ALIFORNIA COASTAL COMMISSION OUTH CENTRAL COAST AREA SOUTH CALIFORNIA ST., SUITE 200 NENTURA, CA 93001 (805): 641-0142

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# STAFF REPORT: REGULAR CALENDAR Th/46

# **APPLICATION NO.:** 4-97-181

# **APPLICANT:** City of San Buenaventura AGENT: Richard Parsons

**PROJECT LOCATION:** Ventura Keys, City of San Buenaventura

**PROJECT DESCRIPTION:** Maintenance dredging of the Ventura Keys on an asneeded basis for a period of ten years. Approximately 350,000 cu. yds. of material will be dredged over a ten year period with no more than approximately 100,000 cu. yds. of material dredged in any one year. The work includes hydraulic dredging with pipeline surfzone deposition at either Cell 1 of the Pierpont Groin Field or of the Santa Clara River Mouth. The work included deposition of the dredged material into the littoral cell in one of the following three ways: 1) Cell 1 Pierpont Groin Field surf zone deposition; 2) Santa Clara River Mouth surf zone deposition; and, 3) Santa Clara River nearshore deposition. A portion of the connecting channel to the Ventura Harbor at the mouth of the Arundell Barranca will likely require more frequent dredging utilizing a mechanical "clamshell" type dredge. The proposed dredging and deposition period will run from after Labor Day in September through March 31 of the following year. The applicants are proposing to implement the Snowy Plover Contingency Plan as outlined in Exhibit 8. the applicant is proposes to implement the Snowy Plover Contingency Plan as outlined in Exhibit 8. The applicants are also proposing to replace and lower 120 feet of a 6" reclaimed waterline traversing the "stub" channel, from its existing position of about -16 feet MLLW to -21 feet MLLW.

APPROVALS RECEIVED: Mitigated Negative Declaration for EIR-2202 dated September 8, 1997; State of California-Department of Parks and Recreation, Temporary Use Permit, August 21, 1997; and, State Lands Commission Amendment of Lease PRC 5930.9.

SUBSTANTIVE FILE DOCUMENTS: CDP 4-83-257, and amendments A1--A10; Consistency Determinations CD-35-92 (Harbor improvement plan modifications), CD-53-91 (Six-year dredging plan modifications), CD-17-89 (Harbor Improvement Plan),

## SUMMARY OF STAFF RECOMMENDATION LOCATED ON PAGE 2

CD-42-88 (maintenance dredging and surf zone disposal), CD-51-86 (maintenance dredging and beach disposal), Final Environmental Assessment for Maintenance Dredging at Ventura Harbor prepared by U. S. Army Corp of Engineers, August 1997, Sampling and Analysis Ventura Keys Sediment Investigation, Ventura CA, prepared by Applied Environmental Technologies Inc., May 27, 1997 and, Sand Bypassing and Maintenance Dredge Disposal prepared by Ventura Port District, February 1983.

#### **SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project subject to conditions regarding Least Tern and Snowy Plover protection, protection of grunion, dredge spoil compatibility, post deposition beach grooming, equipment storage, beach profile surveys, CA. Regional Water Quality Control Board approval and final Army Corps of Engineers approval.

#### **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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.

1. <u>Notice of Receipt and Acknowledgment</u>. 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. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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. <u>Compliance</u>. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below.

Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. <u>Assignment</u>. 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. <u>Terms and Conditions Run with the Land</u>. 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.

# III. Special Conditions.

## 1. Least Tern and Snowy Plover Protection

To avoid interference with Least Tern and Snowy Plover nesting there shall be no operation of equipment, spoil disposal, placement or removal of disposal pipelines, or other construction, maintenance, material removal or activities involving mechanized equipment within 100 yards of, and on the entire beach seaward of, the Least Tern nesting area identified annually by the Department of Fish and Game and the State Department of Parks and Recommendation from April 1 through September 1.

## 2. Grunion Protection

To avoid impact on public recreational use of the beach and on the spawning of the California grunion, no project activities described in Condition 1 shall take place on any part of the beach and shorefront in the project area from the first predicted grunion run after March 31 through Labor Day in September. Dredging and deposition may take place between March 15 and March 31 subject to the following requirements:

Prior to commencement of any operations described in Special Condition 1 above, during the period between March 15 and March 31, annually, the applicant shall provide at least two weeks advance notice of proposed operations to the California Department of Fish and Game (DFG). The applicant shall provide evidence to the satisfaction of the Executive Director that these agencies have been timely notified of proposed operations, and have found that no significant, adverse impacts to the grunion will result. Said notice to the Executive Director shall include copies of written findings from DFG and shall be received in the Commission's District office

no less than five (5) business days prior to the commencement of the proposed operations. Applicant shall not commence proposed operations until the Executive Director has determined that the requisite notice is satisfactory and that no adverse impacts to grunion will occur as the result of the proposed activities. The Executive Director's determination shall be made within five (5) business days of receipt of the required notice.

