

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
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Permit Application No. 6-95-142/LM
Date November 15, 1995

ADMINISTRATIVE PERMIT

APPLICANT: County of San Diego Department of Parks and Recreation

PROJECT DESCRIPTION: One-time opening of the mouth of San Elijo Lagoon with removal of approximately 6,000 cubic yards of material; and other re-openings that may be necessary for 30 days.

PROJECT LOCATION: Mouth of San Elijo Lagoon, west of Highway 101 at Cardiff State Beach, Cardiff, Encinitas, San Diego County.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

IMPORTANT - Before you may proceed with development, the following must occur:

For this permit to become effective you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: _____


STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

Proposed is the one-time removal of sand and other accumulated materials from the mouth of San Elijo Lagoon and other such re-openings that may be necessary for 30 days following the initial opening to assure the mouth remains open. A total of approximately 6,000 cubic yards of sand and cobble is proposed to be removed to accommodate the opening and to be placed on the beach just south of the lagoon mouth. The subject site is the mouth of San Elijo Lagoon located

on the west side of Highway 101 at Cardiff State Beach in the Cardiff community of the City of Encinitas. In November of 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (LCP). Subsequently, on May 15, 1995, coastal development permit issuing authority was transferred to the City. Although the proposed development is located within the City of Encinitas, it is located within the Commission's area of original jurisdiction and as such, the standard of review is Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

The Commission has had a history of permit review for work in San Elijo Lagoon which includes permits for one-time openings of the lagoon mouth and dredging of the lagoon's main tidal channel (ref. CDP Nos. 6-88-463, 6-89-109, 6-89-241, 6-90-128, 6-90-250, 6-91-3, 6-91-258, 6-93-12 and 6-93-194). In addition, a non-material amendment to CDP #6-91-3 was approved by the Commission to allow additional openings of the lagoon mouth for a period of 30 days because tidal conditions and other factors caused the lagoon mouth to only remain open for a few hours after it was opened. Thus, additional re-openings were necessary beyond the seven days allowed in the original permit to ensure success by increasing the dissolved oxygen levels in order to prevent fish kills. These openings were proposed based on certain criteria being met related to salinity, dissolved oxygen and other water chemistry conditions as indicators suitable for determining appropriate times for opening the lagoon mouth.

Subsequent to the above cited permits, the Commission also approved two permits for opening the lagoon mouth that differed from the previous requests (ref. CDP Nos. 6-94-15 and 6-95-32). These two permits were proposed as an experiment to allow the lagoon mouth to remain open for a longer period of time and involved the removal of a much more substantial amount of material, both in the lagoon mouth and in the inlet channel east of the Highway 101 bridge, and, the work was proposed to occur whether or not the previously proposed criteria were present. The opening conducted under the first permit allowed the mouth to remain open for four months; longer than any other time. Implementation of the second permit occurred this last May and the lagoon mouth is still open to date.

Although the lagoon mouth remains open while this permit is being processed, the applicants have indicated that they still want to have a permit available to open the lagoon mouth in case the mouth should close, assuming the proposed criteria would be met indicating the health of the lagoon was suffering. As such, the subject request was submitted.

In its actions on the above cited permits, the Commission found that, although no overall management plan had yet been reviewed by the Commission for San Elijo Lagoon, conditions requiring the opening of the lagoon mouth have occurred and will continue to occur. As such, the County proposed several criteria as indicators of poor lagoon health for determining the need for the lagoon mouth to be opened. The criteria proposed include salinity levels (both high and low), water quality (low dissolved oxygen levels) and high water levels.

As stated, these criteria are being proposed as factors necessary to warrant the opening of the lagoon mouth. The request calls for the lagoon mouth to be opened in the event that salinity levels exceed 50 parts per thousand (hypersaline) or if salinity levels drop below 10 parts per thousand (hyposaline) in the main channel. In either of these cases, prolonged periods of salinity extremes will cause certain organisms to die. In addition, decreased salinity allows for the establishment and growth of freshwater vegetation such as willows, cattails and tules in areas formerly covered by salt marsh vegetation.

Another of the factors proposed is water quality, specifically related to the capacity of the water to carry dissolved oxygen. Reduced oxygen can lead to eutrophication; the condition where a closed body of water can "turn over", where large amounts of methane and hydrogen sulfide gas are released at the bottom and absorbed into the water, causing the death of most organisms within the water column. To address this concern, the County has proposed opening the lagoon mouth if the dissolved oxygen levels drop below 2.0 parts per million.

Lastly, the County is proposing high water levels as a factor necessary to warrant the opening of the lagoon mouth. Under extreme water levels, mudflats become submerged, restricting or eliminating foraging areas for shorebird species. Low vegetation, algae and invertebrates become unavailable to dabbling ducks. Nesting sites for endangered bird species such as Belding's Savannah Sparrow, California Least Tern and Snowy Plover are reduced or non-existent. Under conditions of high water levels, any nesting that does take place is under immediate threat of flooding in the event of a sudden storm. Based on monitoring of water levels of the lagoon in the past, the County has determined that when water levels reach 2.90 feet above Mean Higher High Water (MHHW), then approximately 99 percent of shorebird foraging and habitat area is submerged. As such, the County is proposing that when the water level of the lagoon reaches this level (2.90 feet above MHHW), then the mouth should be opened.

