

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-114

Applicant: City of San Diego

Agent: Keith Merkel

Description: Placement of approximately 800 lineal feet of pipeline and cable under Mission Bay extending from existing services to Fiesta Island. Also proposed is mitigation for 500 sq.ft. of eelgrass impacts.

Site: Across Pacific Passage under Mission Bay from parklands adjacent to the Hilton Hotel leasehold westward to the Fiesta Island shoreline northwest of Enchanted Isle, Mission Bay Park, San Diego, San Diego County. APN 435-480-15

Substantive File Documents: Mission Bay Park Master Plan; CDP #6-90-288, 6-90-288-A and 6-90-288-A2

STAFF NOTES:

Staff recommends approval of the proposed development subject to special conditions requiring: compliance with the eelgrass mitigation program pursuant to a biological assessment completed by Merkel and Associates, 9/3/98; evidence that use of the mitigation bank site continues to be viable and that the City has approved use of 500 sq.ft. of eelgrass credit from said bank; and, submittal of any discretionary permits obtained from other state or federal entities.

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. Eelgrass Impacts. All methods of eelgrass mitigation must be performed consistent with the guidelines established in the "Fiesta Island Youth Camp Eelgrass Mitigation Program, Mission Bay, California" dated 9/3/98 by Merkel and Associates, Inc. Eelgrass impacts shall be mitigated by replanting eelgrass at the project site at a ratio of one square foot of mitigation area for each square foot of area impacted. Prior to commencement of the mitigation/transplant, the applicant shall obtain final approval for the method of transplant from the California Department of Fish and Game (CDFG). Any proposed changes to the approved planting plan shall be reported to the Executive Director. Proposed changes to the approved mitigation program shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Final Approval of Mitigation Credits. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the written approval of the Executive Director, evidence that the City of San Diego has accepted the applicant's option to use eelgrass mitigation credits from the South Shores mitigation site. The evidence shall specify the amount of acreage credits which have been withdrawn from the draft Mission Bay Park Mitigation Bank Agreement as a result of the proposed project. The permittee shall not authorize use of these mitigation credits from South Shores as mitigation for any other project, or sell these mitigation credits in the future.

3. Other Permits. The applicant shall submit copies of all other required state or federal discretionary permits for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/Permit History. Proposed is the installation of 800 lineal feet of submerged pipeline and cable under Mission Bay extending from existing services within the parklands adjacent to the southern edge of the Hilton Hotel leasehold westward across Pacific Passage to the Fiesta Island shoreline northwest of Enchanted Isle. The cable is intended to provide water and power for master plan parks and recreation facilities on Fiesta Island. These facilities consist of the Fiesta Island Youth Camp.

A backhoe will be used to trench across the beach for cable placement and a boat will be used for bay bottom trenching and placement of the cable across Pacific Passage. After placement of the cable, trenches on either end of the line will be backfilled with ambient sand. Weighted collars will be used to anchor the submerged cable across the bay. The applicant is also proposing to mitigate for 500 sq.ft. of eelgrass impacts from the proposed project by harvesting eelgrass from other areas of the bay for replanting 500 sq.ft. of eelgrass at the project site, pursuant to a detailed eelgrass mitigation program.

In 1990, the Commission approved CDP# 6-90-288 for the construction of the Fiesta Island Youth Camp, among other improvements. Subsequently, that permit was amended to include installation of a 6-inch pipe to provide adequate water for the facility. That proposal included an eelgrass mitigation plan for approximately 160 sq.ft. of impacts to eelgrass beds. Later, another amendment was approved (6-90-288-A2) for installation of a 2-inch submarine cable to bring electrical power across the bay to the youth facility. That proposal did not involve any impacts to eelgrass beds. The subject proposal is intended to provide additional power and water services for the existing facility and future planned facilities in the Mission Bay Park Master Plan on Fiesta Island.

2. Marine Resources. Section 30230 of the Coastal Act is applicable and states:

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, recreation, scientific, and education purposes.

