

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
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 49th Day: July 31, 1996  
 180th Day: December 9, 1996  
 Staff: GDC-SD  
 Staff Report: June 20, 1996  
 Hearing Date: July 9-12, 1996



REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Fr 7d

Application No.: 6-96-54

Applicant: California Department of Transportation      Agent: Chris Thomas

Description: Construction of two portions (totalling approximately 4,300 linear feet) of a 2.2 mile-long, 12 foot-wide, asphalt bikepath adjacent to Sweetwater National Wildlife Refuge and Paradise Marsh to include 6 to 8 foot-high screened-fencing and the construction of a 68 foot-long single span bridge over Paradise Creek.

Site: One portion commences at the end of the E Street offramp of southbound Interstate 5 and westbound Highway 54 in Chula Vista and continues approximately 2100 feet north along the western edge of the E Street offramp adjacent to Sweetwater Marsh. The other portion begins immediately west of Interstate 5 at the north levee of the Sweetwater River Channel and continues west for approximately 2,200 feet along the levee to an upland area west of Paradise Marsh ending at the eastern terminus of 32nd Street in National City. (Areas within Caltrans right-of-way and APN Nos.: 562-210-5, 14, 15, 16 and 17.)

Substantive File Documents: Chula Vista and National City Certified Local Coastal Programs; Final Negative Declaration/ Finding of No Significant Impact for BayShore Bikeway; U.S. Fish & Wildlife Biological Opinion #1-6-95-F-24.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed development subject to special conditions restricting development to the period of September 15 - March 15 of any year. The primary issues are potential environmentally sensitive habitat impacts and the intermittent loss of existing public views along the I-5 corridor.

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PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following condition:

1. Seasonal Construction Restrictions. Prior to issuance of the coastal development permit, the applicant shall submit a construction schedule to the Executive Director for review and approval. Said schedule shall include documentation that no construction activity will occur between March 15 and September 15 of any year. If the applicant receives written concurrence from U.S. and Fish and Wildlife Service, this condition will not apply to any upland areas west of Paradise Marsh which are greater than 100 feet from the edge of the marsh. Any deviation from the approved construction schedule shall be submitted to the Executive Director for review and concurrence.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes to construct an approximately 2.2 mile-long, 12 foot-wide, asphalt bikepath which will extend from the west end of E Street in Chula Vista to the east end of 32nd Street (west of I-5) in National City. The alignment of the proposed bikepath will lie immediately adjacent to the Sweetwater National Wildlife Refuge and Paradise Marsh and will require the construction of two bridges. In addition, a 6 foot-high screened-fence will be installed on the west side of the bikepath adjacent to Sweetwater Marsh and an 8 foot-high screened-fence will be installed adjacent to Paradise Marsh at Paradise Creek. The proposed fencing consists of chain link with unremovable woven slats. The chain-link will be vinyl colored to blend with the surroundings. In addition, the east side of the proposed screened-fence adjacent to Sweetwater Marsh will be vegetated with vines to inhibit graffiti. The purpose of the screened-fencing is to minimize disturbances to wildlife from bicyclists and pedestrians using the new path. In addition, a 4 foot-high chain link safety fence is proposed on top of the existing concrete western wall of the E Street offramp to protect bicyclists and pedestrians from vehicular traffic on the offramp.

The 2.2 mile-long bikeway is a small segment of the Bayshore Bike Way, a 26 mile long regional facility planned to traverse the perimeter of San Diego Bay. As such, the Bayshore Bike Way traverses multiple jurisdictions including the cities of San Diego, Coronado, Imperial Beach, Chula Vista, National City and the Port of San Diego. The proposed project consist of two sections of the proposed 2.2 mile-long addition and will traverse through the cities of Chula Vista and National City. These two portions of the 2.2 mile-long bikeway segment are within the Commission's deferred certification and original jurisdictions areas and thus require direct Commission review.

The first portion of the bikepath is located within the Commission's original jurisdiction and commences in the City of Chula Vista north of E Street at Sweetwater Marsh and continues north along the west side of the E Street offramp of southbound Interstate 5 and westbound Highway 54. The bikepath traverses north from this point for approximately 2100 feet immediately adjacent to the Sweetwater National Wildlife Refuge on the west and the E Street offramp on the east, ending at the underpass of Interstate 5. The second portion of the bikepath involves both original jurisdiction and deferred certification areas. The original jurisdiction area is within the City of National City and lies at the west side of Interstate 5 at the north levee of the Sweetwater Channel and continues west along the levee adjacent to Paradise Marsh on the north. Included within this section is a 68 foot-long single-span bridge across Paradise Creek. This portion of the bikeway is approximately 650 feet in length and ends at the southwest corner of Paradise Marsh. The remaining approximately 1,550 foot-long section of the bikeway, lies west of and upland of Paradise Marsh in an area of deferred certification within the City of National City.

2. Environmentally Sensitive Habitats. Section 30240 of the Coastal Act provides for the protection of sensitive habitats and parklands, and 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.

