

## CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-96-151

Applicant: California Department of Transportation      Agent: Tonya Jackson

Description: Repair storm-damaged slope by extending existing rock slope protection located above a water channel leading to San Elijo Lagoon. The project is proposed to correct further erosion of the bank into the lagoon channel and to protect Manchester Avenue, a public highway, from being undermined.

Site: South side of Manchester Avenue approx. 150 east of Interstate-5 bridge, Encinitas, San Diego County. (261-210-13)

Substantive File Documents: Certified Encinitas Local Coastal Program  
Caltrans Project Report dated August 1996

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 conditions:

1. Final Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval final plans approved by the City of Encinitas and the California Department of Fish and Game that indicate the following: All construction shall occur outside of the breeding season (February 15 through September 15) of the affected bird species (light footed clapper rail and the least tern). All work below the top of the embankment shall be limited as identified in the plans submitted 11/18/96. "Environmentally sensitive areas" as identified in the biological report shall be delineated on the final plans. A dredging curtain shall be placed in the channel, around the work area, prior to any work, to delineate the work limits in the channel. No construction materials, other than clean rock, shall enter the channel. No debris or material used in equipment maintenance shall enter the channel. No impacts to wetland or freshwater marsh vegetation shall be permitted.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The project proposes to repair a failing slope that is located above a water channel leading to San Elijo Lagoon in the City of Encinitas. The project is proposed to correct further erosion of the bank into the lagoon channel and to protect Manchester Avenue, a public highway, from being undermined. The slope, adjacent to the traveled way, has continued to erode resulting in a vertical drop off which is undermining Manchester Avenue. The existing dirt shoulder has disappeared, forcing pedestrians to walk on the road. Caltrans proposes to repair the failing slope by first excavating approximately 325 cubic yards of unstable dirt from the eroded slope. This material will be placed near the project site on the north side of Manchester Avenue, well-removed from any environmentally sensitive areas. After this site preparation is complete, approximately 600 cubic yards of 1/2 ton rock slope protection (rip rap) will be placed on the slope, including 100 cubic yards of rock which will be placed below the waterline. The submerged rock will extend no further toward the channel bottom than the existing submerged rock located adjacent to the west of the project site. In effect, the existing 500 lineal feet of rock slope protection that exists between the I-5 bridge and the project site will be extended another 65 feet to the east by the project. During slope reconstruction a dredging curtain will be placed in the channel around the work area.

In addition to the rock slope protection, installation of a drainage unit, rehabilitation of the damaged asphalt pavement and replacement of the curb (dike) on the roadway above is proposed. Access will be from Manchester Avenue. Construction is scheduled to take approximately two weeks to complete. Within the project limits the embankment is vegetated with fountain grass and one large acacia shrub. No environmentally sensitive vegetation would be removed by the project.

Because the proposed repair involves the addition of fill (rock) within the channel of San Elijo Lagoon, which is an environmentally sensitive area, a

coastal development permit is required. Pursuant to the Commission's exclusionary guidelines, no permit is required for replacing the dike and partial rehabilitation of the roadway lane. Although the City of Encinitas has a certified Local Coastal Program (LCP) and has been delegated coastal development permit authority for most of the city's coastal zone, the project site is within an area where the Commission retains permit authority.

2. Sensitive Habitat. The project is located in the San Elijo Lagoon County Park and Ecological Reserve. Section 30233 of the Coastal Act addresses the types and extent of activities permitted in wetlands where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

In part, Section 30233 states:

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

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

...(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems....

In addition, Section 30236 of the Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

The project is proposed to correct further erosion of the bank into the lagoon channel and to protect Manchester Avenue, a public highway, from being undermined. There are no feasible less environmentally damaging

alternatives. The "no project" alternative would leave the lagoon channel subject to further erosion and the highway subject to further undermining. As this project calls for the repairing of Manchester Avenue for public safety purposes, it is considered an incidental public service, which is a permitted use in wetlands (in this case open coastal waters) subject to the stipulations of Section 30233 of the Coastal Act.

Section 30233 of the Coastal Act requires mitigation measures be provided to minimize adverse environmental effects. While no environmentally sensitive vegetation would be removed by the project, there are environmental concerns associated with this project. About 10 feet east of the project limits the lower areas of the embankment are vegetated with bulrush and cattails, freshwater marsh plants that are protected as environmentally sensitive habitat in Section 30240 of the Coastal Act. In addition, two listed bird species, the light footed clapper rail and the least tern, were observed in the project area.

The applicant has proposed the following mitigation measures to minimize adverse environmental effects to listed bird species, water quality and nearby sensitive habitats. First, all construction shall occur outside of the breeding season (February 15 through September 15) of the affected bird species. Second, to avoid vegetated wetland habitat, all work below the top of the embankment shall be limited to outside environmentally sensitive areas. To avoid impacts to endangered species and wetlands, the applicant has established "environmentally sensitive areas" within the project area. To ensure water quality, a dredging curtain shall be placed in the channel, around the work area, prior to any work. It will also delineate the work limits in the channel. Special Condition #1 requires the applicant to submit final plans that indicate the above mitigating measures will be implemented.

With respect to the project's consistency with Section 30236 of the Coastal Act, the placement of rip rap within the channel represents channelization of this lagoon channel. However, the rock will not be placed any further into the channel than existing rip rap within the channel, and as such will not further constrict the channel opening. An unconstricted channel is important to keep water velocities through the channel down to prevent against scouring and subsequent erosion. Therefore, as conditioned, the project will not result in any significant impacts to the existing lagoon channel and its habitat and the Commission finds that the proposed project can be consistent with Sections 30233 and 30236 of the Coastal Act.

3. Local Coastal Planning. Although the project is located within the City of Encinitas and it has a certified local coastal program, the project area is located within the Commission's original jurisdiction. The project is located in the San Elijo Lagoon County Park and Ecological Reserve. Sections 30233 and 30236 of the Coastal Act require protection of environmentally sensitive areas from adverse impacts associated with new development. They provide that discharges into coastal resources like San Elijo Lagoon shall not be permitted unless found consistent with Chapter 3 policies of the Coastal Act. In this particular case, the proposed project would repair an existing public facility and stop erosion of a lagoon channel that flows into the

lagoon. As conditioned, the proposed project can be found consistent with all applicable Chapter 3 policies of the Coastal Act.

4. 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, with the attached conditions, the project has been found consistent with the resource protection policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might 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.



