

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Long Beach, CA 90802-4302
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Filed: April 30, 1998
49th Day: June 18 1998
180th Day: October 27, 1998
270th Day: January 25, 1999
Staff: SFR-LB
Staff Report: November 19, 1998
Hearing Date: December 8-11, 1998
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NO.:** 5-97-366**APPLICANT:** California Department of Fish and Game **AGENT:** Erick Burres**PROJECT LOCATION:** Department of Fish and Game Bolsa Chica Ecological Reserve, Bolsa Chica, County of Orange

PROJECT DESCRIPTION: Construction of a two foot tall wooden round-stock fence within portions of the Bolsa Chica Ecological Reserve. One section of fencing (approximately 800 linear feet) would be located along Warner Avenue within the Ecological Reserve. The other section of fencing (approximately 80 linear feet) would be located at the Reserve's overlook above the Wintersburg Channel. Existing fencing (approximately 200 linear feet) along the Bolsa Chica bluff top facing outer Bolsa Bay is to be removed.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with three special conditions requiring the submission of a signage plan, and enhanced project plans. The major issues of this staff report concern development within an environmentally sensitive habitat area and the potential that the development could result in bluff erosion and geologic instability.

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LOCAL APPROVALS RECEIVED: Approval in Concept from the County of Orange.

SUBSTANTIVE FILE DOCUMENTS: Notice of Exemption issued by the California Department of Fish and Game. Bolsa Chica Local Coastal Program. Bolsa Bay, A Conceptual Plan for Resource and Recreation (December 1972). Department of Fish and Game Memorandum of October 23, 1997. Coastal Development Permits: 5-93-060, 5-90-1143, A-5-BLC-97-188. Superior Court of the State of California, County of San Diego, Statement of Decision (Case No. 703570) Concerning the Bolsa Chica Land Trust, Huntington Beach Tomorrow, Shoshone-Gabrielino Nation, Sierra Club, and Surfrider Foundation versus the California Coastal Commission, dated June 4, 1997.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development, located between the first public road and the sea, 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.

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction 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.

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3. Compliance. All construction 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of 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.

III. Special Conditions.

1. Signage Plan

Prior to issuance of this permit the applicant shall submit, for the review and approval of the Executive Director, a signage plan which informs the public of their requirement to stay on the existing public trail to minimize adverse impacts to the bluff face. Signage shall be installed in compliance with the plans approved by the Executive Director.

2. Revised Plans

Prior to issuance of this permit, the applicant shall submit revised plans, for the review of the Executive Director, that depict the on-the-ground location of the fence. These plans shall be drawn to a scale no smaller than one inch to a hundred feet on a recent topographic map. Property lines shall also be depicted. Fencing in the vicinity of the Reserve's Ecological Overlook shall be set back a minimum of fifteen (15) feet from the bluff edge. The fence shall be constructed as shown on the revised plans as approved by the Executive Director.

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3. Timeline for Removal of Unpermitted Portion of the Fence

Special conditions one and two must be fulfilled by the applicant within sixty days of the Commission's action on Coastal Development Permit 5-97-366. Within thirty days following issuance of Coastal Development Permit 5-97-366 all fencing along the Bolsa Chica mesa bluff top edge, except that portion located near the overlook, shall be removed. Failure to fulfill special conditions one and two within the sixty day limit and to remove the fence within thirty days following issuance of coastal development permit 5-97-366, or within additional time as may be granted by the Executive Director for good cause, will result in termination of Coastal Development Permit 5-97-366 and additional enforcement action.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Location

The California Department of Fish and Game proposes to construct a wooden round-stock fence within the Bolsa Chica Ecological Reserve. The Bolsa Chica Ecological Reserve is located in unincorporated Orange County to the southeast of the intersection of Pacific Coast Highway and Warner Avenue (Exhibits 1 and 2). The wooden round-stock fence would be approximately two feet tall (Exhibit 3 depicts the design of the fence). The fence is to be constructed in two locations. One location would be within the portion of the Ecological Reserve paralleling Warner Avenue (Exhibit 6). The second fence location would be at the overlook where the Wintersburg Channel outlets into outer Bolsa Bay (Exhibit 7). The fence at the overlook will be set back from the bluff edge by approximately 15-20+ feet (Page 2 of Exhibit 5). Existing portions of the fence (approximately 200 linear feet) on the mesa just inland of the bluff top facing outer Bolsa Bay will be removed (page 2 of Exhibit 2). The purpose of installing the fence along Warner Avenue is to discourage unauthorized vehicles from entering the Ecological Reserve and adversely affecting the biological resources within the Reserve. The purpose of the fencing along the overlook is to encourage the public not to trespass onto the sensitive bluff face thereby minimizing damage to the bluff face.

An existing public trail just inland of the bluff top edge provides public pedestrian access from the California Department of Fish and Game's (Department) public parking lot located at Pacific Coast Highway and Warner Avenue (Exhibit 6) to the Department's interpretive overlook above Outer Bolsa Bay. The location of the Department's overlook is shown in Exhibit 7. The Department also maintains a trailer in the parking lot which is used as an interpretive center.

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Fence construction and removal will be accomplished by using various hand tools such as shovels and post-hole diggers. Work will usually be done on weekends using small groups of volunteers. Fence construction will be undertaken by hand to minimize the adverse impacts of the proposed development on the ecological resources located in the area.