Sweetwater National Wildlife Refuge and Paradise Marsh are areas administered by the U.S. Fish and Wildlife Service (Service). A Biological Opinion, dated May 30, 1995, was submitted by the Service in response to the Draft Negative Declaration/Finding of No Significant Impact for the proposed bikeway. This opinion documents the existence of several federally-listed and state-listed endangered species which inhabit the Sweetwater-Paradise Marsh Complex including light-footed clapper rail, California least tern, Belding's Savannah sparrow, and (the plant species) salt marsh bird's beak. The Service expressed specific concerns related to construction impacts which may occur during wildlife breeding seasons, the impacts of possible cyclist or pedestrian intrusion into the marsh areas and the indirect impacts to wildlife or sensitive species precipitated by the proximity or movement of cyclists or

pedestrians. The Service has also indicated that the relatively slow moving cyclists and pedestrians cause more flushing and disturbance to the endangered wildlife than does automobile traffic. In response to the Service's concerns, the proposed development was redesigned to incorporate all recommendations by the Service. These recommendations include the installation of an 6 foot high, screened-fence on the west side of the bikepath along Sweetwater Marsh, an anti-perching device along the top of the fence, sediment control devices, and the prohibition of any construction during the breeding periods for the least tern, clapper rail, and savannah sparrow (March 15 to September 15). Consistent with the proposed requirements of the Service, the path along the north levee of the Sweetwater Channel, south of Paradise Marsh, was designed to be placed at a recessed elevation in order to utilize the wall of the levee as a 6-foot high visual barrier to inhibit views of cyclists and pedestrians while not affecting migratory flights between the marshes. Also, consistent with the requirement of the Service, an 8 foot-high screened fence will be installed on the marsh side of the proposed 68 foot-long single-span bridge across Paradise Creek to minimize disturbance to wildlife.

The Commission and the U.S. Fish and Wildlife Service have typically found that development be setback at least 100 feet from the edge of any marsh or wetland habitat in order to protect the biological values of the habitat. However, in some cases, the Commission has found that nature trails/bikepaths can be located closer than 100 feet without disrupting habitat values. The alignment of the bikepath adjacent to Sweetwater Marsh will vary from 13.8 feet to 26.6 feet from the edge of the marsh. However, all construction will occur within the existing disturbed slope of the Caltrans fill slope for the E Street offramp of Interstate 5 and Highway 54 and no direct impacts to wetland or other sensitive habitat is proposed. In addition, both the applicant and the Service have indicated that human intrusion by pedestrians and bicyclists currently exist within Sweetwater Marsh. A recent site inspection by Commission staff has confirmed the existence of a dirt trail with many bike tire marks within Sweetwater Marsh. It is the applicant's contention that the proposed bikepath will eliminate that intrusion by directing the activity to the proposed bikepath. Along the Sweetwater Channel north levee portions of the bikepath, all development will occur within the existing levee and no direct impacts will occur to the adjacent Paradise Marsh. In addition, the proposed 68 foot-long single-span bridge will not require any footings to be placed within Paradise Creek and all work will occur within the existing footprint of the levee. In the previously described Biological Opinion, the U.S. Fish and Wildlife Service accepted these proposed alignments with a requirement for a 6 foot-high screen fence to preclude views of bicyclists or pedestrians from the marsh. The Commission finds that given the existing freeway and Caltrans fill slopes, locating the bikepath closer than 100 feet from the marsh will not disrupt habitat values of the marsh if the path is fenced as recommended by U.S. Fish and Wildlife Service.

Special Condition #1 has been attached to mirror the recommendation of the U.S. Fish and Wildlife Service for a prohibition on construction during the identified breeding periods. If the applicant can receive concurrence from U.S. Fish and Wildlife Service, this condition will apply exclusively to those portions of the project which lie within 100 feet of the Sweetwater-Paradise Marsh Complex.

Thus, since no encroachment into the marsh areas is proposed, construction is limited to non-breeding periods and a visual barrier is proposed to protect the environmentally sensitive habitat and endangered wildlife, the Commission finds the proposal, as conditioned, consistent with Section 30240 of the Act.

3. Public Access/Recreation. Section 30210 of the Coastal Act states:

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.

In addition, Section 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected.

In addition, Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

These policies address the public's right of access to the sea and public recreational sites, and require that access considerations be given high priority in reviewing any development proposals. In addition, lower cost recreational facilities should be encouraged and provided. The proposed development is one of the last remaining segments of the 26 mile-long Bayshore Bikeway. The completed bikeway will enable tourists and residents the recreational opportunity to traverse the perimeter of San Diego Bay. Bicyclists will be able to ride through Coronado, Imperial Beach, Chula Vista, National City, San Diego and return across San Diego Bay to Coronado via the San Diego Ferry. The bikepath will also afford expanded opportunity for low cost coastal recreational activity including access and views to San Diego Bay.

Currently bicyclists must utilize approximately 3.8 miles of major arterials and minor streets through the Cities of Chula Vista and National City to complete this path. The public streets are located in heavily used industrial and commercial areas and the cyclists must share the road with moving and parked vehicles. This path also involves approximately 31 separate street crossings.

Proposed alternative alignments to the subject bikepath were identified to be on the east of Interstate 5 traversing north adjacent to the San Diego Trolley. These alignments, identified as Alternative 3 and 5 in the Final Negative Declaration, shared the same path up to the north levee of Sweetwater Channel. At that point Alternative 3 turned west along the levee and Alternative 5 proceeded further north adjacent to the route of the San Diego Trolley. These alternatives were found to not be feasible primarily because of serious safety concerns. The bikepaths would parallel the trolley line and would place cyclists in close proximity to rail equipment operating at high speed. In addition, these alignments would require hazardous intersection crossings involving entry and exit traffic of Interstate 5, the San Diego Trolley and regular street traffic. Furthermore, right-of-way access through Metropolitan Transit District Board Trolley (MTDB) properties has not been attainable.

