

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



# F19b

## Addendum

August 9, 2010

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item F19b**, Coastal Commission Permit Application **6-10-020** (California Department of Fish and Game, Carlsbad) for the Commission Meeting of August 13, 2010.

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

1. On Page 1, the "Substantive File Documents" shall be revised as follows:

[...] *Caulerpa taxifolia* survey, Merkel and Associates; GeoSoils 3/8/10 Grain Size Analysis; [...]

2. On Page 1, the first sentence of the "Summary of Staff's Preliminary Recommendation" shall be revised as follows:

Staff is recommending approval of the proposed project with conditions to allow dredging of up to 165,000 cubic yards of beach quality sand from the central and west basins of Batiquitos Lagoon to be deposited ~~south of the lagoon inlet~~ along the adjacent shoreline. [...]

3. On Page 2, the following paragraphs shall be added to the "Summary of Staff's Preliminary Recommendation" immediately before the last sentence, as follows:

Since completion of the staff report, staff has received additional correspondence from the City of Carlsbad, the National Marine Fisheries Service and SANDAG. Based on these materials, staff again reviewed the information with the Commission's Coastal Engineer, Ms. Lesley Ewing. The City of Carlsbad's primary issue is to secure beach nourishment for its shoreline north of the lagoon mouth. The letter from SANDAG also expresses concerns about the deposition site and the need to adhere to the Coastal Regional Sediment Management (RSM) Plan. Alternatively, the letter from NMFS supports the main goal of completing the maintenance dredging to restore the lagoon and suggests that deposition north of the lagoon mouth should only occur if the City of Carlsbad allocates money for future dredging work, assuming that material deposited north of the lagoon mouth will re-enter the lagoon.

Staff has also reviewed all the correspondence and consulted with technical staff. The Commission's Coastal Engineer believes there needs to more analysis of offshore currents and resources, as well as consultation with State Parks and Recreation before placing the material along the south Carlsbad State Campground (north of the lagoon mouth). However, Ms. Ewing does not believe there is such a sand deficit in the immediate area that the only sand re-entering the lagoon would be from beach nourishment. In addition, she noted the original restoration project also likely contributed to intercepting more sand with its inclusion of jetties. She further noted the Commission's precedent in past actions to require deposition sites both north and south of the Agua Hedionda Lagoon in its maintenance dredging permits.

In addition, there was a lack of environmental information provided for the substantial increase in beach depositional materials being proposed by DFG. Therefore, staff is recommending that the beach nourishment component be modified to conform with the Regional Beach Sand Proposal/Phase 1 (RBSP) locations and amounts. The Phase 1 RBSP included sites both north and south of the lagoon mouth, had full environmental review and the post-deposition monitoring did not identify any adverse impacts to offshore habitat. As such, staff has modified the initial Staff Report to include conditions reducing the volume of sand allowable for southern beach placement to 118,000 cubic yards, consistent with the 2001 SANDAG/RBSP beach nourishment project. Placement of the remaining 47,000 cubic yards will be restricted to beach areas north of the lagoon inlet and will require an amendment to this permit, along with input from the City of Carlsbad and approval from State Parks and Recreation and the State Lands Commission.

4. On Page 4, Special Condition #2 shall be revised as follows:

2. ~~Post-Dredging Plans.~~ Within 60 days of the dredging of the lagoon, final dredging and deposition plans shall be submitted which indicate:

a. The lagoon has been dredged consistent with the "as built" plans, dated 11/18/94, by the City of Carlsbad, that were approved in the Batiqitos Lagoon Enhancement Plan.

~~b. The South Ponto portion of Carlsbad State Beach has been nourished consistent with the preliminary beach profiles submitted with the application.~~

b. The amount of sand to be deposited on South Ponta State Beach from the Batiqitos Lagoon's western and central basins shall be limited to a volume of 118,000 cubic yards consistent with the deposition project for Batiqitos/South Ponta Beach identified in the 2001 SANDAG Regional Beach Sand Project. Prior to the commencement of any dredging operations, the applicant will submit the shoreline geometry and profiles for the proposed South Ponta Beach sand deposition for the review of the Executive Director. The height of the dredged

sand mass shall not extend above the elevation of the existing adjacent roadway (Highway 101).

c. The Commission will consider a future proposal for dredging of the remaining 47,000 cubic yards of lagoon sand deposits only in the event that the sand is to be deposited north of the Lagoon inlet onto Carlsbad State beaches. This proposal would be processed separately as an amendment to this permit. The remaining 47,000 cubic yards of dredged sand would be placed north of the lagoon mouth in collaboration with the City of Carlsbad, the State Lands Commission and the State Department of Parks and Recreation.

5. On Page 6, please add Special Condition #7, State Lands Commission Approval, as follows:

7. State Lands Commission Approval.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, either (1) approval of the proposed Batiqitos Lagoon dredging project and South Ponto Beach replenishment by the State Lands Commission, or (2) a written determination by the California State Lands Commission that no such approval is required for the project.

6. On Page 11, under Marine Resources findings, the following two paragraphs shall be added as the first full paragraphs:

The Commission finds that regular nourishment at beaches and associated grooming practices can impact the diversity and abundance of invertebrates, plants, and birds present on sandy beaches and intertidal areas. Beach nourishment can cause removal of kelp washed ashore during high tides as well as disturbance to plants and invertebrates colonizing the sand. Wrack is composed of tangles of kelp and sea grass that wash up onto beaches and settle in large clumps along the tide line and is of particular importance for invertebrate, plants, and birds in the intertidal zone of the beach. A diverse macrofauna, including amphipods, isopods, and insects are found in wrack. The presence and amount of wrack on beaches is, therefore, directly correlated with the abundance and diversity of crustaceans and insects at beaches. In this particular case however, the project is a one time only placement of sand in this location and thus, does not have the same impacts as on-going maintenance/beach nourishment. Therefore, in order to maintain the existing wrack line on South Ponto Beach during beach nourishment activities, wrack shall be moved to the side during sand placement activities and replaced in its original location/configuration, to the maximum extent feasible.

In addition, the sandy beaches in the project area have been identified as grunion spawning locations. Sediment management activities within the intertidal zone may disturb adult grunion during the run period and/or may bury incubating grunion eggs.

However, all project operations, including operation of equipment, placement or removal of equipment or facilities, dredging, and disposal of dredged sand materials are not proposed to occur on any part of the beach where California grunion (of any life stage, including eggs) are present during any run periods and corresponding egg incubation periods. As such, the proposed lagoon dredging and beach replenishment will not have any impacts on existing California Grunion populations.

7. On Page 14, under Public Access/Beach Replenishment findings, the following two paragraphs shall be added as the first full paragraphs on the page:

Staff has received additional correspondence from the City of Carlsbad, the National Marine Fisheries Service and SANDAG. Based on these materials, staff again reviewed the information with the Commission's Coastal Engineer, Ms. Lesley Ewing. The City of Carlsbad's primary issue is to secure beach nourishment for its shoreline north of the lagoon mouth. The letter from SANDAG also expresses concerns about the deposition site and the need to adhere to the Coastal Regional Sediment Management (RSM) Plan. Alternatively, the letter from NMFS supports the main goal of completing the maintenance dredging to restore the lagoon and suggests that deposition north of the lagoon mouth should only occur if the City of Carlsbad allocates money for future dredging work, assuming that material deposited north of the lagoon mouth will re-enter the lagoon.

Staff has also reviewed all the correspondence and consulted with technical staff. The Commission's Coastal Engineer believes there needs to more analysis of offshore currents and resources, as well as consultation with State Parks and Recreation before placing the material along the south Carlsbad State Campground north of the lagoon mouth). However, Ms. Ewing does not believe there is such a sand deficit in the immediate area that the only sand re-entering the lagoon would be from beach nourishment. In addition, she noted the original restoration project also likely contributed to intercepting more sand with its inclusion of jetties. She further noted the Commission's precedent in past actions to require deposition sites both north and south of the Agua Hedionda Lagoon in its maintenance dredging permits.

In addition, there was a lack of environmental information provided for the substantial increase in beach depositional materials being proposed by DFG. Therefore, staff is recommending that the beach nourishment component be modified to conform with the Regional Beach Sand Proposal/Phase 1 (RBSP) locations and amounts. The Phase 1 RBSP included sites both north and south of the lagoon mouth, had full environmental review and the post-deposition monitoring did not identify any adverse impacts to offshore habitat. As such, staff has modified the initial Staff Report to include conditions reducing the volume of sand allowable for southern beach placement to 118,000 cubic yards, consistent with the 2001 SANDAG/RBSP beach nourishment project. Placement of the remaining 47,000 cubic yards will be restricted to beach areas north of the lagoon inlet and will require an amendment to his permit, along with input from the City of Carlsbad and approval from State Parks and Recreation and the State Lands Commission.

8. Please add Exhibit #8 - City of Carlsbad Letter and e-mail correspondence

9. Please add Exhibit #9 - NMFS Letter

10. Please add Exhibit #10 - SANDAG Letter



July 19, 2010

U.S. Army Corps of Engineers, Los Angeles District  
Regulatory Branch – Carlsbad Field Office  
ATTN: CESPL-CO-2010-00370-RRS  
6010 Hidden Valley Rd., Suite 106  
Carlsbad CA 92011

Received  
JUL 23 2010

California Coastal Commission  
Mr. Lee McEachern  
7575 Metropolitan Drive Ste 103  
San Diego, CA 92108-4402

California Coastal Commission  
San Diego Coast District

**PROPOSED PERMIT FOR MAINTENANCE DREDGING OF BATIQUITOS LAGOON**

This letter is in response to the public notice/data gathering process for the proposed maintenance dredging permit for the Batiquitos Lagoon by the California Department of Fish and Game (CDFG). The City of Carlsbad has reviewed the Public Notice and respectfully submits the following comments and recommendations for your consideration.

Sand deposition proposal – Based on the project description included in the Public Notice, CDFG is proposing to perform maintenance dredging of the Central and Western Basins of the Batiquitos Lagoon and dispose of up to 300,000 cubic yards of beach compatible sand directly to the near shore zone south of the lagoon entrance. The sand material could be distributed along the adjacent coastline to better serve the public as well as provide storm protection to the bluffs adjacent to the South Carlsbad State Campground. To this end, the sand material should be placed both north and south of the entrance to the lagoon, and placed such that the recreational area on both sides of the lagoon entrance is maximized. In addition, the dredged sand should be placed along the toe of the bluff adjacent to the campground just north of the project site to protect a state asset from further degradation.

