If conditions require relocation of staging/storage areas, the San Diego District office of the Coastal Commission shall be contacted prior to any changes to the project in the field.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History.

The North Agua Hedionda Interceptor (NAHI) is a 24-inch diameter sewer pipeline constructed by the City of Carlsbad in 1965. The NAHI runs west from the intersection of El Camino Real and Cannon Road, across Agua Hedionda Creek, along the north shore of Agua Hedionda Lagoon to an existing pump station immediately east of Interstate 5 (ref. Exhibit Nos.1 & 2). The operation and maintenance of the NAHI is addressed in the City's Sewer Master Plan.

The Sewer Master Plan Update, which evaluated the wastewater collection needs for the planning periods between 2002 and build out for the City's service area as anticipated by the City's General Plan, identified deficiencies in the existing system and recommended various necessary improvements. The plan determined that the western segment of the NAHI, the portion between Cove Drive and I-5, and adjacent to Agua Hedionda Lagoon, required maintenance. Because the western segment of the NAHI is located in an area that is not covered by the City's LCP, the City is required to apply for a Coastal Commission Coastal Development Permit for any necessary maintenance, etc.

In September 2005, the City submitted a CDP application to the San Diego office for a project that included the rehabilitation of the existing NAHI alignment with the construction of a shoreline protection wall, access road and public trail. Commission staff raised concerns regarding construction of the shoreline protection wall as well as impacts to environmentally sensitive habitat areas (ESHA) and wetlands, and resulted in the recommendation of denial for the project and ultimately the withdrawal of the project by the City of Carlsbad (CDP 6-05-045). Because of significant impacts to both wetlands and upland Environmentally Sensitive Habitat, Commission staff recommended that the City relocate the western segment of the North Agua Hedionda Lagoon Intercept (NAHI) to a more suitable and less sensitive alignment. To address those concerns, the City of Carlsbad has re-designed the project to relocate the existing NAHI further inland and by utilizing micro-tunneling technology, thereby not requiring large scale trenching, has avoided impacts to the ESHA. The currently proposed NAHI Western Segment

Realignment Project has eliminated the need to construct a shoreline protection wall and eliminates all impacts to wetlands and ESHA.

2. Detailed Project Description.

The project, as currently proposed, will relocate a portion of the existing pipeline, which is no longer adequately accessible for maintenance and operation purposes and is threatened to be undermined by shoreline erosion, further inland by utilizing micro-tunneling technology. The realigned portion of the sewer pipeline will be located outside the flood plain area. Additionally, the project will replace and rehabilitate three access holes which have reached their useful life and relocate sections of the pipeline where access has been limited by private development. The proposed project upgrades the utility to current industry standards providing reliable, maintainable pipelines for this critical interceptor sewer.

The project includes realigning the western segment of the NAHI with a new gravity pipeline. The pipeline will be constructed of thick wall High Density Polyethylene (HDPE). The total pipeline length will be approximately 1,963 linear feet. At the east end of the project, approximately 208 linear feet of existing 24-inch pipe will be relocated through a newly constructed parking lot to provide better maintenance access. The project utilizes approximately 1,821 linear feet of micro-tunneling and 436 linear feet of conventional open trench construction. Construction of this project is estimated to last approximately four months. The portion of the existing pipeline along the shoreline that is being replaced/relocated will be capped and abandoned in place.

The project site is located along the north shore of Agua Hedionda Lagoon extending from Cove Drive, west to the Foxes Lift Station (just east of Interstate 5). The sewer alignment follows along the shoreline. The eastern most portion of the project site (from manhole #19 to manhole #24) is bordered by several residential structures and a private boat club/launch. Most of the remainder of the project site borders steep naturally vegetated slopes (from manhole #10 – manhole #18). The vegetation on the slopes consists primarily of coastal sage scrub habitat which extends to the shoreline. The shoreline itself includes sandy beach areas, intertidal rocky areas, mudflats and salt marsh habitats. Currently, a public access trail extends along the shoreline from Cove Drive, west to the private boat club/launch (approximately 560 ft.). The segment of the shoreline extending from just west of the boat club west approximately 1,000 feet is relatively inaccessible due to the steep hillsides and narrow beach. At approximately manhole #10, the shoreline is accessed by an informal path that leads from Hoover Street and along the shoreline until the landform makes continued lateral access difficult and subject to the tides.

The sewer project is located in areas owned by the City as well as privately owned land. The sewer line would require a 15' wide utility easement, with subterranean rights only. These easements are not currently recorded.

Agua Hedionda is one of six segments of the City of Carlsbad's LCP. While most of the city's coastal zone has a fully certified LCP, with the city issuing coastal development permits, an implementation program for the Agua Hedionda segment has not been certified as yet. Thus, permit responsibility remains with the Commission, and Chapter 3 of the Coastal Act is the standard of review, with the certified Agua Hedionda Land Use Plan used as guidance.