The proposed bikepath, while screened-off from the surrounding marshes, will allow cyclists and pedestrians closer proximity to the existing Bayshore Bikeway eliminating approximately 1.5 miles of out of direction travel and will create a greater degree of public safety. The alignment of the path contiguous with the proposed Sweetwater Channel Bridge and the north levee of the Sweetwater Channel will also provide a greater degree of a recreational experience than would the alternative alignments which were proposed between the east side of Interstate 5 and the San Diego Trolley. The proposed alignment also brings cyclists in closer proximity to the Chula Vista Nature Center, located at the western end of E Street in Chula Vista. In addition, bicyclists and pedestrians will be afforded views to the Sweetwater Channel and Sweetwater Marsh from both the proposed Sweetwater Channel Bridge and along the north levee of the Sweetwater Channel. Furthermore, since the proposed bikepath will provide an alternative path to current human intrusion into the marsh, the proposed access will serve to protect the fragile coastal resources of the area. In summary, the proposed development will significantly increase public recreational opportunities along San Diego Bay while protecting environmentally sensitive habitat. Therefore, the Commission finds the proposal consistent with all public access and recreation policies of the Coastal Act.

4. Visual Resources. Section 30251 of the Coastal Act states in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The proposed 6 foot-high screened-fence adjacent to Sweetwater Marsh will eliminate existing public views of Sweetwater Marsh for motorists along the E Street offramp of southbound Interstate 5 and westbound Highway 54 for approximately 1500 feet of this approximately 2100 foot span of the bikepath. However, the bikepath has been designed to traverse down the E Street offramp fill slope such that approximately 600 feet of existing views will remain.

Bicyclists and pedestrians along this 2100 foot-long portion of the bikepath, however, will not be afforded any views of Sweetwater Marsh. In addition, the screened-fence is proposed to be vegetated with vines to inhibit graffiti.

On the portion of the bikepath which lies adjacent to Paradise Marsh, cyclists and pedestrians will have their views of Paradise Marsh blocked by the north wall of the Sweetwater Channel levee due to the recessed alignment of the path. In addition, views north along the proposed Paradise Creek Bridge will be blocked by a proposed 8 foot-high screened-fence. Along this portion of the bikepath, however, cyclists and pedestrians will be afforded views to the south of both Sweetwater Channel, Sweetwater Marsh and the nearby Chula Vista Nature Center.

The Commission is concerned with the lack of view opportunities afforded to bikepath users adjacent to the Sweetwater-Paradise Marsh Complex and with the partial elimination of views to motorists along the E Street offramp. In addition, the Commission is concerned with the potential loss of public views of Sweetwater Marsh by motorists along an approximately 500 foot-long section of Interstate 5, a major north/south access corridor, for that portion of the bikepath yet to be permitted by the City of National City. This locally approved coastal development permit will be subject to the Commission's appeal process.

As previously stated, the Commission finds the bikepath consistent with coastal recreation and access policies and that the fence is necessary under Section 30240 of the Coastal Act to protect the habitat values of the marshes. In recognition of the Commission's need to balance the policies that require protection of environmentally sensitive habitat areas and wildlife with the policies to protect existing public views to and along the ocean and scenic coastal areas, the Commission finds that the proposed bikepath, while eliminating some existing views, has been designed to prevent impacts to environmentally sensitive habitat while affording increased coastal recreational opportunities. Some views from the Interstate 5 offramp will remain of both Sweetwater Marsh and the nearby Chula Vista Nature Center. Thus, as conditioned, the Commission finds, on balance, the proposed development consistent with Section 30251 of the Act.

5. 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 Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. As conditioned, such a finding can be made for the proposed project.

The properties west of and upland of Paradise Marsh have been designated as areas of deferred certification within the certified National City Land Use Plan. The properties are zoned Commercial Tourist. The approximately 650 foot-long path adjacent to Paradise Marsh is within public trust lands and as such is within an area of the Commission's retained original jurisdiction. The property is zoned Open Space within the certified National City Local Coastal Plan.

The approximately 2100 foot-long path adjacent to Sweetwater Marsh and the E Street offramp is also within public trust lands and, therefore, within the Commission's retained area of original jurisdiction. This property is zoned Open Space within the certified Chula Vista Local Coastal Program. As conditioned, the development has been found consistent with all applicable Chapter 3 policies of the Coastal Act, which is the standard of review. In addition, the proposal is consistent with both the City of Chula Vista and National City certified Land Use Plans which specifically support the installation of bikepaths adjacent to the Sweetwater-Paradise Marsh Complex. The Commission, therefore, finds that approval of the proposed development, as conditioned, will not prejudice the ability of the Cities of Chula Vista or National City to implement their certified Local Coastal Programs.

6. Consistency with the California Environmental Quality Act (CEQA).

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 to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the environmentally sensitive habitat, visual resource, public access and recreation policies of the Coastal Act. 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.

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.