With regard to placing the material on both sides of the inlet jetty, I refer you to the proposals addressed in the San Diego Coastal Regional Sediment Management Plan (RSMP). The RSMP was developed “to inform the public and decision-makers on sand deficits and related issues within the region, and proposes solutions for existing sediment management problems along the coast.” The development of the RSMP was a result of a collaboration of federal, state and local stakeholders and the coastal scientific community with the main objective of developing guidance for the use of available sand sources to offset the naturally reduced sediment budget in the San Diego region. The recommendations in the RSMP were based on review of numerous previous coastal studies and projects along the southern California coastline, the evaluation of technical reports with respect to littoral transport dynamics, and the need to maximize the use of a scarce sand source so to increase the public enjoyment of the beaches. The City of Carlsbad supported the work of the RSMP Working Group and recommendations outlined in the final report.

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City of Carlsbad Correspondence
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California Coastal Commission



July 19, 2010

Maintenance Dredging of Batiquitos Lagoon

Within the RSMP, the dredged material from the Batiquitos Lagoon was addressed and summarized on Table 10 (enclosed). According to the proposal, the RSMP recommends **onshore** placement with **60% placed south of the entrance and 40% placed north of the entrance to the lagoon**. In addition, the project applicant should prepare a Sand Deposition Plan which outlines the method of pumping the material to the beach, determine locations and sand quantities north and south of the lagoon mouth, and also include best management practices for the maximum retention of the material on the beach such as the implementation of dykes and sand basins directly at the discharge point of the pipe.

Mitigation from last lagoon maintenance dredging activities - The dredged material from the last Batiquitos Lagoon maintenance dredging project (2006/07) was placed in a large pile, thereby creating a sand dune approximately 8-10 feet high south of the lagoon entrance and adjacent to the travel lanes of Carlsbad Boulevard. As a result, the sand has continuously blown eastward over the existing bike lane and travel lanes of southbound Carlsbad Boulevard. Consequently, city crews are now required to sweep the roadway to keep the bike lane and existing travel lanes clear of sand. Unfortunately, during some periods, city crews are needed up to 3 times per week to clear sand from the travel ways. The city recommends this project include a provision to lower the sand dune to no higher than the existing roadway. This would not only reduce the amount of sand blown onto the travel lanes, but will increase the view of the ocean to drivers and pedestrians who travel along this coastal route.

Recommendations - The City of Carlsbad respectfully recommends the U.S. Army Corps of Engineers and the California Coastal Commission includes specific conditions for the subject project, which address the following:

1. Further the recommendations of the RSMP by requiring the contract to place the dredged beach quality sand material utilizing onshore placement techniques with 60% placed south of the entrance and 40% placed north of the entrance to the Batiquitos Lagoon.
2. Prepare a Sand Deposition Plan which better defines the quantities, locations, and best management practices for the deposition and retention of the dredged material.
3. Require the applicant to lower the sand dune along Carlsbad Boulevard, which was created during the last maintenance dredging project of Batiquitos Lagoon, to a level which significantly reduces the amount of sand continuously blowing on the adjacent roadway and bike lanes.

Thank you for the opportunity to review the Public Notice and submit comments for your consideration. If you have any questions or would like to discuss this issue further, please feel free to contact me directly at (760) 434-2838.

Sincerely,   
*Signature on file*

Steven C. Jantz  
Associate Engineer  
City of Carlsbad

- c: John Coates, Assistant City Manager/Parks and Recreation Director  
Kyle Lancaster, Parks Superintendent  
Chair and Members, City of Carlsbad Beach Preservation Committee

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**Table 10 - Proportional Placement of Sediment from Local Dredge Projects**

Dredge Location	Annual Quantity (Cubic Yards)	Placement Location
<b>Maintenance Dredging/Excavation Projects</b>		
Oceanside Harbor	222,000	Onshore 100% south of Tyson St (existing); alternatively Oceanside nearshore for less than optimum sand (new)
Del Mar Boat Basin	2,500	Onshore 100% at South Oceanside (new)
Agua Hedionda Lagoon	300,000	Onshore 60% south of entrance, 40% north of entrance (new)
Batiquitos Lagoon	25,000	Onshore with 60% south of entrance, 40% north of entrance (new); alternatively nearshore for less than optimum sand (new)
San Elijo Lagoon	25,900	Onshore 100% south of entrance (existing); alternatively nearshore for less than optimum sand (new)
San Dieguito Lagoon	16,000	Onshore 60% south of entrance, 40% north of entrance (new)
Mission Bay entrance channel	Undetermined, but estimated to be relatively small (10,000 assumed)	Onshore 100% north of entrance (historical)
Lower San Diego River (mouth area in Ocean Beach)	Undetermined, but estimated to be relatively small (10,000 assumed)	Onshore 100% south of entrance (new)
San Diego Bay	100,000	Onshore 100% south of entrance at Coronado and Imperial Beach (historical); alternatively nearshore at either Coronado or Imperial Beach for less than optimum sand (new)
<b>Future Wetlands Restoration Dredging Projects – Placement Location recommendations are all new</b>		
Buena Vista Lagoon	800,000	North Carlsbad onshore for optimum sand; Oceanside nearshore for less than optimum sand
San Elijo Lagoon	800,000	Onshore 45% north of entrance, 55% south of entrance; Cardiff nearshore for less than optimum sand
San Dieguito Lagoon	60,000	Onshore 60% south of entrance, 40% north of entrance; Del Mar nearshore for less than optimum sand
Los Peñasquitos Lagoon	Quantity undetermined	Onshore 60% south of entrance, 40% north of entrance; Torrey Pines nearshore for less than optimum sand
Tijuana Estuary (Phase 1 Project, per Chris Nordby 2008)	600,000	Onshore 60% north of entrance at Imperial Beach, 40% south of the Estuary mouth; and nearshore Imperial Beach for less than optimum sand

**Melissa Ahrens**

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**From:** Steve Jantz [Steve.Jantz@carlsbadca.gov]

**Sent:** Wednesday, July 28, 2010 3:59 PM

**To:** Melissa Ahrens; Lee McEachern

**Cc:** robert.r.smith@usace.army.mil

Melissa,

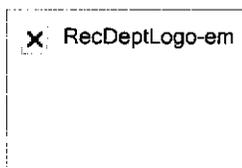
I received a copy of your response to Encinitas' concerns about the impacts of the Batiquitos Lagoon Maintenance Dredging Project on offshore reefs. Your reply indicates you are basing your decision on the 2009 RBSP II report which states they don't expect any impacts to down coast. However, I have two comments for your consideration and one specific request:

1. The RBSP II Final Phase I Report is not at a level to actually determine specific potential impacts to the reefs. Those specific determinations and analyses are part of the environmental evaluation. Keep in mind, the Project Study Report is only developed at a program level and could be revised based on the conclusions of the environmental evaluation, and
2. The EIR/EIS is the most appropriate document to analyze and determine potential impacts. As I'm sure you are aware, the EIR/EIS for RBSP II is only at the beginning stages of development since the Project Scoping Meeting was held a couple of months ago. The final EIR/EIS is not due to be completed until the beginning of next year. It would seem the actual impact determination would come from that document. Therefore, it seems preliminary to use a Phase I Report as the decision making document without the complete analysis of the specific potential impacts to offshore resources.
3. The determination of a southern disposal is contrary to the recommendation of the Regional Sediment Management Plan (RSMP). Keep in mind the RSMP was developed in cooperation and input from representatives of the Army Corps of Engineers and Coastal Commission. To completely disregard the work of this group and not take into consideration if its recommendations seems as though the work of the RSMP was in vain.

My request. Would you please forward me the environmental documentation provided within the F&G application as it relates to offshore resources and potential impacts. I would like to review to ensure proper analysis has been completed.

I know you are under a tight timeframe but I believe we both need to be confident the project is completed in a proper manner.

Thanks for your time.



Steven Jantz  
Associate Engineer  
City of Carlsbad

8/9/2010

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**Melissa Ahrens**

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**From:** Steve Jantz [Steve.Jantz@carlsbadca.gov]

**Sent:** Friday, July 30, 2010 4:03 PM

**To:** Melissa Ahrens; Lee McEachern

**Cc:** robert.r.smith@usace.army.mil; Tucker, Shelby; Kyle Lancaster

Melissa,

Thank you for your response to the city's concerns with regard to the pending permit to Fish and Game for the maintenance dredging of the Batiquitos Lagoon. I am encouraged your staff will be considering all comments when you meet next week. I would like to take this opportunity to provide additional comments for your consideration during the deliberation of the permit conditions for the maintenance dredging of the Batiquitos Lagoon.

There is ongoing correspondence and conversation, specifically from National Marine Fisheries Service/NOAA, indicating the city should contribute financially for the placement of sand north of the jetty to the lagoon. Our position is the requirement to place sand both north and south of the entrance channel should be considered mitigation for impacts created from the lagoon system, more specifically the sand that enters the lagoon as a result of the creation of tidal exchange. Applying mitigation as a condition of approval is necessary to offset the impacts of the project and is consistent with policies with resource/permitting agencies.

I would like to begin with simple dynamics of the coastal waters adjacent to the Batiquitos Lagoon. I acknowledge there are both north and south littoral transport directions depending on the time of year. During the winter months, the storms from the northern hemisphere drive the littoral drift in a southerly direction and the weather patterns from the southern hemisphere direct the littoral drift to the north typically during the summer. I acknowledge the general "Rule of Thumb" that in the Southern California Bay the southern transport direction is for about 7 months out of the year and in a northerly direction approximately 5 months of the year. However, the duration of north and south littoral direction varies each year depending on the intensities of the storm events in each hemisphere. But for purposes of this discussion, let's use the rule of thumb (7/5).

Keep in mind, whether the littoral direction is to the north or south, every day of the year sand is moving past the entrance to the lagoon. And, every day of the year, the created tidal exchange then allows the sand to enter the lagoon system and settle in the central and western basins. And, every day of the year, the lagoon system is depriving sand from beaches on the north and south side of the lagoon entrance. Therefore, since the sand material is being deposited into the lagoon, the project should put the material back to where it came from (mitigation). Putting material strictly to one side of the lagoon entrance does not mitigate the loss of sand from the other side.

It is for the above reasons the City feels F&G should to mitigate the loss of sand material from the northern portion of the coastline north of the entrance channel.

In addition, as stated in the city's comment letter dated July 19, 2010, the region spent considerable amount of time and energy preparing the Coastal Sediment Management Plan. The Batiquitos Lagoon location was evaluated and a proposed distribution of sand was included in the final document. Back to the "Rule of Thumb", the 7/5 seems similar with the recommendation of the Coastal Sediment Management Plan to place 60% to the south and 40% to the north of the entrance channel taking into consideration local coastal dynamics.

8/9/2010



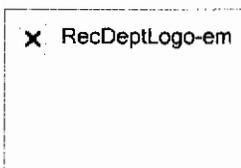
As a historical note, this was the same argument provided at a Coastal Commission hearing in the early 1990's when SDG&E proposed to gain permits for the maintenance dredging of Agua Hedionda (3 miles to the north). It was successfully argued to the Commission the applicant should place the sand back on the beach from where it came from. This resulted in a condition which is part of all past and current resource agency permit conditions applied to the bi-annual maintenance dredging activities within Agua Hedionda. The current condition requires the power plant to place 30% of the dredged material on north beach and the remainder split between middle/south beach. The theory is exactly the same, mitigate for the loss of sand in the littoral cell that is entrained within the lagoon by recognizing that sand moves in both directions across the mouth of the lagoon. After reviewing the historical quantities dredged from Agua Hedionda, there is no measurable increase in sand entering the lagoon since the beginning of the requirement to place sand on north beach.