Originally, the Department of Fish and Game (Department) proposal included the installation of the fence along the Bolsa Chica Mesa just inland of the bluff top edge and seaward of the existing trail from Warner Avenue to the Department's overlook. However, portions of the fence would have had to be located on land owned by Hearthside Homes (formerly Koll Real Estate Group and also known as California Coastal Communities). Section 30601.5 of the Coastal Act requires that the applicant demonstrate the legal ability to undertake development on land not owned by the applicant. In this case, the Department of Fish and Game initiated discussions with Hearthside Homes concerning the construction of the fence portion that would be located on property owned by Hearthside Homes. The Department, however, has not yet reached an agreement with Hearthside Homes to allow construction. The Department has therefore modified its project proposal to eliminate the fencing just inland of the bluff top edge and to remove any existing fencing along the bluff top edge that was installed without benefit of a coastal development permit. Exhibit 2 contains the Department's letter of November 13, 1998 making this revision to the project description.

On August 31, 1998 Commission staff received the "Extension of Time" from the applicant to waive the 180 day permit processing restriction under the Permit Streamlining Act by extending the time period for an additional 90 days. Consequently the Commission must act on this coastal development permit application by January 25, 1999 by the Commission.

B. Environmentally Sensitive Habitat Area

The proposed fence will occur within the Bolsa Chica Ecological Reserve. Two sections of fence (approximately 800 linear feet) would be adjacent to Warner Avenue (Exhibit 6). The other section of fence (approximately 80 linear feet) would be located near the overlook above the East Garden Grove Wintersburg Flood Control Channel (Exhibit 7). The Bolsa Chica Ecological Reserve is managed by the Department of Fish and Game to enhance the Reserve's ecological values. The Ecological Reserve also contains public trails and overlooks which allow the public to access the site without adversely impacting the Reserve's ecological values. Section 30240 of the Coastal Act mandates the protection of environmentally sensitive habitats. Section 30240 of the Coastal Act states:

- (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.*

This policy dictates that the proposed fence can be allowed provided that it will not have a significant impact on habitat values and that the development be compatible with the continuance of habitat and recreation values. During the course of preparing the Bolsa Chica Local Coastal Program, the County of Orange prepared an Environmental Impact Report for Bolsa Chica. The "1996 Recirculated Draft Environmental Impact Report # 551 (SCN: 93-071064)" reviewed the presence of terrestrial wildlife over the entire Bolsa Chica ecosystem including the Ecological Reserve. The DEIR does not document the presence of large terrestrial mammals. Additionally, the DEIR does not document the presence of any sensitive mammals on the Mesa. The DEIR does acknowledge the presence of sensitive reptiles, amphibians, and birds throughout the whole Bolsa Chica ecosystem. The DEIR does acknowledge the presence of cottontail rabbit, opossum, striped skunk, coyote, long-tailed weasel, and the red fox. The DEIR notes that the red fox is considered an invasive non-native species and that the coyote is considered an important meso-predator regulator. As such the coyote is an effective biological means of controlling the red fox population. The proposed fence, because of its low profile and open design (Exhibit 3) would not impede the movement of any of these animals.

The findings of the DEIR concerning terrestrial animals at Bolsa Chica is consistent with a field study conducted in February 1990 by C. Robert Feldmeth for CDP 5-90-1143 for the demolition of the two gun emplacements on the Mesa. Dr. Feldmeth, as a consequence of his field investigation, concluded that no plant or animal species listed by State or Federal government were on the property owned by Hearthside Homes (formerly the Koll Real Estate Group). Two sensitive species, based on habitat characteristics, could be present. These two species are the San Diego horned lizard and the burrowing owl. Dr. Feldmeth observed five species of mammals which included the: black-tailed hare, Audubon's cottontail, California ground squirrel, Botta pocket gofer, and the coyote.

Furthermore, EIP Associates evaluated another fence project (A-5-BLC-97-188) close to this project in terms of its potential impacts to wildlife in September 1997. This fence project was for a seven foot tall chain link pre-construction security

fence around the property held by Hearthside Homes. The letter by EIP Associates concluded that the installation of a chain link fence, raised a minimum of six inches above the ground, would not impede the movement of small mammals such as coyotes, rabbits and squirrels and that the fence may discourage the movement of the red fox. However, this adverse impact is not considered significant since the red fox is considered a predator to the federally listed tern, elegant tern, and western snowy plover. The coyote, as mentioned previously, controls the population of the red fox. As such the presence of the coyote is considered biologically beneficial. The Commission approved this prior fence project on November 5, 1997 with a special condition requiring that the base the fence be raised by six inches above ground level to facilitate the movement of terrestrial animals.

Fencing within or adjacent to an environmentally sensitive habitat area is of a concern as it could restrict the free movement of wildlife, could impede public recreational use, and could affect bluff stability through increased erosion. Adverse impacts on wildlife habitat, and the public's ability to use recreational areas would be inconsistent with Section 30240 of the Coastal Act.

In this case the fence will not have an adverse impact on terrestrial animals for a variety of reasons. First, because of its low profile (two feet tall) and open design (Exhibit 3) animals can move through it freely. The bottom rail of the proposed fence would be approximately one foot above the terrain. The top rail of the fence would be two feet above grade. The two rails are separated by a open gap of about one foot. Any animals which need to pass through the fence can either go over it, under it, or through it. Next, the fence near the overlook will be located adjacent to an existing public trail for the purpose of keeping the public on the trail so that the public will not adversely impact the bluff face. Finally, the fence adjacent to Warner Avenue is on the perimeter of the Ecological Reserve and would limit unauthorized vehicles from entering the Ecological Reserve. Though the project is located in an ecological reserve, much of which is environmentally sensitive habitat area, the public access trail itself does not constitute environmentally sensitive habitat and it would be beneficial to keep the public on the trail to minimize any disruption to habitat values. Therefore the Commission finds that the proposed fence will not have a significant impact on environmentally sensitive habitat and is consistent with the requirements of Section 30240 of the Coastal Act.