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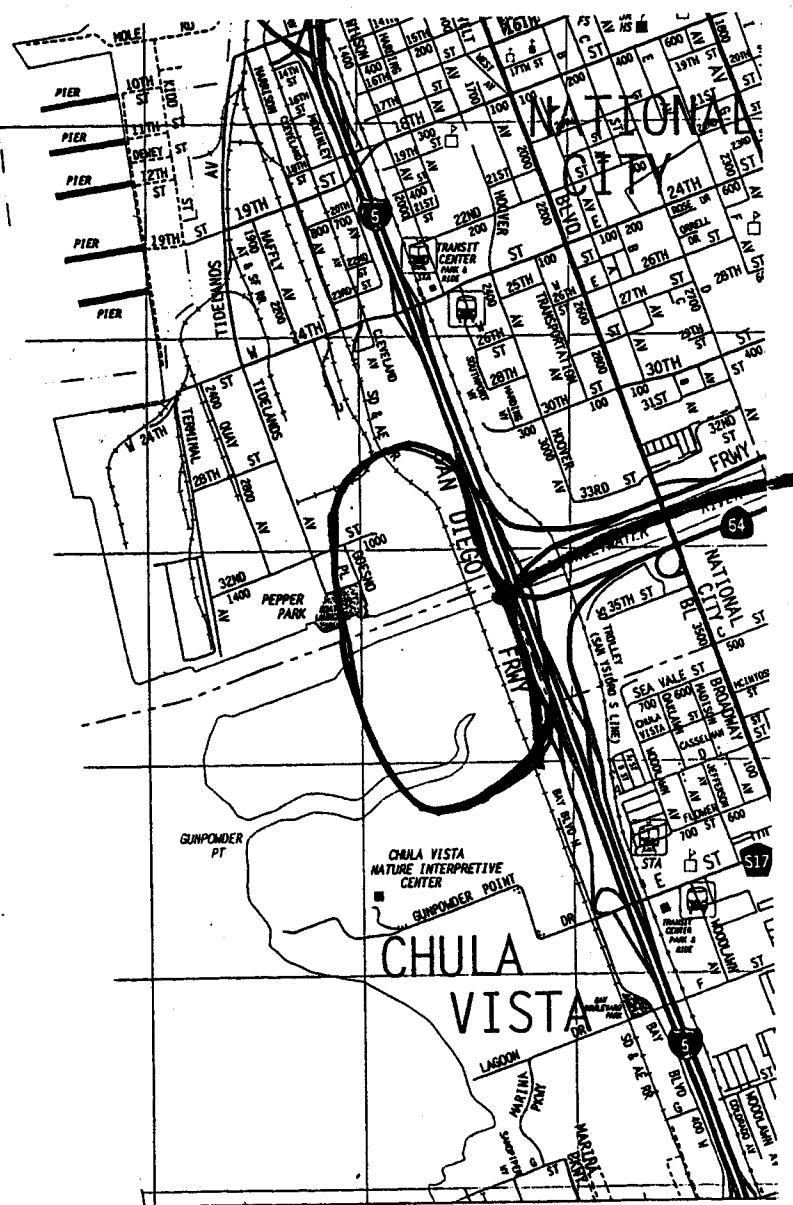