Also, from a technical standpoint, as far as I am aware there have been no technical studies conducted at the Batiqitos Lagoon which verifies an increase in the amount of sand entering the lagoon from the north. In addition, it is also my understanding the monitoring of the affects of additional sand entering the lagoon from the South Carlsbad Beach Nourishment site identified with RBSP I was not required nor performed. The statements provided by Fish and Game and the assumptions used by NMFS are antidotal at best. So, to base the decision on a assumption of placing sand north of the entrance channel would require more dredging in the future cannot be substantiated. I also don't think the requirement to place sand on the north side would add any significant costs to the dredging contract. The only costs incurred would be the moving of the discharge pipe to the other side of the entrance. Seems this cost would be minimal since the dredge vessel and construction equipment to work the material on the beach would already be part of the project.

Finally, it is also my understanding the environmental determination for this project is a "Negative Declaration". I asked you to forward a copy of the environmental documentation from the permit application which I have yet to receive. If the determination is a negative declaration, I find it interesting that 177,000 cubic yards of dredged sand material can be discharged into the near-shore and there is no requirement to analyze/monitor the potential impacts to offshore reefs, habitat, and vegetation. If this is the case, then every future beach nourishment project along the San Diego coastline which is equal or less quantity does not require a strict environmental analysis. This logic then should be applied to the EIR/EIS which is currently being prepared for RBSP II.

I understand time is of the essence but these issues have been brought up during the many meetings over the past year with Fish and Game and NMFS. I would hope the parties can come together to ensure this is a successful project.

Thanks again for your time and consideration of our comments. I'm looking forward to your response next week.



Steven Jantz  
Associate Engineer  
City of Carlsbad  
799 Pine Avenue, Suite 200  
Carlsbad CA 92008  
760-434-2838

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**Melissa Ahrens**

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**From:** Steve Jantz [Steve.Jantz@carlsbadca.gov]  
**Sent:** Wednesday, August 04, 2010 1:57 PM  
**To:** Deborah Lee; Melissa Ahrens  
**Cc:** Lee McEachern; Kyle Lancaster  
**Subject:** RE: Batiquitos Lagoon Maintenance Dredge Permit  
Deborah,

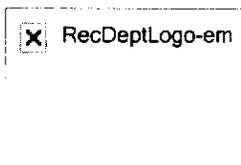
Thanks for your response. I understand the challenges with this project, not only trying to balance the recreational and environmental issues of the coastline, but dealing with DFG with all their somewhat confusing bureaucracy and procedures. In any event, I'm in the office all day Thursday and will be available to discuss any concerns.

With regard to the RSM, I know the exhibits and description relative to north beach placement is general in nature. I walked the site and the beach adjacent to the campground is completely devoid of sand. Using Agua Hedionda maintenance dredging as an example, there is a distance of 1000' north of the inlet channel where the sand deposition begins and continues in a northerly direction to the end of the beach placement site. This was conceived to deal with the potential issue of increased sediment entering the lagoon and determined if the sand is placed as far north as possible and towards the end of their dredging operation, the impacts of sand re-entering the lagoon is minimized. This same approach could be applied to Batiquitos by placing sand as far north as possible to reduce sand entering the system. In addition, as is applied to Agua Hedionda, placing the material towards the end of the dredging operation then allows the sand to move away from the lagoon entrance as the littoral drift shifts from a southerly direction to a more northerly pattern. I have had a couple of discussions with State Parks and they indicated they are concerned about ongoing impacts to the bluffs. They are concerned with the loss of revenue if campsites are lost due to bluff failures. I have left a message with Brian Ketterer, North Coast Superintendant, to see if he should weigh in on this issue but haven't heard back. A couple of weeks ago he indicated they were going to send a letter of comment.

With regard to environmental review, I questioned DFG of the appropriateness of issuing a mitigated neg dec/exemption for this type of project. The sand placement, whether completely south of the channel or split between north and south still needs discussion with regard to potential impacts to offshore resources along the coastline with Encinitas. I'm interested in your position on the proper environmental review for this project.

I have reviewed and understand the protocols for ex parte communications. As stated earlier, I will advise our management staff to the process.

Sorry you are still on mandatory furloughs. As a fellow public employee, I can't imagine trying to get all my work done with less days. Especially the time, effort and short time frames when preparing for the many public meetings you have to attend. Hope the California craziness ends soon. Please feel free to contact with any questions.



8/9/2010



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

JUL 29 2010

Colonel R. Mark Toy  
U.S. Army Corps of Engineers  
Los Angeles District, CESPL-CO-R  
P.O. Box 2711  
Los Angeles, California 90053-2325

Dear Colonel Toy:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the U.S. Army Corps of Engineers' (Corps) Public Notice 2010-00370-RRS for maintenance dredging in the Batiquitos Lagoon Ecological Reserve (Lagoon) in Carlsbad, San Diego County, California. NMFS offers the following comments pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Fish and Wildlife Coordination Act of 1934 (FWCA), as amended.

**Proposed Action**

The California Department of Fish and Game (CDFG) previously was issued a permit to perform maintenance dredging of up to 100,000 cubic yards annually in the Lagoon. The proposed action would expand this permit to allow the dredging of up to 300,000 cubic yards of sand from the Central and Western Basins of the Lagoon annually, extending over a five year period to restore and maintain adequate tidal flows and flushing of the system.

Based on the information provided in the Public Notice and in communications with representatives from both the Corps and CDFG, the applicant intends to continue placing the dredge material in the nearshore area adjacent to the lagoon mouth, primarily south of the inlet. However, to increase overall flexibility for future alternatives, the proposed project will also allow the disposal of material north of the lagoon when conditions are suitable.

**Magnuson-Stevens Fishery Conservation and Management Act Comments**

Action Area

For the purpose of this consultation, the action area is the Batiquitos Lagoon and the adjacent nearshore environment. The proposed project occurs within essential fish habitat (EFH) for various federally managed fish species within the Pacific Coast Groundfish and Coastal Pelagic Species Fishery Management Plans (FMPs). In addition, the project occurs within an estuarine area designated as a habitat area of particular concern (HAPC) for various federally managed fish species within the Pacific Coast Groundfish FMP. HAPC are described in the regulations as

**B**

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subsets of EFH which are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. Designated HAPC are not afforded any additional regulatory protection under Magnuson-Stevens Act; however, federal projects with potential adverse impacts to HAPC will be more carefully scrutinized during the consultation process.

### Effects of the Action

Lagoon systems in southern California serve important ecological functions (e.g., nursery grounds) for a variety of marine species, but they must remain open to full tidal flow to perform these functions adequately. Tidal flow restriction can impair water quality (e.g., dissolved oxygen levels, temperature, increased nutrients, etc.), resulting in the loss of fauna and flora, including submerged aquatic vegetation. Urban development activities, especially water reservoir and dam construction, have altered the natural transport of sediment. These facilities reduce the size of flood flows that historically flushed sediment from estuaries and lagoons and deposited it on nearby beaches. In the nearshore environment, waves and the currents they generate have the most influence over the transportation and deposition of sediments. In the Oceanside Littoral Cell, winter storm swells originating in the northern hemisphere are associated with higher energy waves than summer swells from the south. Therefore, although the direction does vary seasonally in this region, the winter northern swells have a more profound effect on sediment transport and beach profiles resulting in a net sediment transport to the south, or downcoast. At Oceanside, the downcoast rate is approximately twice the upcoast rate. Because this project is proposed to occur outside of the summer months due to scheduling timelines and environmental windows (i.e., least tern breeding season), the majority of the material is expected to move downcoast. Therefore, any material placed north of the Lagoon would most likely accelerate the closure of the inlet and exacerbate the adverse impacts described above.

The disposal of dredge material will adversely affect EFH by: 1) changing the physical, chemical, and biological characteristics of the substrate; 2) impacting or smothering immobile benthic communities in the footprint of the nourishment activity; 3) forcing mobile animals to migrate from the area; 4) creating limited short-term turbidity plumes; and 5) potentially directly or indirectly affecting adjacent habitats.

Along the coast of southern California to southern Baja California during the months of March through August, California grunion use intertidal sandy beach habitats for spawning and maturation of eggs. These eggs will mature over a period of approximately two weeks, when extreme high tides reach eggs and stimulate hatching. Activities that require moving or depositing of sand material on tidally influenced beach areas during this season may smother and/or physically damage grunion eggs because of compression by heavy work equipment or burial by the placement of sand material. This could have negative impacts on the reproductive success of grunion.

Another potential project concern is the spread of the invasive alga *Caulerpa taxifolia* from project activities. As you may be aware, this alga has been introduced to our coastline. Evidence of harm that can ensue as a result of an uncontrolled spread of the alga has already



been seen in the Mediterranean Sea where it has destroyed local ecosystems, impacted commercial fishing areas, and affected coastal navigation and recreational opportunities. Although it is not known to be present within Batiquitos Lagoon, it has been detected in two other locations in Southern California. If the invasive alga is present within the project area, the dredging activities would adversely affect EFH by promoting its spread and increasing its negative ecosystem impacts.

Although there may be potential impacts to eelgrass or cordgrass habitat within the Lagoon, NMFS would like to remind the Corps that both eelgrass and cordgrass were planted there as an experimental measure and that neither of these plant species existed in the Lagoon in recent years prior to that time. Given that the proposed maintenance dredging is necessary to ensure adequate tidal flow to support these unique habitat types, NMFS believes any localized impacts incurred as a result of dredging would be offset. Therefore, as described in our letter dated August 23, 1999 (Attachment), NMFS maintains the position that any impacts to these two plant species associated with maintenance dredging to restore full tidal flows to this system would not result in any mitigation obligation.

#### **EFH Conservation Recommendations**

Based upon the above effects analysis, NMFS has determined that the proposed action would adversely affect EFH for various federally managed fish species within the Coastal Pelagic Species and Pacific Coast Groundfish FMPs. However, assuming that the conservation recommendations provided below are implemented, NMFS believes the proposed project will ultimately provide a net, long-term benefit to EFH that outweighs any short-term impacts associated with the project. Therefore, pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS offers the following EFH conservation recommendations to avoid, minimize, mitigate, or otherwise offset the adverse effects to EFH.