3. **Water Quality/Sensitive Marine and Land Resources.** Sections 30230, 30231, 30232, 30233 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 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 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 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 proposed project includes the replacement of an active sewer-line located immediately adjacent to ESHA, wetlands, and lagoon waters. Numerous concerns have been raised for the possible impacts associated with such a development. The proposed project includes utilizing underground tunneling for the installation of a portion of the new sewer-line as well as open trenching in developed areas, or areas without sensitive habitat.

The micro-tunneling installation method involves pulling a 36- to 42-inch steel casing through the earth. Installation pits will be located within previously disturbed areas. The installation pits will require approximately 100-foot long by 40-foot wide work area for equipment staging and to set up and facilitate the micro-tunneling operation. Material collection pits approximately ten feet long by ten feet wide by five feet deep will be dug at both the entry and exit hole locations to capture drilling cuttings. These drilling cuttings will be removed and disposed of at an approved disposal site. Three staging areas for equipment will also be required and have been proposed in previously disturbed areas.

Micro-tunneling may result in impacts to water quality and vegetation depending on the location of any potential spill. Open trench digging can lead to concerns for vegetation impacts and erosion controls. Further, during the de-watering and re-alignment phases of the project, there exists a potential for sewage to leak from the sewer-lines, which may result in impacts to water quality and/or vegetation. As proposed, the project will result in no impacts to sensitive habitat or water quality. The applicant has included detailed requirements for procedures during all phases of construction and the appropriate BMPs to be used. However, the project will be contracted after the issuance of the permit and therefore the final construction BMPs related to all construction activities have yet to be finalized. As such, several Special Conditions are required to assure protection of water quality and marine resources/ESHA consistent with the Coastal Act. Special Conditions will be discussed in more detail below.

A. Impacts to Water Quality.

As stated above, “Micro-tunneling” technology will be utilized for the tunneled portion of the pipeline for 1,821 ft. in the areas where the most sensitive habitat occurs. High pressure bentonite slurry mixture may be used in the micro-tunneling process. The fluid pressure of the slurry mix used during the micro-tunneling process is applied to counterbalance the earth and hydrostatic ground water pressure. Throughout the micro-tunneling process the lubrication slurry will be monitored. The slurry will be contained within and recovered from the tunnel and trench. Because bentonite is known to impact water quality, when vertical fractures, or “frac-outs” occur, Special Condition #6 requires the applicant to submit for Executive Director approval, a site specific Spill Contingency Plan. Furthermore, although grading during the rainy season will be avoided to the best of the applicant’s abilities, impacts to lagoon water resulting from construction activities

and soil erosion are possible. As such, Special Condition #4 requires the applicant to submit for Executive Director approval, a final and site specific Storm Water Pollution Prevention Plan (SWPPP), including requirements for construction activities and erosion controls. As stated above, because this project will not be contracted out until after the permit has been issued, the applicant will be required to submit these plans prior to commencement of construction as opposed to prior to permit issuance.

The size of the replacement sewer pipe was made to match the capacity of the existing pipeline, which it will replace. The capacity of the existing pipeline is adequate for existing peak weather flow and the City's sewer master plan projects no increase in ultimate future flow in that basin. As such, the size of the pipeline will be suitable for current and future uses, thus minimizing the potential for sewage leaks, and thereby further protecting water quality. Currently, the sewer is outdated and presents a hazard to water quality and the surrounding vegetation. On December 31st, 2007, an estimated 350 gallon sewage spill occurred at Hoover Street and was said to be the result of roots blocking the mainline. County environmental health officials said the sewage spilled out of a manhole and entered a storm drain at Hoover Street. According to the City, if the pipeline is not replaced additional sewage spills are probable. Therefore, the proposed project includes improving the conditions that currently exist on site. The project, as conditioned, can therefore be found consistent with all applicable policies of the Coastal Act.

B. Vegetation/Wildlife Impacts.

1. Habitats Types Found on the Project Site

The following is a description of each of the habitat types found on the project site:

(a) Coastal Sage Scrub

Coastal sage scrub (CSS) is a native plant community composed of a variety of soft, low, aromatic shrubs that is characterized by special adaptation to fire and low soil moisture. CSS is recognized as a sensitive plant community by local, state, and federal resource agencies. It supports a rich diversity of sensitive plants and animals and it is estimated that it has been reduced by 85-90% of its historic coverage throughout southern California.

According to the Biological Resources Technical Report (BRTR) prepared for the project, coastal sage scrub is the most common upland plant habitat found along the project corridor. The coastal sage scrub habitat extends landward from the lagoon and its associated wetlands. The habitat type is dominated by California sagebrush, black sage, California encelia (*Encelia californica*), flat-top buckwheat, coyote brush (*Baccharis pilularis*), lemonadeberry and laurel sumac.

