

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4421
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Filed: November 2, 2009
49th Day: December 21, 2009
180th Day: May 1, 2010
Staff: Toni Ross-SD
Staff Report: December 17, 2009
Hearing Date: January 15, 2010

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-09-065

Applicant: City of San Diego Utilities Department
Contact: Dirk Smith

Description: An after-the-fact approval of an emergency underground pipeline repair project in the Torrey Pines State Reserve (Los Penasquitos Lagoon).

Site: 2,000 feet north of the terminus of Flintkote Ave., and within the Penasquitos Lagoon area of the Torrey Pines State Natural Reserve, Torrey Pines, San Diego, San Diego County. APN #310-110-20

Substantive File Documents: Restoration Plan titled "Restoration Plan for the Soledad Valley Pipeline Emergency Water Main Break," prepared by Keli Balo, dated September 2009, with revision dated October, 2009.

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Wetland/Upland Mitigation. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a detailed final mitigation program, in substantial conformance with the Restoration Plan for the Soledad Valley Pipeline Emergency Water Main Break, prepared by Keli Balo, dated September 2009, with revision dated October, 2009, to compensate for all proposed impacts to existing wetlands/uplands. The program shall be developed in consultation with the California Department of Fish & Game, and at a minimum shall include:

- a. Permanent wetland and upland impacts shall be mitigated with native, local stock appropriate for the habitat type being created at 1:1 for the impacts to coastal sage scrub, and 4:1 for the wetland (alkaline marsh) impacts.
- b. The following goals, objectives, and performance standards for the mitigation sites:
 1. Success criteria shall require, and final performance monitoring shall ensure that the mitigation program provides, coverage commensurate with pre-construction conditions at all mitigation sites at the end of a minimum five-year monitoring program (see Special Condition #2).
 2. The final design and construction methods that will be used to ensure the mitigation sites achieve the defined goals, objectives, and performance standards.
 3. Provisions for submittal, within 30 days of completion of initial mitigation work, of as-built mitigation plans demonstrating whether the mitigation sites have been established in accordance with the approved design and construction methods.

The permittee shall undertake mitigation in accordance with the approved final mitigation program, except that the timelines required herein may be extended by the Executive

Director for good cause. Any proposed changes to the approved final mitigation program shall be reported to the Executive Director. No changes to the approved final mitigation program 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. Final Monitoring Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a final detailed monitoring program, in substantial conformance with the monitoring described in the Restoration Plan for the Soledad Valley Pipeline Emergency Water Main Break, prepared by Keli Balo, dated September 2009, with revision dated October, 2009, designed by a qualified wetland and/or upland biologist for monitoring of all wetland and upland mitigation and restoration sites. The monitoring program shall be prepared in consultation with the California Department of Fish and Game, and at a minimum include the following:

- a. The mitigation site(s) shall be surveyed monthly the first year after planting, six times in year two, and at least quarterly thereafter until performance standards have been met.
- b. Final performance monitoring, to assure survival on natural conditions, shall take place no sooner than three years after the end of all remediation and maintenance activities other than weed control.
- c. If the final report indicates that the restoration project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program which did not meet the approved performance standards. The revised restoration program, if necessary, shall be processed as an amendment to this coastal development permit.
- d. Provisions for monitoring and remediation of each mitigation and restoration site in accordance with the approved final mitigation program for a period of 5 years.
- e. Provisions for submission of an annual report of monitoring results to the Executive Director for the duration of the required monitoring period. Each report shall evaluate the status of the wetland mitigation or restoration project in relation to the performance standards.
- f. Provisions for submission of a final monitoring report to the Executive Director that has been prepared by a qualified wetlands, and/or uplands biologist. The report must evaluate whether the mitigation and/or restoration site conforms to the goals, objectives, and performance standards set forth in the approved final mitigation program.