Finally, Section 30233 of the Coastal Act states, in part:

(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 services purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

The cited Coastal Act policies call for the maximum protection of marine resources, both for the benefit of marine species and for the protection of human recreational opportunities. The placement of the cable and pipeline is considered "fill" under the definitions of the Coastal Act. Because the fill will occur within coastal waters, Section 30233 of the Act is applicable. As stated, the purpose of the proposed project is to place water pipeline and electrical cable under Mission Bay. As such, the proposed development is a permitted use as an incidental public service project under Section 30231 of the Act.

No sensitive wildlife habitat occurs in the vicinity of the project. However, eelgrass does occur on the channel bottom in the project area. An initial biological site assessment and eelgrass survey was conducted on 8/28/98 by Merkel and Associates to determine the condition and size of the eelgrass within the Pacific Passage channel of Mission Bay in the area of the proposed development. The survey concluded that the channel contains a dense, healthy, continuous eelgrass meadow hugging the shoreline from an elevation of approximately 0 feet MLLW to -3 feet MLLW with a percent coverage of 100%. The beds then diminish in percent coverage as the depth of the channel increases. At elevations of -3 feet MLLW to -6 feet MLLW there was 50 to 75% coverage; while at the deepest portions of the channel, -8 MLLW to -10 MLLW, the percent coverage was less than 13%. The average shoot density was 172.8 shoots per square meter. Like the percent coverage, shoot densities were greatest in the highest elevations, gradually decreasing as the channel deepens.

Eelgrass provides habitat for many fish and invertebrates and is an important biological resource to maintain the biological productivity and quality of the bay. Eelgrass is a sensitive biological resource. As such, any development proposal which would result in impacts to such resources typically requires mitigation to offset those impacts. In this particular case, the impacts are regarded as temporary and the applicant proposes to mitigate for those impacts by replanting the project area at a 1:1 ratio. As proposed, the placement of the cable and pipeline would result in impacts to approximately 500 sq.ft. of eelgrass beds as identified in the pre-construction survey.

In addition, the project was found to be the least environmentally-damaging alternative. Other alternatives included placing the power above ground along Friars Road to Fiesta Island. However, this alternative would have involved major trenching and park access impacts. Also, project costs were estimated at \$4 million which proved economically infeasible for the City. Another method considered was to obtain power and water for the Aquatic Center by using a submeter. However, this alternative was not feasible because SDG&E will not permit submetering from a private utility connection. In addition, the applicant also stated that the proposed location of the cable and pipeline is in an area where the eelgrass beds do not possess as high a quality as in other areas of the bay

nearby. Although the project did not require any local discretionary approvals, other permits from state or federal agencies may be required. As such, Special Condition #3 requires that the applicant submit any discretionary permits obtained from other state or federal entities. Should any project modifications be required as a result of other permits, the applicant is further advised that an amendment to this permit may be necessary to incorporate said mitigation/changes into the project.

The applicant has submitted a proposed mitigation and planting program prepared by Merkel and Associates to mitigate the loss of 500 sq.ft. of eelgrass (Ref. "Fiesta Island Youth Camp Eelgrass Mitigation Program Mission Bay, California" prepared by Merkel and Associates, dated 9/3/98 (hereinafter referred to as "the Mitigation Program"). The mitigation program proposes to mitigate the eelgrass impacts at a 1:1 ratio based upon the low impact exception outlined in the Southern California Eelgrass Mitigation Policy. This policy, which addresses eelgrass mitigation ratios, was established pursuant to the National Marine Fisheries Service (NMFS) guidelines. The proposed mitigation will consist of restoring the impacted area and replanting 500 sq.ft. of eelgrass at the project site generally in the area where the existing eelgrass beds are located.

The Mitigation Program consists of harvesting from adjacent donor beds located within Mission Bay, consistent with the Southern California Eelgrass Mitigation Policy. The harvesting from the donor beds will not exceed 20% of any given area so that adverse impacts to the donor beds would not occur and also facilitates a quick recovery. The donor beds were selected based upon several factors which include: 1) proximity to the transplant receiver site; 2) similarity in biological and physical characteristics to the receiver site; and 3) suitability of donor site size and eelgrass density to provide necessary transplant materials; 4) recovery potential for the donor site; and 5) accessibility of the donor site. The eelgrass restoration program is proposed to be completed in fulfillment of the Army Corps of Engineers (ACOE) permit for the proposed project.