The site also contains five areas of disturbed CSS that contain lemonadeberry, laurel sumac, black sage (*Salvia mellifera*) as well as several non-native species including

pampas grass, hottentot-fig (*Carpobrotus edulis*), curly dock (*Rumex crispus*), horehound (*Marrubium vulgare*) and slender wild oat (*Avena barbata*). According to the BRTR, the disturbed CSS on site supports 20 – 50 % cover by CSS indicator species and although disturbed, provides similar function as the non-disturbed variety and is, therefore, considered sensitive.

(b) Intertidal Mudflat

Intertidal mudflat areas include all the sandy shore located within the normal tidal range. This area contains minimal vegetation aside from algae but is used for foraging by shorebirds. This habitat occupies the majority of the intertidal zone along the project site.

(c) Intertidal Rocky Beach

The rocky intertidal areas of the project site consist of exposed bedrock and some riprap (probably the remnant from the protection associated with the original construction of the sewer line in 1965). The subject site contains two rocky intertidal areas; one near the middle of the project (approximately 200 ft. in length) and a smaller area (approximately 50 ft. in length) near the eastern end of the project. All the rocky intertidal habitat within the project is unvegetated.

(d) Southern Coastal Salt Marsh

Southern coastal salt marsh occurs in bays, lagoons and estuaries receiving marine tidal influence. Vegetation composition varies with tidal influence and period of inundation with the greatest diversity of species occurring with the least tidal influence. Typical species include alkali weed (*Cressa truxillensis*), salt grass, salty Susan (*Jaumea carnosa*), salt cedar (*Monanthochloe littoralis*), pickleweed (*Salicornia* spp.), California cordgrass (*Spartina foliosa*) and California sea-blite (*Suaeda californica*). According to the California Coastal Conservancy, coastal salt marsh habitat has been reduced by 80% statewide.

The project site contains coastal salt marsh in areas adjacent to the sandy or rocky shoreline. Patches of coastal salt marsh are present in several areas of the project site. Typical species identified include salt grass, common pickleweed, salty Susan, spiny rush and saltbush (*Atriplex* spp.). The project site also includes several areas of disturbed coastal salt marsh. These areas support salt grass and other indicator species including several non-native species. According to the Biological Resources Technical Report, although disturbed, these small patches provide similar functions as non-disturbed salt marsh and, therefore, are considered sensitive.

(e) Disturbed Southern Willow Scrub

Southern willow scrub is described as a dense, broad-leafed, winter deciduous riparian thicket dominated by several species of willow (*Salix* spp.), with scattered

emergent Fremont's cottonwood (*Populus fremontii*) and western sycamore (*Platanus racemosa*). Disturbed southern willow scrub occurs in an area at the far western end of the project site, near the Foxes Lift Station. The area supports a canopy of mature arroyo willow (*Salix lasiolepis*) with an under story dominated by exotic invasive species. According to the Biological Resources Technical Report, despite the presence of the native species, this habitat community retains wetland functions and values and is, therefore, considered sensitive.

(f) Open Water

This habitat type relates to the lagoon area beyond the shoreline which permanently contains water and does not contain emergent vegetation. This habitat type is present along the southwestern and southern borders of the project.

2. Wildlife Found on the Project Site

According to the Final Environmental Impact Report (FEIR) for the previously designed project, a variety of wildlife are present on the project site. The coastal sage scrub onsite provides habitat for a variety of birds, including the house finch (*Carpodacus mexicanus*), Anna's hummingbird (*Calypte anna*), California towhee (*Pipilo crissalis*), bushtit (*Psaltriparus minimus*), American crow (*Corvus brachyrhynchos*) and the coastal California gnatcatcher (*Polioptila californica*). The coastal salt marsh and intertidal areas also provide habitat for many birds, including the great blue heron (*Ardea herodias*), killdeer (*Charadrius vociferous*) and the American coot (*Fulica Americana*). Reptiles expected to be present on the site include the side-blotched lizard (*Uta stansburiana*), western fenced lizard (*Sceloporus occidentalis*), gopher snake (*Pituophis melanoleucus*) and red-diamonded rattlesnake (*Crotalus rubber*). Mammals include brush rabbit (*Sylvilagus bachmani*), California pocket mouse (*Chaetodipus californicus*) and striped skunk (*Mephitis mephitis*). Eight species of butterfly were recorded on the project site, including cabbage butterfly (*Pieris rapae*), west coast lady (*Vanessa annabella*), pygmy blue (*Brephidium exile*), fiery skipper (*Hylephila phyleus*), salt marsh skipper (*Panoquina errans*), and buckeye (*Junonia coenia*).