C. Geologic Stability

Development in the vicinity of bluffs can adversely impact the integrity of bluffs. Section 30253 of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

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- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.**

To evaluate the proposed fence's impact on bluff stability and the potential for erosion (as originally submitted) an engineer with the Department of Fish and Game conducted a site visit on October 16, 1997. In a memo dated October 23, 1997 (Exhibit 4) the Department of Fish and Game concluded that the project (which at the time included the fence just inland of the bluff top edge) would not have an adverse impact on the Reserve's ecological values. Though the entire fence along the bluff top edge is not being built at this time, a portion is being constructed near the overlook. Resource protection benefits of the fence near the overlook include the establishment of a visual and physical barrier that would serve as buffer area between the trail and the bluff face. Limiting the public to the trail so they do not enter the buffer area would encourage resource protection since it will allow vegetation to reestablish itself which will promote the return of the area to its natural state. The increased vegetation in the buffer area would help stabilize the bluff and would reduce the potential for erosion. The portion of the fence to be constructed adjacent to Warner Avenue is not near the Bolsa Chica bluff edge (Exhibit 6). Consequently this portion of the fence would not affect bluff stability.

Commission staff visited the project site on May 20, 1998 and October 22, 1998 to observe the impact that portions of the existing fence may have had on erosion. Commission staff observed no evidence of erosion around the existing fence posts located near the overlook. In the majority of cases the fence posts, had extensive vegetation growing around them. Based on these observations the area impacted by the installation of the fence posts have successfully revegetated.

The Bolsa Chica Mesa bluff face is immediately adjacent to outer Bolsa Bay which is subject to tidal action. During high tides, the toe of the bluff face is located in the water. Commission staff noted that a small section of the Bolsa Chica bluff face near Warner Avenue had failed. Hence, bluff retreat is still underway. This bluff failure may be the result of erosion at the toe of the bluff resulting from the movement of incoming and outgoing tides. Therefore, the Commission finds that the fence by the overlook be a minimum of fifteen feet inland of the bluff edge to establish an adequate setback from the bluff edge for purposes of protecting the setback area from human intrusion and to minimize any adverse impacts the development may have on the stability of the bluff.

Further, the applicant proposes to remove approximately 200 linear feet of fence on the Bolsa Chica mesa just inland of the edge of the bluff top since an agreement with Hearthside Homes to allow installation of additional fencing has not been

reached. The fencing to be removed was installed without benefit of a coastal development permit. To assure that the fencing is removed the Commission is imposing a special condition to provide a timeline for the applicant to meet the special conditions and to remove the fence segments along the Bolsa Chica mesa bluff top. The special condition requires that Special Conditions number 1 and 2 be met within sixty days of the Commission's action to allow the permit to be issued. Once the permit is issued, the fencing proposed for removal will be removed within thirty days.

The goal of the proposed fence is to discourage the public from leaving the trail. The fence is quite low and would be easy to cross. To achieve the goal of discouraging the public from leaving the trail, signs should be placed along the trail informing them of the necessity to stay on the trail to avoid adverse impacts to vegetation. A signage plan was not submitted with the fence application. Consequently the Commission must impose a special condition requiring the submission of a signage plan which advises users of the trail that they are to remain on the trail to avoid damaging both the habitat located near the bluff and on the bluff face itself. Only as conditioned for the submission of a signage program, the submission or revised plans indicating that fence is setback a minimum of fifteen feet from the bluff edge, and a timeline for removing the fence segments on the Bolsa Chica mesa just inland of the bluff edge does the Commission find that the proposed fence is consistent with Section 30253 of the Coastal Act to assure that adverse impacts to geologic stability are minimized.

D. Public Access

Section 30604(c) of the Coastal Act mandates that any coastal development permit issued for development between the first public road and the sea shall include a specific finding that the development is in conformity with the public access and recreation policies of the Coastal Act. The proposed fence will be located between the first public road and the sea. The proposed fence, however, will not adversely affect coastal access opportunities or recreation. The fence along Warner Avenue will not block the existing public trail and the portion of the fence by the overlook will be placed parallel to an existing public trail. The existing public trail provides public access from the Department of Fish and Game parking lot to the Department's interpretive overlook above Outer Bolsa Bay.

The purpose of the fence near the overlook is to discourage the public from leaving the trail and walking out onto the fragile bluff face. Unrestricted public access to the bluff face would be detrimental to plant and animal life dependent on the bluff face and could lead to accelerated erosion of the bluff face. The proposed fence will not affect the public's ability to utilize the existing trail to access the recreational opportunities in the Ecological Reserve; therefore, the Commission

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finds that the proposed fence is consistent with the public access and recreation policies of the Coastal Act.

E. Unpermitted Development

Without benefit of a coastal development permit, the applicant has undertaken partial construction of the fence along the Bolsa Chica Mesa bluff edge. Coastal Commission staff confirmed the presence of the partially constructed fence in August 1997 through a site visit. Coastal Commission staff contacted the California Department of Fish and Game to advise them that a coastal development permit would be required. On November 14, 1997 the California Department of Fish and Game submitted an application for a coastal development permit with the Commission. The application was deemed incomplete on December 2, 1997. The applicant submitted the requested information and the application was filed complete on April 30, 1998.

Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. The Bolsa Chica Local Coastal Program was used as guidance by the Commission in reaching its decision.

Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

On January 11, 1996 the Commission approved the Local Coastal Program for Bolsa Chica. On July 11, 1996 the Commission concurred with the Executive's Director's determination that the County of Orange complied with the Commission's certification and the Bolsa Chica LCP became fully certified until June 4, 1997. However, on June 4, 1997 the Superior Court set aside the certification of the Bolsa Chica LCP and required that the Commission reconsider its certification in light of the judge's decision. Normally the certified LCP would serve as the standard of review since Section 30604(b) of the Coastal Act states that *"After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed*

development is in conformity with the certified local coastal program." In this case because of pending litigation the Bolsa Chica LCP is no longer effective.