#### 3. Dredge Spoils Compatibility

At least six (6) weeks prior to the dredging and surfzone or nearshore deposition of material from the Ventura Keys, physical and chemical analysis shall be done of a representative sample of the sediments to be dredged. The dredged material shall meet all applicable federal and state dredge spoil discharge requirements and comply with the grain size requirements for the locations as cited below:

a) Dredged material, which is composed of more than 65% coarse grained material (i.e. retained on a 200 sieve) may be deposited below the mean high tide line within Cell 1 of the Pierpont Groin Field and,

b) Dredged material which is composed of more than 25% coarse grained material (i.e. retained on a 200 sieve) may be deposited below the mean high tide line along the 2500 feet of beach at the mouth of the Santa Clara River with the actual discharge point being within 200 feet of the location at which the river flows into the ocean or within 1500 feet of nearshore area just south of the mouth of the Santa Clara River only while the flow of the Santa Clara River, measured in the vicinity of the Victoria Avenue bridge, is 100 feet per cubic second, or greater from the Santa Clara River.

The results and analysis of physical and chemical tests must be submitted, for the review and approval of the Executive Director, two weeks prior to any dredging operation.

4. Post Deposition Beach Grooming

At the completion of each year's dredging and deposition, but prior to the disposal prohibition period, the sand deposited on the beach shall be graded and groomed to natural beach contours to facilitate recreational use.

5. Equipment and Pipeline Storage

No pipes nor any other equipment, except for a buried permanent pipeline, shall be stored on the beach during the period from April 15 through September 1. Any pipes or equipment used in conjunction with the proposed project will minimize, to the maximum extent feasible, impediments to public access and recreational use of subject beaches and the Ventura Keys/Harbor area.

#### 6. Beach Profile Surveys

The applicant shall submit, for the review and approval of the Executive Director, annual beach profile surveys for Cell No. 1 for the 10 year period commencing the date the permit is issued. Additionally, the applicant shall submit a profile survey prior to any disposal taking place in order to accurately document pre-project conditions. The profiles shall be taken (1) in January of each year or immediately prior to dredging mobilization; and (2) by October 15. Two baseline for the profiles shall be at the two survey locations used in the past for shoreline profile surveys between groins 1 and 2, as required in under CDP 4-83-257 (Ventura Port District), and in a manner consistent with these past shoreline profile surveys. Minimum and maximum tide levels at the time of profile survey shall also be noted on the profiles. The monitoring program shall document shoreline changes in the project vicinity. The monitoring program shall provide documentation of shoreline change and shall continue concurrent with the 10 year life of the permit.

#### 7. Additional Approvals

Prior to the commencement of the dredging and deposition operations, the applicant shall provide the Executive Director of the Commission with the following:

a. A valid 404 Permit from the Army Corp of Engineers; and,

b. A valid permit from the Regional Water Quality Control Board.

# IV. Findings and Declarations:

The Commission hereby finds and declares:

# A. Project Description and Background

The applicant is proposing periodic maintenance dredging of the Ventura Keys on an asneeded basis for a period of ten years. Approximately 350,000 cu. yds. of material will be dredged over a ten year period with no more than 100,000 cu. yds. of material dredged in any one year. Channel Nos. 1, 2 and 3 are proposed to be dredged to a depth of -12 ft. to -14 feet Mean Lower Low Water (MLLW). The connecting channel to Ventura Harbor is proposed to be dredged to a depth of -15 ft. to -17 ft. MLLW. Dredging will be done with a hydraulic dredge and the dredge material will be transported via a pipeline and deposited at either Cell 1 of the Pierpont groin field or the Santa Clara River Mouth for beach nourishment. The applicant is proposing three options for deposition of the dredged material into the littoral cell: 1. Cell 1 Pierpont Groin Field surf zone deposition. In order to provide beach renourishment material for Cell 1, dredged material from Channels 1,2 and 3, which is composed of more than 65% coarse grained material (i.e., retained on a 200 sieve), will be deposited below the mean high water line within said cell.

