

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
 3111 CAMINO DEL RIO NORTH, SUITE 200
 SAN DIEGO, CA 92108-1725
 (619) 521-8036

Page 1 of 4
 Permit Application No. 6-96-17/GDC
 Date March 19, 1996

ADMINISTRATIVE PERMIT

APPLICANT: San Diego Unified Port District

PROJECT DESCRIPTION: Installation of a 6 foot high chain-link fence to surround four adjoining vacant lots, including entry gate and associated minor grading.

Lot Area	22.5 acres total
Zoning	CT/CZ
Plan Designation	Tourist Commercial
Ht abv fin grade	6 feet

Site: East of the terminus of West 32nd St., north of Sweetwater Channel, west of the railway right-of-way and Paradise Marsh, south of West 24th St., National City, San Diego County. APNs 559-160-18, 19 and 562-210-15, 16

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:

DATE and TIME:	April 11, 1996	LOCATION:	Carmel Mission Inn
	9:00 a.m., Thursday		3665 Rio Road
			Carmel, Ca

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: *Emily Cannon*

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 installation of a 6-foot high chain link fence to enclose four adjacent vacant lots in the City of National City adjacent to Paradise Creek Marsh. An existing 6-foot high chain link fence on the western side of the subject properties will connect to the proposed new fencing. The project also includes the installation of an entry gate at the southeast corner of the properties and minor grading to accommodate the installation of the fence. The proposed fencing will be installed no closer than 100 feet from the nearest wetland vegetation and all associated construction activity will occur upland of this 100 foot minimum. The properties are located east of the

terminous of West 32nd St., north of Sweetwater Channel, west of the railway right-of-way and Paradise Marsh, and south of West 24th St. in the City of National City.

The adjacent Paradise Creek Marsh is part of the Sweetwater Marsh National Wildlife Refuge. The marsh supports a variety of sensitive wildlife including the endangered light-footed clapper rail and many other saltmarsh species. The applicant had initially proposed to install the fence within 25 feet of Paradise Creek Marsh in order to prohibit illegal dumping. In response to that proposal, the Commission received several letters and verbal comments from wildlife agencies expressing concern. The comments generally maintained that the siting of a fence closer than 100 feet of the marsh would increase the predator perching opportunities for raptors known to prey on the endangered light-footed clapper rail and other sensitive bird species. In addition, concern was expressed that the erection of a fence within 100 feet of the marsh would reduce the area available for use by sensitive bird species and could potentially be used to establish a permanent wetland buffer zone for future construction activity associated with the proposed National City Marina. It should also be noted that during a recent site inspection of the subject site by Commission Staff, there appeared to be no evidence of illegal dumping at this time. Since receipt of these letters of concern, the applicant has submitted revised plans moving the location of the proposed fence to or beyond 100 feet from the wetland.

Section 30240 of the Coastal Act provides for the protection of environmentally sensitive habitat areas by restricting uses within or adjacent to such areas. The fence as proposed will be located from 100 to 143 feet from Paradise Marsh. This distance is consistent with the Commission's general policy that requires a 100 foot buffer zone separating new development and wetlands. At 100 feet from the wetland, the fence should not significantly increase the perching opportunity of raptors which prey upon the wetland wildlife.

Another concern involved the potential that the approved location of a fence at this time would somehow delineate a wetland buffer for future development. The Commission's review of the subject development has been limited to the issues raised by the erection of a fence adjacent to wetland. The applicant has recently acquired the subject parcels for future commercial development to support the proposed National City Marina. The proposed National City Marina will eventually be developed on the two southern subject lots and on adjacent properties within the San Diego Unified Port District's jurisdiction, west of the subject site. Prior to construction of the marina, however, a coastal development permit for the marina will be required from both the Port of San Diego and the Coastal Commission, or its successor in interest, since the marina is proposed to be constructed within the overlapping jurisdictions of both the Port of San Diego and the City of National City. All applicable Coastal Act issues will be addressed in the future permitting of a marina at this site; thus, the location of the proposed fence at this time does not establish any wetland buffer for future development.

Sections 30210 and 30211 of the Coastal Act state that new development should maintain and enhance public access and recreational opportunities. Currently the subject site does not provide public access to adjacent resources since

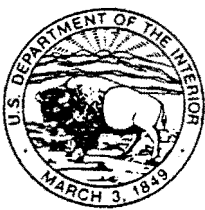
the western and southern portions of the property are already fenced with chain-link to prohibit trespassing. Existing access across the site is by way of an abandoned railway track located at the northeast corner of the subject property, through a footpath which parallels Sweetwater Channel ending at the southeastern edge of the properties or through Paradise Creek Marsh. The proposed alignment of the new fence at a minimum of 100 feet from the adjacent marsh will not eliminate the continued access, via the abandoned railway track or the footpath at Sweetwater Channel, to the upland areas of the subject site overlooking the marsh or to the marsh itself. In addition, a portion of the subject site has been designated as an alternative location for a proposed regional Bay Shore Bike Way. The proposed bike way would intersect the subject property along its southern boundary at Sweetwater Channel. The alignment of the proposed fence would not conflict with existing access to the upland areas overlooking Paradise Creek Marsh or with the proposed bike way and, therefore, the subject development can be found consistent with cited sections of the Coastal Act.

