

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST AREA  
245 W. BROADWAY, STE. 380  
P.O. BOX 1450  
LONG BEACH, CA 90802-4416  
(310) 590-5071

Th 106  
RECORD PACKET COPY

June 20, 1996

**TO:** Coastal Commissioners and Interested Persons

**FROM:** Charles Damm, South Coast District Director

**SUBJECT:** **Concurrence with the Executive Director's determination that the action of the County of Orange accepting certification with suggested modifications of Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Programs is legally adequate.**

**STAFF RECOMMENDATION**

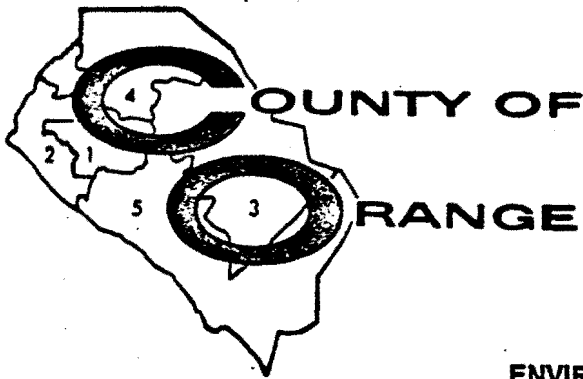
Staff recommends that the Commission concur with the Executive Director's determination that the County's action is legally adequate.

**BACKGROUND**

On January 11, 1996, the Coastal Commission certified Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Programs with suggested modifications. The suggested modifications were proposed to bring the Land Use Plan Amendment and the Implementing Actions Programs into conformance with the Coastal Act. Land Use Plan Amendment No. 1-95 replaces the certified 1986 Land Use Plan in its entirety. The Implementing Actions Programs is the first implementation plan for Bolsa Chica to be submitted to the Commission. The Land Use Plan Amendment No.1-95 and the Implementing Actions Programs together constitute the Bolsa Chica Local Coastal Program.

On June 18, 1996, the County of Orange accepted, and agreed to the Commission's suggested modifications by passing Resolution No. 96-463 and adopting Ordinance 3964 incorporating the suggested modification into the Land Use Plan Amendment and Implementing Actions Program. The County also adopted Ordinance 3965 for the Bolsa Chica Development Agreement which is part of the implementation portion of the Bolsa Chica Local Coastal Program.

As provided for in Section 13544 of the California Code of Regulations, the Executive Director must determine that the County's action is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the County's action is legally adequate. Unless the Commission objects to the Executive Director's determination, the certification of Bolsa Chica Local Coastal Program shall become effective upon the filing of the required notice of certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(V).



Item Th 106  
1-95

MICHAEL M. RUANE  
DIRECTOR, EMA

THOMAS B. MATHEWS  
DIRECTOR OF PLANNING

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ENVIRONMENTAL MANAGEMENT AGENCY  
PLANNING

HAND DELIVERED

RECEIVED

JUN 20 1996

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

June 20, 1996

Charles Damm  
Regional Director  
California Coastal Commission  
245 West Broadway, Suite 380  
Long Beach, CA 90802

Re: Bolsa Chica Local Coastal Program

Dear Chuck:

I am very pleased to inform you that at its public hearing on June 18, 1996, the Orange County Board of Supervisors voted unanimously to accept and agree to the Suggested Modifications for final certification of the Bolsa Chica Local Coastal Program and the Development Agreement that were specified by the California Coastal Commission on January 11, 1996. By adopting Resolution 96-464, the Board accepted and agreed to the terms of the Suggested Modifications, and agreed to issue coastal development permits for the total area included in the certified Local Coastal Program in conformity with the Coastal Act. It is my understanding that the County's action will be reported by the Executive Director to the Coastal Commission at its July, 1996 hearing and, upon filing the notice of the certification of the LCP pursuant to Public Resources Code Section 21080.5 (d) (2) (v), the Bolsa Chica LCP will be deemed final and effective.

Enclosed please find a copy of the materials submitted to the Board of Supervisors which evidence the incorporation of the Coastal Commission's Suggested Modifications into the Bolsa Chica LCP and Development Agreement and draft Board Resolution 96-464 and findings in support thereof. The Board also took formal action to satisfy the terms and modifications, by adopting two Ordinances to amend the Development Agreement and adopt the Bolsa Chica LCP Planned Community Regulations in accordance with the Orange County Zoning Code.

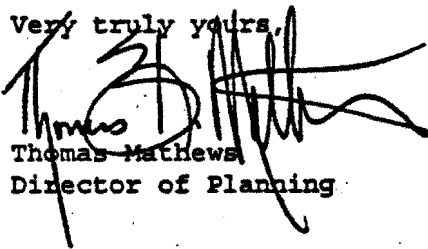
Also enclosed is draft Board Resolution 96-463 by which the County certified the Recirculated 1996 Draft EIR 551, and the findings in support thereof. We are providing you with copies of the draft resolutions and ordinances adopted by the Board. We are working with the Clerk of the Board to provide you with the final executed resolutions and ordinances within the next few days -- well in advance of the July Coastal Commission hearing.

Mr. C. Damm  
Page 2

On behalf of my staff and the Board, I would like to extend our appreciation to you, your staff and the Coastal Commission. It has been a very long process to achieve final certification of the Bolsa Chica LCP. As a result of the extensive local and state planning process, we have developed a plan and direction for the future of Bolsa Chica that will provide considerable environmental and economic benefit to our County and this region.