According to the 2004 FEIR, two sensitive species of wildlife have been recorded on the project site, the coastal California gnatcatcher and the salt marsh skipper. Two pairs of California gnatcatchers were observed in the on-site coastal sage scrub habitat and 16 individual salt marsh skippers were observed in seven different locations on the project site. The California gnatcatcher is listed by the U.S. Fish and Wildlife Service (USFWS) as threatened. The salt marsh skipper, while not listed, is considered locally sensitive.

USFWS and CDFG reviewed the Mitigated Negative Declaration (MND) for the project and issued a joint letter on July 5th, 2007 stating that they have no comments and agree with the conclusion that the project is compliant with the City's Habitat

Management Plan (HMP) and overall regional Multi-Species Habitat Conservation Plan (MHCP).

The various components of the project include: staging, trenching, micro-tunneling, and access. Once construction has been completed, the existing pipeline will be capped and abandoned in place. As proposed, the micro-tunnel areas will have no ground disturbance during construction (other than the entrance and exit pits) and the presence of the underground pipe below the surface will not affect the viability of vegetation and as such, no impacts to upland sensitive vegetation will occur. Access for construction will be through the existing compacted sand areas. The open trench tunneling has been located to avoid impacting any vegetation/habitat. The work areas identified are on disturbed private land. As proposed, no re-vegetation plan is planned for these sites as no habitat will be taken in this project. Erosion control BMPs including re-establishment of ornamental plants (as requested by property owners) will be implemented. Given the presence of sensitive vegetation within the project area, the planting of ornamentals would not be consistent with the Coastal Act. As such, Special Condition #3 requires the applicant to revegetate all areas disturbed by the project with native, non-invasive, drought tolerant plants, which are obtained from local stock, if available. Only species typical of coastal sage habitats shall be utilized, such that the vegetation will be compatible with surrounding natural areas.

Further, Special Condition #2 requires the applicant to conduct a 90-day post-construction survey to assess if any unforeseen impacts have resulted from construction activities, including within either wetland or upland habitat. Further, as discussed above, the project will not be finalized until the permit has been issued and has an approved contractor. Therefore, modifications to the project design are possible. As such, Special Conditions #1 requires the applicant to submit for Executive Director approval, the final plans as contracted. Further, Special Condition #5 requires that the applicant contact the San Diego office should conditions require any other project modifications. These Special Conditions protect any impacts to sensitive habitat resulting from project modifications made after this permit review. As conditioned, any and all impacts associated with this development will be revegetated and will be revegetated with the appropriate plant palette, thus consistent with the sensitive habitat policies of the Coastal Act.

Construction plans for one staging area (Area B) (ref. Exhibits #3) will include the requirement for a certified biologist to be present during construction activities to monitor any possible impacts to sensitive avian species. This area is the most closely located to the gnatcatcher occupied Coastal sage scrub. However, this may not be adequate to protect sensitive bird species especially during the breeding season, as impacts could result from activities in areas not included within Staging Area B. As such, Special Condition #7 prohibits the applicant from undertaking construction during the typical shoreline bird breeding season unless it is given express written consent by the California Department of Fish and Game or the U.S. Fish and Wildlife Service.

As proposed, no impacts to on-site or adjacent wetlands or sensitive upland habitats are anticipated. In addition, as conditioned, if unanticipated impacts to sensitive habitat or wildlife occur, these impacts will be limited and mitigated. Therefore, as conditioned, the project is consistent with all applicable policies of the Coastal Act.

4. Public Access. The following public access policies are applicable to the proposed development and state, in part:

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.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or, ...

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Pursuant to these sections of the Act, the certified Agua Hedionda Land Use Plan contains a detailed set of public access policies.

Policy 7.1

Bicycle routes, and accessory facilities such as bike racks, benches, trash containers and drinking fountains shall be installed at the locations indicated on Exhibit I.

Policy 7.2

Pedestrian accessways shall be located as shown on Exhibit J.

Policy 7.3

All pedestrian trails shall be constructed to a minimum width of 5 feet. Combination bicycle/pedestrian easements and lateral easements shall be a minimum of 25 feet in width.

Policy 7.6 (in part)

Access to and along the north shore of the lagoon shall be made continuous, to the maximum extent feasible, and shall be provided as a condition of development for all shorefront properties. All accessways shall be designed in such a manner as to allow for reasonable use by any member of the general public, and shall be designed to accommodate bicycle as well as pedestrian use. [...]