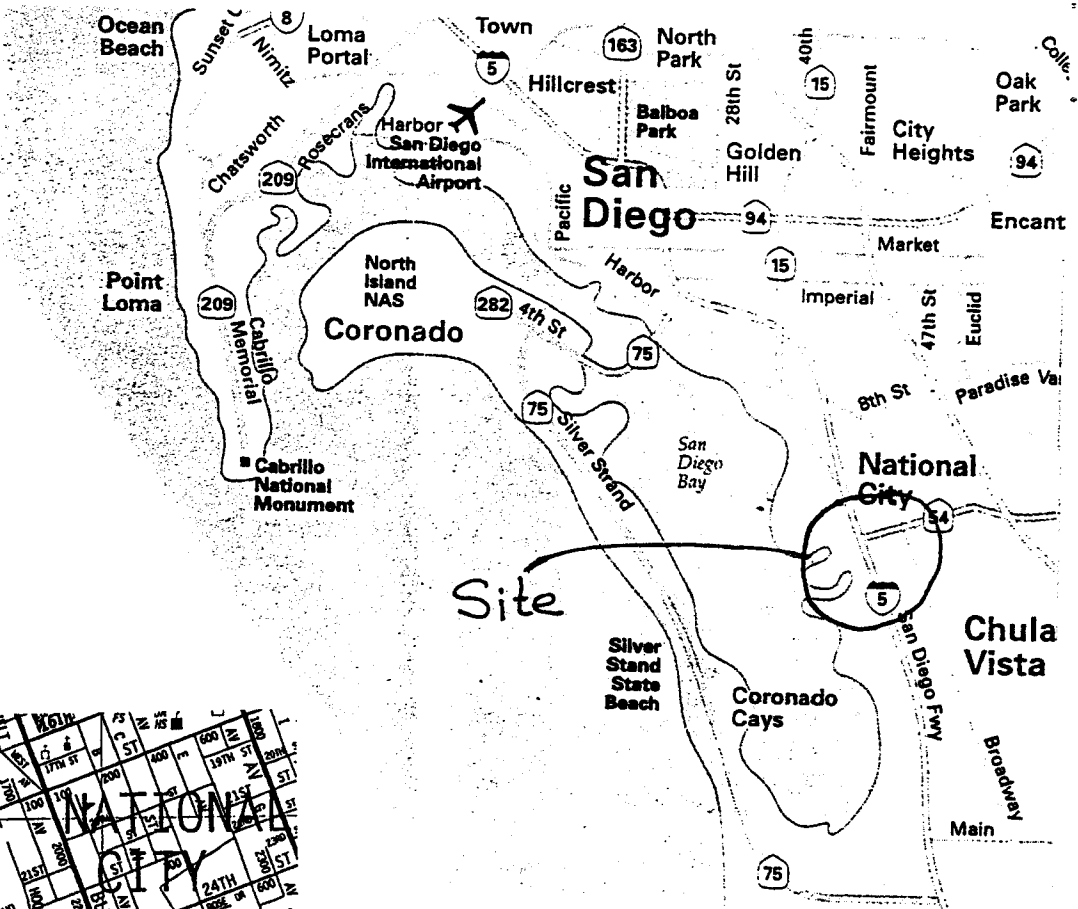
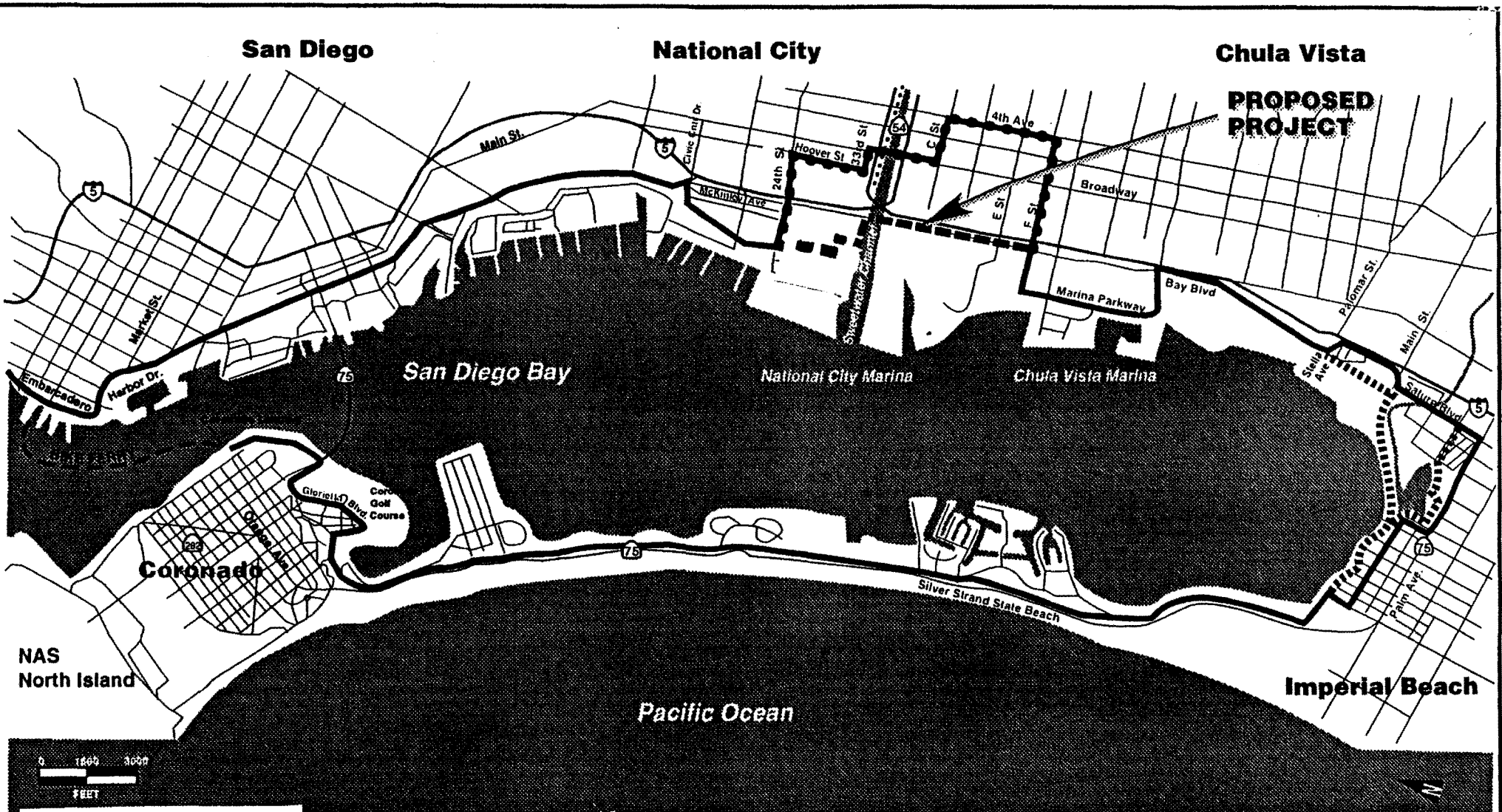