If you have any questions, or require additional information, please do not hesitate to contact me or Ron Tippets at 714/834-5394.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas Mathews", is written over the typed name and title.

Thomas Mathews  
Director of Planning

GF:sf  
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Enclosure

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**RESOLUTION OF THE BOARD OF SUPERVISORS  
ORANGE COUNTY, CALIFORNIA**

June 18, 1996

On the motion of Supervisor \_\_\_\_\_, duly seconded and carried, the following Resolution was adopted.

WHEREAS, the County of Orange ("County") elected to prepare a Local Coastal Program in accordance with Section 30500 of the California Coastal Act for the Bolsa Chica Segment of the County's North Coast Planning Unit for its Coastal Zone;

WHEREAS, on December 14, 1994, the Board of Supervisors adopted a Local Coastal Program for Bolsa Chica ("Bolsa Chica LCP") pursuant to Resolution 94-1341 and adopted findings in support thereof;

WHEREAS, the Bolsa Chica LCP consists of an amendment to the Commission-certified Land Use Plan of 1986, and an Implementing Actions Program that consists of the Planned Community Program, and Wetlands Restoration Program;

WHEREAS, the Bolsa Chica LCP provides for the development of a maximum of 3,300 dwelling units and consists of two components, a "Mesa Component" that proposes a maximum of 2,500 dwelling units on Bolsa Chica Mesa, and regional park use on Huntington Mesa; and a "Lowland Component" that proposes the development of a maximum of 900 residential units, and the expansion, creation and restoration of a 1,112.7 acre coastal wetland ecosystem, and the construction of a non-navigable tidal inlet to maximize and enhance biological diversity and marine resources on-site (the "Bolsa Chica Project");

WHEREAS, Resolution 94-1341 and the Bolsa Chica Local Coastal Program Findings and Facts in Support Thereof are herein incorporated by reference;

WHEREAS, Government Code Section 65864 et seq. authorizes the County to enter into development agreements to achieve certain public purposes;

WHEREAS, pursuant to Government Code Section 65864 et seq. the County has established procedures and requirements for the processing of proposed development agreements and Board of Supervisors' Resolution 88-102 establishes those procedures for the processing and amendment of development agreements;

WHEREAS, on April 18, 1995, the Board of Supervisors approved a Development Agreement ("DA 95-1") between the County and Signal Bolsa Corporation, a wholly owned subsidiary of Koll Real Estate Group (collectively "Landowner"), which pertains to the Landowner's property in the Bolsa Chica LCP area pursuant to Resolution No. 95-252;

1 WHEREAS, the Board of Supervisors directed the Environmental Management  
2 Agency ("EMA") to submit the Bolsa Chica LCP and DA 95-1 to the California  
3 Coastal Commission ("Coastal Commission") for certification and approval;

4 WHEREAS, on January 11, 1996, after a public hearing, the Coastal  
5 Commission certified the Bolsa Chica LCP, with suggested modifications, and  
6 approved DA 95-1, with suggested modifications;

7 WHEREAS, pursuant to Public Resources Code Sections 30512 and 30513, and  
8 Section 13544 of the California Code of Regulations, if the Coastal Commission  
9 suggests modifications to a local coastal program, the local government with  
10 jurisdiction over the area governed by the certified local coastal program by  
11 action of its governing body, must, in order to have the local coastal program  
12 deemed final and effective, acknowledge receipt of the Coastal Commission's  
13 resolution of certification including any terms or modifications which may have  
14 been suggested for final certification; and must accept and agree to any such  
15 terms and modifications, and must take whatever formal action is required to  
16 satisfy the terms and modifications; and must agree to issue coastal development  
17 permits for the total area included in the certified local coastal program;

18 WHEREAS, the County is proposing the acceptance of the Coastal Commission's  
19 suggested modifications to the Bolsa Chica LCP, and has prepared an Amended Bolsa  
20 Chica LCP with Suggested Modifications (the "Amended Bolsa Chica LCP") that  
21 revises the Bolsa Chica LCP by incorporating the suggested modifications of the  
22 Coastal Commission;

23 WHEREAS, the Coastal Commission's suggested modifications include, but are  
24 not limited to:

- 25 a. Provisions for "failure to act" situations of the coastal  
26 development permit process;
- 27 b. Specifications for agency coordination and maintenance for the 20-  
28 acre Huntington Mesa ESHA;
- 29 c. Description of and location of monitoring stations under the Bolsa  
30 Chica LCP/Wetland Restoration Program's shoreline monitoring program  
31 to measure shoreline changes;
- 32 d. Provisions for accidental spillage of crude oil, gas and petroleum  
33 products;
- 34 e. Provisions for protection of bluff areas and use of drought tolerant  
35 plants;
- 36 f. Inclusion of the Department of Fish and Game in consultations  
37 regarding the State Ecological Reserve; and
- 38 g. Inclusion of the 50-foot setback along the Bolsa Chica Mesa bluff  
39 edge.

