

CALIFORNIA COASTAL COMMISSION

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Filed: 2/3/16
180th Day: 8/1/16
Staff: S. Richmond-SD
Staff Report: 3/25/16
Hearing Date: 4/15/16

STAFF REPORT: REGULAR CALENDAR

Application No.: 6-15-2087

Applicant: San Diego Gas & Electric Co. (SDG&E)

Agent: Paul J. Klukas

Location: Between Stonebridge Lane and Manchester Avenue in San Elijo Lagoon, Encinitas, San Diego County (APNs #262-073-17 and #272-072-01)

Project Description: Removal of 10 obsolete wooden electrical distribution poles and 13 associated support anchors; removal of hardware from the top of one additional pole and installation of an anchor at this pole.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project would remove unused wooden electrical distribution poles and associated support anchors within San Elijo Lagoon as part of SDG&E maintenance program. The primary issues raised by this project relate to potential adverse impacts to wetlands and environmentally sensitive habitat areas (ESHA). While no permanent impacts are expected, accessing the poles and performing removal activities will result in temporary impacts to approximately 276 sq. ft. of wetland habitat and approximately 648 sq. ft. of coastal sage scrub.

6-15-2087 (**San Diego Gas & Electric Co. (SDG&E)**)

Utility maintenance represents an incidental public service activity allowable in wetlands under Section 30233 of the Coastal Act. The project has been designed to minimize adverse impacts by accessing the poles via temporary vehicle routes and footpaths, and removing the poles by helicopter where feasible, thus, is the least environmentally damaging alternative. **Special Condition #2** requires that temporary impacts to any areas of coastal sage scrub be revegetated after pole removal and maintenance activities are completed, and if coastal sage scrub and wetland areas do not recover from temporary impacts 90 days after the completion of the project, additional mitigation must be provided. **Special Condition #3** restricts the timing of the project so that it occurs outside of identified bird breeding seasons and does not disrupt nesting activities. As conditioned, the project will be consistent with biological protection policies of Chapter 3 of the Coastal Act, and no impacts to coastal resources are anticipated.

Commission staff recommends **approval** of coastal development permit application 6-15-2087 as conditioned.

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-15-2087 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves coastal development permit 6-15-2087 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

This permit is granted subject to the following 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 of 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final project plans. Said plans shall first be in substantial conformance with the plans by San Elijo Lagoon Pole Removal Plan submitted by Planning Systems and dated November 16, 2015, except they shall be revised to reflect the following:

- a. Pole 4 will be removed by helicopter.

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

2. **Temporary Impacts/Restoration/Post-Construction Survey.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a final detailed habitat restoration and monitoring program to revegetate temporarily disturbed coastal sage scrub habitat, and monitor all impacts to ensure no permanent impacts to ESHA or wetlands occur. The SDG&E NCCP Pre-activity Study Report submitted December 11, 2015 documents the environmental conditions prior to pole removal activities, the presence of animal or plant species, and other sensitive resources located near the poles. Upon completion of the project, a post-construction survey shall be done of impacts to coastal sage scrub and any such impacts identified shall be revegetated at a 1:1 ratio. In addition, the extent of impacts to all vegetation and substrate shall be assessed and documented in a second post-construction survey submitted to the Executive Director 90 days after the completion of the project to determine actual impacts. If no impacts are identified, no further mitigation will be necessary. As identified, impacts shall be mitigated as follows:

- a. If the 90-day post-construction survey identifies that temporary impacts remain, the area shall be revegetated at a 1:1 ratio.