Section 30251 of the Coastal Act provides for the protection of scenic coastal areas and for the compatibility of new and existing development. The proposed development is located on an upland area west of Interstate 5 (a major coastal access route) and Paradise Creek Marsh and north of Sweetwater Channel. The erection of the fence will not impact the visibility of Paradise Creek Marsh from Interstate 5, block any existing public view corridors or significantly alter the visual resources of the area. Therefore, the proposal is consistent with section 30251 of the Coastal Act.

Although the City of National City has a certified Local Coastal Program, the subject sites were deferred from certification until a specific plan can be adopted by the City and approved by the Commission. Until that occurs, a coastal development permit from the Coastal Commission is required. The City LCP and zoning ordinances designate the properties as Commercial Tourist (CT) which accommodates tourist commercial, recreational and open space uses. The proposed development is consistent with these designations. In addition, the project can be found consistent with all applicable Chapter 3 policies of the Coastal Act. Thus, the proposed development will not prejudice the ability of the City of National City to prepare a certifiable local coastal program, and its implementation will not result in adverse impacts to any coastal resources.

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.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Field Office
2730 Loker Avenue West
Carlsbad, California 92008

RECEIVED
MARCH 17 1996
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

March 13, 1996

Gary D. Cannon
Coastal Planner
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, California 92108-1725


Re: Coastal Development Permit Application #6-96-17 (Port of San Diego) Construction of Fencing Along Paradise Creek Marsh, City of National City, San Diego County, California.

Dear Mr. Cannon:

The U.S. Fish and Wildlife has reviewed the above referenced proposal to construct a six foot high chain link fence around the San Diego Port District's (Port) property adjacent to Paradise Creek Marsh which is part of the U.S. Fish and Wildlife Service Southern California Coastal Complex Refuge. As currently proposed the fence would be erected on an upland area within 25 to 50 feet of the saltmarsh. The Service's understands that the purpose of the fence is to curtail unauthorized dumping on the property.

On March 13, 1996 a site visit was made by Ms. Doreen Stadtlander of my staff, Mr. Antero Pe (Senior Civil Engineer, San Diego Port District), Ms. Ellen Lirley (Coastal Planner, California Coastal Commission), and yourself. As discussed at this meeting, no apparent signs of dumping were exhibited on the property as access to the area is relatively restricted by existing fences which encompass the Port's property. Unauthorized entry for the purpose of dumping would mostly likely occur from either through the saltmarsh, along the railroad tracks, or from a dirt access road located in the northeast corner of the property. The Service recommends that a fence/gate be constructed at the access road to eliminate this most likely point of entry.

The Service is aware of the National City Marina project proposed by the Port for the property to be enclosed by the fence. The Service is concerned that placement of the fence along the proposed alignment to keep out unauthorized dumping may be used to delineate a permanent boundary for future development of the enclosed property. If a fence is erected along the property boundary adjacent to Paradise Creek Marsh, it should be considered temporary and, in no manner, used to delineate an acceptable wetland buffer zone for development and

EXHIBIT NO. <u>1</u>
APPLICATION NO. <u>6-96-17</u>
LETTERS of Comment
 California Coastal Commission

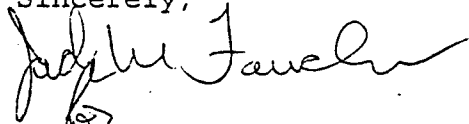
Gary D. Cannon

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construction activities associated with the proposed National City Marina project.

The Service appreciates the opportunity to comment on this proposed project. Please inform the Service as to what action the Coastal Commission will take regarding this issue. If you have any further questions regarding this letter, please contact Doreen Stadlander of my staff at (619) 431-9440.