40 WHEREAS, the acceptance of the suggested modifications to the Bolsa Chica  
41 LCP would further the County's purpose, intent and focus reflected in the Bolsa

1 Chica LCP to implement a wetlands restoration project to provide for the  
2 restoration and creation of over 1,000 acres of wetlands and 65 acres of  
3 Environmentally Sensitive Habitat Areas in the Bolsa Chica;

4 WHEREAS, the Board has found that the public interest, health, comfort,  
5 convenience, safety, order and general welfare will be served and provided by  
6 accepting the suggested modifications to the Bolsa Chica LCP;

7 WHEREAS, the County and the Landowner propose to amend the DA 95-1 in  
8 conformance with the suggested modifications of the Coastal Commission, and the  
9 County has prepared Amendment No. 1 to the Bolsa Chica Development Agreement (the  
10 "DA 95-1 Amendment") which incorporates the suggested modifications of the  
11 Coastal Commission, and Ordinance No. \_\_\_\_ to approve the DA 95-1 Amendment (the  
12 "DA Ordinance");

13 WHEREAS, the DA 95-1 Amendment will modify the dedication obligation of the  
14 Landowner by requiring that the Landowner dedicate Planning Area 1-D (the  
15 lowlands proposed for restoration) and pay \$7 million in restoration costs in the  
16 event of the Landowner's failure to pursue a Section 404 Permit and/or Coastal  
17 Development Permit for Lowland residential development;

18 WHEREAS, the DA 95-1 Amendment imposes no new obligation on the County and  
19 would have no impact on the accelerated improvement of the regional road network,  
20 the restoration funding for the specified wetlands, or the other public benefits  
21 that would be received by the County under DA 95-1;

22 WHEREAS, the County has reviewed DA 95-1 Amendment and DA Ordinance with  
23 respect to consistency with the Orange County General Plan, all applicable  
24 specific plans, applicable zoning regulations, and Resolution No. 88-102;

25 WHEREAS, the Planning Commission conducted a duly noticed public hearing  
26 on June 4, 1996, to consider the DA 95-1 Amendment and DA Ordinance;

27 WHEREAS, the Planning Commission has recommended adoption of the proposed  
28 DA 95-1 Amendment and DA Ordinance to this Board pursuant to procedures  
established with respect to development agreements;

WHEREAS, the County has prepared Ordinance No. \_\_\_\_ to adopt the Bolsa  
Chica Local Coastal Program Planned Community Regulations, Zoning Map and  
Statistical Summary in accordance with the Comprehensive Zoning Code of Orange  
County (the "Zoning Ordinance");

WHEREAS, the adoption of the Zoning Ordinance ensures consistency between  
the zoning for the Bolsa Chica LCP area and the Orange County General Plan and  
Bolsa Chica LCP;

WHEREAS, this Board of Supervisors has conducted a duly noticed public  
hearing to consider the acceptance of the Amended Bolsa Chica LCP, the DA 95-1  
Amendment, DA Ordinance, and Zoning Ordinance;

WHEREAS, the County has previously prepared studies, analyses, reports or  
documents as required by the California Environmental Quality Act ("CEQA") which  
are contained in the County certified Final EIR No. 551;

1 WHEREAS, the Amended Bolsa Chica LCP will implement the goals and policies  
2 of County's General Plan and of all specific plans (as referenced in Government  
3 Code Sections 65450 et seq.) applicable to the proposed Bolsa Chica project and  
4 provides balanced and diversified land uses and imposes appropriate standards and  
5 requirements with respect to land development and usage so as to maintain the  
6 overall quality of life and of the environment within the County;

7 WHEREAS, this Board of Supervisors has listened to and considered the  
8 public comments that were presented to it at all of the public hearings held on  
9 this project; and

10 WHEREAS, this Board has considered the Planning Commission's  
11 recommendations, and the environmental documents, Coastal Act documents, and all  
12 other information presented to it in writing and orally that pertain to the  
13 acceptance of the suggested modifications to the Bolsa Chica LCP, the DA 95-1  
14 Amendment, the DA Ordinance, and the adoption of the Zoning Ordinance.

15 NOW, THEREFORE, BE IT RESOLVED, that based upon the foregoing recitals,  
16 which are incorporated herein as findings of this Board of Supervisors, this  
17 Board hereby:

- 18 a. Accepts the Coastal Commission suggested modifications to the Bolsa  
19 Chica LCP, which have been incorporated and are reflected in the  
20 document titled, "Amended Bolsa Chica LCP with Suggested  
21 Modifications;"
- 22 b. Approves Amendment No. 1 to the Bolsa Chica Development Agreement  
23 (DA 95-1), and adopts the DA Ordinance, Ordinance No. \_\_\_\_;
- 24 c. Adopts the Zoning Ordinance, Ordinance No. \_\_\_\_.

25 BE IT FURTHER RESOLVED that this Board of Supervisors finds that the  
26 Amended Bolsa Chica LCP is consistent with and conforms to the policies of the  
27 Chapter 3 of the Coastal Act of 1976.

28 BE IT FURTHER RESOLVED that this Board of Supervisors adopts the "Bolsa  
Chica Local Coastal Program Suggested Modification Findings and Facts in Support  
Thereof" attached hereto as Exhibit A, and which is incorporated by reference.

BE IT FURTHER RESOLVED that to the extent the policies, regulations, text,  
maps, exhibits, appendices and tables of the Bolsa Chica LCP remain unchanged by  
the Coastal Commission's suggested modifications, that the Board of Supervisors  
hereby readopts and incorporates by reference the "Bolsa Chica Local Coastal  
Program Findings and Facts in Support Thereof" adopted in connection with the  
Board of Supervisors' approval of Resolution 94-1341.