- b. If the 90-day post-construction survey identifies that permanent coastal sage scrub or wetland impacts have occurred, the applicant shall apply for an amendment to this permit and shall propose specific mitigation for the identified impacts. Mitigation shall be provided for any identified permanent coastal sage scrub impacts at a ratio of not less than 3:1, and wetland impacts at a ratio of not less than 4:1.
 - c. The following goals, objectives, and performance standards shall apply for any necessary restoration:
 1. Full restoration of all vegetation impacts that are identified as temporary, beyond the 90 day self-recovery period. Restoration of temporarily impacted areas shall include, at a minimum, restoration to before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native coastal sage scrub or wetland species as applicable.
 2. Success criteria shall require, and final performance monitoring shall confirm, at least 90% coverage of areas disturbed by construction activities within 1 year of completion of construction activities. Criteria shall describe, at a minimum:
 - i. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards;
 - ii. Submittal, within 30 days of initial restoration work, of post-restoration plans demonstrating that the revegetated areas have been established in accordance with the approved design and construction methods; and
 - iii. A survey taken 1 year after revegetation identifying the quantity and quality of the restored plants. If the survey demonstrates the revegetation has been unsuccessful, in part or in whole, the survey shall include a plan, for Executive Director review and approval, for remediation and further surveys and reports until the site(s) are fully restored.
 3. All surveys, reports, and other documentation of the post-construction impacts shall be submitted to the San Diego office of the Coastal Commission within 30 days of completion.
3. **Timing of Development.** To avoid potential impacts to coastal California gnatcatcher, Belding's savannah sparrow, Southern California rufous-crowned sparrow, coastal cactus wren, and light-footed clapper rail during their nesting season, development activities may not occur from February 15 to August 31st of any year, unless

written permission from the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service is obtained and provided to the Executive Director for review and approval.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project involves removal of 10 obsolete wooden electrical distribution poles and 13 associated support anchors from three of the poles. No replacement poles will be installed. The project also involves removal of hardware from the top of one additional pole and installation of an anchor at this pole. The poles extend across an approximately 3,500-foot line between Stonebridge Lane and Manchester Avenue in San Elijo Lagoon in the City of Encinitas (**Exhibit #1**).

The City of Encinitas has a certified Local Coastal Program (LCP). However, the vast majority of the proposed project will be located within the Commission's original jurisdiction. Only Pole 11 adjacent to Manchester Ave. is located within the City's Coastal Development Permit (CDP) jurisdiction. At the request of the City and the applicant, the project is being processed as a consolidated permit, thus Chapter 3 of the Coastal Act is the standard of review with the City's certified LCP used as guidance.

B. BIOLOGICAL RESOURCES

Section 30233 of the Coastal Act states, in part:

(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:

[...]

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

[...]

(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 ...

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.

The existing poles are located within and adjacent to the San Elijo Lagoon Ecological Reserve. The reserve is a native habitat area and regional park that is managed jointly by the California Department of Fish and Wildlife and the San Diego County Parks and Recreation Department. The reserve contains diverse habitat including six plant communities: coastal strand, salt marsh, brackish/freshwater marsh, riparian scrub, coastal sage scrub, and mixed chaparral. Removal of obsolete wooden electrical distribution poles and associated equipment is needed for utility maintenance and therefore represents an incidental public service activity under Section 30233(a)(4). Removal of the poles will lessen ongoing impacts to reserve habitat.

In addition, the Commission finds that coastal sage scrub within the project area meets the definition of ESHA. At least five State or Federally-listed threatened or endangered birds make use of the reserve's habitat including the California least tern, the California gnatcatcher, the light-footed clapper rail, the Belding's savannah sparrow, and the western snowy plover. A pre-activity survey conducted by the applicant on September 25, 2015 identified California gnatcatcher in coastal sage scrub habitat approximately 100 feet northeast of Pole 3 as well as the coastal sage scrub and riparian habitat in the general vicinity of the proposed footpath near Poles 9, 10, and 11 (**Exhibit #2**). The Commission typically identifies areas that are utilized by or necessary for the survival of California gnatcatcher as ESHA. In addition, the certified LCP of the City of Encinitas identifies San Elijo Lagoon as a "High Sensitivity Area." Given the project area includes wetland habitat and coastal sage scrub habitat that meets observed California gnatcatcher preferences and is mapped as a sensitive area in the local LCP, the project must be sensitively designed to avoid adverse impacts under Section 30233 and 30240.

