

CALIFORNIA COASTAL COMMISSION

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



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Permit Application No. 6-97-36/EL
Date December 11, 1997

ADMINISTRATIVE PERMIT

APPLICANT: Los Penasquitos Lagoon Foundation

PROJECT DESCRIPTION: Excavation of a temporary channel (maximum dimensions of 200' x 20' x 6') to open the mouth and enhance the outflow of Los Penasquitos Lagoon, and proposal to excavate a channel of the same dimensions in the future, as needed, based on established biological conditions. Initial excavation occurred in March, 1997 under an emergency permit.

PROJECT LOCATION: Mouth of Los Penasquitos Lagoon at North Torrey Pines Road (Highway 101), North City, San Diego, San Diego County.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

DATE and TIME: January 12, 1998 10:00 a.m., Monday
LOCATION: Embassy Suites - San Luis Obispo
333 Madonna Road
San Luis Obispo, CA 93405

IMPORTANT - Before you may proceed with development, the following must occur:

For this permit to become effective you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: Ellen Lirley /SS

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

The Los Penasquitos Lagoon Foundation has submitted the subject coastal development permit application for a two-fold purpose. First, the application is intended as the follow-up regular permit to an emergency action authorized by the Commission last March to open the mouth of the lagoon and prevent an impending fishkill. Second, the Foundation requests authorization for future lagoon mouth openings when similar situations arise and established biological

criteria are met. The proposal is to excavate a channel at the mouth of Los Penasquitos Lagoon in order to create a tidal opening for the lagoon when the water level and water quality of the lagoon necessitates such an opening. The "pilot channel" which would be excavated would be approximately 200 feet in length, 20 feet in width, and 6 feet in depth (approximately 900 cubic yards of material). The area where the channel would be excavated is immediately east of the Highway 101 bridge at the mouth of the lagoon. The excavated material will be deposited in the surf zone at the mouth of the lagoon.

The applicant for this permit is the Los Penasquitos Lagoon Foundation (Foundation), which has management and maintenance responsibility for the habitat-related functions of the lagoon, although the land and water areas of the lagoon are actually owned by the State Department of Parks and Recreation (Department). The Department, which is a member of the Lagoon Foundation's board of directors, has delegated certain responsibilities to the Foundation, and has authorized the Foundation to be the applicant for this permit. Identical applications have been presented in the past, including Coastal Development Permits #6-89-68, #6-90-45, #6-91-156, #6-92-229 and #6-95-140-G. Each of these was approved by the Coastal Commission, and most, if not all, of them included special conditions similar or identical to those attached hereto. Special Condition #2 limits the subject permit to a two-year term, but does not limit the number of openings which may occur within that period as long as the required biological criteria are met each time.

Other attached special conditions address notification of the Commission within 24 hours of any proposed opening of the lagoon mouth, and submittal of a monitoring report with future permit applications. The monitoring report is to include specific information documenting the biological conditions that existed at the time of any lagoon mouth opening conducted under the subject permit, the number of times the opening occurred throughout the year, and any adverse impacts that occurred to the adjacent public beach or park areas as a result of the lagoon mouth opening, etc. Also required is identification of the staging areas and construction methods to be employed. It is expected that the Foundation will continue to use the same locations and construction techniques it has identified in past permits, but changing circumstances could result in the need to identify new sites or employ new technologies.

Extensive findings regarding the physical processes of the lagoon (tidal action, seasonal fluctuations, effects of upland development, etc.) were adopted with the Commission's action on Coastal Development Permit #6-89-68. These findings are incorporated by reference and are only addressed herein in a summary manner. Briefly, the area where work would be performed is located adjacent to the riprap south of the north parking lot for Torrey Pines State Beach. The project area itself consists of muds deposited by downstream flows and gravel deposited by tidal action. Often, during the winter months, this material at the mouth of the lagoon is eroded by storm tides and the mouth of the lagoon opens naturally. However, when a natural opening of the lagoon is not achieved, the material at the lagoon mouth acts as a dam and traps rainstorm waters and runoff in the lagoon, which significantly alters the lagoon environment by changing the saline/freshwater balance. This is also affected by the introduction of sewage spills or runoff with high

concentrations of organic matter. The reverse situation can occur during summer and fall, when the absence of any fresh-water input, coupled with a closed lagoon mouth, concentrates salinity as water evaporates.

When the dissolved oxygen level is significantly decreased and/or the salinity level of the lagoon changes beyond certain limits, the overall health and productivity of the lagoon is endangered. The solution to this biologic and/or health hazard is the opening of the lagoon mouth to allow a re-establishment of more optimum levels of salinity and dissolved oxygen in the lagoon system. The Foundation performs regular monitoring of lagoon conditions and prepares periodic progress reports. Special Condition #1 establishes the criteria under which the permitted work can be performed and Special Condition #3 requires that construction methods and staging areas be identified. Finally, Special Condition #4 is an advisory condition, putting the applicant on notice that any changes to the specific project and parameters stated herein will require a separate coastal development permit or amendment to this permit.