If the final report indicates that any of the mitigation has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit a revised or supplemental restoration program to compensate for those portions of the original program which did not meet the approved performance standards. The revised restoration program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

The permittee shall monitor and remediate the wetland and upland mitigation sites in accordance with the approved monitoring program. Any proposed changes from the approved monitoring program shall be reported to the Executive Director. No changes to the approved program shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. 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 (such as U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Regional Water Quality Control Board and the California Department of Fish and Game) for the development authorized by CDP #6-09-065. 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

A. Detailed Project Description/History.

The Public Utilities Water Branch of the City of San Diego responded to an emergency water pipe break in Torrey Pines State Natural Reserve on March 23, 2009. A 24-inch water main broke open within the wetlands in Penasquitos Lagoon approximately 2,000 feet north of the public street terminus of Flintkote Avenue (ref. Exhibits #1 & 2, Page 6). The work occurred in the reserve in both upland and wetland habitat areas (ref. Exhibit 2, Pages 7). The upper portion of the project area near the access road is located in the upland habitat and the lower portion of the project area where the pipe broke is located in wetlands (ref. Exhibit #2, Pages 3-5).

Specifically the emergency work consisted of:

- 1) Placement of imported rock and steel plates within adjacent wetlands to provide a foundation for machinery to access the pipe break site;
- 2) Placement of generator pumps adjacent to the emergency site and dewatering of the wash-out hole;

- 3) Placement of imported rock into the wash-out hole within the 24-inch pipe easement to facilitate access for an excavator to the repair site;
- 4) Creation of a stable bed of rock for the replacement pipe, and installation of a new segment of 24 inch ductile iron pipe;
- 5) Backfilling of the repair area with rock over the pipe segment to within two feet of the existing surface grade;
- 6) Backfilling of the remaining areas in the wash-out hole with imported virgin sand;
- 7) Placement of stockpiled native soil from the repair areas on top of the imported sand up to finish grade;
- 8) Removal of imported rock from the wetland and restoration of the pre-emergency grade;
- 9) Final grading within all disturbed upland areas to restore those areas to pre-emergency grade; and
- 10) Installation of silt fence at the wetland/upland boundary and placement of straw wattles on graded upland areas exceeding a 5% slope.

The City is requesting after-the-fact approval of the above-described repairs. Repair of the water pipe resulted in temporary impacts to sensitive habitats including disturbed coastal sage scrub and alkali marsh. Large equipment was used to make the pipe repairs and to subsequently restore the topography of the work area. Impacts to sensitive resources include .2 acres of alkali marsh and .26 acres of disturber coastal sage scrub. The City of San Diego has submitted a detailed restoration plan addressing all impacts to upland and wetland vegetation. Onsite restoration of the impacted lands has been proposed as a component of this permit application and includes ratios of 4:1 and 1:1 respectively for wetland and upland habitat respectively. Because the work has already been completed, the focus of the staff report will be on the mitigation and monitoring to insure that any impacts to sensitive resources will be adequately addressed.

B. Biological Resources. Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized. Section 30233 limits development in open coastal waters, wetlands, estuaries, and lakes to specific permitted uses where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

The proposed development is an incidental public service project permitted under Section 30233. As conditioned, the project will mitigate for all temporary impacts to sensitive

resources on site, utilizing the appropriate mitigation ratios, and will be monitored and maintained to assure long-term viability. The project will not result in any permanent impacts to any sensitive habitat, and will not result in erosion or adverse impacts to water quality. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. Community Character /Visual Quality. The development is located within an undeveloped area and consists only of repairing a broken, underground, existing pipe and does not include any new or modified above ground structures. After implementation of the proposed mitigation, the area will look natural as it did before the break and repairs. Therefore, the Commission finds that the development conforms to Section 30251 of the Coastal Act.

D. Public Access/Parking. The project is located within an area of a state park that is undeveloped and no public parking or public access trails exist within the project boundaries. Therefore, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

E. Growth Inducement. As proposed, this development will not be growth-inducing. The proposed project will only repair an existing water main. System capacity is not being increased, consistent with Section 30250 of the Coastal Act.