The proposed work is scheduled to begin in early February and will last approximately seven calendar days. The Mitigation Program proposes a number of measures including, in part, use of bare-root transplant units, use of biodegradable anchors, proper spacing between planting units, and consultation and approval by the California Department of Fish and Game for the method of transplant.

The proposed mitigation will also be accomplished by receiving credits from the City's draft Mission Bay Park Mitigation Bank Agreement. According to the City's Northern Parks Division, the mitigation bank was established to:

“...provide an intact, functional system in advance of impact; provide the means of evaluating the quality of mitigation being proposed in advance of the impact allowing for establishment of appropriate mitigation ratios; provide a mechanism to eliminate or reduce the need to include interim loss in the mitigation ratio; and provide mitigation opportunities primarily for Mission Bay Park projects,

particularly those impacting Mission Bay eelgrass and City of San Diego projects resulting in impacts in Mission Bay watershed, that do not have the budget or are too small to economically create and monitor habitat independently.”

The bank agreement requires that the “impacted areas” must have lower or equivalent habitat value than contained on the subject property (banked habitat). The proposed 500 sq.ft. of bank area to be purchased for mitigation of the Fiesta Island Youth Camp project is consistent with bank policy. Restoration of the impacted areas on the construction site will, however, still be conducted. In other words, on-site restoration of the impacted eelgrass beds is excess mitigation that the City is proposing, nonetheless. For this reason, it is not required that the on-site restoration be monitored because the mitigation bank site (South Shores) is required to be monitored as part of the draft Mission Bay Park Mitigation Bank Agreement/Program. According to Merkel and Associates, the portion of the mitigation bank that is being utilized for the subject project is South Shores (northeast point). However, to ensure that the mitigation credits are permanently withdrawn from the City’s mitigation bank and not inadvertently used for mitigation credit in the future, Special Condition #2 requires the applicant to provide final documentation that the City has approved the applicant’s use of a minimum of 500 sq.ft. of eelgrass credit. The condition also prohibits the applicant from selling or authorizing other use of these 500 sq.ft. of credit in the future.

In summary, the proposed project will involve impacts to eelgrass habitat. Based on the above discussion it has been determined that impacts cannot be avoided and have been minimized to the maximum extent feasible. In addition, the applicant is proposing mitigation for all unavoidable impacts. To memorialize the applicant’s proposal to provide mitigation, Special Condition #1 has been proposed. This condition requires the applicant to comply with the mitigation plan identified by Keith Merkel and Associates, dated 9/3/98. As such, the project can be found consistent with past Commission precedent regarding development projects in coastal waters involving eelgrass impacts and the resource protection policies of the Coastal Act. Therefore, the Commission finds that impacts to the marine environment have been reduced to the maximum extent feasible, consistent with Section 30230 and 30233 of the Coastal Act.

3. Public Access and Recreation. The following Coastal Act policies address public access and recreation as it pertains to the proposed development:

Section 30210

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 resources areas from overuse.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

In this particular case, the proposed project would not, in and of itself, have any significant impact on public recreation. The activities occur to a depth of not more than -4 feet MLLW in the Pacific Passage channel of Mission Bay which is just east of Fiesta Island. In addition, given that the proposed construction laydown of the pipeline and cable is expected to be completed in only two days, the potential for any impacts to public recreation is further reduced. The proposed installation of the pipeline and cable is expected to commence in early February which is during the off-peak season when recreational boating is not as intense as during the spring and summer. With regard to the eelgrass replanting aspect of the proposed development, replanting is scheduled to commence in the summer of 1999. Merkel and Associates have indicated that this time period was chosen to allow sufficient time for the project site to stabilize after trenching and burying of the pipeline and cable has been completed prior to replanting of eelgrass in the area. Eelgrass can be planted any time between the months of March to October. In addition, in order to implement all of the mitigation measures, this time period is preferred. However, no impacts to recreational boating or public access will result from the proposed mitigation. The eelgrass planting will involve four divers in the water working in a relatively small area of 200 sq.ft. Three people will be required to work on shore and work is estimated to be completed in two work days. In addition, no on-shore impacts are expected to occur to public access.