Sincerely,



Gail C. Kobetich
Field Supervisor

cc: USFWS Refuges, Carlsbad, CA (attn: M. Mitchell)



Pacific Estuarine Research Laboratory
San Diego State University
San Diego, CA 92182-4614

Telephone (619) 594-5809
FAX (619) 594-2035
Email: jzedler@perl.sdsu.edu

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MAR 13 1996

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

13 March 1996

To: Gary Cannon, California Coastal Commission
From: Joy Zedler, PERL Director and Professor of Biology
Re: Permit Application #6-96-17

A fence is proposed to surround property adjacent to wetlands near the Sweetwater Marsh National Wildlife Refuge. In some places, it would be within 25' of the wetlands, according to the application. This is contradictory to the Coastal Act recommendation that wetlands have at least a 100-foot buffer adjacent to the wetland. Fencing is not desirable this close to the wetland because:

The Connector Marsh is a wetland constructed as habitat for the light-footed clapper rail. This endangered bird requires a high-tide refuge. The wetland does not provide sufficient high-marsh vegetation, so it is very likely that any birds would have to use the adjacent upland. As the birds tend to walk, rather than fly, as the tide rises, a fence would reduce the area of high ground available.

Vertical structures, such as fences, tend to attract and concentrate aerial predators (raptors). The power line supports already attract some raptors. Placement of more roosts adjacent to the wetland will increase chances of young chicks of wetland birds being preyed upon.

I recommend that you enforce the Coastal Act provision that a full 100-foot buffer be maintained along the upper wetland boundary. Any exceptions must be based on a demonstration that a narrower buffer will suffice. I see no evidence for an exception in this case, and strong reasons for even broader buffers. This site is already so disturbed that the ecosystem cannot withstand the cumulative impact of additional barriers and additional habitat fragmentation.

LETTERS of Comment
6-96-17



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

SOUTHERN CALIFORNIA COASTAL COMPLEX

2736 Loker Ave. West, Suite A

Carlsbad, CA 92008

telephone (619) 930-0168

facsimile (619) 930-0256

RECEIVED

MAR 18 1996

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

March 14, 1996

To: Gary Cannon, California Coastal Commission

From: Michael Mitchell, Biologist, U.S. Fish and Wildlife Service- Refuge Division

Re: Fence construction within 100 feet of Sweetwater Marsh NWR

Michael Mitchell

A fence is proposed for construction adjacent to the Paradise Creek portion of the Sweetwater Marsh National Wildlife Refuge. This fence is proposed to be constructed within the California Coastal Commission's recommended 100 foot buffer zone to a designated wetlands. Paradise Creek is already highly disturbed for various reasons ranging from altered hydrology to illegal mud digging. The cumulative effects of any or all of the following listed disturbances will add to the existing problems, all to the detriment of at least one endangered bird, the light-footed clapper rail and many other saltmarsh species. The concerns are as follows:

1. Avian predator perching - a newly constructed fence will increase the perching opportunity for raptors known to prey on the endangered light-footed clapper rail and other sensitive bird species. Increased predator protection will be required as a direct result of this proposed construction.
2. Noise - the breeding success of the endangered light-footed clapper rail is thought to be adversely effected by disturbance such as noise.
3. Domestic pets - both direct and indirect problems are associated with domestic and feral animals which are an anticipated addition after the construction of the National City Marina.
 - a. direct - increased predation on endangered species such as the light-footed clapper rail. Increased predation on all small mammals and birds especially ground nesting birds, will occur. Increased predator management will be required as a direct result of this construction.
 - b. indirect - increased public outreach will be required in gathering public support for domestic pet control in this area.
4. Trash - trash degrades the habitat both ascetically and ecologically. Debris will displace native plants causing physical damage and/or interfere with normal growth mechanisms. Unavoidable human trampling of sensitive habitat is the trade off we deal with when cleaning up trash within the salt marsh vegetation.
5. Erosion - An inadequate buffer can accelerate erosion causing the destruction of sensitive habitat and possibly altering hydrology.

6. Run-off - sufficient care must be taken in buffer design to minimize pollutant and sediment transfer into the National Wildlife Refuge from adjacent construction projects for the above stated reasons.

7. Unauthorized Access - an appropriate buffer of at least 100 feet would help minimize incidental unlawful access. Native vegetation can be planted in this buffer zone to aid in deterring unauthorized access into the Refuge (e.g., boxthorn and or thorny species).

8. Artificial lighting - shielding will be required to reflect light away from Paradise Creek given an inadequate buffer of less than 100 feet. The breeding success of above mentioned endangered species is known to be sensitive to disturbance. Unnatural lighting sources and periods contribute to the overall disturbance factor.

Given the sensitivity of this area, and the fact that the proposed construction is adjacent to a National Wildlife Refuge, also that we have degraded or completely lost so much of the saltmarsh habitat in California; acting prudently in this case is advised. As part of the management team for this unique National Wildlife Refuge, I recommend that we uphold a 100 foot buffer zone between any construction and the Sweetwater Marsh National Wildlife Refuge. A buffer of wider than 100 feet would be beneficial to the natural resources in this area.

Letters of Comment
6-96-17