F. Local Coastal Planning. The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Torrey Pines community.

G. California Environmental Quality Act. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect 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.

(Document9)

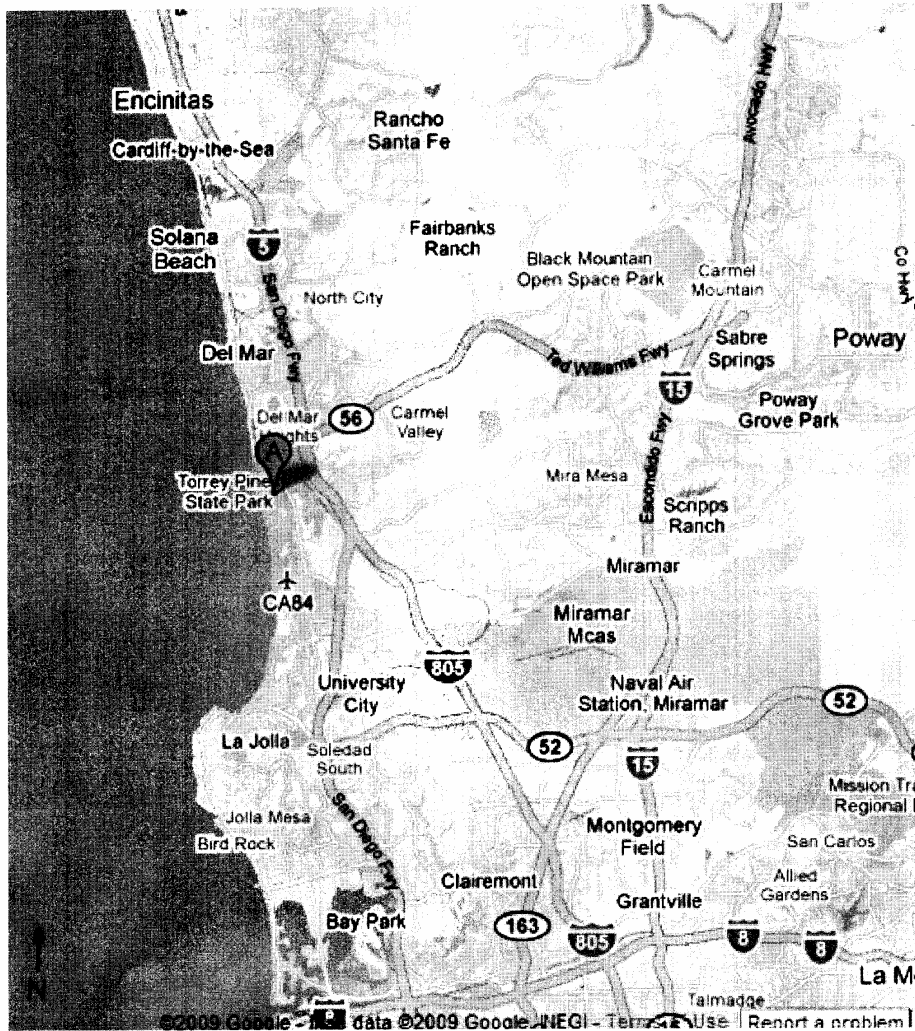


EXHIBIT NO. 1
APPLICATION NO.
6-09-065
<i>Location Map</i>
 California Coastal Commission



March 27, 2009

Mr. Lee McEachern
 California Coastal Commission
 San Diego Coast District Office
 7575 Metropolitan Drive STE 103
 San Diego, CA 92108-4402

6-09-065
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 NOV 02 2009
 California Coastal Commission
 San Diego Coast District

Subject: Notification City of San Diego Water Department Pipe Break Emergency at the Torrey Pines State Reserve/Penasquitos Lagoon

Mr. McEachern:

This letter is to notify you of an emergency pipe repair project that the City of San Diego Water Department is currently working on within your jurisdiction. A 24-inch water main break occurred within the Torrey Pines State Reserve on Monday, March 23, 2009. The pipe break is located approximately 500 feet north of Flintkote Avenue in the central portion of the reserve (see Figure 1). The entire emergency project area is located within the Coastal Zone and the City of San Diego Multi-Habitat Preserve Area (MHPA). The project impact area occurs at approximately 32 54' 52" latitude and 117 14' 24" longitude, on Assessor's Parcel Number (APN) 310-110-2000 within the California land grants-civil colonies (no Town, Range, Section information).