1. If the project will proceed during a time period when the predominant direction for material transport within the littoral cell is from north to south, the material should be placed south of Batiquitos Lagoon.
2. Should the applicant decide, at the request of the City of Carlsbad, to place dredge material north of the Lagoon for beach nourishment purposes during a time when the seasonal direction of material transport is to the south, the city receiving the sand should provide adequate funding to offset all project costs relating to the northern site disposal including, but not limited to, accelerated deposition of sand in the Lagoon inlet and adjacent areas. The funds should be deposited in the state-administered Batiquitos Maintenance Account as defined in the 1987 Memorandum of Agreement (as amended in 2010).
3. The applicant should determine whether suitable grunion spawning habitat is available at the proposed beach nourishment site prior to disposal activities. If none exists, then no further grunion mitigation measures are required.

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4. If suitable grunion spawning habitat is available, then the applicant should strive to avoid placement of sand material between March 1<sup>st</sup> and August 31<sup>st</sup> to avoid adversely affecting grunion spawning. If it is necessary to conduct the beach replenishment work during grunion spawning months, impacts should be avoided by observing the beach during the spawning time prior to the proposed sand placement period to determine if grunion have spawned in the disposal area. If grunion have spawned, all activity associated with the beach nourishment program, including sand transport, placement, dispersal, etc., should be restricted to above the Mean Higher High Water line or a single point discharge until the eggs are hatched at the following two spring-tide series and no subsequent spawning activities have occurred.
5. A pre-construction survey for *Caulerpa* of the project area should be conducted in accordance with the *Caulerpa* Control Protocol (see <http://swr.nmfs.noaa.gov/hcd/ccpv1.htm>) not earlier than 90 days prior to planned construction and not later than 30 days prior to construction. The results of that survey should be transmitted to NMFS and CDFG at least 15 days prior to initiation of proposed work. In the event that *Caulerpa* is detected within the project area, no work shall be conducted until such time as the infestation has been isolated, treated, and the risk of spread is eliminated.

#### Statutory Response Requirement

Please be advised that regulations at section 305(b)(4)(B) of the Magnuson-Stevens Act and 50 CFR 600.920(k) of the Magnuson-Stevens Act require your office to provide a written response to this letter within 30 days of its receipt and at least 10 days prior to final approval of the action. A preliminary response is acceptable if final action cannot be completed within 30 days. Your final response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendations, you must provide an explanation of the reasons for not implementing those recommendations. The reasons must include the scientific justification for any disagreements over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects.

#### Supplemental Consultation

Pursuant to 50 CFR 600.920(l), the Corps must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations.

#### **Fish and Wildlife Coordination Act Comments**

The purpose of the FWCA is to ensure that wildlife conservation receives equal consideration, and is coordinated with other aspects of water resources development [16 U.S.C. 661]. The FWCA establishes a consultation requirement for federal departments and agencies that undertake any action that proposes to modify any stream or other body of water for any purpose,

including navigation and drainage [16 U.S.C 662(a)]. Consistent with this consultation requirement, NMFS provides recommendations and comments to federal action agencies for the purpose of conserving fish and wildlife resources. The FWCA allows the opportunity to offer recommendations for the conservation of species and habitats beyond those currently managed under the Magnuson-Stevens Act. Assuming implementation of the above EFH conservation recommendations, NMFS has no additional FWCA recommendations to provide.

Please contact Mr. Eric Chavez at 562-980-4064, or via email at [Eric.Chavez@noaa.gov](mailto:Eric.Chavez@noaa.gov) if you have any questions concerning this EFH consultation or require additional information.

Sincerely, *UH*

*Signature on file*

*for* Robert S. Hoffman *UH*  
Assistant Regional Administrator  
for Habitat Conservation Division

Attachment

*M*



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

AUG 23 1999

F/SWO21:RSH

Ms. Sherlyn Sarb  
Supervisor, Permits and Enforcement  
California Coastal Commission (CCC)  
San Diego Coast Area  
3111 Camino Del Rio North, Suite 200  
San Diego, California 92108-1725

Dear Ms. Sarb:

As you are aware, the California Department of Fish and Game (CDFG) is planning to dredge accumulated beach sands that have deposited from normal tidal action in the west and central basins of Batiquitos Lagoon. There has been some discussion regarding whether mitigation would be required to offset any impacts to eelgrass from these maintenance dredging activities.

First, it should be remembered that both eelgrass and cordgrass were planted in the Lagoon as an experimental measure. Both of these plant species did not exist in the Lagoon in the recent past. Since that experimental planting work was completed, eelgrass has expanded considerably throughout the Lagoon and, in particular, in the west and central basin areas. That expansion and the high resource values to fish and wildlife associated with other Lagoon habitats are due in large part to the full tidal nature of the system. The accumulated sediment is now significantly impacting tidal flows and is beginning to adversely affect those established habitat values.

It was the position of National Marine Fisheries Service, and I believe the U.S. Fish and Wildlife Service and CDFG, that any expansion of either cordgrass or eelgrass should not preclude nor hinder future maintenance of the Lagoon to restore the system to the as-built condition. Essentially, we informally established dredging limits for the Lagoon that mimics the as-built configuration. As a consequence, any dredging to reestablish that condition, regardless of the impact to these two plant species, would not result in any mitigation obligation. Thus, the provisions of the Southern California Eelgrass Policy would not be applicable to the currently proposed work or other future maintenance dredging activities in the Lagoon.



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This is similar in concept to the dredging boundary established for Agua Hedionda Lagoon where required periodic maintenance dredging operations have been conducted by San Diego Gas and Electric. If eelgrass expansion occurs within this established boundary, no mitigation is required should it be removed during maintenance dredging activities.

Hopefully, this clarifies our position relative to any expected impacts to eelgrass from upcoming dredging activities. Should you have any questions, please contact me at 662-980-4043.

Sincerely,

*Signature on file*

Robert S. Hoffman  
Southern California Environmental  
Coordinator

cc:  
USFWS - Carlsbad (Jack Fancher)  
CDFG - San Diego (Tim Dillingham)

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401 B Street, Suite 800  
 San Diego, CA 92101-4231  
 (619) 699-1900  
 Fax (619) 699-1905  
 www.sandag.org

August 3, 2010

File Number 3200200

Lee McEachern  
 California Coastal Commission  
 7575 Metropolitan Drive, Suite 103  
 San Diego, CA 92108-4402

Dear Mr. McEachern:

SUBJECT: Proposed Permit for Maintenance Dredging at Batiquitos Lagoon

This letter is in response to the public notice for the proposed maintenance dredging permit for the Batiquitos Lagoon by the California Department of Fish and Game (CDFG). I have reviewed the public notice and respectfully submit the following comments and recommendations for your consideration.

Based on the project description provided in the public notice, CDFG is proposing to perform maintenance dredging at the central and western basins of Batiquitos Lagoon, disposing of up to 300,000 cubic yards of material directly into the nearshore zone south of the lagoon entrance. Based on the San Diego Association of Governments' (SANDAG's) Coastal Regional Sediment Management (RSM) Plan for the San Diego Region completed in 2009, it is recommended that the placement locations and quantities be reconsidered.

The RSM Plan provides potential placement locations for maintenance dredging activities and specifies anticipated quantities. For Batiquitos Lagoon, the preference would be to place beach quality material on the beach north and south of the lagoon mouth (Attachment 1). Nearshore placement is recommended only in the event that the material is less than optimal. Furthermore, the RSM Plan recommends onshore placement with 60 percent of the material placed south and 40 percent of the material placed to the north of the lagoon mouth.

In 2001, SANDAG placed 118,000 cubic yards of material as part of the Regional Beach Sand Project (RBSP). Currently, SANDAG is in the process of preparing environmental documents for a second beach nourishment project. This project assumes similar quantities being placed at Batiquitos Beach. However, an alternative that considers placement of up to 177,000 cubic yards also will be analyzed to determine the feasibility of placing more material at the Batiquitos receiver site. If placement of more material occurred, it would be imperative that the site be monitored to determine performance. The extensive RBSP monitoring program showed no long-term, adverse impacts. However, as seen in the RSM Plan, there is sensitive habitat offshore, particularly as you move to Ponto Beach and south, that can be impacted by

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AUG 05 2010

San Diego County District

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California Coastal Commission

increased quantities of material (Attachment 2). Therefore, it is recommended that the project place material 40 percent north and 60 percent south of the lagoon mouth, remaining consistent with the RSM Plan and RBSP.

Thank you for the opportunity to review the public notice and submit comments for your consideration. SANDAG has been working with the Army Corps of Engineers and the State of California on its sediment management efforts and supports placement of material from lagoon dredging activities.

If you have any questions, please feel free to contact me at (619) 699-1916 or stu@sandag.org.

Sincerely,

*Signature on file* 

SHELBY TUCKER  
Senior Regional Planner

STU/ama

Attachments

**21**

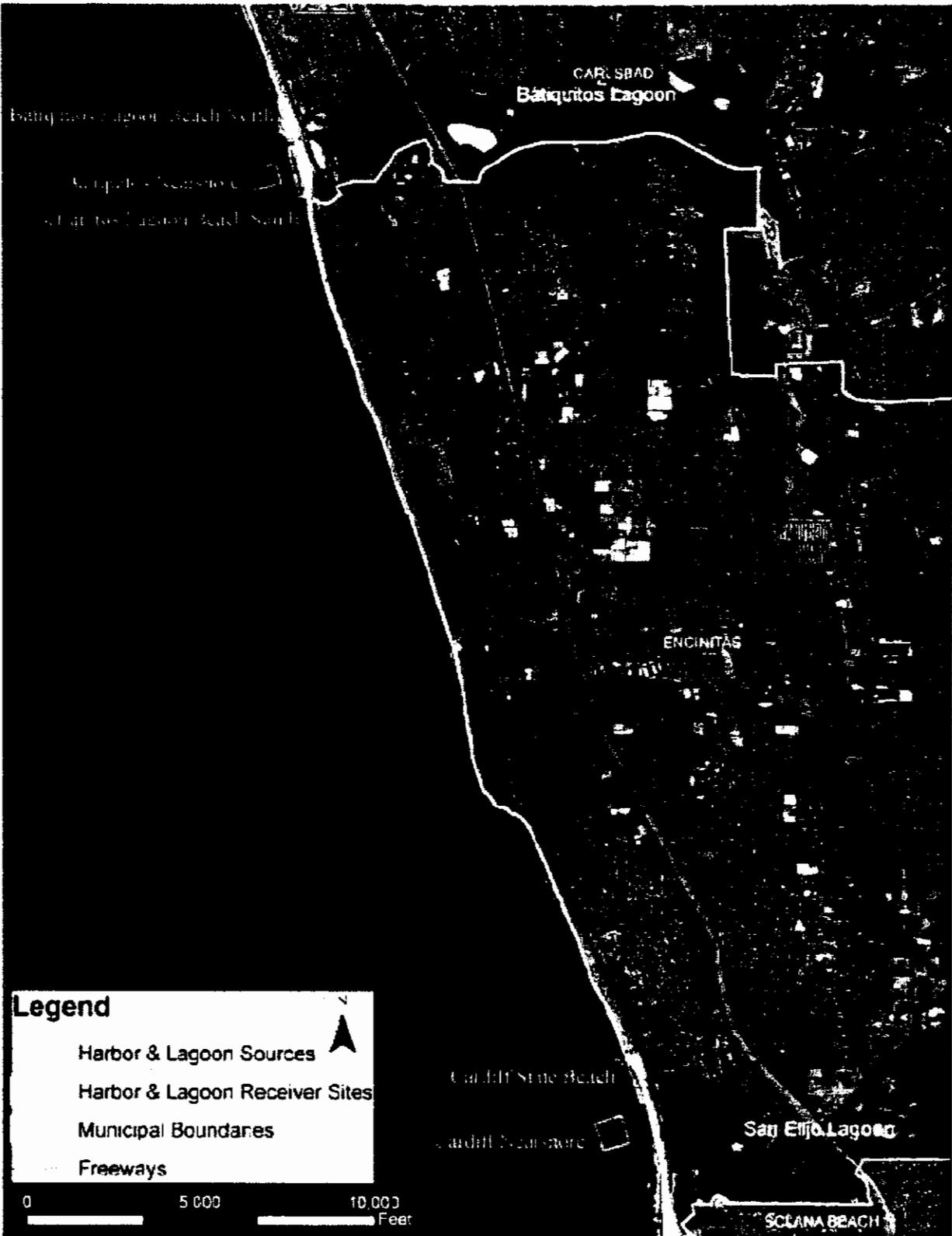


Figure 33 – Maintenance Dredging and Wetland Restoration (North Central County)