On October 9, 1997 the Commission approved the Bolsa Chica LCP with suggested modifications that responded to the judge's ruling. The Orange County Board of Supervisor's accepted the Commission's suggested modifications on February 3, 1998. On February 10, 1998 the Commission received the County's submission of their adoption of the Commission's suggested modification. The Executive Director's certification to the Commission that the County of Orange had complied with the Commission's action on the Bolsa Chica LCP, however, did not occur. On February 20, 1998 the judge, on appeal, determined that the Commission had inappropriately limited public testimony at the October 9, 1997 Commission meeting. Since the appeal process is still under way with the Court, certification of the LCP has been suspended pending the outcome of the judicial process. Therefore, evaluation of the proposed project is based on the California Coastal Act.

The proposed development, as conditioned by the Commission, will not create adverse impacts on coastal access or coastal resources under Chapter 3 of the Coastal Act. Therefore the Commission finds that approval of the project will not prejudice the County's ability to prepare a Local Coastal Program for Bolsa Chica.

G. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located adjacent to an environmentally sensitive habitat area near an existing urbanized area. The proposed development has been conditioned, for the submission of a signage plan and the submission of revised plans incorporating a fifteen foot setback to assure that the project will not have a significant adverse impact on coastal access or environmentally sensitive habitat. The proposed development is consistent with the Chapter 3 policies of the Coastal Act. The project as proposed is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

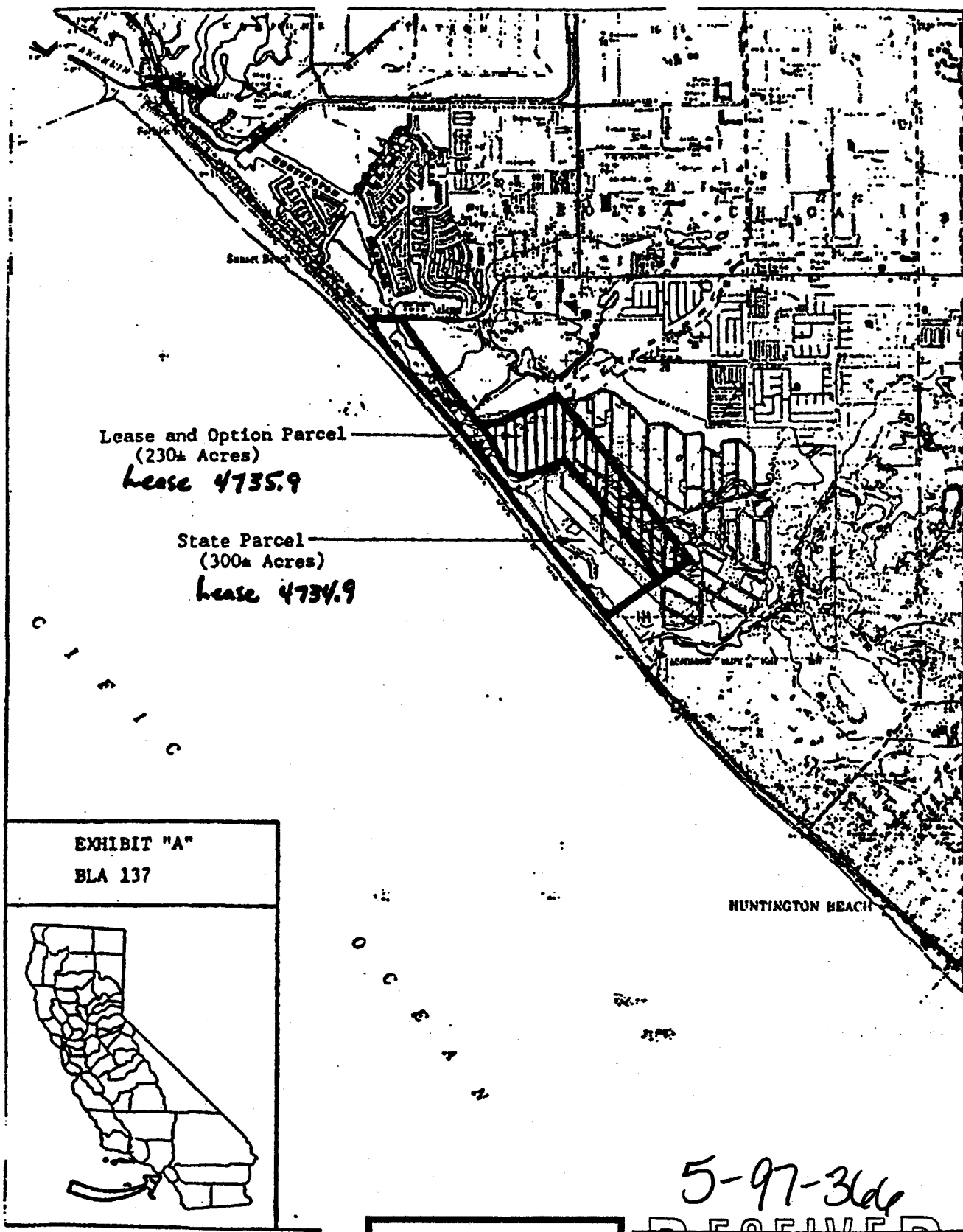


EXHIBIT "A"
BLA 137



EXHIBIT No. 1

Application Number:

5-97-366

Location Map



California Coastal
Commission

5-97-366
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CALIFORNIA
COASTAL COMMISSION



State of California - The Resources Agency

PETE WILSON, Governor

DEPARTMENT OF FISH AND GAME<http://www.dfg.ca.gov>

South Coast Region
330 Golden Shore, Suite 60
Long Beach, California 90802
(562) 590-5113

November 13, 1998

Mr. Stephen Rynas, AICP
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, California 90802

Dear Mr. Rynas:

The Department of Fish and Game (Department) would like to modify its Coastal Development Permit Application #5-97-366 for the construction of a round-stock fence at Bolsa Chica Ecological Reserve.