Section 30233 of the Coastal Act strictly limits the modifications that can occur in wetlands. The proposed development must 1) be one of the eight allowed uses in a wetland (in this case, the proposed development qualifies as restoration); 2) be the least damaging feasible alternative method of achieving restoration; 3) incorporate feasible mitigation measures for any associated adverse impacts; and, 4) either maintain or enhance the functional capacity of the wetland system. With the special conditions, the proposed project will serve to restore and enhance the functional capacity of the lagoon and, thus, is restorative in nature and a permitted use under Section 30233. The goal of the proposed project is to maintain tidal circulation in the lagoon during those times when external forces exert extreme (i.e., life-threatening) stress on lagoon species.

The subject site is located between Los Penasquitos Lagoon and the designated first coastal roadway (Carmel Valley Road). Although the proposed project may have limited temporary impacts on public access and recreation during its actual implementation, those potential impacts are controlled through Special Condition No. 3. Also, other significant access and recreation opportunities exist on the adjacent beach and at other nearby locations. As proposed and conditioned, the project is in conformance with all access and recreational policies of the Coastal Act, as required in Section 30604(c).

The proposed project is consistent with the requirements of Section 30233 of the Coastal Act, with regard to development in designated wetlands. Additionally, the proposed restoration project is consistent with the Los Penasquitos Lagoon Enhancement Plan and Program prepared by the Coastal Conservancy and the Lagoon Foundation, approved by the Commission and incorporated into the City of San Diego's certified LCP. It is also consistent with the policies contained in the City of San Diego's certified North City Land Use Plan, which designates the area for park and open space use and supports lagoon enhancement and restoration activities. Additionally, the majority of the lagoon remains in Coastal Commission permit jurisdiction, due to its tidelands/public trust status. Therefore, as conditioned, the

proposed restoration project will not prejudice the City of San Diego's ability to implement its fully-certified Local Coastal Program and should not result in adverse impacts to any coastal resource.

SPECIAL CONDITIONS: 1. Timing and Initiation of Work. The proposed channel excavation work will be performed only:

- a. when the dissolved oxygen level is less than 5 parts per million (ppm), or
- b. when the water salinity level in the lagoon is below 20 parts per thousand (ppt) and dissolved oxygen levels are determined by a qualified biologist to be likely to drop below 5 ppm within the next two week sampling interval, or
- c. when the salinity is above 33 ppt (hypersaline).

The sampling results or biologist's determination which result in a decision to open the lagoon mouth shall be reported verbally to the Commission office within 24 hours of any proposed opening, and, shall be recorded and submitted to the Coastal Commission as part of a coastal development permit application for any subsequent permits (see Special Condition #2).

2. Term of Permit/Monitoring Report. This permit is valid for a period of two years from the date of Commission action. Coastal development permit applications for future approvals shall be accompanied by a detailed monitoring report, which shall include the following information:

- a. The number of lagoon mouth openings which have occurred under the herein approved permit, along with the date of each opening.
- b. The specific biological criteria (described in Special Condition #1) which authorized each opening, along with a site map indicating the location where the determining samples were taken.
- c. Weather and tide conditions preceeding each lagoon mouth opening, which contributed to the described biological criteria.
- d. Any noted adverse impacts on lagoon resources or the adjacent public beach and park areas resulting from each lagoon mouth opening.
- e. Any changes in the tidal prism caused by external factors (such as upstream development impacts, extreme storm conditions, unusual tides, etc.), which could have contributed to the need for lagoon mouth opening.

3. Staging Areas and Construction Methods. Within thirty (30) days of Commission action, and prior to the authorization to proceed with development, the applicant shall submit to the Executive Director for review and written approval, plans which identify all staging and storage areas, as well as access routes, to be used for the proposed project. The applicant shall also identify equipment to be used and the construction methods to be employed.

Staging areas shall be subject to review and approval by the Executive Director and shall not involve any environmentally sensitive habitat areas located within or beyond the limits of the proposed project. Use of the Torrey Pines State Beach north parking lot for staging of equipment shall be designed to minimize disturbance of public use of the parking lot. Any equipment to be used shall be removed to the staging area or an off-site location immediately following its use at the lagoon mouth.

4. Future Permits. The subject permit is valid only for the specific project herein described and may be utilized only under the conditions described in Special Condition #1. Any modification of the project (i.e., changes in channel size, location of the channel, biological criteria used to determine need, etc.) will require a separate coastal development permit or amendment to this permit.

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

(7036R)