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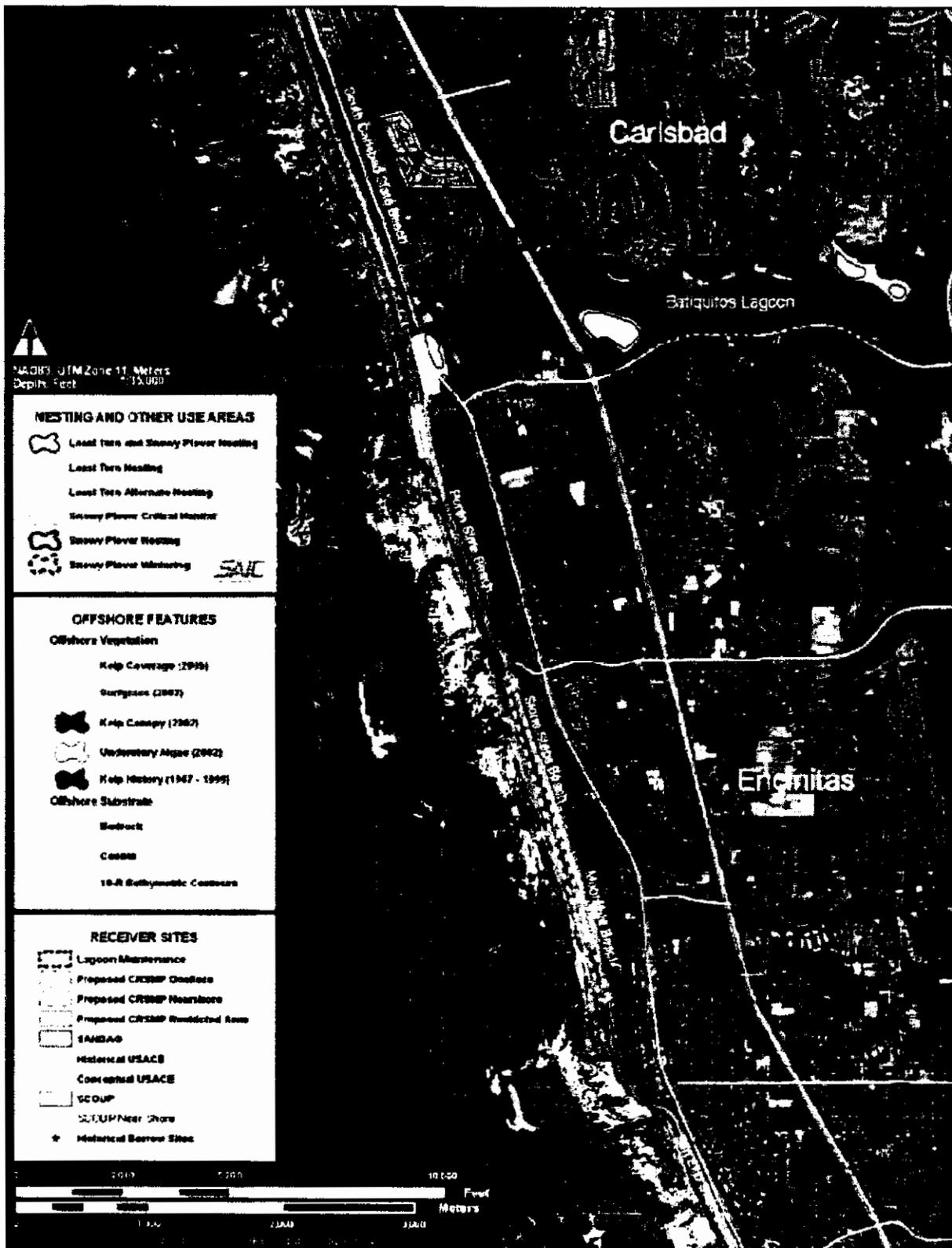


Figure 16 - Sensitive Biological Resource Areas in the Vicinity of Carlsbad and Encinitas Sediment Management Areas

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In order to maintain a permanently open lagoon mouth and healthy lagoon ecosystem, periodic maintenance dredging of the lagoon bottom has occurred since the completion of the initial lagoon restoration plan approved in CDP 6-90-219. Past maintenance dredging proposals have come before the Commission in the form of Amendments to CDP 6-90-219 and have involved the dredging of up to 100,000 cubic yards of beach quality sand that was subsequently deposited on nearby Carlsbad State Beach areas or existing nesting sites within the Lagoon's Ecological Reserve boundary. This application is being processed as a separate CDP as it involves dredging greater volumes of lagoon bottom deposits as well as additional fencing improvements to nesting sites. The proposed project will occur within Batiquitos Lagoon, where the Commission retains jurisdiction. As such, the standard of review is Chapter 3 policies of the Coastal Act.

The attached conditions of approval require final plans which indicate the lagoon has been dredged consistent with the "as built" plans that were approved in the Batiquitos Lagoon Enhancement Plan, that placement of sand on area beaches shall occur outside of the summer season (Memorial Day weekend through Labor Day), and that dredging can only occur between September 15 and February 15 to avoid potential disturbance of California least terns and western snowy plovers during their breeding periods. Conditions specify that while the maintenance of the lagoon requires repeated dredging, this permit is only for the removal of up to 165,000 cubic yards, and any further dredging would require an additional permit. To prevent the spread of non-native invasive species, a *Caulerpa taxifolia* survey will be required to occur between 30 to 90 days prior to dredging commencement.

Additionally, this project, as proposed, was developed in conjunction with the Army Corps of Engineers and the U.S. Fish and Wildlife Service and Special Condition #5 requires the applicant to submit copies of all other required state or federal discretionary permits to the commission prior to the commencement of dredging activities. The City of Carlsbad has expressed concerns regarding the proposed Batiquitos Lagoon dredging project in a letter dated July 19, 2010, where they denote that, as proposed, the volume and placement of dredged sand materials would not provide any additional beach replenishment to Carlsbad State Beaches north of the lagoon inlet. The applicant has indicated that northern placement of dredged materials is not economically feasible at this time and staff remains supportive of the proposed southern placement area as it will provide improved recreational beach opportunities for the public as well as maintain the ecological health of the Batiquitos Lagoon. 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.

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 6-10-020 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. Timing of Dredging and Beach Deposition. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans which incorporate the following:

- a. Public Access/Timing. Placement of sand on Carlsbad State Beach shall occur outside of the summer season (Memorial Day weekend through Labor Day).
- b. Sensitive Species/Timing. To avoid potential impacts to the California least

tern and western snowy plover breeding period, construction will not be permitted between the dates of March 1<sup>st</sup> to August 31<sup>st</sup> of any year.

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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Post-Dredging Plans. Within 60 days of the dredging of the lagoon, final dredging and deposition plans shall be submitted which indicate:
  - a. The lagoon has been dredged consistent with the “as built” plans, dated 11/18/94 by the City of Carlsbad, that were approved in the Batiquitos Lagoon Enhancement Plan.
  - b. The South Ponto portion of Carlsbad State Beach has been nourished consistent with the preliminary beach profiles submitted with the application.

3. Term of Permit/Amount of Dredging. This coastal development permit is only for a single proposal, which authorizes the dredging and disposal of up to 165,000 cu. yds. of material as approved herein. Dredging may, however, continue, outside the restricted breeding season, until this volume of material has been removed.

4. Staging Areas. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a revised staging plan, indicating that only two staging/dredge launch ramp areas shall be permitted within the wetland boundary: one shall be located on the E1 nesting site for launch into the eastern basin for the work on the central basin, and the second shall be located on the W2 nesting site, which will be used for launches into the western basin. All materials will be removed from the staging areas following completion of the project.

All other project staging areas, exclusive of the two approved staging/dredge launch ramp areas, shall not be allowed to occur in any environmentally sensitive land areas, including vegetated and non-vegetated wetlands and buffers, sandy beach areas, with the exception of unavoidable staging of equipment for the beach nourishment component of the project, or public parking areas. Construction haul routes to the launch ramps for the required floating dredges shall avoid impacts to wetland areas except as necessary to access the two approved launch ramp sites. The storage of materials at the staging/launch ramp areas other than fuel for the dredge(s) shall be limited to that needed for one day’s work only, and the sites shall be sized accordingly. Fuel storage at the dredge ramp sites shall be the subject of a fuel storage plan, incorporating requirements for fuel containment equipment for deployment during fueling operations, and limiting the amount of fuel and lubricants stored at each site to 150 gallons at any one time. The fuel storage plan shall be subject to the review and written approval of the Executive Director in consultation with resource agencies.

5. Other Permits. **PRIOR TO THE COMMENCEMENT OF DREDGING**, the applicant shall submit copies of all other required state or federal discretionary permits from the U.S. Fish and Wildlife Service and the Army Corps of Engineers for the proposed project. Any mitigation measures or other changes for the project required through said permits shall be reported to the Executive Director and shall become part of the project. No changes to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Invasive Species. **PRIOR TO THE COMMENCEMENT OF DREDGING**, the applicant shall provide evidence that dredging of Batiquitos Lagoon can occur without the risk of spreading the invasive green alga *Caulerpa taxifolia* as follows.