The Department asks that the installation of fence along the bluff trail be deleted from this permit application. The permit application should additionally be amended so as to provide for the retention and completion of fence along Warner Avenue, retention of the fence at the viewpoint (lookout), and the removal of off-trail pedestrian barriers already present on the bluff.

The construction of a round-stock fence along the bluff top trail is beneficial to the ecological resources and public use of Bolsa Chica Ecological Reserve, and the Department will continue to pursue its installation.

If you require additional information, please contact me at (562) 590-4810 or at the letterhead address.

Sincerely,

Erick Burres
Wildlife Biologist/ARLC

Attachment

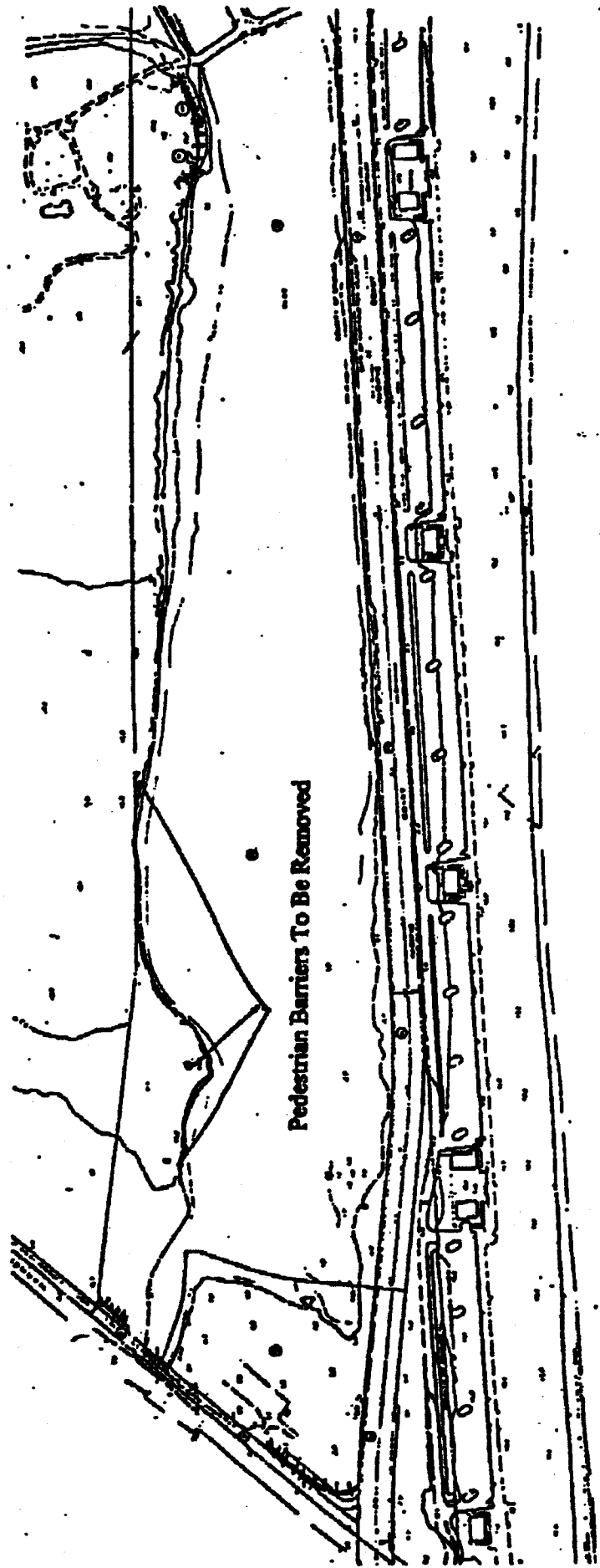
cc: Ms. Terri Stewart
Department of Fish and Game
San Diego, California

*Conserving California's Wildlife Since 1870.***EXHIBIT No. 2**

Application Number:

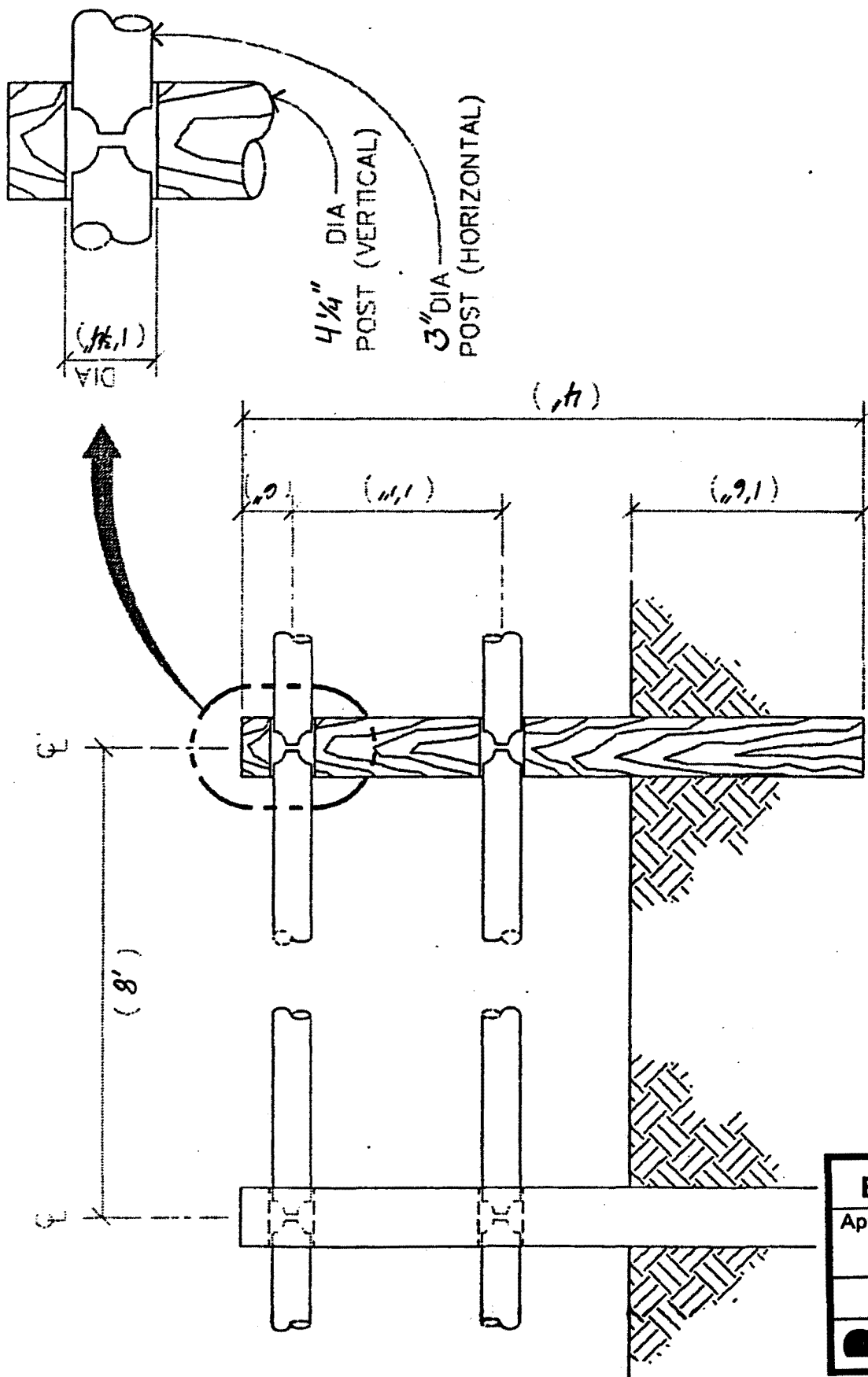
5-97-366**DF&G Letter**

California Coastal
Commission



Pedestrian Barriers To Be Removed

Proposed fence line



WOODEN ROUND-STOCK FENCE

EXHIBIT No. 3

Application Number:

5-97-366

Fence Detail



California Coastal
Commission

State of California

Memorandum

To : Mr. Eric Burres
Region 5 Headquarters

5-97-366
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Date : October 23, 1997

From : Department of Fish and Game

CALIFORNIA
COASTAL COMMISSION

Subject : Fence Installation, Bolsa Chica Ecological Reserve, Orange County, California

On October 16, 1997, Ms. Katherine Sirk met with you at the Bolsa Chica Ecological Reserve to review the proposed plan to install a wood rail fence along the bluff trail. The results of that review are as follows.

The new wood rail fence is recommended as it will provide a greatly needed buffer zone between the walking trail along the bluff and the bluff's edge. The fence will reduce the number of people from venturing out to the bluff's edge or climbing down the bluff to the water. Less foot traffic will allow the vegetation to reestablish itself and help return the area to its natural state. The increase in vegetation will also stabilize and protect the soil, therefore slowing the erosion rate of the bluff. In addition, the installation of the fence will not increase the rate of erosion of the bluff.

If you have any questions or need additional information, please contact Ms. Katherine Sirk, telephone (916) 323-1570, CALNET (8) 473-1570 or myself at (916) 323-1488, CALNET (8) 473-1488.

RG Benson

Robert Benson, Chief Engineer
Technical Services Branch

Engineering File
Chron File

EXHIBIT No. 4

Application Number:
5-97-366

DF&G Memo

 California Coastal
Commission

Memorandum

To : Mr. Stephen Rynas, AICP
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, California 90802

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MAR 31 1998
Date: March 27, 1998

CALIFORNIA
COASTAL COMMISSION

From : Department of Fish and Game - John Anderson

Subject : Incomplete Notice for Coastal Development Permit Application No. 5-97-366

This is in response to the Incomplete Notice for Coastal Development Permit No. 5-97-366 dated December 2, 1997 for the construction of a round-stock fence at Bolsa Chica Ecological Reserve (Reserve).

The Department of Fish and Game (Department) is undertaking this project to protect sensitive wetland habitats and provide compatible public use within the Reserve. The Department's lease of this land from the California State Lands Commission authorizes us to undertake this project. The project reflects specific objectives and primary uses as identified within the document titled *Bolsa Bay: A Conceptual Plan for Resource and Recreation* as cited within the lease:

Objectives - Page 12


- 1) To provide habitat for a variety of water-associated wildlife including the endangered light-footed clapper rail and least tern;
- 2) To provide Bolsa Chica State Beach expanded recreational opportunities;

Primary Uses - Page 14

- 1) A saltmarsh ecosystem over a major portion of the area;
- 2) Facilities for maximum public use of the ecological area and the adjacent beach compatible with maintaining optimum numbers and diversity of fish and wildlife.

Attached is a complete copy of the lease between the State Lands Commission and the Department for Bolsa Chica Ecological Reserve and *Bolsa Bay: A Conceptual Plan for Resources and Recreation*.