It is not the pole removal itself that contributes the most to the area of temporary impacts, but rather the need to access the poles. Prior to cutting the poles, the conductor will be removed and/or cut and dropped to the ground and then a reel truck located in the upland area will be used to pull the conductor from the project area. After the conductor has been removed from the top of the poles, the poles will be cut and allowed to fall to the ground for the safety of the crews and then removed via truck or helicopter, as detailed below. Poles will be cut as close to the ground as possible and the pole butts will be left in place to minimize ground disturbance and avoid habitat impacts. SDG&E has indicated that in past pole removal projects removing the entire poles in wetland areas frequently resulted in break-off, leaving a greater, more haphazard disturbance area, whereas pole butts left in wetland areas typically deteriorate into the soil.

There is an existing dirt service/maintenance road off Stonebridge Lane that will be used to access Poles 1-7, while Manchester Avenue will be used to access Poles 8-11. Temporary vehicle routes and footpaths off the existing road will be used for ground crews to access the individual poles. At Pole 1, an anchor will be installed by hand with the aid of a truck-mounted auger or a handjack powered by an air compressor (**Exhibit #3**). Also in the upland area near Stonebridge Lane, Poles 2 and 3, and anchors at Pole 2 will be accessed and removed by vehicle (**Exhibit #3**). Pole 4 is located within a large complex of coastal sage scrub habitat and Poles 5-10 are located within the wetland area near San Elijo Lagoon. To minimize impacts to vegetation in coastal sage scrub and wetland habitat, Poles 4-10 are proposed be accessed by ground crews via footpaths and then the poles will be removed by helicopter. Similarly, the anchors at Pole 8 will be removed by hand via proposed footpaths (**Exhibit #3**). The footpaths will not require vegetation removal, but may involve trimming to a width of approximately 2 feet using rakes and small hand equipment, such as machetes. Pole 4 was originally going to be removed by truck like Poles 2 and 3, but after discussions with staff, the applicant agreed to remove Pole 4 by helicopter, which reduces the temporary impacts to coastal sage scrub habitat by approximately 1,000 sq. ft. Finally, Pole 11 will be removed by vehicle and the associated anchors will removed by hand via the proposed footpath. Only Poles 2, 8, and 11 have guy wires and anchors because they are located at angle points on the pole routing and need these components to provide the necessary tension for vertical stability. **Exhibit #4** summarizes the specific action proposed at each pole location.

A two-person crew will complete vegetation trimming activities over approximately two days. Three four-person crews will complete anchor installation and conductor, pole, and anchor removal activities over approximately three days. All construction vehicles, equipment, and crew will remain on existing access roads, disturbed road shoulders, and proposed temporary vehicle routes and footpaths.

Thus, the project has been designed to minimize impacts to wetland and ESHA to the greatest extent feasible. No grading or permanent removal of vegetation is proposed; nevertheless, the applicant estimates that there will be temporary impacts to approximately:

- 648 sq. ft. coastal sage scrub;
- 208 sq. ft. alkali marsh;
- 34 sq. ft. riparian woodland;
- 34 sq. ft. freshwater marsh; and
- 618 sq. ft. disturbed habitat.

Since these impacts are primarily associated with accessing the poles by truck or along footpaths, they are temporary and do not constitute development with permanent impacts on ESHA and thus do not significantly disrupt habitat values. The applicant proposed the minimum feasible number of truck routes and minimal amount of vegetation trimming to conduct the project, such that the current proposed project is the least environmentally damaging alternative and further minimizes adverse environmental effects.