- a. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any dredging authorized under this coastal development permit, the applicant shall undertake a survey of the project area (includes any other areas where the bottom could be disturbed by project activities) and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- b. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- c. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
  1. For the review and written approval of the Executive Director; and
  2. To the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (DFG) (858-467-4218) or Robert Hoffman, National Marine Fisheries Service (NMFS) (562-980-4043).
  3. If *Caulerpa* is found, then the NMFS and DFG contacts shall be notified within 24 hours of the discovery.
- d. If *Caulerpa* is found, the applicant shall, prior to the commencement of dredging, provide evidence to the Executive Director for review and written approval either that the *Caulerpa* discovered within the project and/or buffer area has been eradicated or that the dredging project has been revised to avoid any contact with *Caulerpa*. No changes to the dredging project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the

Executive Director determines that no amendment is required.

#### **IV. Findings and Declarations.**

The Commission finds and declares as follows:

##### **1. Detailed Project Description/History.**

The applicant is proposing to perform maintenance dredging of the Lagoon's Western and Central Basins as well as replace and extend the fencing around designated nesting sites E2, W1 and W2. The proposed maintenance activities include dredging of 165,000 cubic yards of beach quality sand to be placed south of the lagoon inlet and the replacement and extension of existing galvanized chain link fencing around lagoon nesting areas. The beach south of the lagoon inlet is identified as South Ponto Beach and is part of Carlsbad State Beach, which is owned by the California Department of Parks and Recreation (CDPR).

The southern beach site chosen for sand replenishment has been previously used as a dredging deposit site and is an area where lagoon sand deposition is permitted and recommended by the CDPR and San Diego Association of Governments (SANDAG). While past maintenance dredging operations in the lagoon have placed sand to the north and south, the applicant has indicated that an exclusively southern placement would be more economically prudent as existing ocean currents channel northern sand deposits directly back into the lagoon mouth, while southern deposits are transported further south down the coast away from the lagoon inlet. The proposed South Ponto Beach site was also used in the 2001 SANDAG Regional Beach Sand Project (RBSP) involving 118,000 cubic yards of dredged sand and is recommended in the 2009 RBSP II for up to 175,000 cubic yards of sand. Additionally, a GeoSoils sand grain analysis has been conducted as of 3/8/10 that indicates the dredged materials to be deposited on the southern site are suitable for beach placement. The grain size of sand material on Ponto Beach was examined to ensure that dredged materials are similar to existing material on the beach. The South Ponto Beach and nearshore area is covered with previously dredged sand from Batiquitos Lagoon and, as such, dredged materials proposed for replenishment are expected to be practically identical to the existing beach sand composition. Additionally, Special Condition #5 requires that an Army Corps of Engineers Permit for the proposed dredging and beach sand replenishment be submitted to the Commission prior to the commencement of any dredging operations.

A pipeline would be placed along the northern section of South Ponto Beach, then along the edge of the bluff to the discharge point one kilometer south of the lagoon inlet. As the area at the discharge point fills with sand, the pipeline would be removed (section by section) to allow sand to build up along the shoreline. The southern deposition area would be 2,700 ft long and extend 110 ft wide from nearshore areas down to the intertidal zone. This southern replenishment location is included in the 2009 SANDAG Regional Beach Sand Project II as a recommended placement site for up to 175,000 cubic yards of dredged sand. The recommended deposition area would have longer and flatter dimensions compared to past South Ponto beach sand replenishment sites in order to

maximize the recreational benefits of the sand replenishment and prevent the eastern migration of deposited sand onto nearby Carlsbad Blvd. roadway. The slope of the collective dredge materials would be limited to 10:1 feet, consistent with the recommendations of the 2009 SANDAG Regional Beach Sand Project II report.

In the original permit for the Batiquitos Lagoon (6-90-219), the Commission approved the restoration of the lagoon, the basic purpose of the permit being the restoration of a marine habitat regime in the lagoon. In order to create and maintain this marine habitat type, a permanently open lagoon was required. The creation of the open mouth restored continuous tidal action and the former marine ecosystem, without significant adverse impacts to established habitat values within the project limits. In addition, the permanently open lagoon mouth helps to control the sediment load remaining in the lagoon and aids in flood control. The project, as proposed, will maintain the tidal lagoon opening and restore the necessary tidal prism. It was anticipated in the original approval that maintenance dredging would be required to maintain lagoon health. Sediments are transferred into the lagoon from both upstream development sites and through tidal action, and continually accumulate in the lagoon. As a result of the reduced tidal prism, lagoon resources have become stressed, and the proposed dredging is required to assure the continued health of the lagoon. The applicant proposes to complete the project outside the California least tern/Western snowy plover nesting season as the dredging sites are located in close proximity to nesting sites for endangered/threatened avian species. Moreover, the entire lagoon area is used for foraging by these and other sensitive species throughout the nesting season. All staging areas are proposed within the perimeters of the project itself and the dredge methodology and sand replenishment operations will comply with all applicable Chapter Three Coastal Act policies.

2. **Marine Resources**. Sections 30230, 30231, 30233, and 30235 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 30233**

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

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

Section 30230 and 30231 state, in part, that marine resources shall be maintained and restored where possible and shall promote the highest feasible level of biological productivity. The dredging, as described by the applicant, will allow for the tidal flushing of the lagoon, a necessary action to maintain lagoon health, and promote ecological productivity. The current levels of sand in the lagoon basin are not allowing for a necessary amount of tidal influence, which can eventually lead to stagnation, anoxia, associated fish kills, and the emigration of protected shorebirds. The dredging of the central and west basin will restore the core functioning of the lagoon, thus promoting a healthier ecosystem.

As noted, a number of endangered bird species reside and overwinter in the lagoon. According to the applicant, the majority of species that use the staging areas and discharge sites have immediately adjacent sites that they use for loafing and feeding, and because of the timing of the project, no birds are expected to require the sites for nesting. Mammals are only found on site for foraging purposes and also have adjoining sites available for that purpose. A portion of Special Condition #1 addresses the timing of construction to assure that impacts to avian species do not occur.

Additionally, extension and maintenance of existing fencing on nesting sites E2, W1 and W2 will allow for improved protection of endangered Western Snowy Plovers, Belding's Savannah Sparrow, the Light Foot Clapper Rail, and the California Least Tern. Currently, the designated nesting sites proposed for fencing installation (E2, W1 and W2) are partially protected by chain link fencing. However, Fish and Game is proposing to extend and replace this fencing in order to provide further protection from mammalian land predators and human trespassers. The new galvanized chain link fencing would be approximately six feet high, and would extend 432 feet to the west and 282 feet to the east on nesting site E2, 716 feet around the entire W1 nesting site, and a combined 170 feet to the north and south on the W2 site. The proposed vinyl coated beige/tan colored fencing has been designed to match the color of the surrounding sand on the nesting sites. The W1 nesting site is elevated approximately 6 feet above the lagoon water level and the fence would be installed at the bottom of the nesting area's slope so that the top of the proposed fence is level with the nesting site. This placement will ensure that no raptor perches are created, as the fence posts will not provide a tall vantage point from which they can view the area. The fencing on W2 and E2 will be placed far enough away from

the existing nesting site so as not to create raptor perches and endanger nesting birds. As such, the height and design of the proposed fencing would not facilitate increased avian predation of endangered bird populations and would provide their designated nesting sites with improved protection from land predators.

Other sensitive lagoon habitats include eelgrass beds, which currently occupy a large part of the eastern basin and small sections of the western and central basin and provide habitat for many fish and invertebrates. However, existing eelgrass beds in the central and west basin lie outside of the proposed and "as-built" dredging parameters and no impacts to existing eelgrass habitats are expected as part of this proposed project. Furthermore, the eelgrass beds were an experimental addition to the lagoon and were not present prior to restoration. Eelgrass was planted with the understanding that the lagoon would require occasional dredging, and the specifications of the original permit regarding dredging authorized the occasional removal of eel grass beds. Additionally, when the lagoon is fully functional, the sheer velocity of the current deters the growth of eel grass in the proposed dredging zone; thus, even if the dredging were designed to avoid the eel grass beds, once dredged, the conditions would not allow for the persistence of the eel grass population in that area of the lagoon.

Invasive *Calupera* organisms have proven to be detrimental to native habitats; and, in 1999, *Caulerpa* was designated a prohibited species in the United States under the Federal Noxious Weed Act. AB 1334, enacted in 2001 and codified at California Fish and Game Code Section 2300, forbids possession of *Caulerpa*. In June 2000, *Caulerpa* was discovered in Aqua Hedionda Lagoon in San Diego County and in August of that year, an infestation was discovered in Huntington Harbor in Orange County. Other infestations are likely. Although a tropical species, *Caulerpa* has been shown to tolerate water temperatures down to at least 50° F and will rapidly expand in lagoon environments until endemic species become displaced. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *Caulerpa* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *Caulerpa* infestations in Southern California. The group consists of representatives from several state, federal, local and private entities. The goal of SCCAT is to completely eradicate all *Caulerpa* infestations. If *Caulerpa* were allowed to reproduce unchecked within area lagoons, sensitive eelgrass beds and the wildlife that depend upon them would be adversely impacted. Therefore, eradication of *Caulerpa* would be beneficial for native habitat and wildlife. To date, however, *Caulerpa* has not been found in Batiquitos Lagoon. In order to assure that the proposed project does not cause the dispersal of *Caulerpa*, the Commission requires Special Condition #6. Special Condition #6 requires the applicant, prior to dredging, to survey the project area (which includes the dredged area, anchoring areas, and any other areas where the bottom could be disturbed by project activities) for the presence of *Caulerpa*. If *Caulerpa* is found in the project area, then prior to commencement of any dredging, the applicant

must provide evidence that the Caulerpa within the project site has been eradicated (the applicant could seek an emergency permit from the Executive Director to authorize the eradication) or that the dredging project has been revised to avoid any disturbance of Caulerpa. If revisions to the project are proposed to avoid contact with Caulerpa, then the applicant shall consult with the local Coastal Commission office to determine if an amendment to this permit is required.

Section 30233 requires that dredging of open coastal waters shall only be permitted when there is no feasible less environmentally-damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effects, and where such dredging is one of the permitted uses cited. In the case of the subject proposal, the Commission has previously found that the Batiquitos Lagoon Enhancement Plan represented a restoration project for the lagoon and was consistent with Section 30233. Because the proposed maintenance dredging was anticipated to assure the continued success of the restoration of Batiquitos Lagoon, it can also be found a permitted use under Section 30233 and is proposed as the least environmentally damaging alternative. Additionally, Special Condition #4 requires that the applicant be restricted to the use of only two designated staging areas in order to minimize the impact to marine resources. With respect to the proposed dredging of the lagoon in this application, no new impacts will occur to sensitive habitat areas covered by the restoration plan.

In summary, the proposed dredging is necessary to restore tidal prism to Batiquitos Lagoon to assure success of previously approved restoration efforts. The proposed dredging is a permitted use under Section 30233 of the Coastal Act and as conditioned, no adverse impacts to sensitive coastal resources are anticipated. Therefore, the Commission finds the proposed work, as conditioned, is consistent with Section 30230, 30231 and 30233 of the Coastal Act.