EXHIBIT NO. 1  
 APPLICATION NO.  
**6-96-54**  
 Location Maps

California Coastal Commission



SOURCE: SANDAG'S SAN DIEGO BAY SHORE BIKE WAY

- PROPOSED BAY SHORE BIKE WAY PROJECT
- INTERIM BAY SHORE BIKE WAY ROUTE
- EXISTING BAY SHORE BIKE WAY ROUTE
- FUTURE ALTERNATIVE ALIGNMENTS (BY OTHERS)
- OTHER BIKE ROUTES

# SAN DIEGO BAY SHORE BIKE WAY

11-SD-5

P.M. 8.6-10.0

**FIGURE 2**

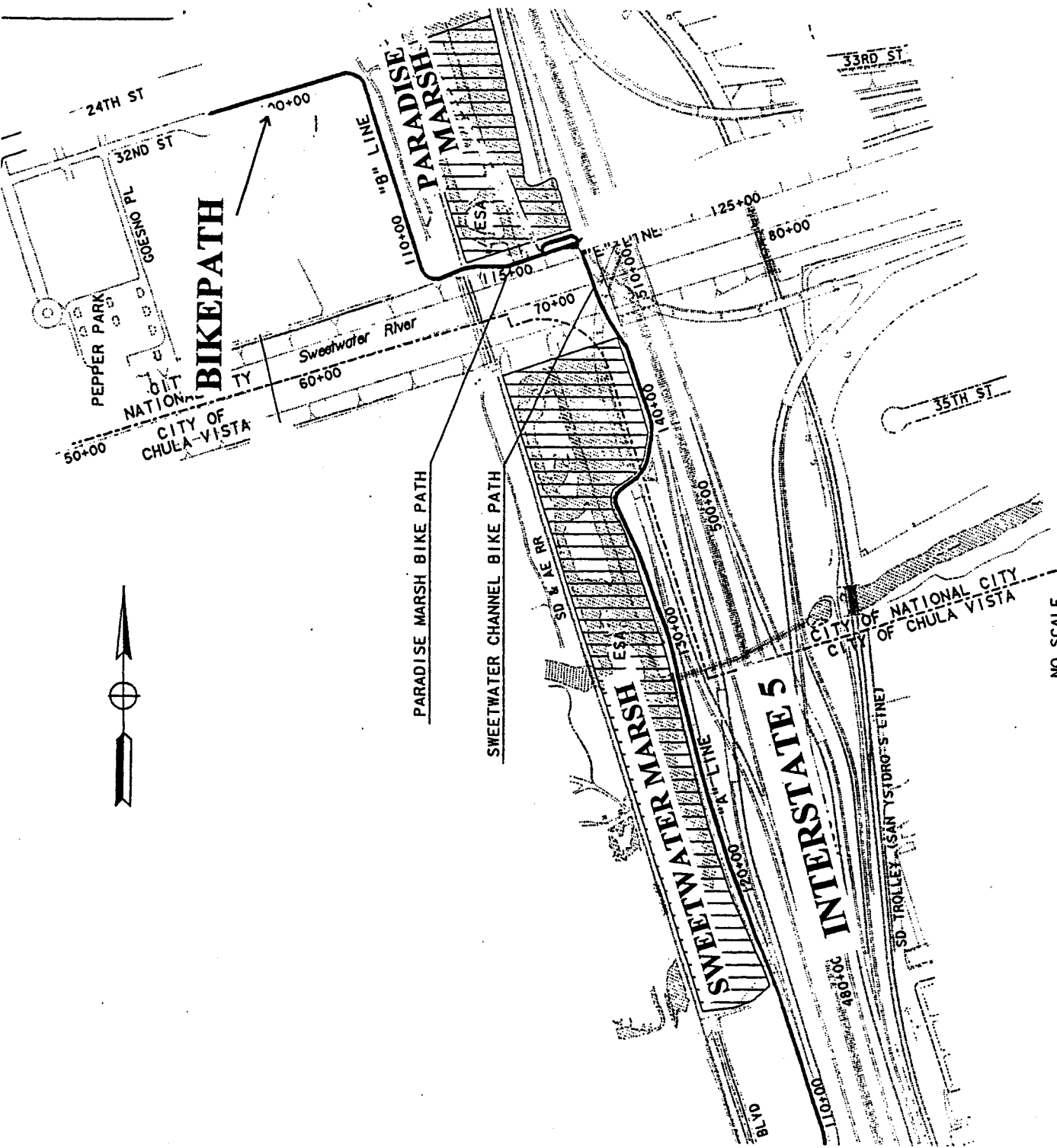
California Coastal Commission

**EXHIBIT NO. 2**

**APPLICATION NO.**


**6-96-54**

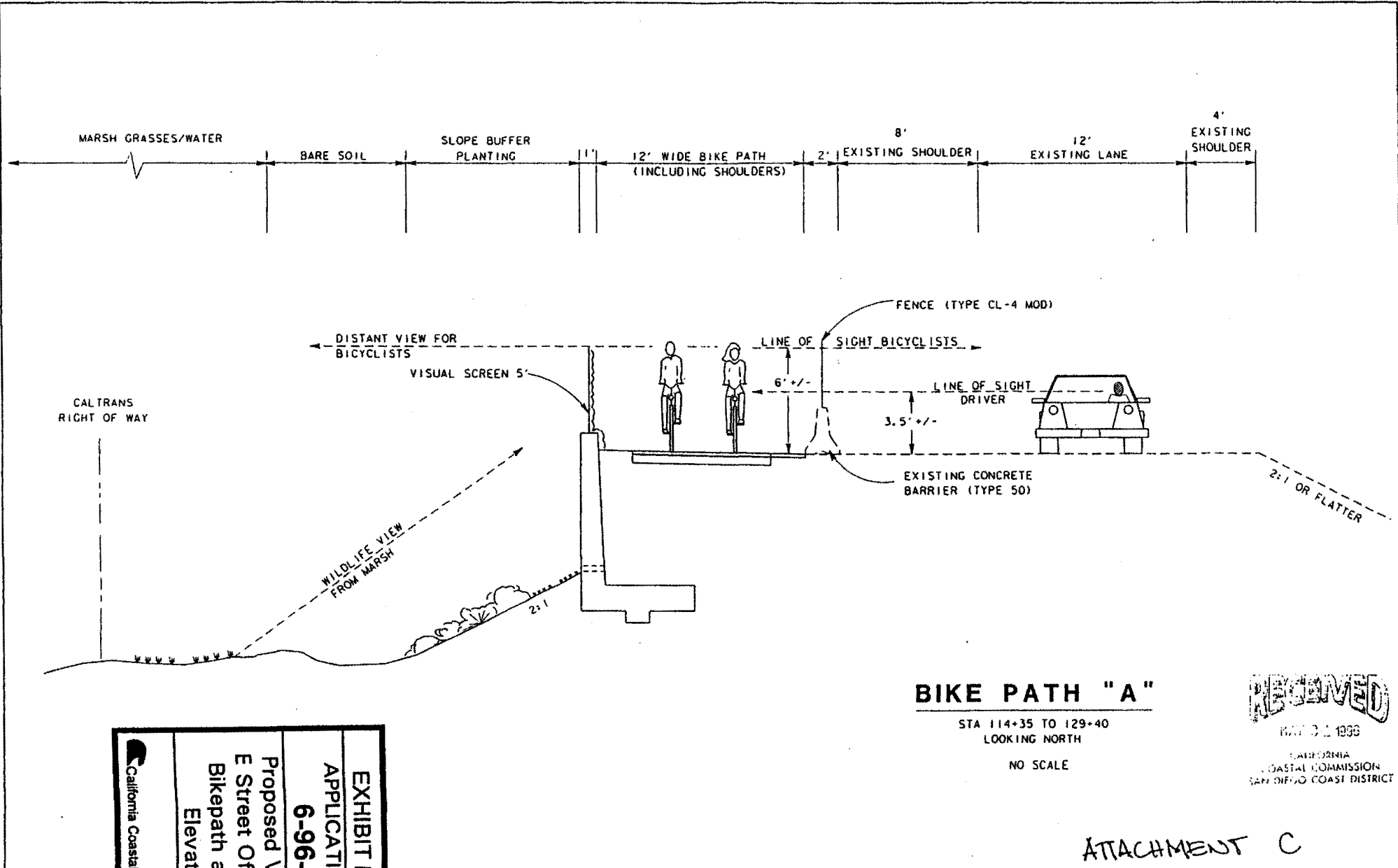
**Existing Bayshore  
Bikepath & Proposed  
Project**