2. Santa Clara River mouth surf zone deposition. Dredged material from the Connecting Channel as well as channels 1, 2 and 3, which is composed of more than 25% coarse grained material will be deposited in the surf zone within 200 feet of the mouth of the Santa Clara River when the river is flowing at 100 cubic feet per second (c.f.s.) or greater in order to provide for mixing of any turbidity caused by the dredged material with turbidity caused by the river discharge.

3. Santa Clara River nearshore deposition. Dredged material from the connecting channel as well as Channels 1, 2, and 3, which is composed of more than 25% coarse grained material will be deposited off a barge in nearshore waters just south of the mouth of the Santa Clara River when the river is flowing at 100 c.f.s. or greater in order to provide for the mixing of any turbidity caused by the dredged material with turbidity caused by the river discharge.

Presently Channels 1, 2, 3 contain about 78,500 cubic yards of shoal material and are expected to require dredging one or two times over the 10 year period. There is about 70,000 cubic yards of shoal material in the connecting channel to Ventura Harbor which will require dredging two to three times over the 10 year period. In addition, the connecting channel to Ventura Harbor at the mouth of the Arundell Barranca will likely require more frequent dredging utilizing a mechanical "clamshell" or shovel type dredge. The dredge material would be loaded on to a barge and transported to the Santa Clara River Mouth deposition site. The dredging and deposition activities will run from after Labor Day in September through March 31 of the following year so as to avoid impacts on grunion spawning, least tern and snowy plover nesting and recreational use of the beach. Depending upon the size of the equipment utilized, the dredging operation could require 10 to 45 days per dredging episode.

The applicant is also proposing to replace and lower 120 feet of a 6" reclaimed waterline traversing the "stub" channel, which provides vessel access to the Ventura Keys, from its existing position of about -16 feet MLLW to -21 feet MLLW. The replacement and lowering will require the excavation of 500 cu. yds. of sediment. The 500 cu. yds. of sediment will be deposited in the Santa Clara River near shore. Furthermore, the applicant is proposes to implement the Snowy Plover Contingency Plan as outlined in Exhibit 8.

The Ventura Keys are located within the City Limits of San Buenaventura, immediately north of Ventura Harbor (Exhibits 1 and 2). The Ventura Keys waterways encompass an area of 32 acres and consists of three channels trending in a general north/south alignment (channels 1, 2 and 3) and a larger connecting channel to the south which ties

the other three channels together and provides a link to Ventura Harbor (Exhibit 3). The sides of the waterways are bounded by private easements reserved for boat docks for the 302 adjacent waterfront residential parcels. The easement areas occupy about half the water surface of the waterways. The  $16\pm$  acres of channel area have an existing depth of between -6.5 and -10 feet MLLW.

Shoaling on the Ventura Keys results from the Arundell Barranca and 26 smaller storm drains. The rate of sediment accumulation is related to the frequency of storm flows in those flood control facilities and varies from channel to channel. Sediment accumulation leads to shallow channel depths and if uncorrected, results in difficult navigation conditions.

#### Past Permit Actions

On August 13, 1991 the Commission granted Coastal Development Permit 4-91-016 to the City of San Buenaventura for maintenance dredging of the Ventura Keys waterways subject to five special conditions relating to securing approvals or permits from Army Corps of Engineers, Regional Water Quality Control Board and State Lands Commission; maintaining public access; and applying for a long term coastal permit for future dredging. The dredging operation was completed in July 1992 and involved the removal of 135,589 cu. yds. of material to an upland disposal site. Earlier, dredging operations in the 1970s and 1980s had involved placement of dredged material on area beaches.

The Commission has also approved dredging operations in the Ventura Harbor and shoreline deposition locations under Coastal Development permit 4-83-257 as amended (there have been ten amendments to this permit), granted to the Ventura Port District as local sponsor and through various federal consistency determinations granted to the Corps of Engineers as federal sponsor. Responsibility for maintenance dredging of the harbor is divided between the Port District and the U.S. Army Corps of Engineers. The Port District dredges the Pierpont Basin and inner harbor areas, while the corps dredges the main channel entrance and sand traps. The issues raised in the proposed project are similar as those in the Ventura Harbor dredging permit only to a lesser extent because the amount of material is considerably less and the frequency of the dredging operation is also less. The major issue raised by the proposed project, as well as past dredging project in the Ventura Harbor, is the need to assure that dredging and disposal activities are accomplished in a manner which minimizes impacts to habitat resources and sensitive species and public access and recreation. In the past, mitigation measures have focused on avoiding or reducing impacts to grunions, least terns and snowy ployers by avoiding activities in the March 15 through September 1 period annually.