The applicant has completed similar wooden utility pole removal projects (e.g., CDPs #6-00-140; #6-11-088; #6-12-058) in wetlands, where the extent of wetland vegetation disturbed by temporary impacts has been fairly small. As in the proposed project, the Commission has not required mitigation for temporary wetland impacts because vegetation subject to minor, short-term impacts from trampling typically recovers without intervention, with monitoring to confirm this recovery occurs within 90 days. However, when there are impacts to a relatively large expanse of ESHA, the Commission has found in past permit actions involving repair work that temporary impacts to ESHA should be revegetated and restored (e.g., CDP #5-15-1252). The Commission typically requires a minimum 3:1 restoration to impact ratio for permanent impacts to coastal sage scrub. A higher restoration to impact ratio is typically required for permanent impacts as the higher ratio takes into account the success rates of restoration. However, since the proposed pole removal and maintenance activities will not permanently uproot vegetation, ESHA is anticipated to recover after disturbance. The applicant originally proposed mitigation at sites with temporary impacts exceeding 500 sq. ft. However, this would have resulted in many sites not being restored and given the value of this ESHA, it is important that even temporary impacts be addressed. Therefore, the Commission finds that **Special Condition #2** requiring all areas of coastal sage scrub temporarily impacted by project activities to be revegetated at a 1:1 ratio will mitigate for the temporary impacts to ESHA resources. **Special Condition #2** also requires that all wetland or coastal sage scrub impacted be monitored and, if after 90 days, the habitat has not recovered, additional mitigation is required. While it is expected that temporary impacts to habitat will regenerate after the project is completed, this condition ensures that all impacts will be mitigated. The Commission's biologist has reviewed the proposed mitigation and concurs that it will adequately address the temporary impacts.

Finally, since San Elijo Lagoon is home to several sensitive bird species, **Special Condition #3** ensures that any noise or activity associated with the project would not disrupt nesting activities by restricting activities to the period from February 15 to August 31.

Therefore, as proposed and as conditioned, the Commission finds that there are no other feasible alternative construction methods that would result in less adverse impacts than the proposed project. As such, the proposed project conforms to the requirements of Section 30233 and Section 30240 of the Coastal Act regarding the protection of wetlands and ESHA.

C. LOCAL COASTAL PLANNING

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

While the City of Encinitas has a fully certified LCP, 10 of the wooden electrical distribution poles are located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal

standard of review. Since one of the poles is within the City of Encinitas' CDP jurisdiction (Pole 11), at the request of the City and the applicant, the project is being processed as a consolidated permit, with Chapter 3 of the Coastal Act is the standard of review with the City's certified LCP used as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project as conditioned will not prejudice the ability of the City of Encinitas to continue to implement its certified LCP.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

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

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Coastal Development Permit # 6-15-1252 (Laguna Beach County Water District), approved November 2015
- Coastal Development Permit # 6-12-058 (SDG&E), approved October 2012
- Coastal Development Permit # 6-11-088 (SDG&E), approved April 2012