Most of the north shore lagoon-fronting lots between Agua Hedionda Lagoon and Adams Street, the designated first coastal roadway in the area, from 1-5 to Bristol Cove (about 1 mile), are still undeveloped. As such, the majority of the public access path called for in the certified Agua Hedionda LUP has yet to be constructed. The LUP states the north shore trail is to be constructed by individual private developments as a condition of approval of obtaining a coastal development permit if the City or another organization does not build it. The LUP requires that both the recordation of a public access easement and the physical construction of that part of the trail be provided. The LUP identifies that both pedestrian and bicycle access shall be provided along the north shore of Agua Hedionda Lagoon within a 25-foot wide easement upland of the mean high tide line.

The project will result in some temporary impacts to public access, and some of the access and staging areas are located within areas the public utilizes to gain access to the lagoon. However, there are numerous access points in this area, and as such, the public will not be restricted from gaining access to the lagoon. Other than temporary impacts, the project will not have any adverse impacts on public access. In addition, the project, as conditioned, will not preclude the provision of public access in the future on the undeveloped privately owned lots within the project area. As such, the project can be found consistent with the public access policies of the Certified LUP and the Coastal Act.

5. Visual Resources. Section 30251 of the Coastal Act addresses protection of scenic resources within the Coastal Zone 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.

The proposed project is located along the north shore of Agua Hedionda Lagoon. The project site is for the most part undeveloped and consists mostly of naturally vegetated slopes extending to the shoreline, with some residential development and a private boat club/launch located in the eastern portion of the site. Views of the project site are available to motorists traveling along northbound Interstate 5 (I-5). Other than during construction and the installation of some new manholes, all aspects of the project will remain underground and not be visible from off-site locations. Therefore the project in its entirety does not result in any impacts to visual resources, thus consistent with the Coastal Act.

6. Growth Inducement. Section 30250 of the Coastal Act is applicable and states, in part:

Section 30250

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Given that the proposed development involves improvements to existing sewer pipes, the question arises to whether the project is growth inducing. To be found consistent with Section 30250(a) of the Coastal Act, the Commission must find that the project is being proposed to serve existing development or that if it would accommodate new development, such development must be at planned and approved densities. In this case, the project involves repairs and improvements to an existing sewer pipeline for the protection of water quality and existing sewer service. The project does not include any expansion of the pipe. Therefore, the proposed improvements to the sewer system should not have a significant overall inducement to growth within the coastal zone, and the development is consistent with section 30250(a) of the Coastal Act.

7. Unpermitted Development. Although development in the form of blading an access road down the steep hillside to the lagoon and removal of native vegetation has occurred adjacent to the location of Staging Area B for the subject development (ref. Exhibit Nos. 3 & 4), without the benefit of a coastal development permit, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. The unpermitted blading has occurred on a privately owned residential lot and the City has no record or knowledge of when this unpermitted development occurred. Approval of the permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred, nor does it

constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit. Because the unpermitted development did not occur on the specific area subject to this permit, it will be addressed through a separate enforcement action.

8. 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 cannot be made.