## B. Shoreline Processes and Habitat/Marine Resources.

The Coastal Act provides:

#### Coastal Act Section 30230.

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

#### Coastal Act Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

#### Coastal Act 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:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

#### Coastal Act Section 30240

(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.

Section 30233(a) of the Coastal Act imposes a three-part test on dredging and filling projects: (1) the allowable use test; (2) an alternatives test; and (3) a mitigation test. As the Commission has found previously, dredging and beach disposal of sandy material at the Ventura Harbor complies with these tests because (1) maintenance dredging of

existing channels is an allowable use under Section 30233(a)(2) of the Coastal Act; (2) when the material is suitable for beach disposal there is no "less damaging feasible alternative"; and, (3) with the monitoring and mitigation measures addressing environmentally sensitive habitat and species needs (discussed further below), temporary disruption of the marine environment from dredging and disposal does not require additional mitigation.

#### 1) Dredge Spoil Compatibility/Shoreline Processes

The applicant submitted an analysis of the physical and chemical characteristics of the material to be dredged from the Ventura Keys. The environmental consultant, Applied Environmental Technologies, Inc., collected sediment samples from a number of locations in the Keys and the proposed deposition sites at the Santa Clara River mouth and Cell 1 of Pierpont Beach in order to determine the compatibility of sediment from the Keys with the proposed deposition sites. Relative to grain size the shoal material located in Channels 1, 2 and 3 identified that up to approximately 74% of the material sampled would be retained on a 200 sieve. This means the sediment from the Keys is 74% sandy material and 26% fines and silts. The sample from the connecting channel contained only 41% percent sediment that would be expected to be retained on a 200 sieve. The samples taken off of the proposed deposition site of Cell 1 indicate approximately 56% of the material sampled would be retained on a 200 sieve. Therefore, the grain size of the shoal material in channels 1, 2 and 3 are compatible with the grain size of material in the deposition zone of Cell 1. However, the shoal material in the connecting channel is not considered compatible with the material in the Cell 1 deposition area. Therefore, this material is proposed to deposited at the Santa Clara River Mouth.

The sample collected from the mouth of the Santa Clara River mouth showed a grain size of approximately 80% that would be retained on the 200 sieve. This percentage is much greater than what was observed in previous investigations. The consultant indicates that this anomalous sample could be the result of a problem with the devise used to collect the sample. The consultant explains that:

In 1994 samples collected from offshore the river mouth showed approximately 30 percent material being able to be retained on the 200 sieve. This is further substantiated by previous studies conducted on the grain sizes of the Santa Clara River. The sample collected from the river mouth above the high tide line showed a grain size of approximately 24% which is consistent with previous years.

#### The consultant further cites that:

Based on studies conducted by R. P. Williams (1978), the sediment grain sizes discharged by the Santa Clara River range from clays and silts to gravels. Particle size measurements were collected during the years 1969 to 1975. Silts and clays

comprised a majority (over 79%) of sediments discharged by the Santa Clara River during these years. The river discharged between 0.4 and 40,200,000 tons per day (estimated 0.3 to 30,000,000 cu. yds. per day) from the river mouth into the marine environment. The estimated mean daily total sediment discharge during the period of 1950 to 1975 for the Santa Clara River was 9,720 tons. This can be estimated to consist of over 2.5 million cu. yds. of sediment per year. The discharge of sediments is highly variable depending on rainfall and flooding, and it is our opinion that the dispersement of sediments in the vicinity of the river mouth would not affect the marine ecosystem significantly. Therefore, given that the sediment from the connecting channel is consistent with the sediment discharged by the Santa Clara River and given the high wave energy environment in this location the surfzone and nearshore deposition of the connecting channel sediments at the River Mouth location will not significantly impact the physical shoreline or the marine ecosystem.

Therefore, sediments dredged from Channels 1, 2, and 3 as well as the connecting channel are suitable for surfzone and nearshore deposition at the river mouth location given that the grain size is compatible with the sediments discharged and deposited at the Santa Clara River Mouth.

Chemical analysis of the shoal material in the Keys channels was also conducted by the applicant's environmental consultants. The tests indicate that the chemical concentrations measured in the keys sediments are not environmentally significant and are comparable to the concentrations detected in off shore samples. Therefore, relative to chemical concentrations the sediments proposed for deposition are suitable for surfzone or nearshore deposition.