BE IT FURTHER RESOLVED that by accepting the suggested modifications to the  
Bolsa Chica LCP which will result in the certification of the Bolsa Chica LCP  
that this Board hereby agrees to issue coastal development permits for the total  
area included in the certified Bolsa Chica LCP.

BE IT FURTHER RESOLVED THAT this Board finds that Development Agreement 95-  
1, as amended, is consistent with the Orange County General Plan, applicable

1 zoning regulations and procedures, and the Bolsa Chica LCP, and adopts the  
2 findings with respect to Amendment No. 1 of DA 95-1 in the "Bolsa Chica Local  
3 Coastal Program Suggested Modification Findings and Facts in Support Thereof,"  
4 attached hereto as Exhibit A.

5 BE IT FURTHER RESOLVED THAT to the extent the language, text, and exhibits  
6 of DA 95-1 remain unchanged by the Coastal Commission's approval with suggested  
7 modifications, the Board of Supervisors hereby readopts and incorporates by  
8 reference the findings made in connection with its approval of Resolution 95-252.

9 BE IT FURTHER RESOLVED THAT this Board directs that Amendment No. 1 to DA  
10 95-1 be entered into and that the Clerk of this Board is directed to: (i)  
11 execute the Amendment on behalf of the County of Orange after execution thereof  
12 by the Landowner, provided that Landowner executes and delivers to the Clerk of  
13 this Board the Development Agreement 95-1, as amended, within thirty (30) days  
14 of this Resolution; and (ii) insert the date of said execution of the page  
15 numbered "1" of the amendment to DA 95-1.

16 BE IT FURTHER RESOLVED THAT the Clerk of this Board is hereby directed to  
17 record DA 95-1, as amended, with the County Recorder within seven (7) days of  
18 execution.

19 BE IT FURTHER RESOLVED THAT this Board finds the Zoning Ordinance to adopt  
20 the Bolsa Chica Local Coastal Program Planned Community Regulations in Accordance  
21 with the Comprehensive Zoning Code of Orange County consistent with the Orange  
22 County General Plan, and by so adopting this Zoning Ordinance ensures that the  
23 zoning for the Bolsa Chica LCP area will be consistent with the Orange County  
24 General Plan and Bolsa Chica LCP.

25 BE IT FURTHER RESOLVED that this Board of Supervisors hereby directs County  
26 EMA to notify the executive director of the Coastal Commission of this Board's  
27 action to accept the suggested modifications to the Bolsa Chica LCP and DA 95-1,  
28 so that this Board's action can be reported to the Coastal Commission by the  
executive director at the Coastal Commission's next regularly scheduled public  
hearing in order to deem the certification of the Bolsa Chica LCP final and  
effective.



EXHIBIT "A"

BOLSA CHICA LOCAL COASTAL PROGRAM SUGGESTED MODIFICATIONS  
FINDINGS AND FACTS IN SUPPORT THEREOF

Introduction

On January 11, 1996, the California Coastal Commission reviewed and certified with suggested modifications the County of Orange's Bolsa Chica Local Coastal Program ("Bolsa Chica LCP") submittal consisting of the Bolsa Chica Land Use Plan Amendment 1-95, and Bolsa Chica Implementing Actions Program. The Implementing Actions Program consisted of the Planned Community Program and Wetlands Restoration Program. The Coastal Commission also reviewed and approved with suggested modifications the Development Agreement ("DA 95-1") between the County and Signal Bolsa Corporation, a wholly owned subsidiary of Koll Real Estate Group (collective "Landowner") which pertains to the Landowner's property in the Bolsa Chica LCP area.

The Bolsa Chica LCP provides for the construction of a maximum of 3,300 dwelling units overall within the Bolsa Chica LCP area, including a maximum of 900 dwelling units in the Bolsa Chica Lowland, and a maximum of 2,500 dwelling units on Bolsa Chica Mesa, and a regional park on Huntington Mesa. The Bolsa Chica LCP also provides for the expansion, creation, and restoration of a 1,112.7-acre coastal wetland ecosystem, including protection of environmentally sensitive habitat areas ("ESHAs") and the provision of buffer areas to buffer the wetlands from adjacent urban uses. The Bolsa Chica LCP Wetlands Restoration Program also provides for the construction of a non-navigable tidal inlet to maximize and enhance biological diversity and marine resources on-site.

DA 95-1 is part of the implementation program for the Bolsa Chica LCP. DA 95-1 sets forth the duties and obligations of each party with respect to the development and implementation of the Bolsa Chica LCP. Among other things, DA 95-1 states the terms and conditions under which the Landowner would be obligated to dedicate approximately 770-794 acres within the Bolsa Chica Lowland to a public agency for wetlands restoration purposes, and to provide assurance of a maximum of \$48 million for wetlands restoration funding.

Pursuant to Public Resources Code Sections 30512 and 30513, and Section 13544 of the California Code of Regulations, if the Coastal Commission suggests modifications to a local coastal program, the local government with jurisdiction over the area governed by the certified local coastal program by action of its governing body, must, in order to have the local coastal program deemed final and effective, acknowledge receipt of the Coastal Commission's resolution of certification including any terms or modifications which may have been suggested for final certification; and must accept and agree to any such terms and modifications, and must take whatever formal action is required to satisfy the terms and modifications; and must agree to issue coastal development permits for the total area included in the certified local coastal program.