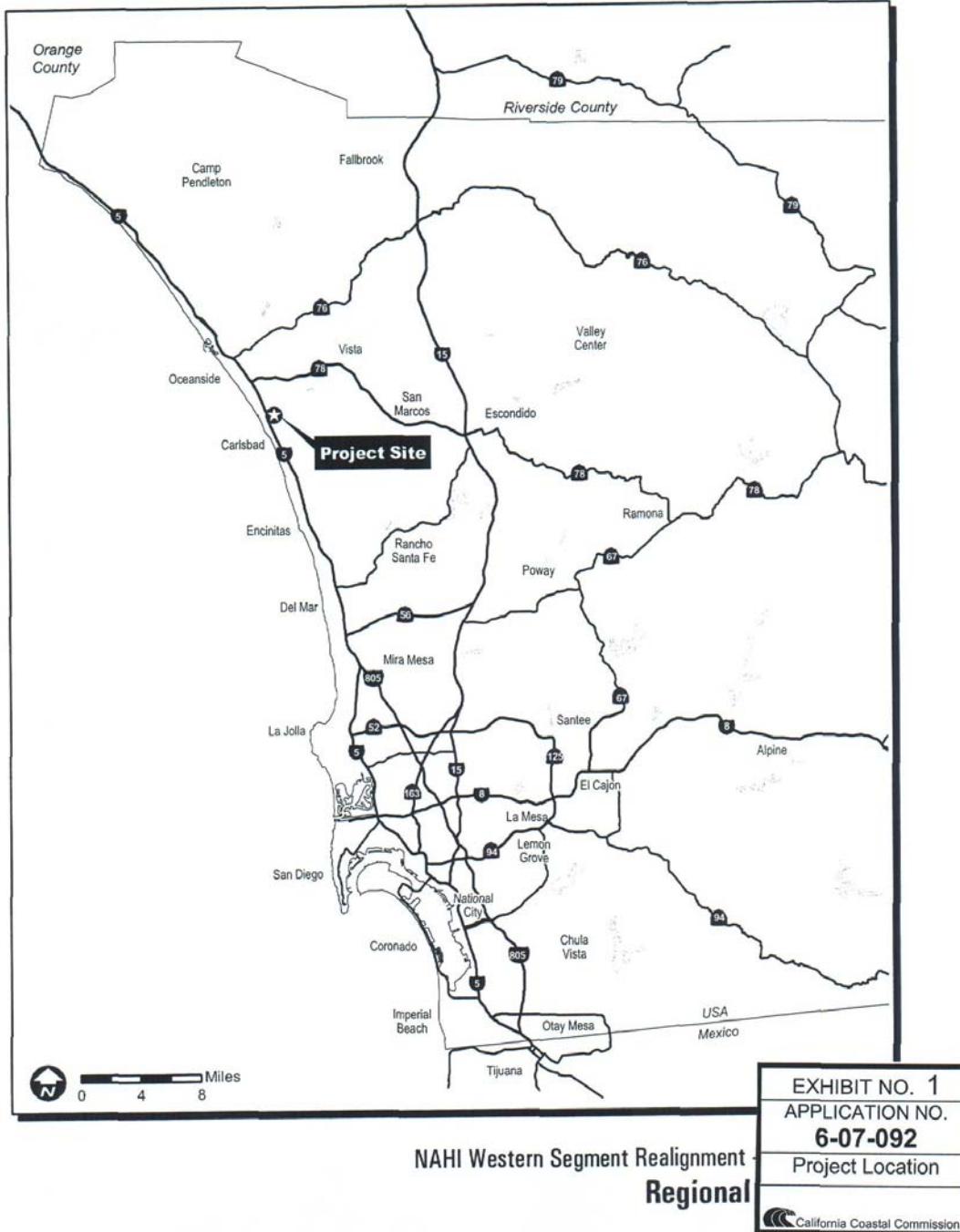
The Agua Hedionda Land Use Plan (LUP) has been certified by the Commission but no implementing ordinances have been submitted by the City for this plan segment. Thus, the standard of review for this application is the Chapter 3 policies of the Coastal Act. Section 30240 of the Coastal Act requires that identified ESHAs be protected from significant disruption of habitat values. The proposed development will protect existing ESHA from significant disruption, consistent with Section 30240. Further, the project as proposed will not result in impacts to sensitive shoreline avian species. Therefore, approval of the proposed project, as conditioned, will not prejudice the ability of the City of Carlsbad to obtain a fully-certified LCP for the Agua Hedionda Lagoon segment.

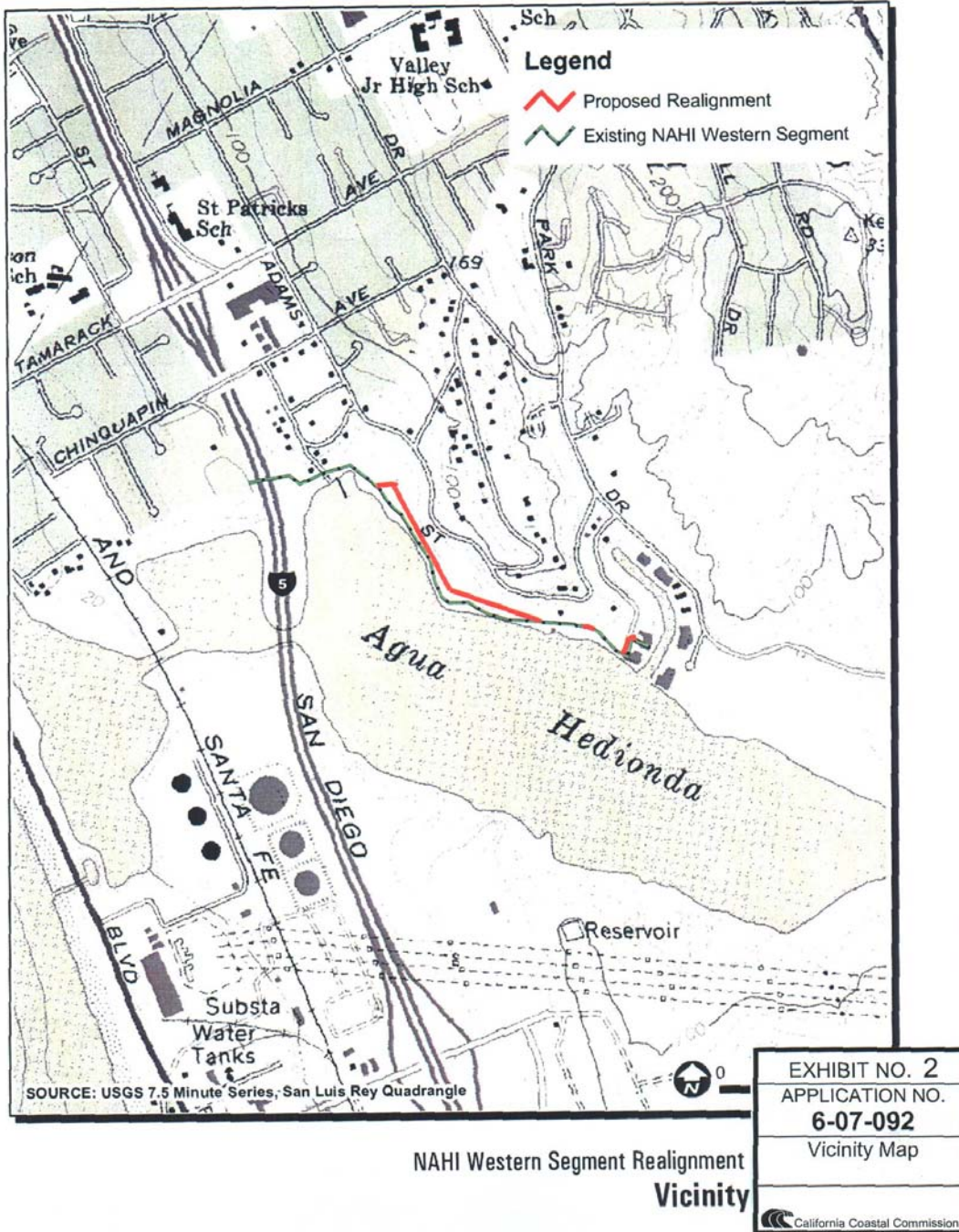
9. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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.