As of 2:00 pm, Friday March 27, 2009 the City of San Diego Water Department Crews are still constructing access to the pipe break area to facilitate equipment access and water main repairs. Repair work on the pipe is anticipated to begin this afternoon and continue through this Sunday evening March 29, 2009. Site cleanup is anticipated to be completed by Friday April 3, 2009.

ICF Jones & Stokes biologists are monitoring the onsite construction activities daily. At this time ICF Jones & Stokes estimates that direct impacts have occurred to approximately 0.3 acre of wetlands under the joint jurisdiction of ACOE, CCC, CDFG, RWQCB and the City including 0.2 acre coastal salt marsh that occurred as result of the pipe break and 0.1 acre coastal salt marsh that occurred as a result of creating temporary equipment access to the repair site. The total of approximately 0.3 acre of impacts to jurisdictional wetlands will require onsite restoration and mitigation in compliance with the City of San Diego MSCP guidelines, sections 401 and 404 of the Clean Water Act, section 1602 of the California State Code and the California Coastal Act. A formal delineation of the impacted wetlands and adjacent areas will be completed once the emergency project repairs have been completed. Avoidance and minimization measures are being implemented on the project site to prevent additional impacts.

EXHIBIT NO. 2
APPLICATION NO.
6-09-065
Letter Documenting Emergency Work
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to jurisdictional wetlands. In addition, approximately 0.15 acre of coastal sage scrub was also impacted during construction of temporary access to the repair site. These impacts will require onsite restoration and mitigation consistent with the MSCP.

Note that pre-construction nesting bird surveys of all areas around the emergency project site were completed on Monday, March 23, 2009 and no active bird nests were located within coastal sage scrub and freshwater marsh areas cleared for emergency construction access. On the afternoon of Tuesday March 24, 2009, our monitors located a pair of coastal California gnatcatchers (*Poliophtila californica californica*) adjacent to the access road (Flintkote Drive) within 300 feet of the impact area and within 100 feet of the existing access road west of the Torrey Pines State Reserve Rangers residence. The pair was observed collecting nest materials and constructing a nest within coastal sage scrub. A gnatcatcher permitted biologist will monitor the pair daily through the duration of the project to ensure that no incidental take of the species occurs. Also note that all areas outside of the newly created access road, staging area and impact have been flagged and are off limits to all project personnel.

If you require additional information, please contact me directly.

Sincerely,



Scott Boczkiewicz
Senior Biologist
ICF Jones & Stokes

Attachments: Figure 1, Photos 1 through 6

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Photo 1. The water main break in brackish marsh, showing the exposed ends of the pipe break. The resulting wash-out hole is approximately 12 feet deep and over 50 feet in diameter.



Photo 2. The sediment and "calved" salt marsh soil and plants around the perimeter of the wash-out hole will be salvaged for onsite restoration.

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Photo 3. A portion of the sediment plume in a mosaic of brackish marsh and mule fat immediately east of the pipe break and wash-out area.



Photo 4. Water from the wash-out hole was being pumped out and deposited approximately 200 feet west within brackish marsh habitat. The pumps were removed from the site on Thursday afternoon.

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Photo 5. The repair area and temporary access construction as of Thursday evening. Much of the rock will be used to create a stable platform for the new pipe segment, and the remainder will be removed before site restoration.



Photo 6. The impacted coastal sage scrub area for the temporary access road and material staging. Much of this area would be classified as disturbed coastal sage scrub dominated by non-native plants.