To ensure future shoal material dredged from the keys is physically and chemically compatible with the proposed deposition sites, the Commission finds that it is necessary, to require the applicant to test the sediments in the Ventura Keys prior to any dredging operations and submit the results and analysis for the review and approval of the Executive Director. The sediments must comply with all applicable state and federal dredge spoils discharge requirements and the grain size requirements outlined in special condition 3 of this permit. In addition, to ensure the dredging and deposition of dredge spoils is carried out consistent with all federal and state permitting requirements, the Commission finds that it is necessary to require the applicant to submit evidence of approvals from the California State Regional Water Quality Control Board and the Army Corps of Engineers.

The Army Corps and the Ventura Harbor District are permitted under various federal consistency determinations and CDP 4-83-257 A1 - A10 to dispose of dredge spoils at Cells 1 and 2 on an as needed basis for beach nourishment. Under CDP 4-83-257 A1 - A10 the applicant was required to perform annual beach profile surveys in order to monitor the effect of beach nourishment activities and provide shoreline profile data

which the Commission could use for future beach replenishment and management decision. The last time Cells 1 & 2 were nourished was in 1991. While Cell 2 has retained the sand placed on the beach Cell 1 has lost a considerable amount of sand. The most recent beach profile surveys (October 14 & 15, 1997) indicate Cell 1 is in undernourished by approximately 44,000 cu. yds of sand. In addition, recent high tides and large waves have stripped even more sand off of Cell 1. Based on previous shoreline profiles it appears as though this beach erodes quite rapidly due to the morphology and orientation of the beach and high wave energy. In 1991 this cell was replenished with approximately 49,000 cu. yds. of sand and the following year the beach survey profiles showed a sand deficit of 1,250 cu. yds. Although annual shoreline profile surveys have been submitted to the Commission since 1992, as required under CDP 4-83-257, the longer term shoreline profile trends in relation to beach nourishment activities is not well documented on this beach.

In order to characterize long term shoreline processes occurring within Cell 1 in conjunction with beach nourishment operations continued beach profile surveys are necessary. This shoreline profile data can then be utilized by the Commission for future beach nourishment management decisions and prioritization of future beach nourishment projects in this area. Therefore, the Commission finds that it is necessary to require the applicant to submit, for the review of the Executive Director, annual beach survey profiles for the 10 year term of this permit as required in Special Condition 7.

#### 2. Marine and Terrestrial Resources

Dredging and disposal results in increased turbidity at the dredge site and disposal site. Increased turbidity can interfere with the visual range of fish, mammal and bird species utilizing the area, hampering movement patterns and feeding ability. Increased turbidity can also alter the chemical/oxygen content of the water as well as filter out light necessary for photosynthesis in phytoplankton populations, potentially affecting the food chain. At the disposal sites, in addition to impacts from turbidity, deposition of spoils can bury benthic organisms. Because benthic organisms and soft bottom habitat provide food and habitat for local fish populations, burial of organisms and loss of benthic sea life can cause relocation of fish species during the dredging operations. However, these benthic organisms are quick to recolonize the deposition area following the completion of the dredging and disposal activities. In addition, the proposed deposition sites are located in areas which have naturally high levels of turbidity due to high wave energy and river outfall particularly during the winter season when dredging takes place. Therefore, the temporary increased turbidity resulting from dredging and deposition will not significantly adversely impact marine organisms or habitat (California Grunion are discussed separately below).

There are three federally-listed endangered species that utilize habitat near the proposed project; California Least Terns, Western Snowy Plover, California Brown Pelican and Tidewater Goby. In addition, California Grunion utilize the beaches along the coast in

the project area. Grunion is a species of special concern due to its unique spawning behavior, and is carefully managed by the Department of Fish and Game as a game species.

The dredge disposal pipeline will cross the beach adjacent to the California least tern nesting sites(Exhibit 6). The Least Terns nest in the area between mid April and September 1. Breeding habitat consists of unvegetated, open sandy areas. The designated nesting sites are fenced to protect the nesting terns from predators and human intrusion, but some Least Terns nest outside of the fenced area. The normal Tern forage area is within an approximate two mile radius of the nesting colony. The Least Tern, which are sight feeders, feed upon small, near shore fish within the area. The applicant is proposing dredging and disposal activities only through March 31 of each year to avoid impacts to the Least Terns. To ensure dredge disposal or construction activities do not take place during the Least Tern nesting season, the Commission finds it necessary to require that these activities do not occur from April 1 through September 1, as required by Special Condition 1.