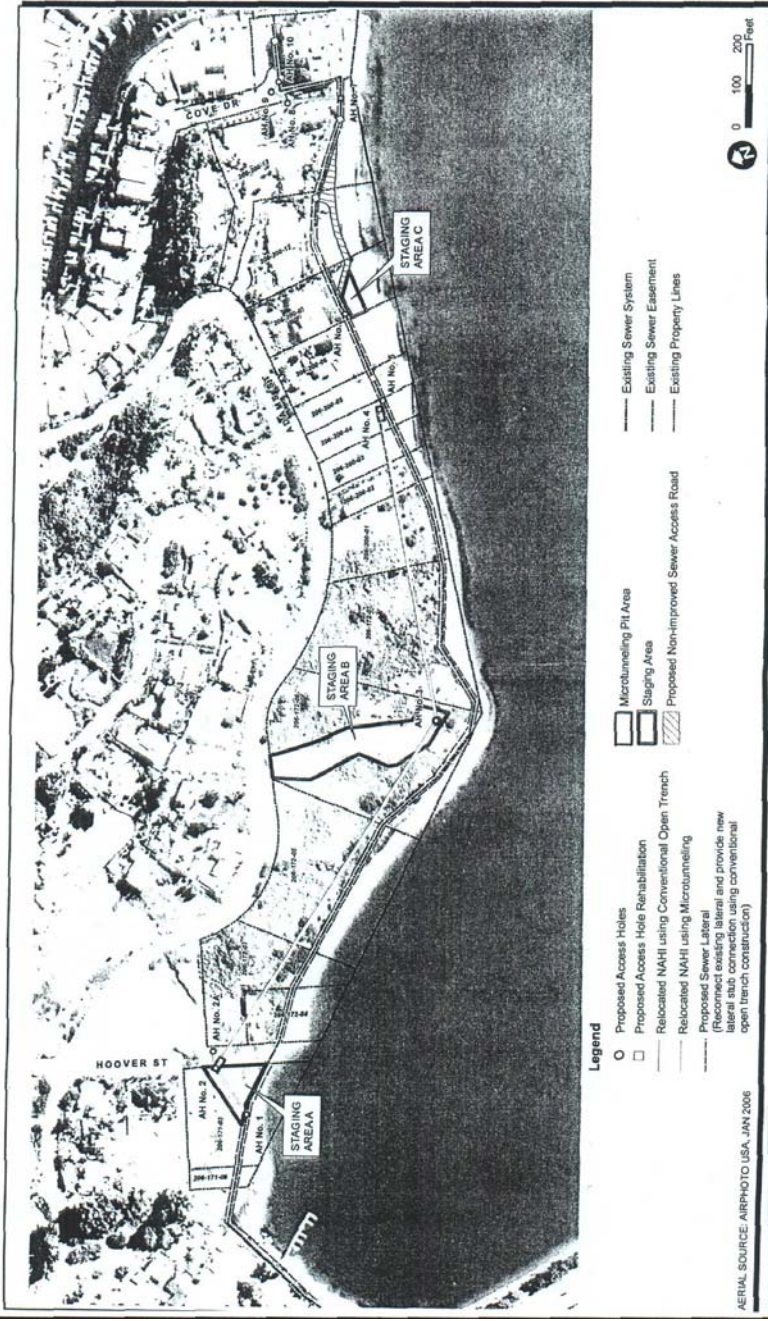
The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing final plans, storm water, spill contingency, construction BMP plans, avoidance of construction during the breeding season, post construction vegetation surveys and native revegetation for any impacts 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.