NO SCALE

**BIKEPATH**

EXHIBIT NO. 3
APPLICATION NO.
<b>6-96-54</b>
Proposed Alignment
 California Coastal Commission



**BIKE PATH "A"**

STA 114+35 TO 129+40  
LOOKING NORTH

NO SCALE

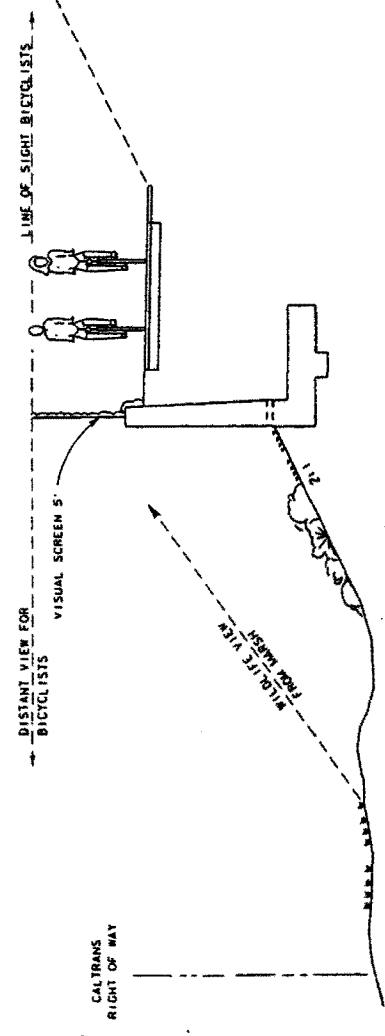
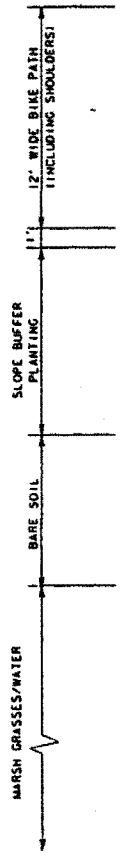
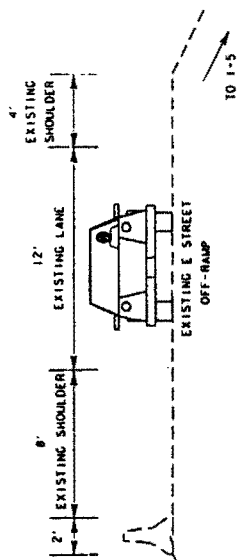
**RECEIVED**

MAY 01 1998

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

ATTACHMENT C

	<p><b>EXHIBIT NO. 4</b></p>
	<p><b>APPLICATION NO.</b></p>
	<p><b>6-96-54</b></p>
	<p><b>Proposed Views at E Street Offramp &amp; Bikepath at Same Elevation</b></p>



**BIKE PATH "A"**

STA 135+00  
LOOKING NORTH  
NO SCALE

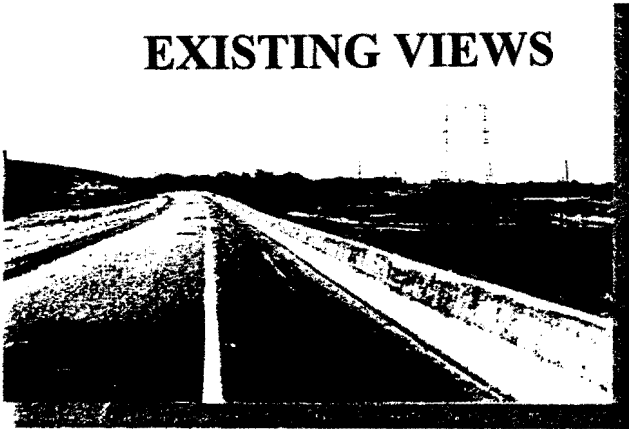
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MAY 2 1996  
CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

ATTACHMENT D

EXHIBIT NO. 5
APPLICATION NO. 6-96-54
Proposed Views at E Street Offramp & Bikepath at Lower Elevation
California Coastal Commission