The County of Orange has reviewed the modifications suggested by the Coastal Commission, and has accepted and agreed to those modifications and has incorporated those modifications into the Bolsa Chica LCP. The County has prepared a document titled, "Amended Bolsa Chica LCP with Suggested Modifications" which revises the Bolsa Chica LCP approved by the County of Orange Board of Supervisors on December 14, 1994, by incorporating the suggested modifications of the Coastal Commission, and by incorporating the minor changes outlined in the Bolsa Chica Local Coastal Program Errata Sheet, included in the County's submission to the Coastal Commission dated January 2, 1996, which were reviewed and approved by the Coastal Commission in its action of January 11, 1996.

To the extent that the policies, regulations, text, maps, exhibits, appendices and tables of the Bolsa Chica LCP remain unchanged by the Coastal Commission certification with suggested modifications, the County of Orange Board of Supervisors hereby readopts and incorporates by reference the "Bolsa Chica Local Coastal Program Findings and Facts in Support Thereof" adopted in connection with the Board of Supervisors approval of Resolution 94-1341.

To the extent that the language, text, and exhibits of DA 95-1 remain unchanged by the Coastal Commission's approval with suggested modifications, the County hereby readopts and incorporates by reference the findings made in connection with its approval of Resolution No. 95-252.

#### Summary of Coastal Commission Suggested Modifications

In taking action to certify the Bolsa Chica LCP, the Coastal Commission found that greater specificity was necessary with regard to a number of issues, including but not limited to: wetland dedication requirements, building setbacks from the Bolsa Chica Mesa bluff edge, public access and recreation LCP policies, mitigation of impacts on cultural resources, development standards criteria, and mitigation provisions associated with the proposed new ocean inlet. The Coastal Commission therefore adopted suggested modifications to the County of Orange's Bolsa Chica LCP submittal to address these concerns.

In certifying the Bolsa Chica LCP and adopting the suggested modifications, the Coastal Commission reconfirmed the 1981 determination of the Department of Fish and Game that the Bolsa Chica Lowland was a severely degraded wetland system in need of major restoration, and that the Bolsa Chica wetlands will continue to degrade without a major wetlands restoration program being implemented. The Coastal Commission also found that in order to enhance and restore the wetland values and biological productivity of the Bolsa Chica Lowland, it is necessary to construct a non-navigable tidal inlet. The Coastal Commission also found that the development of a maximum of 900 dwelling units on approximately 185 acres of the Bolsa Chica Lowland would provide sufficient revenue to generate the \$48 million necessary to construct the tidal inlet and implement the wetlands restoration program. In so doing, the Coastal Commission found the Bolsa Chica LCP's Lowland Component to be consistent with the Coastal Act, and in particular, that the development of residential uses in the Lowland was consistent with Sections 30411 and 30233 of the Coastal Act in that it was a feasible way of insuring wetland restoration, and was the least environmentally damaging alternative for insuring wetland restoration.

DA 95-1 set forth the various terms and conditions under which the Landowner would be required to dedicate approximately 770-794 acres in the Lowland to a public agency for wetland restoration purposes, and to fund the wetland restoration activities. DA 95-1 provided that if the Landowner received a Clean Water Act Section 404 permit and a coastal development permit for Lowland development, but decided not to undertake development, the Landowner would be required to dedicate approximately 770-794 acres in the Lowland, and pay \$7 million for wetland restoration activities in a specified area. However, if the Landowner failed to pursue a Section 404 permit and/or coastal development permit for Lowland development, the Landowner would be required to dedicate 88.7 acres of property in the Lowland. In response to comments at the January 11, 1996, Coastal Commission hearing, the Landowner and County suggested a modification to DA 95-1 which clarified that if the Landowner voluntarily decided not to pursue a Section 404 permit and/or coastal development permit for Lowland development, that the Landowner will dedicate the full 770-794 acres and provide \$7 million for restoration of a specified area.

With respect to development on Bolsa Chica Mesa, the Coastal Commission addressed questions and concerns raised about the adequacy of building setbacks from the bluff edge, parkland, cultural resources and public parking. The Coastal Commission certified the Bolsa Chica subject to a number of suggested

modifications addressing development of Bolsa Chica Mesa, including, but not limited to, the establishment of a 50 foot building setback from the Mesa bluff edge; that archaeological, cultural and paleontological resources be preserved and protected through appropriate surveys, research and monitoring of grading activities; and that public parkland, parking and trails be appropriately signed in order to acknowledge their availability for public use.

Finally, the Coastal Commission adopted certain suggested modifications with respect to the Wetlands Restoration Program by providing additional measures to insure proper mitigation for potential impacts of program implementation, including adopting additional measures to mitigate impacts to the eucalyptus grove ESHA through proper phasing, and improving the success criteria and monitoring provisions of the Wetlands Restoration Program.

#### Findings Regarding the Suggested Modifications

These findings pertain specifically to the suggested modifications adopted by the California Coastal Commission on January 11, 1996, in connection with the certification of the Bolsa Chica LCP. The Coastal Commission suggested modifications made revisions to the Bolsa Chica Land Use Plan (LUP) policies, the regulations of the Planned Community Program, the Wetlands Restoration Program, and the Development Agreement. These findings are intended to serve as findings for all of the revisions required by the Coastal Commission suggested modifications. These findings review specific Coastal Act resource and policy areas and identify how the Coastal Commission suggested modifications are consistent with the Coastal Act and, when incorporated into the Bolsa Chica LCP, serve to protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone and its natural and artificial resources consistent with Section 30001.5 of the Coastal Act.