Please find attached also a construction drawing depicting the wooden round-stock fence in detail and a new site plan showing the location of the fence in response to comment items 1 and 2.

EXHIBIT No. 5
Application Number: 5-97-366
DF&G Memo
 California Coastal Commission

Mr. Stephen Rynas
March 27, 1998
Page Two

In response to comment item No. 3, the Department is modifying the project description. The proposed fence will be located solely on lands managed by the Department. As previously stated in the permit application, we plan to install approximately 270 feet of fence from the corner of Pacific Coast Highway and Warner Avenue to the Warner Avenue parking lot entrance, 120 feet of fence from the Warner Avenue trailhead to the property line, and 2,400 feet of fence from the Warner Avenue trailhead along the bluff-top trail (excluding approximately 600 feet of trail on property not managed by the Department) to the bluff-top observation point. The fence will run along the trail's edge closest to the bluff and will be offset from the bluff edge by quite a distance (15-20± feet) except where the trail approaches private property where it is nearest the bluff edge to within a few yards.

As mentioned in comment item No. 4, the project is located adjacent to sensitive habitats. The project site has been surveyed by Department wildlife biologists who have determined that the proposed location is far enough away from that habitat so that construction activities, as proposed, will not adversely impact the Reserve's ecological resources.

The fence construction will commence after the permit is issued and should be completed within the following 12 months. Work will usually be done on weekends to facilitate existing volunteer programs at Bolsa Chica. Small work groups will be used, and construction activities will not interfere with public access nor with the recreational uses of the area. It's anticipated that the construction project will provide an additional public activity.

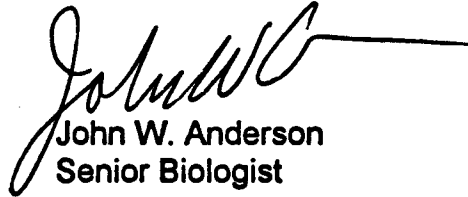
To avoid possible soil compaction and public access concerns, the Department will limit the use of vehicles or large equipment for this project. The fence will be built by hand using various hand tools (shovels, post-hole diggers, etc.), and materials will be transported by hand to the construction site. Soil will only be disturbed during the digging of holes for the placement of fence posts, a surface area of approximately 1.5 square feet. A post will be placed in this hole, and the soil will be placed back in the hole around the post and tamped down.

Soil erosion is not anticipated due to the extremely small area of exposed soils which will be tamped down and occur on nearly level land. Although vegetation will be disturbed, these are invasive, non-native species which are deleterious to the ecological resources on the site. The site will be monitored and the natural establishment of natives will be aided by continuing to remove invasive, non-native species.

Mr. Stephen Rynas
March 27, 1998
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The aforementioned details also apply to comment item No. 5. as the amount of the bare soil exposed by this project will be minimal. Additional erosion protection is anticipated as the disturbed area is recolonized by native species.

If you have any questions or require additional information, please contact Mr. Erick Burres, Wildlife Biologist, at (562) 590-4810.


John W. Anderson
Senior Biologist

Attachments

cc: Mr. Erick Burres
Department of Fish and Game
Long Beach, California

Mr. Tim Dillingham
Department of Fish and Game
San Diego, California

58.