In summary, given that both the in-water development (laydown of pipe and cable on bay floor) and the proposed eelgrass replanting will be short term in nature, no impacts to public access or public recreation are anticipated. Therefore, the Commission finds the proposed development can be found consistent with Sections 30210 and 30220 of the Coastal Act.

4. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. As conditioned, such a finding can be made for the subject development.

Mission Bay Park is both an area of deferred certification and an area of original jurisdiction, where the Commission retains permit authority permanently. The project site is zoned R1-5000 and is designated for Open Space in the certified Mission Bay Park Master Plan. The proposed installation of a freshwater pipeline and electrical cable on the bay floor for park and recreation facilities on Fiesta Island is consistent with these designations. The project has been found consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the

conditioned project should not prejudice the ability of the City of San Diego to prepare a fully certifiable LCP for Mission Bay Park.

5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which could substantially lessen any significant adverse effect which the activity may have on the environment.

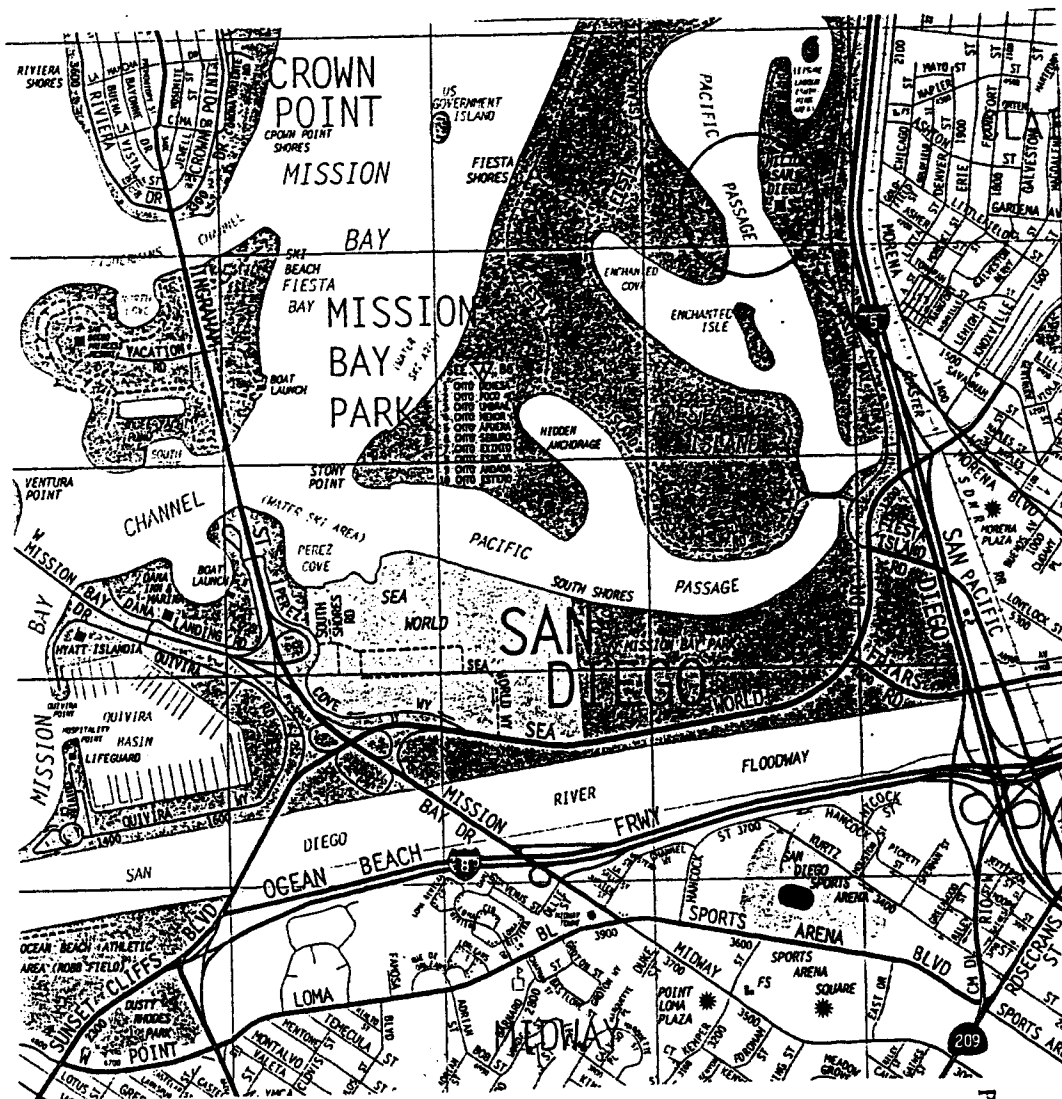
The proposed project has been conditioned to be found consistent with the resource protection and recreation policies of the Coastal Act. Mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, to mitigate the identified impacts, 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 Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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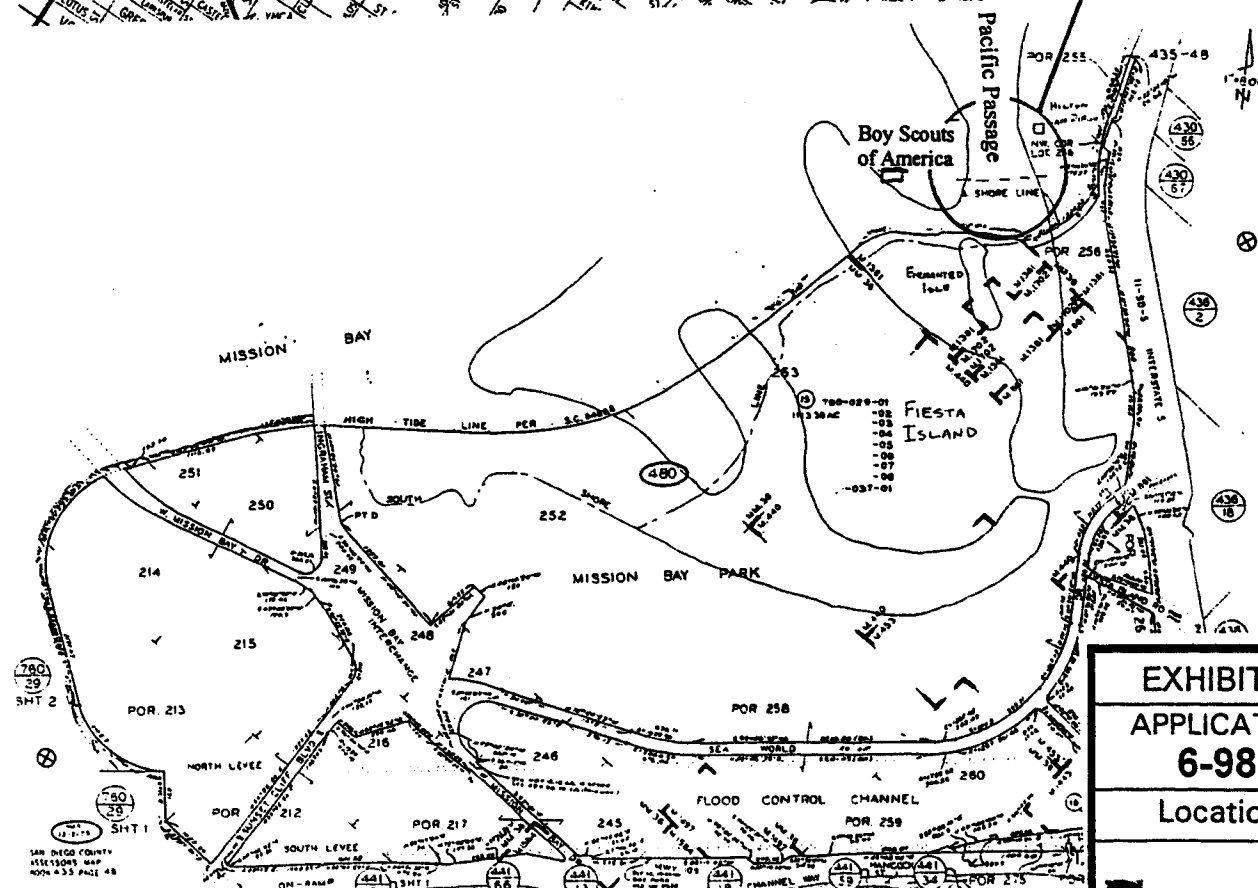
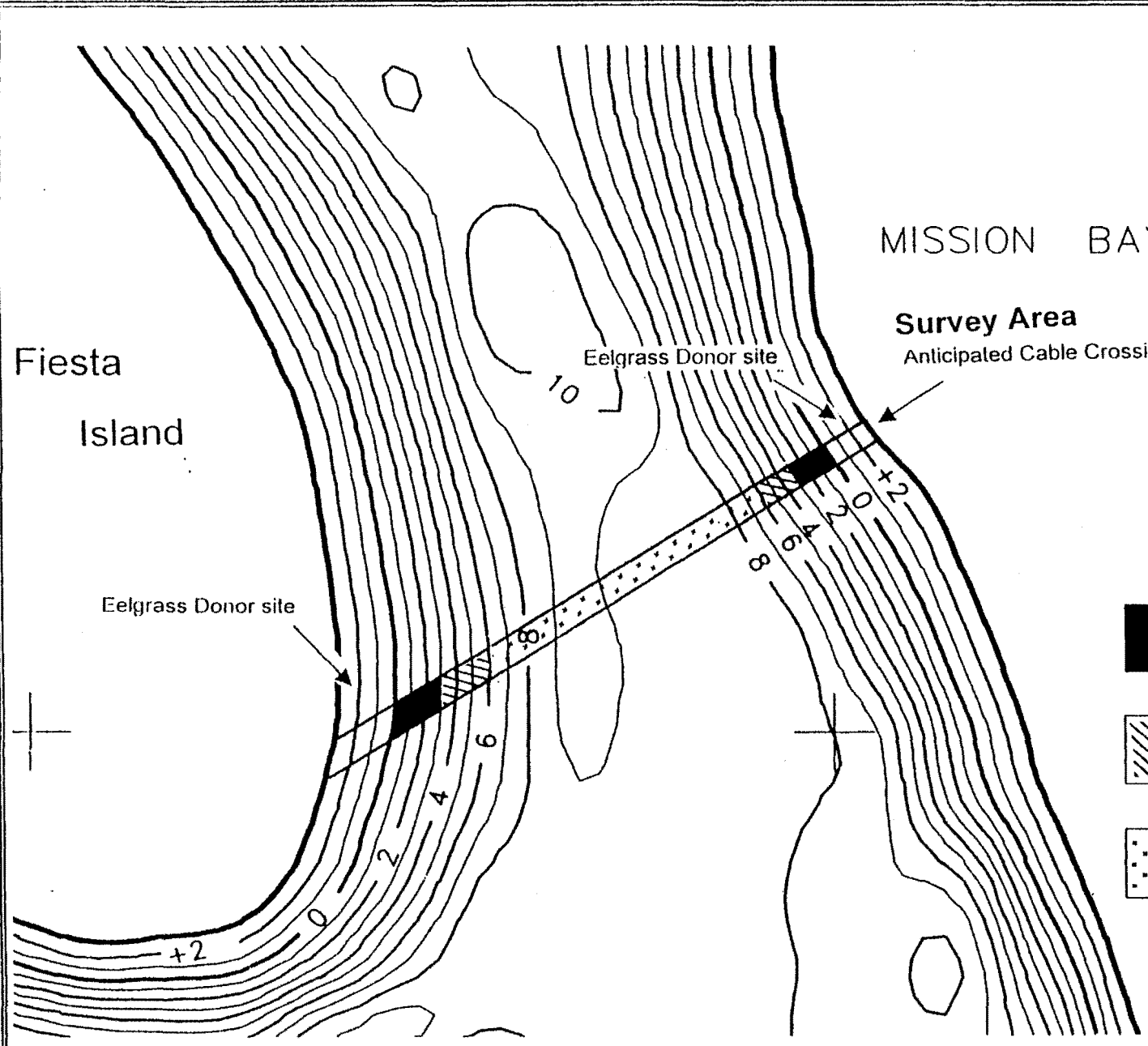