The Snowy Plover was listed by the U.S. Fish and Wildlife Service as a threatened species in March, 1993. The snowy Plover nests in the project area near the mouth of the Santa Clara River, slightly inland from the Least Tern nesting site from early to mid-March, and eggs of the first clutch are usually laid by early April. The Snowy Plover is a small, sand colored bird that forages amongst shoreline kelp debris. The plover's eggs are speckled and resemble the surrounding terrain. The chicks are precocial, walking within a few hours and feeding themselves within a day or so of hatch, but a small and cryptically colored, when an adult perceives danger, it signals the chicks to crouch or run. The chicks are difficult to avoid because of their small size and camouflaged coloring. Often chicks crouch in vehicle tracks or footprints, making them vulnerable to being stepped on or driven over. For these reasons the birds, nests, eggs, and chicks are difficult to see and subject to destruction. Although the proposed surfzone deposition at the Santa Clara River mouth is not expected to impact the Snowy Plover other activities such as pipeline placement, vehicle use and other maintenance activities after March 15 could adversely impact Snowy Plover. In order to avoid any adverse impacts to the Snowy Plover, between March 15 and March 31, the applicant is proposing to implement the Snowy Plover "Contingency Plan", that was required as a special condition of approval for the CDP to dredge the Ventura Harbor (CDP 4-83-257 A9) (Exhibit 8). This "Contingency Plan" was also a provision required as part of the Army Corps permit for dredging the Ventura Harbor. The contingency plan includes a number of measures to protect the snowy ployer and it's nesting areas under the supervision of qualified biologist and ornithologist and appropriate state and federal resource agencies. Therefore the Commission finds that the proposed Snowy Plover "Contingency Plan" measures will ensure no adverse impacts to the Snowy Plover will result from deposition operations between March 15 and March 31.

The California Brown Pelican rests on structures in the Ventura Harbor and occasionally feeds in the area to be dredged. However, sufficient additional resting and feeding areas are available in the vicinity: therefore, no impacts to this species are expected from the proposed project.

The Tidewater Goby is a brackish water fish species adapted to both fresh and saltwater. This species was once found in the brackish water potions of streams from Humbolt County to San Diego County. This species has been recorded in both the Santa Clara and Ventura rivers. The tide water goby is not expected to be affected by the proposed project, because disposal will not occur in the Santa Clara River.

The California Grunion is a small fish in the silversides family and is extremely unusual among fish in its spawning behavior. The grunion spawns on the beaches in the proposed deposition areas immediately following high tides from mid-March through August. The eggs are incubated in the sand until the following series of high tide conditions, when the eggs hatch and are washed into the sea. California Grunion is a species of concern due to its unique spawning behavior, and carefully managed as a game species. The applicant is proposing dredging a surfzone disposal through March 31. The first significant grunion run of the season is usually predicted to begin soon after March 15. If disposal continues after this date there could be adverse impacts to the grunion at the Cell 1 deposition site. Potential impacts of beach disposal during the grunion spawning season include premature washing of eggs into the ocean, crushing of eggs by discharged dredged material, burial of eggs too deep to be returned to the ocean by subsequent high tide. The proposed single point surfzone discharge at the Santa Clara River mouth will not adversely impact grunion as the river mouth location is not a suitable environment for grunion spawning.

As stated previously, the Commission has reviewed deposition of material in Cell 1, 2 and 3 and at the Santa Clara River Mouth under coastal development permit 4-83-257 relative to potential impacts on the grunion. This permit was amended (A9) in 1995 to extend deposition and dredging operations annually from March 15 to March 31. In approving this permit amendment, the Commission found it necessary to require the applicant to consult the Department of Fish and Game and the U. S. Fish and Wildlife Service to ensure that dredging operations would not adversely impact the spawning grunion.

Similar to the Ventura Harbor dredging operation, the applicant is proposing to dredge and deposit material from March 15 to March 31. Here, the applicant has requested that consultation with the Department of Fish and Game and the U. S. Fish and Wildlife Service not be required as special condition of approval of the subject coastal development permit. The applicants states that the Fish and Game code makes it unlawful to take grunion only during the months of April and May of each year. They contend that to limit dredge material deposition during the latter part of March under the guise of protecting the spawning grunion is illogical if those same grunion can be taken

during the same period on that same beach. Furthermore, the applicant contends that the beach at Cell 1, due to its width, is not a beach where grunion would spawn. However, the applicant has not provided any biological analysis or evidence to substantiate this claim. Therefore, the Commission finds, there is not a basis to conclude that lawful grunion fishing activities during March is comparable to the avoidable adverse impacts dredge material disposal can have on spawning grunion.