#### • Biological, Wetlands and Marine Resources

With respect to Biological, Wetlands and Marine Resources, the Coastal Commission adopted one suggested modification to LUP Policy 5 concerning the provision for the planting of a 20-acre native tree and shrub ESHA along the Huntington Mesa to compensate for the loss of raptor habitat provided by an approximately 6.5-acre eucalyptus grove on Bolsa Chica Mesa. The modification requires that the 20-acre ESHA on Huntington Mesa be planted prior to the issuance of the first coastal development permit that results in the elimination of the eucalyptus grove, and that a mitigation plan be prepared in coordination with the Department of Fish and Game. Section 30240 of the Coastal Act provides that "environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, . . ." This suggested modification will allow for the initiation of planting the 20-acre ESHA area prior to the removal of the eucalyptus grove on Bolsa Chica Mesa.

The Coastal Commission also adopted a suggested modification agreed to by the County and the Landowner to establish a 50-foot horizontal setback from the Bolsa Chica Mesa blufftop edge. In response to concerns regarding providing a horizontal setback in addition to the vertical separation created by the bluff from the proposed wetlands that will be created along the toe of the bluff in the proposed buffer area of the wetland ecosystem area, a 50-foot building setback has been established along with requirements to ensure that landscape vegetation in the setback area will be primarily native and drought-tolerant plant material that provides habitat value and a natural appearing visual transition zone between the coastal wetland ecosystem area and the planned community. The County finds this modification provides additional protection for the wetlands and is therefore consistent with Section 30230 which provides that marine resources be maintained, enhanced, and where feasible restored; Section 30231 which provides for the maintenance and restoration of the biological productivity and quality of coastal waters, streams, wetlands, estuaries and lakes to maintain optimum populations of marine organisms and for protection of human health; and Section

30001.5 which provides for the protection, maintenance and enhancement of the coastal zone and its resources.

Finally, the Coastal Commission adopted as suggested modifications the inclusion of a new policy which reiterates the provisions of Section 30233 and a new regulation in the Planned Community Program which specifies the terms under which wetlands on Bolsa Chica Mesa (Warner Avenue Pond and the isolated pocket wetlands) can be filled.

The County finds that each of these suggested modifications are consistent with Sections 30001.5, 30230, 30231, and 30233 which set forth Coastal Act policies to protect coastal and marine resources, including wetlands, and are consistent with the overall intent of the Bolsa Chica LCP.

● **Coastal and Shoreline Resources**

With respect to Coastal and Shoreline Resources, the Coastal Commission suggested the addition of Sections 30230, 30231, and 30232 of the Coastal Act into the LUP Policy section in order to provide general policies regarding the maintenance and enhancement of marine resources. The County finds and accepts the addition of these Coastal Act sections as policies consistent with the Coastal Act.

In addition to including these sections, the Coastal Commission's suggested modifications also included modifications to Bolsa Chica LUP Policy 12.d. to require that adverse impacts to coastal resources be mitigated to a level of insignificance, in place of only where feasible; Bolsa Chica LUP Policy 13 to require that shoreline changes be monitored and that adverse impacts to the sand supply shall be mitigated; and Bolsa Chica LUP Policy 16 to require the use of turbidity barriers when construction of the tidal inlet is underway. The County finds that the incorporation of these suggested modifications are consistent with the marine resource protection policies cited above, as well as Section 30235 of the Coastal Act which provides that shoreline structures be designed to eliminate or mitigate adverse impacts on local shoreline sand supply, and Section 30236 which provides that substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to projects where the primary function is the improvement of fish and wildlife habitat. These measures are adopted in connection with the construction of a tidal inlet, the primary purpose of which is to maximize and enhance biological diversity and marine resources on-site.

● **Physical Resources**

With respect to Physical Resources, the Coastal Commission's suggested modifications made minor changes to Bolsa Chica LUP Policies 20, 21, 23, and 24. The modifications clarified that the establishment of a 100-foot ESHA/wetlands buffer zone, proposed to run the length of the Harriett Wieder Regional Park, may provide for an exception in those areas where the park property may be too narrow to accommodate a buffer of this width. In addition, the Coastal Commission suggested modifications added a Policy 25 which incorporates the language of Coastal Act Section 30253 and clarifies those conditions under which grading of the bluff face of Bolsa Chica Mesa can occur. The County finds that these suggested modifications are consistent with the policies of Section 30253 while still permitting the development of the Harriett Wieder Regional Park and the grading of the Bolsa Chica Mesa bluff face for construction of public trails and bluff stabilization activities, and are consistent with overall goals, objectives and intent of the Bolsa Chica LCP.

● **Cultural Resources**

With respect to Cultural Resources, the Coastal Commission suggested modifications changed the timing of submittal of the archaeological research

design for Bolsa Chica from prior to approval of the first coastal development permit for land use development to submission with the first Master Coastal Development permit application for land use development within any planning area. This modification affected both the Bolsa Chica LUP policies as well as the provisions in the Planned Community Program. A modification was also made to the paleontological policy to provide measures to protect paleontological resources discovered during grading operations until a recovery plan is completed to assure the protection of those resources. The County finds both suggested modifications acceptable and consistent with Section 30244 of the Coastal Act which requires that reasonable mitigation measures to protect archaeological and paleontological resources, and consistent with the goals, objectives and intent of the Bolsa Chica LCP.