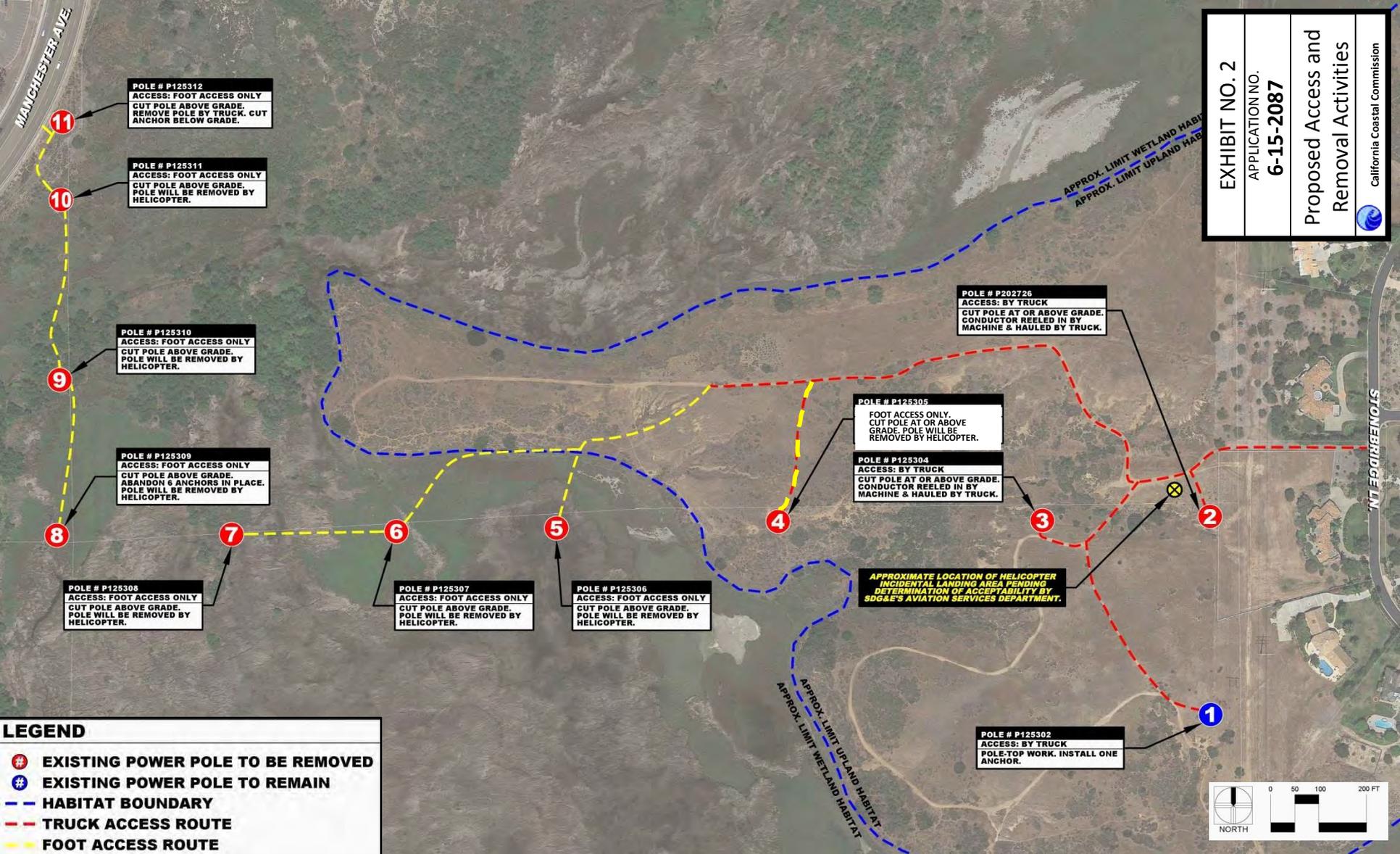


EXHIBIT NO. 3

APPLICATION NO.

6-15-2087

Site Photos
(Pole 1)