The Commission further finds, that without mitigating measures to ensure protection of spawning grunion, the deliberate take of grunion resulting from dredge spoil deposition would not be consistent with the marine resource protection policies of the Coastal Act. The Department of Fish and Game have indicated in the past that deposition of dredge material would be acceptable between March 15 and April 1 subject to consultation with DFG (11/24/92, Nitsos). Therefore, in order to ensure spawning grunion are not adversely impacted by surfzone deposition operations between March 15 and April 1, the Commission finds that deposition of dredge material can only be carried out during this period subject to the review and approval by the Department of Fish and Game, as required in Special Condition Number 3

Therefore, the Commission finds that the proposed dredging and surfzone deposition project, as conditioned above, is consistent with Sections 30230, 30231, 30233 and 30240 of the Coastal Act.

#### C. Access and Recreation.

One of the basic mandates of the Coastal Act is to maximize public access and recreational boating opportunities along the coast. The Coastal Act has several policies which address the issues of public access and recreation boating along the coast.

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.

#### Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Sections 30210, 30211 and 30234 of the Coastal Act provide for the maximization of public access and recreation opportunities and the protection of recreational (and other) boating facilities. The dredging activities of the Ventura Keys, would continue to enhance access and recreation both at the dredging site, by maintaining channels needed for boating, and, at the disposal site, by replenishing beaches used for recreation. Specifically, the project involves the deposition of material at Cell 1 of the Pierpont Groin Field and at the mouth of the Santa Clara River. Pierpont Beach and McGrath State Beach, which is located adjacent and downcoast of the mouth of the Santa Clara River, are the beaches that will recognize immediate benefits of nourishment as a result of the deposition of the dredged material. Special condition #4 requires the applicant to grade and groom the beach to natural beach contours to facilitate recreational use at the completion of each year's dredging and deposition.

As stated above the dredging activities will not occur during the summer months from April to after Labor Day. Thus, minimal conflicts between beach users during peak beach use months and the dredging activities are anticipated to occur. In order to ensure that public access and recreation use is not impeded during the off season, special condition #5 has been drafted which states that the dredging which will be performed either via a pipeline or by use of a mechanical "clamshell" will be done in the least intrusive manner so as not to completely impede the public's ability to access or use any of the beach or water areas subject to the dredging activity. Therefore, while some access and recreation impacts will occur, such as public use restrictions within the dredging area and the immediate disposal area, these recreational and access impacts have been minimized and are short term. As a result of dredging the Ventura Keys to continue the recreational boating use and depositing sand on public beach areas in order to provide temporary increases in beach sand, the project will improve access and recreation opportunities.

Furthermore, as conditioned above to ensure that dredging does not interfere with grunion runs occurring in March (when grunion can be legally taken in California), no adverse impacts to this local grunion harvesting activities (both a recreational and economic use of the species) would occur. The Commission therefore finds that the project, as conditioned, is consistent with the public access and recreation policies of the Coastal Act cited above.

#### D. Local Coastal Program/California Environmental Quality Act (CEQA).

The proposed project is located in or adjacent to the Cities of Ventura and Oxnard. Local Coastal Programs (LCPs) for these cities were certified by the Commission in 1981 (Ventura Harbor), 1984 (balance of Ventura) and 1985 (Oxnard). Both LCPs contain policies and standards for the protection of marine resources, environmentally sensitive habitats and public access and recreation. The project, although located entirely within the Commission's original jurisdiction, is consistent with these policies.

On July 29, 1997, the City of Ventura began the 20 day public review period on a Draft Mitigated Negative Declaration for Environmental Impact Review (EIR) pertaining to the Ventura Keys Dredging. Three alternatives were considered in the Mitigated Negative Declaration which included: 1) no project; 2) dredging and upland deposition; and, 3) dredging and deposition in the surf zone/near zone (the proposed project).