CITY/COUNTY BOUNDARY

Scale 1" = 300 feet

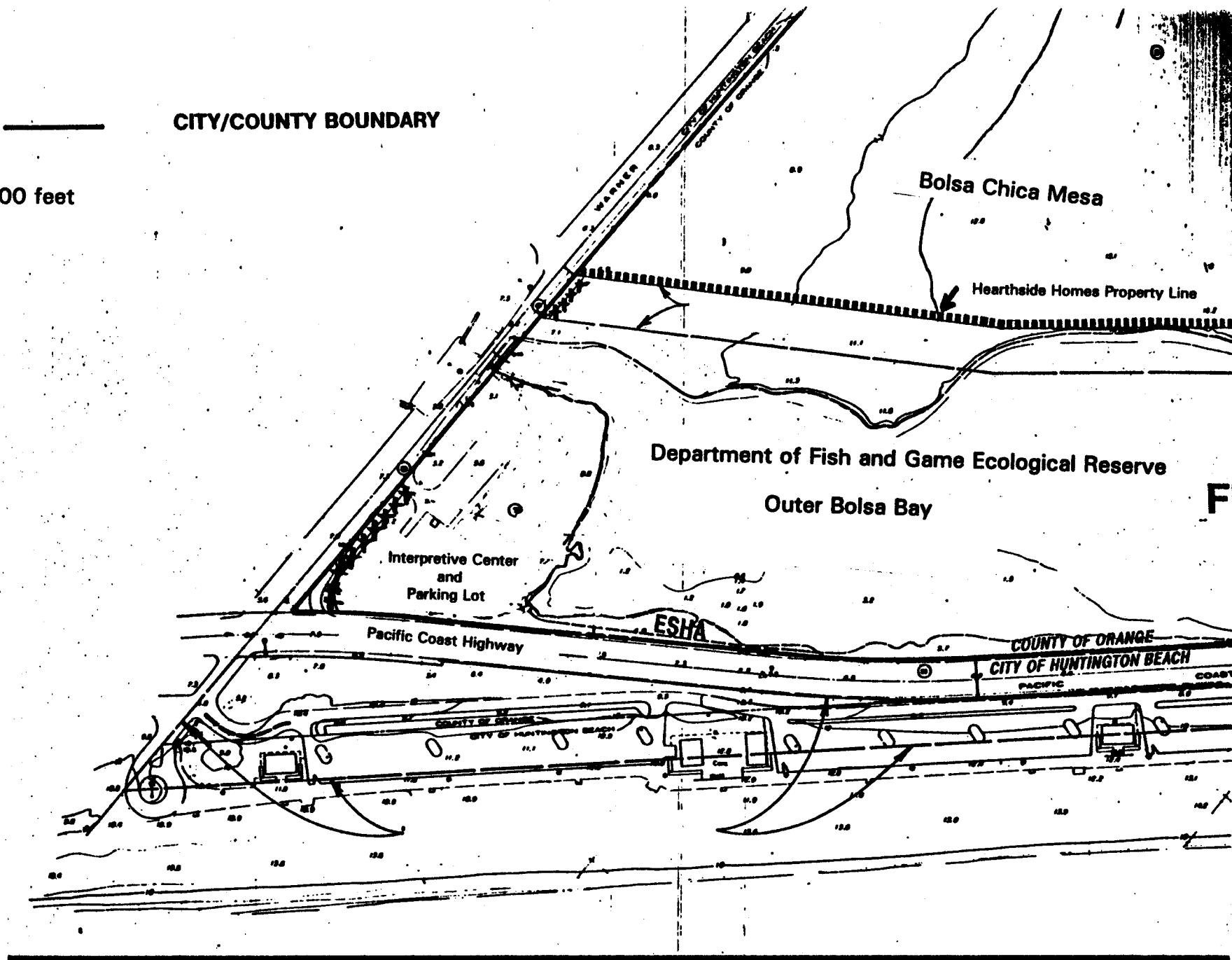


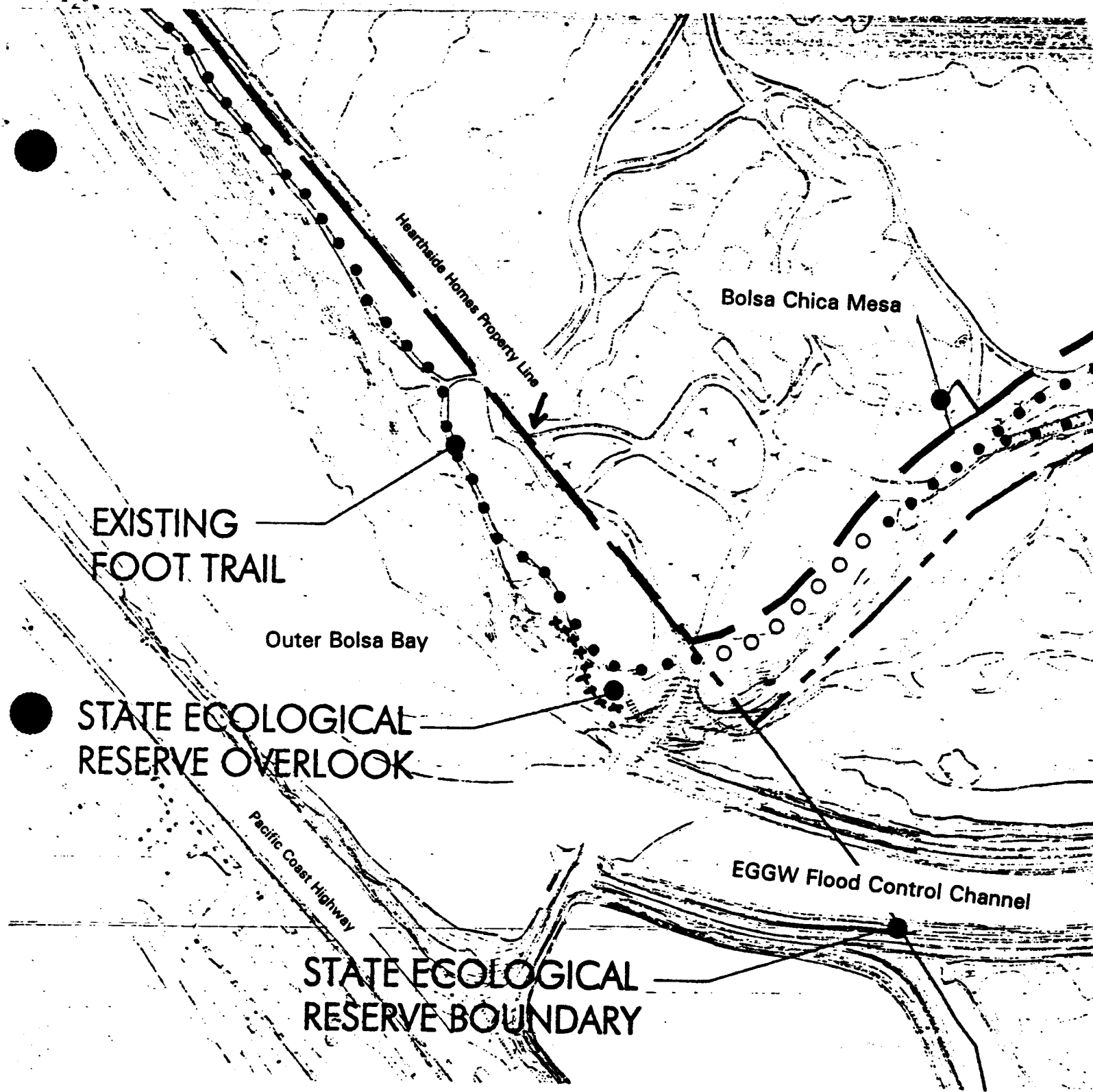
EXHIBIT No. 6

Application Number:

5-97-366

**Fence Plan along
Warner Avenue**

**California Coastal
Commission**



Scale 1" = 200 feet

EXHIBIT No. 7

Application Number:

5-97-366

**Fence Plan at
Ecological Overlook**

California Coastal
Commission