California Coastal Commission



Proposed vehicle access route

New Anchor

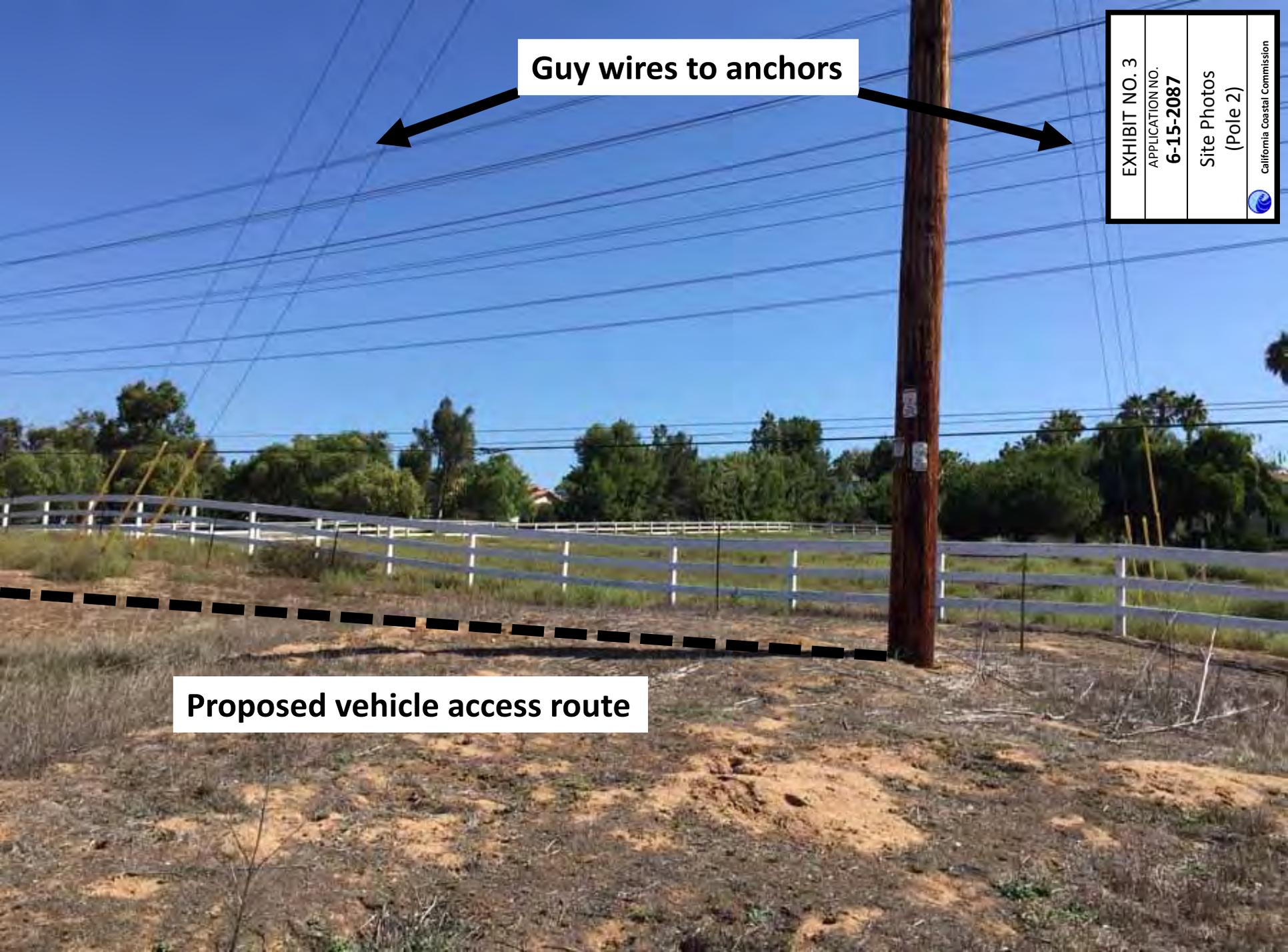


Guy wires to anchors



EXHIBIT NO. 3
APPLICATION NO. 6-15-2087
Site Photos (Pole 2)
 California Coastal Commission

Proposed vehicle access route



Pole #5

Pole #6

EXHIBIT NO. 3

APPLICATION NO.