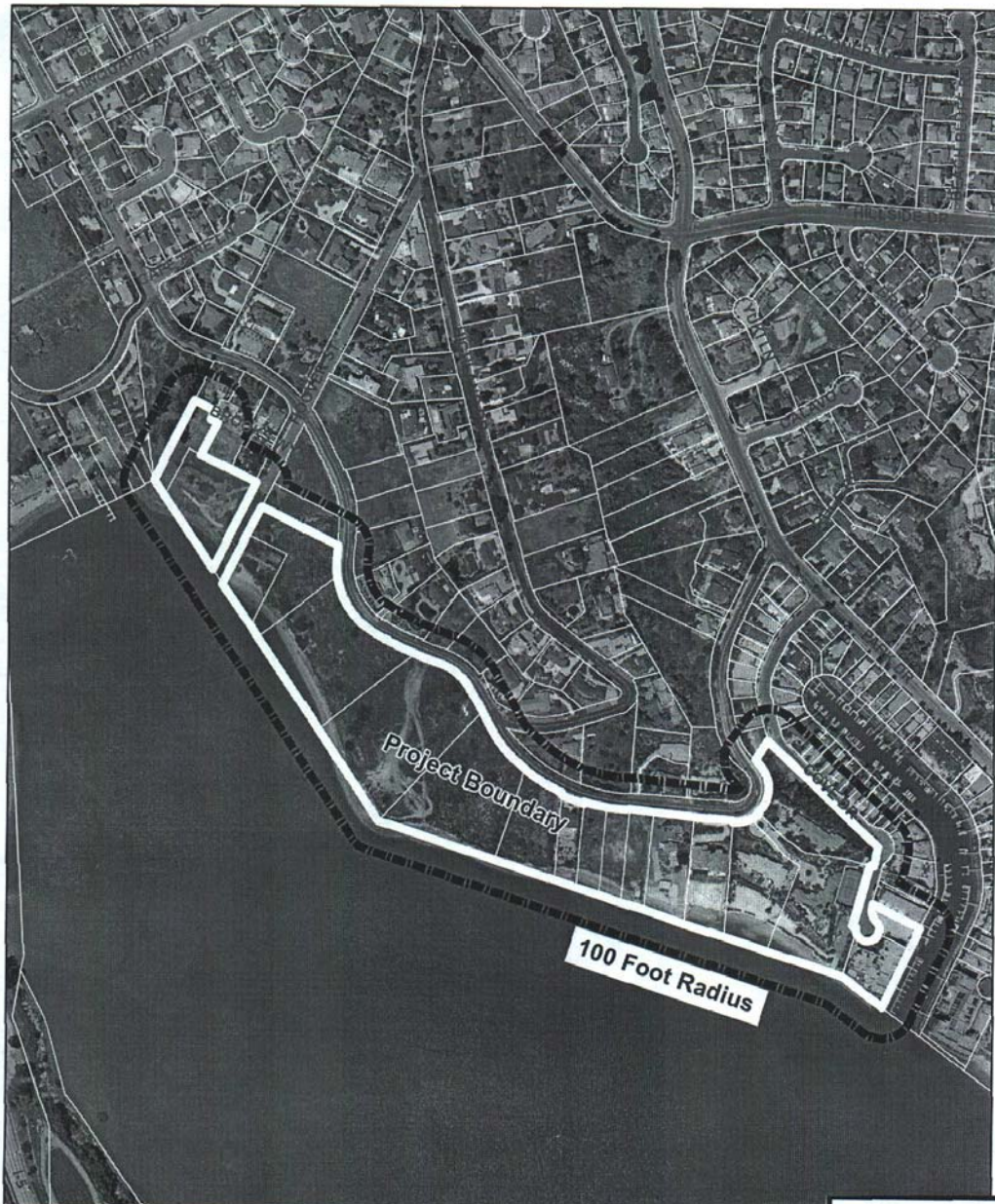


North Aqua Hedionda Sewer Western Segment Realignment Project - Biological Resources Letter Report
Project Components

FIGURE 5

EXHIBIT NO. 3
APPLICATION NO.
6-07-092
Project Components

California Coastal Commission



City of Carlsbad
North Agua Hedionda Interceptor
Western Segment Realignment Project
EIA 07-01



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EXHIBIT NO. 4
APPLICATION NO.
6-07-092
Project Boundaries/ Lots
California Coastal Commission