In this permit application the County has included a short narrative summary of the various issues and other factors that affect the lagoon and that may at some time warrant the need to open the lagoon mouth. Although many of these factors are not included in this proposal, they may be used for background for determining the need to open the lagoon mouth in the future. Such factors as extreme low water levels, the presence of mosquitos and other various factors relying on subjective judgement, such as conditions of vegetation and readiness for nesting of certain birds based on observations and breeding behavior, are discussed. The narrative summary concludes that the possible issues and factors related to the need to open the lagoon mouth are numerous, varied and not always anticipated. Thus, as these factors cannot be readily quantified, they would be better handled on a case-by-case basis and not under this permit. In addition, the County has indicated that the draft San Elijo Lagoon Enhancement Plan, which is currently being circulated for comment, will more fully address these issues. However, until it is finalized, only the proposed criteria related to high water levels, water quality and salinity

levels will be used to justify the need to open the lagoon mouth under this permit.

In order to identify the criteria for determining the need to open the lagoon mouth approved in this permit, Special Condition #1 has been proposed. This condition specifies the factors which must be present for an opening to occur, and states that this permit is for a one-time opening of the lagoon and other opening necessary for a 30 day period. In addition, the condition requires the applicant to verbally report the criteria that resulted in the decision to open the lagoon mouth within 24 hours and submit a written document with the same information within 30 days of implementation.

Special Condition #2 has been proposed to require the applicant to submit, within 30 days of implementation of the opening, a monitoring report. This report shall contain information on the number and dates of each opening, the specific criteria which authorized each opening, weather and tide conditions which may have contributed to the described criteria and any adverse impacts on the lagoon and the adjacent beach resulting from the opening(s).

The proposed project will help to restore and enhance the functional capacity of the lagoon and, thus, is restorative in nature and a permitted use under Section 30233 of the Coastal Act. As already stated, since the last opening in May, the lagoon mouth has remained open. The County is requesting this permit to have on hand, should the mouth close and any of the above cited factors occur to warrant the mouth opening. The goal of the project is to restore tidal flushing to the lagoon. The proposed project is the best method available to provide the desired increase in tidal flushing without disturbing adjacent habitats. The project is limited to those areas not identified as containing high interest salt marsh vegetation species, and the project will not involve the alteration of any existing habitat.

The applicant has indicated that no equipment will be stored on the beach or in the public parking lot overnight and that access to the site will be from the Cardiff State Beach parking lot. Special Condition #3 requires that the proposed work be coordinated with a qualified marine biologist to insure minimization of impacts on existing biological resources, including, but not limited to, the nesting patterns of rare and endangered species in the area. Therefore, as conditioned, the Commission finds the proposed project to be consistent with Sections 30233 and 30240 as well as with all access and recreational policies of the Coastal Act.

SPECIAL CONDITIONS:

1. Scope of Work. The work that is authorized in this permit is the one-time opening of the mouth of San Elijo Lagoon; and, such other re-openings that may be needed within 30 days of the initial opening in order for the lagoon mouth to remain open. As proposed, opening of the lagoon mouth may only occur when one or more of the following criteria are present:

- a. Salinity. Salinity of water in the main channel drops below 10 parts per thousand or exceeds 50 parts per thousand.

b. Dissolved Oxygen. Dissolved oxygen levels in the main channel drop below 2.0 parts per million.

c. Water Level. Water level of the lagoon exceeds 2.90 feet above Mean Higher High Water (MHHW).

The sampling results and/or biologist's determination which results in a decision to open the lagoon mouth shall be reported verbally to the Commission office within 24 hours of any proposed opening, and, shall be recorded and submitted to the Coastal Commission office within 30 days of the date of implementation (see Special Condition #2 below).

2. Monitoring Report. Within 30 days of the project implementation, the applicant shall submit a detailed monitoring report, which shall include the following information:

a. The number of lagoon mouth openings which occurred within the authorized 30 day period, along with the date of each opening.

b. The specific criteria (described in Special Condition #1 above) which warranted/authorized the opening, along with a site map indicating the location where the determining samples were obtained.

c. The weather and tide conditions preceding each lagoon mouth opening, which may have contributed to the described criteria.

d. Any noted adverse impacts on lagoon resources or adjacent public beach or park and recreation areas resulting from each mouth opening.

e. Any changes in the tidal prism caused by external factors (such as upstream development impacts, extreme storm conditions, unusual tides, etc.) which could have contributed to the need for the lagoon mouth opening.

3. Timing of Work. Prior to the initiation of any dredging, the applicant shall provide notice to the Executive Director of the date when the project is to commence. Said notice shall be required at least two weeks in advance of the proposed date of implementation and shall be accompanied by a declaration from a qualified marine biologist stating that the dredging, on the date proposed, will not cause adverse impacts on the biological productivity of the area. Specifically, the declaration shall include an assessment of the nesting status of any rare or endangered fowl species found in the area. The applicant shall also provide an updated confirmation of that status from a qualified marine biologist no more than two days prior to the initiation of dredging. Said declaration shall be subject to the review and written approval of the Executive Director.

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

(5142R)