● **Visual and Scenic Resources**

With respect to Visual and Scenic Resources, the Coastal Commission proposed the incorporation of Section 30251 of the Coastal Act as a LUP policy to provide general policy direction in situations not covered by the County's LUP policies. In addition, the suggested modifications add language to clarify that public views are to be provided from all trails within Bolsa Chica; that the State Ecological Reserve overlooks and parking be designed in consultation with the Department of Fish and Game; that landscaping be native drought-tolerant plants, and that signs inform the public of the availability of the public recreational amenities. Policy 36 which dealt with the park master plan for the Harriett Wieder Regional Park was deleted as a suggested modification pending completion of a new park master plan by the County. Section 30251 of the Coastal Act provides that the scenic and visual qualities of coastal areas be considered and protected as a resource of public importance. The County finds that these suggested modifications are consistent with the intent of its Bolsa Chica LCP and consistent with the Coastal Act.

● **Transportation and Circulation Issues**

With respect to Transportation and Circulation issues, Coastal Act Section 30252 provides that the location and amount of new development maintain and enhance public access to the coast. The Bolsa Chica LCP includes a regional circulation improvement program, the Area Traffic Improvement Program (ATIP), that will be either implemented or funded with the project's fair share contribution. The Coastal Commission's suggested modifications to the Bolsa Chica LUP and the Planned Community Program provisions provides for all of the affected local jurisdictions to be members of the ATIP Advisory Committee to oversee traffic improvements, and changes the timing for the submission of the ATIP funding program for Full Construction and Fair-Share Participation ATIP improvements, providing of security for all "Full Construction" ATIP improvements within an ATIP phase, payment of fees for residential unit within an ATIP phase, and submission of a detailed phasing plan to prior to specified coastal development permits. The County finds that these modifications are consistent with Section 30252 of the Coastal Act and consistent with the goals, objectives and intent of the Bolsa Chica LCP.

● **Public Access and Visitor Service Recreational Issues**

With respect to Public Access and Visitor Serving Recreational issues, the Coastal Commission suggested modifications include provisions for a beach nourishment program to mitigate the loss of sandy beach, and the mitigation of any subsequent erosion attributable to the tidal inlet. The suggested modifications include a requirement that all recreation planning for the tidal inlet be done in coordination with the Department of Parks and Recreation. The County accepts and agrees to these suggested modifications and finds them consistent with Section 30235 and Section 30236 of the Coastal Act pertaining to the mitigation of impacts from the construction of shoreline structures.

The Coastal Commission modifications also clarifies that public use of certain trails not be limited, and that adequate public parking be provided to encourage the use of the various recreational facilities in the LCP area. The County accepts and agrees to this modification and finds it consistent with Section 30212.5 which requires that where appropriate and feasible, public facilities, including parking areas or facilities shall be distributed throughout an area to mitigate against the impacts of overcrowding or overuse by the public of any single area. The County also finds these suggested modifications consistent with Section 30210 of the Coastal Act which provides that maximum access and recreational opportunities be provided for all the people consistent with public safety needs and the need to protect private property rights.

The Coastal Commission suggested modifications also provide for dedication of the Landowner's 49 acres in the Harriett Wieder Regional Park prior to issuance of the first Master Coastal Development permit for the Bolsa Chica Mesa, and outlines certain policies for the development of the general development plan and resource management plan for the Harriett Wieder Regional Park. The suggested modifications also provide greater detail regarding the Local Park Implementation Plan. The suggested modifications modified both the Bolsa Chica LUP policies, as well as the provisions in the Planned Community Program of the County's Implementing Actions Program. Again, the County accepts and agrees to this modification and finds it consistent with Section 30210 of the Coastal Act, and Section 30213 of the Coastal Act that encourages the development of lower cost visitor and recreational facilities.

In the area of the interpretive kayak/canoe facility, the suggested modifications eliminate the quiet water swimming beach and permits operation of the interpretive kayak/canoe program provided issues of public safety due to water velocities in the vicinity of the ocean inlet can be resolved. The County accepts and agrees to this modification and finds the suggested modification consistent with Section 30210 of the Coastal Act which provides that maximum access and recreational opportunities be provided for all people consistent with public safety needs and the needs of private landowners, and Section 30224 which provides for increased recreational boating use of coastal waters.

The Coastal Commission's suggested modifications also include additional language to address providing safe and secure bicycle racks at appropriate locations within the community and regional parks, along the trails and within the visitor-serving and neighborhood commercial development on the Bolsa Chica Mesa. The County accepts and agrees to this modification and finds it consistent with Section 30222 which encourages the development of visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation, and Section 30252(3) and 30252(6) which require that new development provide for nonautomobile circulation within the development.

The County finds each of these suggested modifications to be acceptable and agrees to incorporate these suggested modifications into the Bolsa Chica LCP.