The first alternative, no project, would have negative impacts that include the unsafe and eventual elimination of navigational activities in the Ventura Keys. Also, the no project alternative would contribute to the decline of littoral material available for beach and nearshore replenishment. Alternative 2, dredging and upland deposition, involved depositing the material in a diked  $22\pm$  acre upland disposal site. As stated in the Negative Declaration, the associated negative impacts with this alternatives would be: 1) the prevention of allowing chemically clean sediment suitable for beach replenishment from entering the littoral system; and, 2) the material's potential contamination of the groundwater aquifer beneath the upland's site with saltwater. The City found the dredging and deposition in the surf zone/near zone to be the preferred alternative. On February 12, 1996, the City Council reviewed and adopted the Final Mitigated Negative Declaration Report

The Coastal Commission's Coastal Management Program has been designated as the functional equivalent of the California Environmental Quality Act (CEQA) by the Secretary for Resources. CEQA requires the consideration of alternatives to a proposed project, including alternatives which would be less environmentally damaging, and the adoption of mitigation measures to lessen significant environmental impacts to a level of insignificance. The Commission has reviewed the proposal and developed alternatives and mitigation measures as described in the foregoing findings and incorporated into the amended Special Conditions. The Commission finds that the proposed project, as conditioned, will have no significant impacts on the environment within the meaning of CEQA.

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Western Snowy Plover. Dredging operations, and nearshore disposal, are not expected to affect the western snowy plover. Specific measures will be taken to avoid impacts to nesting and wintering plovers, if beach disposal occurs. These measures include: completion of all beach disposal activity by March 15; and restriction of pipeline placement, vehicle use, and other activities. Additional measures and restrictions are listed in the Environmental Commitments (Section 6.0) portion of this EA. With the inclusion of these measures, beach (or surf zone) disposal will not affect this species.

If beach or surf zone disposal occurred, and operations (including pipeline, dike, and berm removal) were not concluded by March 15, the following Contingency Plan would be initiated:

a) Coordination with resource agencies (USFWS and CDFG), would be re-initiated if and when it appeared that operations might continue beyond March 15.

b) If the USFWS believed the time extension was significant, and that further operations might impact the plover, operations would not proceed beyond March 15 until the following conditions were met:

1) A qualified biologist, ornithologist, or other plover expert examined the entire length of the pipeline and equipment corridor for evidence of active plover nesting. If no active nests were found, and it was determined that the pipeline could be removed without impacts to the plover, all sections of pipe would be removed from McGrath State Beach.

2) If additional disposal was necessary, it would occur on South Beach. When this was concluded, additional plover surveys would be conducted to determine if the pipeline on South Beach could be safely removed. At this time, all berms shall be removed.

c) This method of disposal would also protect spawning grunion, by limiting the area of impact.

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d) If, at any time, it was determined that active nesting prohibited the removal of pipeline, or the disposal of material, the COE would instruct the contractor to immediately stop operations. Resource agencies, the California Coastal Commission, and the State Department of Parks and Recreation would be consulted to determine the best course of action. Actions taken would depend on potential consequences to the plover, and the time required to complete operations. Options would include:

1) Pipeline burial, with removal after August 15;

2) Narrowing the corridor of operations;

3) Initiation of alternative methods of discharge;

4) Monitoring by a qualified biologist, ornithologist, or other plover expert;

5) Fencing of one or more corridors between the dunes and the surf, to provide protected habitat for the plover; and, or

6) Initiation of formal consultation with the USFWS, pursuant to Section 7 of the Endangered Species Act. All attempts would still be made to avoid harm or destruction of the nests.

e) The Corps of Engineers would invite resource agencies to attend on-site inspections of post-March 15 beach disposal at the discretion of the COE and agencies. The COE Contracting Officer or his/her representative would attend these inspections. If inspections revealed adverse impacts to grunion spawning, or to the plover, reasonable alternative disposal methods and/or remedial measures would be evaluated and implemented by the COE.

f) Implementation of this contingency plan would allow an extension of operations only through March 31 of any year. If operations (including the removal of berms, and pipeline) are not completed by March 31, the Corps will initiate Section 7 (of the Endangered Species Act) consultation with the USFWS. (Note that these agencies may informally concur that the additional delay is not expected to impact any listed species, and that formal consultation is not required.)

These measures would also avoid possible impacts to the least tern, from beach disposal. Nearshore disposal will not occur beyond April 15, unless acceptable measures can be developed in coordination with the USFWS, to protect the least tern's foraging ability (see California Least Tern, below).

The Corps of Engineers has conducted several beach and surf zone disposal operations within plover habitat, during both nesting and roosting seasons, without negative impact. Several years of beach disposal activities in Santa Barbara have not resulted in

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