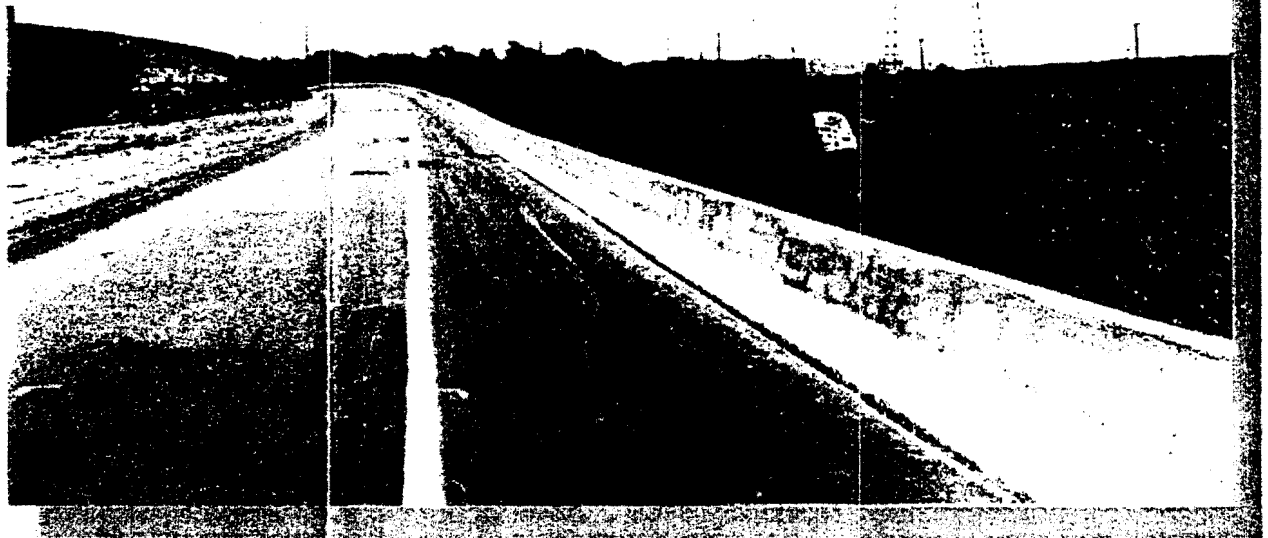
# EXISTING VIEWS



EXISTING

# SCREENED-FENCE

(Views Eliminated)



PROPOSED

BAY SHORE BIKE PATH

09-20-94 EA 047970

ATTACHMENT 4B



California Coastal Commission

EXHIBIT NO. 6  
APPLICATION NO.  
6-96-54  
Photo Simulation of  
E Street Offramp &  
Views Eliminated

PROPOSED PARADISE MARSH BRIDGE LOOKING NORTH

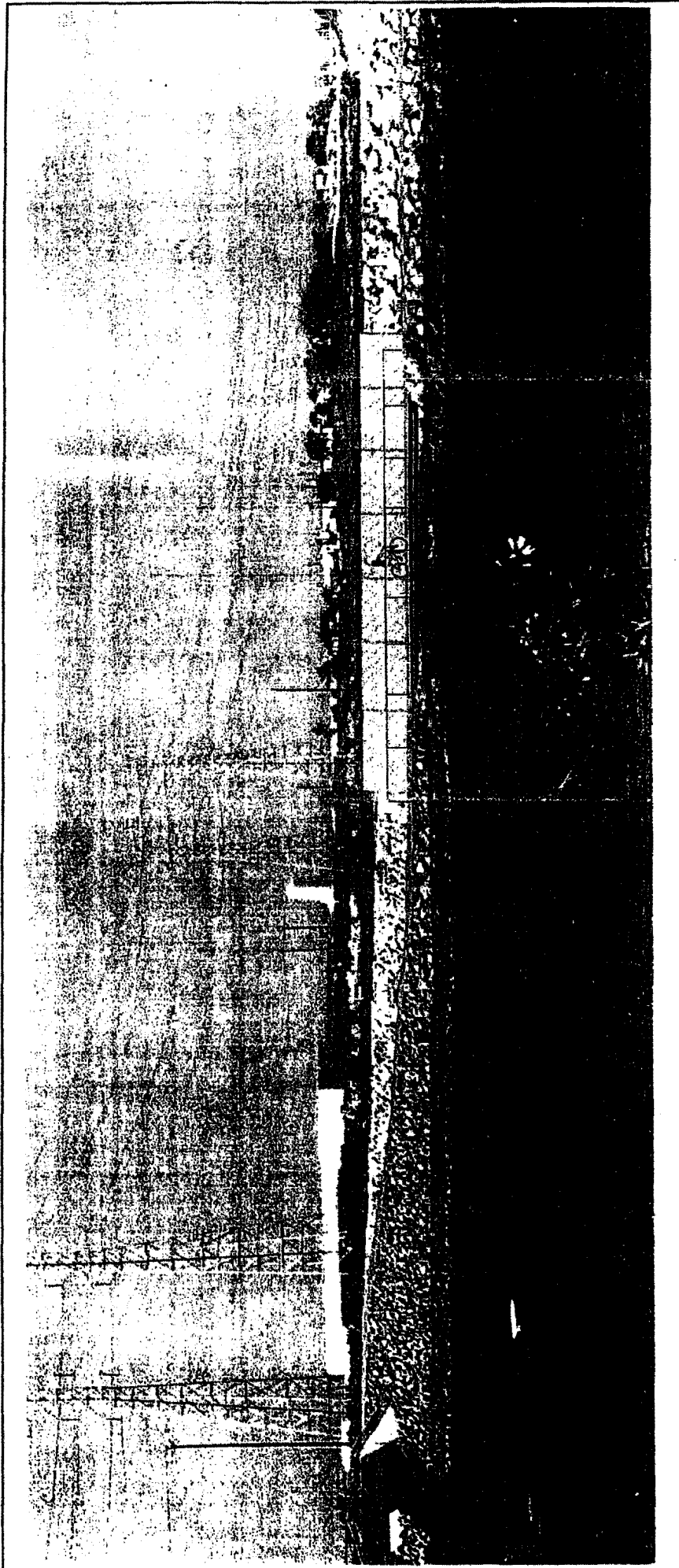



FIGURE 8  
PROPOSED BAY SHORE BIKE WAY  
PHOTO SIMULATION  
11-SD-5 PM 8.6-10.0  
NO SCALE

EXHIBIT NO. 7
APPLICATION NO. <b>6-96-54</b>
Photo Simulation of Bikepath at Paradise Marsh
 California Coastal Commission