● **Coastal Dependent Petroleum Resource Use Issues**

The Coastal Commission's suggested modifications add a new policy which encourages the consolidation of new or expanded oil production facilities to the maximum extent feasible, and adds language to ensure that the Oil Spill Prevention Control and Countermeasure Plan and the Oil Spill Contingency Plan are not inconsistent with the Wetlands Restoration Program and the protection of biological resources. The County accepts and agrees to these suggested modifications, and finds them consistent with Coastal Act Section 30262 which provides for the development of oil and gas production activities under certain conditions, and Coastal Act Sections 30230 and 30231 which provide for the protection of marine resources.

● **Development Component Issues**

The Coastal Commission suggested modifications made minor word changes to several policies to clarify that the Lowland residential development be designed to avoid impacts on the habitat resources to the maximum extent feasible, and to include the trails and interpretive kayak/canoe facilities with the local park and community facility policies to ensure that these are taken into consideration in serving the recreational needs of local residents and visitors. The County accepts and agrees to these suggested modifications, and finds them consistent with Coastal Act Sections 30001.5, 30230, 30231, and 30210.

The suggested modifications also address the circumstances under which new utilities to serve adjacent residential areas may be allowed within the wetlands, and provide additional language to clarify that utilities be designed in a manner that does not reduce useable recreation or parking areas. The Coastal Commission's suggested modifications modified both the Bolsa Chica LUP policies as well as the Public Infrastructure provisions of the Planned Community Program. The County accepts and agrees to these suggested modifications and finds them consistent with Section 30233(a)(5) which addresses those situations in which utilities may be located in wetlands if they constitute incidental public services, and Section 30210 which encourages the provision of recreational opportunities consistent with public safety needs and the need to protect private property rights.

In addition, because many of these development issues bring together the impacts of developing residential areas or infrastructure needs with coastal resources, such as wetlands, and recreational facilities, the County's consistency determination is also based upon Section 30007.5 of the Coastal Act which provides that "conflicts may occur between one of more policies of the division . . . therefore, . . . in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective overall, than specific wildlife habitat and other similar resource policies."

• Development Agreement 95-1

The Coastal Commission approved Development Agreement 95-1 with a suggested modification that clarifies the situations under which the Landowner is required to dedicate the Lowland wetlands area.

DA 95-1 set forth the various terms and conditions under which the Landowner would be required to dedicate approximately 770-794 acres in the Lowland to a public agency for wetland restoration purposes, and to fund the wetland restoration activities. DA 95-1 provided that if the Landowner received a Clean Water Act Section 404 permit and a coastal development permit for Lowland development, but decided not to undertake development, the Landowner would be required to dedicate approximately 770-794 acres in the Lowland, and pay \$7 million for wetland restoration activities in a specified area. However, if the Landowner failed to pursue a Section 404 permit and/or coastal development permit for Lowland development, the Landowner would be required to dedicate 88.7 acres of property in the Lowland. In response to comments at the January 11, 1996, Coastal Commission hearing, the Landowner and County suggested a modification to DA 95-1 which clarified that if the Landowner voluntarily decided not to pursue a Section 404 permit and/or coastal development permit for Lowland development, that the Landowner will dedicate the full 770-794 acres and provide \$7 million for restoration of a specified area.

Because DA 95-1 would permit the "denial" of permits to include a situation whereby the Landowner could simply choose not to build the Lowland housing and not carry out the wetland restoration thereby avoiding the dedication of the majority of the Lowland, the Coastal Commission found that DA 95-1 as submitted was inconsistent with the Coastal Act. The County agrees and accepts the

suggested modification described above that would require the Landowner to dedicate the full 770-794 acres in the Lowland if the Landowner voluntarily decided not to pursue a Section 404 permit and/or coastal development permit for Lowland residential development, and finds the modification consistent with Section 30233 and 30411 of the Coastal Act which sets forth the Coastal Act policy of encouraging the restoration of degraded wetlands.

The County also finds that DA 95-1, as modified by the Coastal Commission suggested modifications, is consistent with the Orange County General Plan, all applicable specific plans, applicable zoning regulations, and Resolution No. 88-102 of the County of Orange Board of Supervisors which establishes procedures for the processing of development agreements. The County further finds that acceptance of the Coastal Commission suggested modifications to DA 95-1 serve the public interest, health, comfort, convenience, safety, order and general welfare of the County.



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA ADOPTING  
THE BOLSA CHICA LOCAL COASTAL PROGRAM PLANNED COMMUNITY  
REGULATIONS IN ACCORDANCE WITH THE COMPREHENSIVE ZONING  
CODE OF ORANGE COUNTY (ZC93-5)

The Board of Supervisors of the County of Orange, California does ordain as follows:

SECTION 1. The Bolsa Chica Planned Community Regulations (Sections 1 through 13), Zoning Map (Appendix A-1) and Statistical Summary (Appendix A-2) all of the Bolsa Chica Local Coastal Program Implementing Actions Program are hereby adopted.

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA, APPROVING  
AMENDMENT NO. 1 TO THE DEVELOPMENT AGREEMENT 95-1 FOR THE SIGNAL  
BOLSA PROPERTIES WITHIN THE BOLSA CHICA LOCAL COASTAL PROGRAM AREA

The Board of Supervisors of the County of Orange, California, does ordain  
as follows:

SECTION 1: Pursuant to Government Code Section 65867.5 this Board  
hereby approves Amendment No. 1 to the Development Agreement 95-1 with the  
Signal Bolsa Company as considered by the Board on June 18, 1996.

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