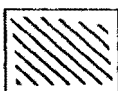
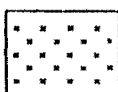
EXHIBIT NO. 1
APPLICATION NO. 6-98-114
Location Map
California Coastal Commission

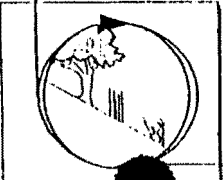
SAN DIEGO COUNTY
ASSISONS MAP
NO. 433 PAGE 48

EXHIBIT NO. 2
APPLICATION NO. 6-98-114
Pre-construction eelgrass bed distribution
California Coastal Commission

MISSION BAY HILTC



-  Eelgrass Density 100%
-  Eelgrass Density 50-75%
-  Eelgrass Density < 13%



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Scale: 1" = 200'

Fiesta Island Youth Camp
Pre-Construction Eelgrass Distribution- August 28, 1998

Figure 2

Fiesta Island Youth Camp - Lateral View

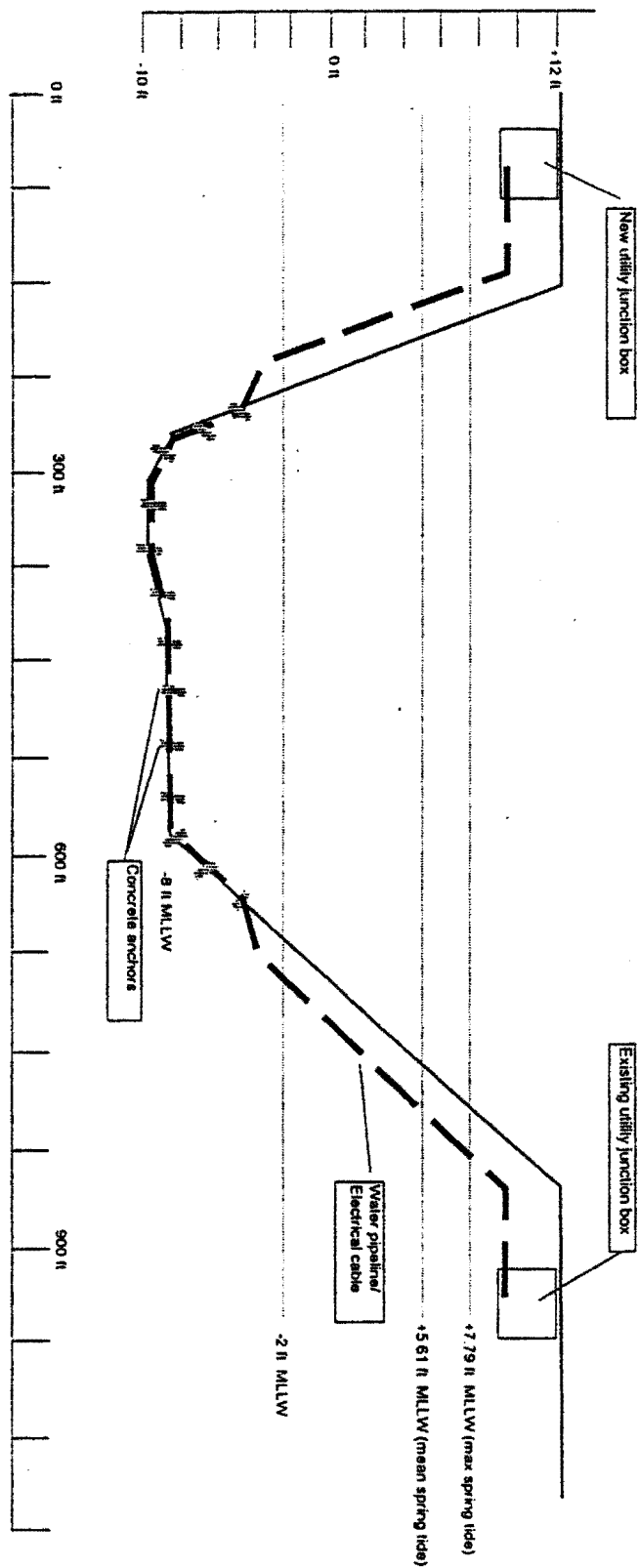


EXHIBIT NO. 3
APPLICATION NO.
6-98-114
Cross-section pipeline and power cable on bay floor
California Coastal Commission