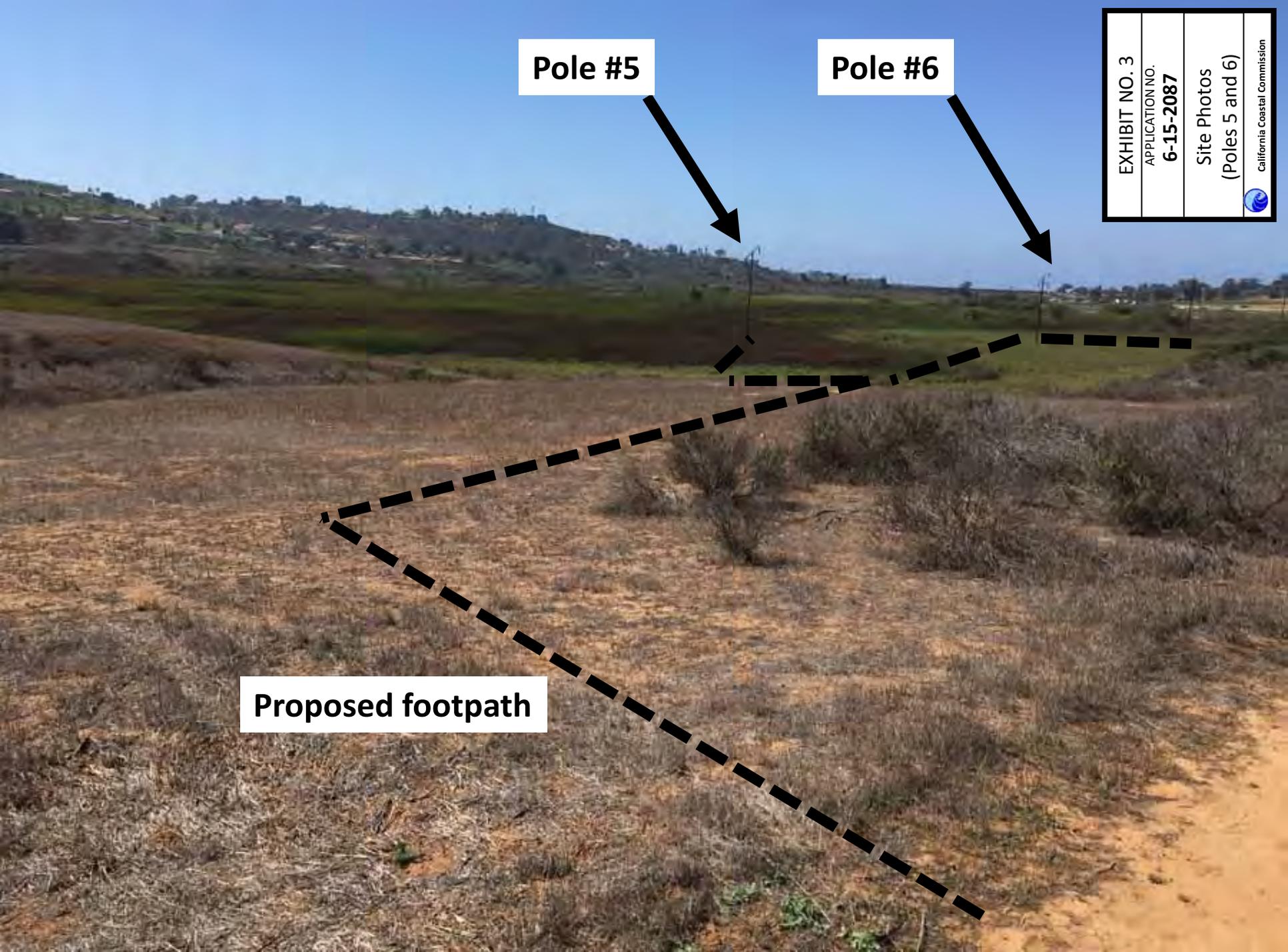
6-15-2087

Site Photos
(Poles 5 and 6)

California Coastal Commission



Proposed footpath



Site	Proposed Action(s)	Work/Access
Pole 1	Install Proposed Associated Anchor, Pole Top Work	Truck and Hand Install, Access Road, Proposed Overland Access Route
Pole 2	Remove Pole, Remove Associated Anchors	Truck Removal/Access Road, Proposed Overland Access Route
Pole 3	Remove Pole	Truck Removal/Access Road, Proposed Overland Access Route
Pole 4	Remove Pole	Helicopter Removal, Proposed Footpath
Pole 5	Remove Pole	Helicopter Removal, Proposed Footpath, Vegetation Trimming Required
Pole 6	Remove Pole	Helicopter Removal, Proposed Footpath
Pole 7	Remove Pole	Helicopter Removal, Proposed Footpath, Vegetation Trimming Required
Pole 8	Remove Pole, Remove Associated Anchors	Helicopter Removal, Proposed Footpath, Vegetation Trimming Required
Pole 9	Remove Pole	Helicopter Removal, Proposed Footpath, Vegetation Trimming Required
Pole 10	Remove Pole, Remove Associated Anchor	Helicopter Removal, Proposed Footpath
Pole 11	Remove Pole	Truck Removal/Proposed Footpath

EXHIBIT NO. 4
APPLICATION NO. 6-15-2087
Proposed Actions by Site
 California Coastal Commission