**3. Public Access/ Beach Replenishment.** Sections 30604(c) and 30211, 30220, 30221, 30233(b) and 30235 apply to the proposal and state in part:

**Section 30604(c)**

Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter.

**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 30221**

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

**Section 30233(b)**

Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

**Section 30235**

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Section 30604(c) of the Coastal Act requires a public access finding to be made for projects located between the sea and the first coastal road; in this case, such a finding can be made for the proposed development, with the inclusion of Special Condition #1. This condition requires that the sand replenishment component of the permit be completed during the winter months, when the least number of visitors are present, to reduce the impact on public access, as regulated by Sections 30210, 30211, 30221, and 30233(b).

The subject proposal involves dredging the Western and Central basins of Batiquitos Lagoon, including placement of dredged spoils on the adjacent South Ponto Beach. There are several provisions of the Coastal Act that are applicable to the proposed project and encourage use of suitable dredged material to supply the region's littoral zones with sand. Such deposition of beach quality material on the region's shoreline will create and protect coastal recreational areas for use by the general public, consistent with the cited Coastal Act policies. The above language in Section 30233(b) clearly suggests the benefit of restoring the region's beaches through use of material that would otherwise reach the shoreline, but for man's intervention by development and flood control projects.

Therefore, the Commission finds that when dredge material is compatible with and suitable for use as beach sand along the region's shoreline, it should be transported to the shoreline for such use, as is proposed herein, and thus found to be consistent with the public access and recreation policies of the Act.

The Southern Ponto Beach site is located within the Oceanside Littoral Cell. This cell experiences a net southerly transport of 250,000 cubic yards a year. The proposed project presents a valuable opportunity to provide additional sediment to the local beaches and the cell overall. To ensure the success of beach replenishment south of the Batiquitos Lagoon inlet, the applicant has designed the dimensions of their proposed dredging deposition site in conformance with the recommendations of the 2009 RBSP II Final Phase 1 report. RBSP II Alternative 3a states that a 2,700 foot long area, 850 ft. south of the Batiquitos Lagoon inlet, would be able to successfully accommodate up to 175,000 cubic yards of sand. This recommended sand placement site is approximately 110 ft. in width and forms a berm with a 10:1 slope. Additionally, an area of this southern placement site was used successfully in the 2001 Regional Beach Sand Project for deposition of 118,000 cubic yards of dredged beach quality sand. The 2001 Regional Beach Sand Project placed the dredged materials in an area that was located 850 ft from the lagoon inlet and extended 1,390 ft. to the south along the beach and 110 ft. west towards the surf zone forming a berm with an elevation of 12 ft above MLLW and a slope of 20:1. The 2001 project successfully supplied the littoral cell with increased quantities of dredged sediment and the 2009 RBSP II recommends that, with modified dimensions, the South Ponto Beach area could support up to 175,000 cubic yards of sand.

A sieve analysis was conducted and found the grain size to be consistent between the lagoon basin and the associated beaches. Condition #2 requires that the applicant submit a report within 60 days of completion verifying Carlsbad State Beach has been nourished consistent with the preliminary beach profiles submitted with the application. As conditioned, the proposed permit will contribute to the nourishment of the shoreline and is thus found to be consistent with Section 30235 of the Coastal Act.

Section 30210 of the Coastal Act requires that access to the shoreline be provided consistent with public safety needs. The Department of Fish and Game shall implement a public safety and access program consisting of signs, flagging and sand bridges over discharge pipes in the project area to ensure that people walking, as well as beach maintenance and emergency vehicles, have safe access to and along the beach during replenishment operations. At no point is closure of the entire beach anticipated, however, public access will be restricted to portions of the beach throughout the dredging and sand replenishment process.

Section 30211 requires that development not interfere with the public's access to coastal resources including the use of dry sand. While the sand replenishment on South Ponto Beach will restrict the public's access to the immediate coastal resources temporarily, it benefits the public's access in the long term. The beach area south of the lagoon inlet is subject to consistent wave action and is classified as an eroding beach. Thus, sand replenishment will enlarge both the depth and breadth of the shoreline on South Ponto

Beach, providing for increased public access and beach recreation opportunities. Therefore, it is consistent with section 30211 of the Coastal Act.

Section 30221 protects shoreline suitable for recreational use. The project area is within a State Park Region, frequented by numerous visitors. There is a sand volley ball court located within the portion of the beach where sand replenishment will take place. The volleyball court will be removed temporarily; however, without the additional sand, the beach would be comprised of cobble stone and rock, which is not conducive for sand volleyball. While the sand placement will temporarily interrupt the recreational use, it will add to the longevity of this recreational component. The main users of the sand court are aware of the proposal and are in favor of the sand replenishment. It is thus promoting recreational use and public access, and is therefore consistent with the Chapter 3 policies of the Coastal Act.

**4. Land Resources.** Section 30240 of the Coastal Act states:

(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.

While the lagoon dredging itself and installation of fencing do not pose major issues to any land based environmentally sensitive habitat, the set up / break down of equipment and sand replenishment operations have potential concerns. The staging areas to be used for dredging operations are limited by Special Condition #4 to the E1 nesting site for launch into the eastern basin for the work on the central basin, and the the W2 nesting site, which will be used for launches into the western basin. Pursuant to this condition, the loading and launching of the dredge will be from two separate shorebird nesting islands. The least terns require habitat free of vegetation, thus the stewards of the lagoon often remove any vegetation from these islands to allow for nesting. As a result, the placement of equipment will not disturb vegetation required for nesting. Further, as required by Special Condition #1, dredging will start and finish outside the breeding season, hence the nesting islands will not be in active use. Thus, no environmentally sensitive habitats will be negatively impacted during set up or break down of the dredging equipment.

Dredging activities will direct the lagoon sand through High Density Polyethylene (HDPE) piping to be deposited directly on the designated southern beach placement site. As such, no transportation of the sand over sensitive habitat is necessary. There is an environmentally sensitive habitat located just east of the replenishment area on South Ponto beach. This region is separated by a barrier, and design plans show that the project will take place a safe distance from this area. No further negative impacts to the

surrounding sensitive habitats are expected. As stated above, in 2001, as part of the San Diego Regional Beach Sand Project, 118,000 cubic yards of sand were placed on the proposed southern site with no adverse effects to marine resources, and a sieve analysis was conducted and found the grain size to be consistent between the lagoon basin and the associated beaches. The project has been designed to minimize negative impacts and the grain size is well suited for the replenishment site. The proposed permit is thus found to be in compliance with the Chapter 3 policies of the Coastal Act, as conditioned by this document.

The Commission approved CDP #6-90-219 for enhancement of Batiquitos Lagoon. A critical key to success of the approved enhancement plan is to maintain an open lagoon mouth and specified tidal prism. Beach sands and sediments have accumulated within the west and central basins which now threaten the enhancement efforts due to the reduction in the tidal prism. Approval of the proposed project to remove these sediments/sands is consistent with previous Commission action on the original project. Therefore, approval of the proposed dredging, as conditioned, is consistent with Chapter 3 policies of the Coastal Act.

In summary, the Commission finds the proposed lagoon dredging and extended fencing is necessary for the continued success of the lagoon restoration project. The above conditions are proposed to insure that the subject proposal will be consistent with the the initial lagoon restoration plan approved in 6-90-219 and the Coastal Act. Conditions address the timing of construction, both to maximize public access to area beaches and recreational sites and to protect sensitive species nesting. The deposition of dredged materials south of the lagoon inlet will enhance the public's recreational experience and is consistent with Coastal Act and Carlsbad LCP mandates. Special Condition #1 also requires that to avoid potential impacts to the California least tern and western snowy plover breeding period, dredging can only occur up to February 15. Special Condition #2 requires that within 60 days of the dredging of the lagoon, final dredging plans shall be submitted which indicate the lagoon has been dredged consistent with the "as built" plans that were approved in the Batiquitos Lagoon Enhancement Plan. In this way, the Commission can be assured that the proposed dredging will not occur in areas where wetland restoration or endangered species protection is occurring. Additionally, final beach sand deposition plans shall be submitted which indicate the designated southern deposition site has been nourished consistent with the preliminary beach profiles submitted with the application. In this way, the Commission can be assured that the proposed beach nourishment will occur where it will have the greatest recreational benefit to the public. Therefore, the Commission finds that the subject proposal, as conditioned, is consistent with the cited public access and recreation policies of the Act.

5. **Visual Resources.** Section 30251 of the Coastal Act requires that:

**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 cited and designed to protect views to and along ocean and scenic coastal areas, to minimize the alteration of

natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Batiquitos Lagoon is a scenic coastal resource area with multiple public vantage points throughout the lagoon as well as a system of public walking trails. The lagoon area is also visible from I-5 and multiple adjacent public roadways. As such, the applicant has designed the project to minimize visual impacts, and proposed fencing and beach replenishment operations have been conditioned to further protect public coastal resources from visual impacts. To ensure the visual compatibility of the proposed fencing, to be installed on portions of nesting sites E2, W1, and W2, with the surrounding area, the applicants have proposed to install chain link fencing with beige/tan colored vinyl coating. With a vinyl coating colored to replicate the palette of the sandy nesting sites, the proposed fencing has been designed to preserve the visual quality of the Batiquitos Lagoon and adjacent public beach areas and is consistent with Chapter 3 policies of the Coastal Act.

Additionally, a GeoSoils sand grain analysis has been conducted as of 3/8/10 that indicates the dredged materials to be deposited south of the lagoon inlet are suitable for beach placement. The grain size of sand material on Ponto Beach was examined to ensure that dredged materials are similar to existing material on the beach. The dredged sand was determined to be of the same quality and composition as existing sand on the surrounding Carlsbad State Beaches and, as such, the placement of 165,000 cubic yards of dredged sand to the south of the lagoon inlet will not impact the visual quality of Batiquitos lagoon or the adjacent shoreline and is consistent with Chapter 3 policies of the Coastal Act.

**6. Local Coastal Planning**. Section 30604 (a) 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 for the proposed development, with the inclusion of the attached conditions.

The Commission approved CDP #6-90-219 for enhancement of Batiquitos Lagoon. A critical key to success of the approved enhancement plan is to maintain an open lagoon mouth and specified tidal prism. Beach sands and sediments have accumulated within the west and central basins which now threaten the enhancement efforts due to the reduction in the tidal prism. Approval of the proposed project to remove these sediments/sands is consistent with previous Commission action on the original project. Therefore, approval of the proposed dredging, as conditioned, is consistent with Chapter 3 policies of the Coastal Act.

**7. Consistency with the California Environmental Quality Act (CEQA)**. Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit to be supported by a finding showing the permit, 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

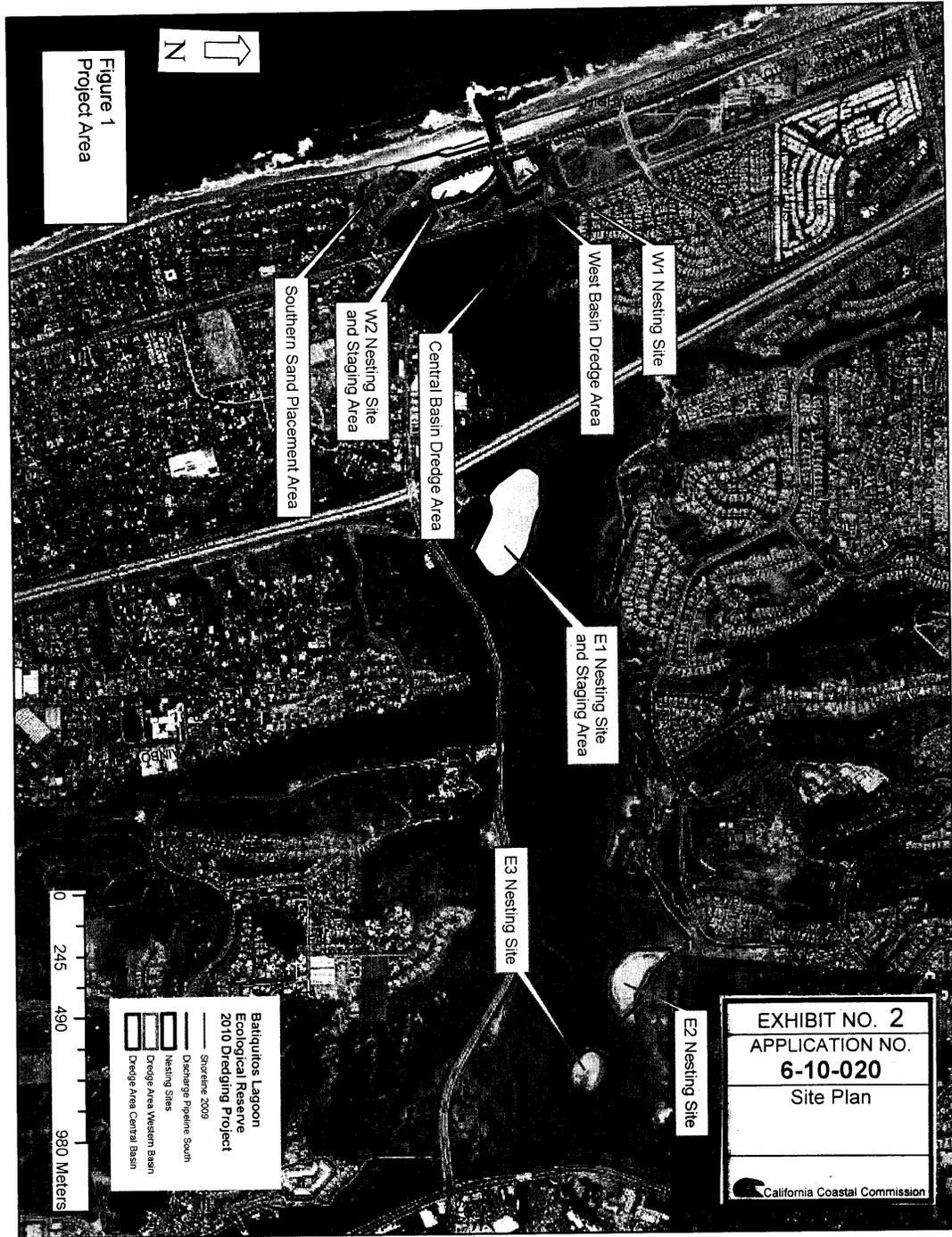
substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, the proposed project is consistent with the resource protection policies of the Coastal Act. Mitigation measures, in the form of seasonal restrictions and a requirement to survey for *caulerpa taxifolia* prior to dredging, will avoid 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, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

### **STANDARD CONDITIONS:**

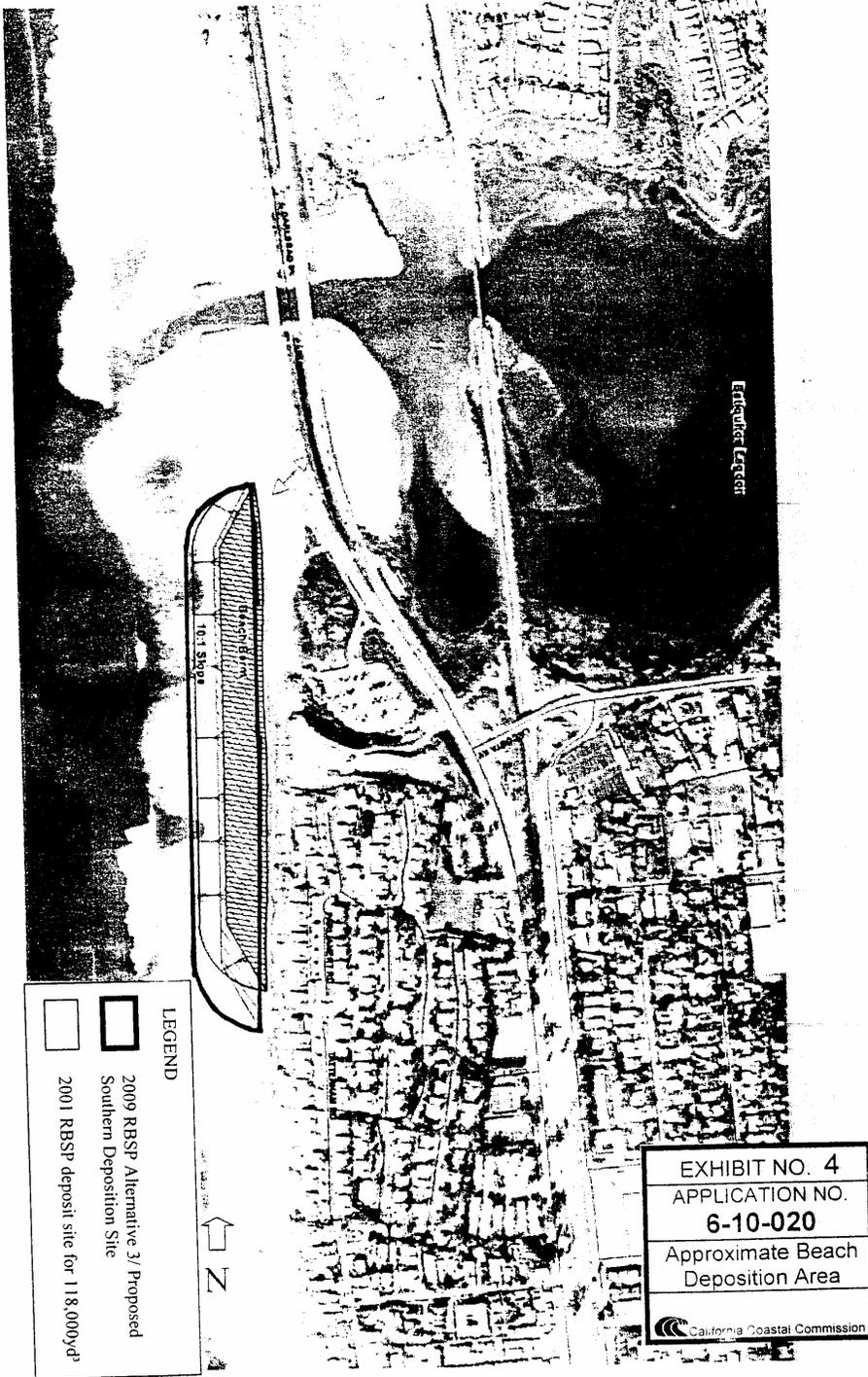
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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.







Batiquitos Beach Receiver Site





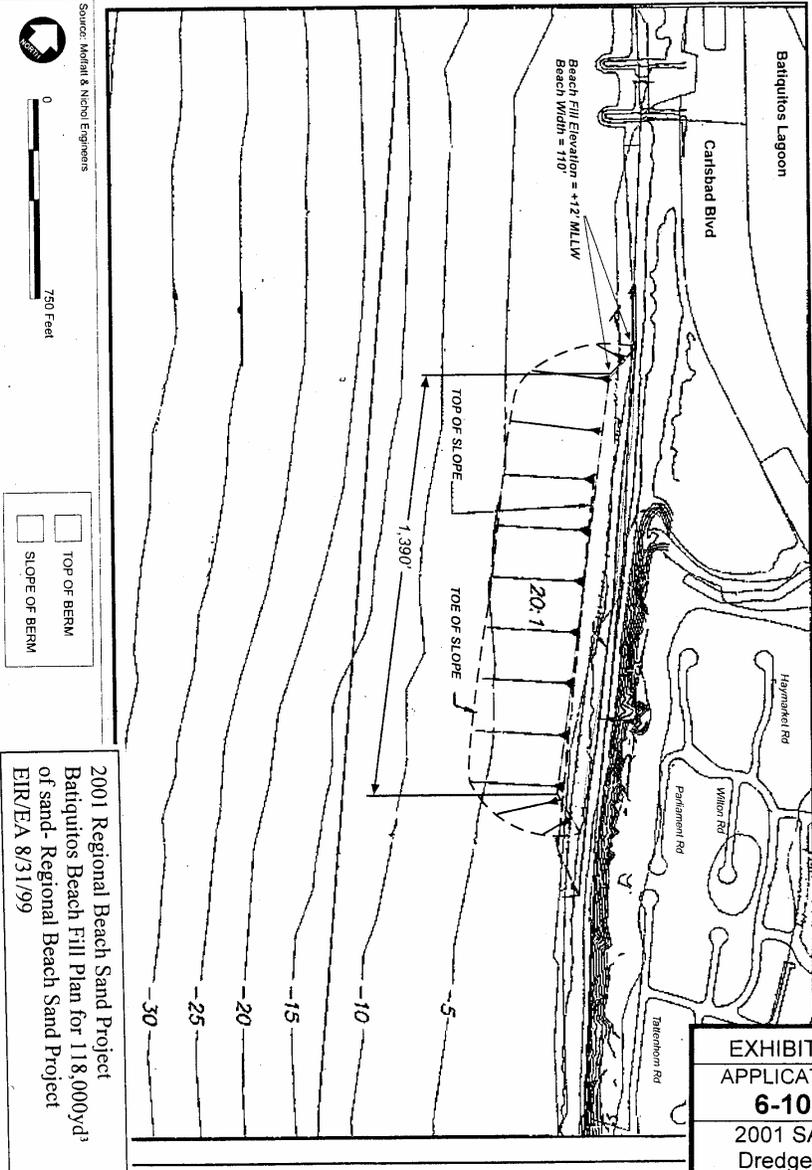


EXHIBIT NO. 6
APPLICATION NO.
<b>6-10-020</b>
2001 SANDAG Dredged Sand Placement Site
California Coastal Commission





Figure 5  
E2 Nesting Area Fence

