

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-97-145

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Applicant: ESPN X Games/Event Specialist Inc. Agent: Jack Wienert

Description: Construction of temporary improvements for the X Games, a series of sporting competitions to be held June 19-28, 1998, including a climbing wall, snowboard ramp, street course, dirt jump, barefoot ramp, bleachers, television compound, camera staging facilities, concession stands, portable toilets, trash receptacles and perimeter security fencing. The event also includes exclusive use of one public parking lot (approx. 200 public parking spaces) and partial use of another, provision of a shuttle bus system, on- and off-site directional signage and mitigation measures addressing an adjacent least tern nesting site and potential eelgrass impacts. Setup will begin June 2, 1998 and takedown will be completed by July 2, 1998. Off-site parking will occur in the South Shores, Sunrunner and Marina Village parking lots and in the informal dirt lot south of Quivira Road. No admission fee is proposed.

Site: Mariner's Point, south of West Mission Bay Drive, Mission Bay Park, San Diego, San Diego County.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

The proposed development is to conduct in 1998 the same X Games event the Commission approved for 1997. The 1997 event was run successfully with respect to protection of least terns and eelgrass, and the implemented remote parking and shuttle bus system maintained good traffic flow throughout the area. The only complaints received addressed the closure of a public walkway under the Glen Rick Bridge, in the immediate vicinity of the X Games venue. Staff recommends approval of the proposed development, which includes all the mitigation measures imposed in 1997. Proposed changes to the special conditions include a requirement for signage alerting the beachgoing public of alternate access to Parking Lot #2 and the availability of the shuttle to these users, and a requirement to relocate the perimeter fencing to maintain public access under the bridge.

Substantive File Documents: City of San Diego Park and Marine Use Permit
Mitigated Negative Declaration (LDR No. 96-7683)
Event Schedule, dated
Site Plan, dated
Shuttle/Parking/Traffic Plan, submitted November
21, 1997
Coastal Development Permit #6-97-30

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Avoidance Techniques/Mitigation for Impacts to Eelgrass. Prior to issuance of the subject permit, the applicant shall submit, for review and written approval of the Executive Director, an eelgrass mitigation plan. The plan shall include the following components:

a) The applicant shall implement the following measures to avoid impacts to eelgrass to the maximum extent feasible:

1) The start dock shall be placed in deep enough water to avoid impacting eelgrass and shall be kept in place by anchors, not pilings;

2) Access to the start dock for skiers shall be via a temporary structure located in an area devoid of eelgrass. If an area devoid of eelgrass cannot be found, access to the dock structure shall be via watercraft with a shallow draft, having no motor, and propelled by ropes, pulleys, paddles or oars. The location of the start dock and skier access corridor shall be designated on the eelgrass survey map required below;

3) In-water events shall be scheduled for high tide periods to the maximum extent possible to provide additional depth in the water column between the activity and eelgrass beds.

b) Using a biologist acceptable to the Executive Director, the applicant shall conduct a pre-event eelgrass mapping program to document the current distribution of eelgrass and to plan water access and equipment placement to avoid damage to eelgrass. The pre-event mapping will serve as a baseline to assess any potential impacts to eelgrass resulting from the event activities. The biologist shall then conduct a post-event eelgrass survey within 10 days of the end of the activities and removal of in-water facilities. This survey will be compared to the pre-event survey to determine if any impacts associated with the X Games have occurred. Both surveys shall be submitted to the Executive Director for review and written approval. If the Executive Director concludes that impacts are identified, the following measures will be taken:

1) The type and extent of damage will be documented by the biologist and a determination will be made as to whether the impact is of a short-term nature (eg., leaf damage, trampling, minor propeller scarring);

2) A recommendation for mitigation will be made by the biologist on means to mitigate impacts. The mitigation recommendation may range from follow-up monitoring in approximately one month to determine if natural recovery of the damaged beds has occurred (short-term impacts), to revegetation of impacted habitat in accordance with the Southern California Eelgrass Mitigation Policy (long-term impacts) at a ratio of 1.2 to 1 (replacement to impact). The Executive Director shall determine the necessary mitigation, taking into consideration the biologist's recommendation and input by the California Department of Fish and Game, the US Fish & Wildlife Service and the National Marine Fisheries Service.

c) The applicant shall undertake and complete any mitigation measures as recommended and approved in accordance with Section b.2. above for damage which occurs. A written commitment by the applicant to be responsible for the mitigation shall be provided to the Executive Director for review and written approval prior to issuance of this permit.

2. Least Tern Nesting Site. Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval in writing a final plan for the mitigation of potential impacts to least terns. The plan shall include written acknowledgement and acceptance of the responsibility to implement the following specific provisions:

a) Predator bird deterrents will be installed on all structures, equipment and apparatus of sufficient height and proximity to provide a line of sight into the least tern nesting site to the extent recommended by the US Fish & Wildlife Service (Service) and California Department of Fish & Game (CDF&G);

- b) Security guards, tern monitors, animal damage control personnel and additional signage will be posted at or adjacent to the least tern nesting site consistent with the times and locations recommended in the Service's October 28, 1997 comment letter on the Draft Mitigated Declaration (Exhibit #3) and subject to a pre-event contract. Signage shall not project above the elevation of the tern site itself;
- c) Light levels will be regulated to the extent recommended by the Service's October 28, 1997 letter (Exhibit #3);
- d) Water event practice and competition in Bonita Cove will be in substantial conformance with the 1997 event, as depicted in the Practice/Competition Schedule identified as Draft 7, dated May 29, 1997. The number/size of boats/engines shall be comparable to those used for the 1997 event;
- e) Trash will be collected and disposed of in on-site dumpsters, and hauled away from the site to the extent recommended by the Service's October 28, 1997 letter, at a minimum (Exhibit #3);
- f) No X Games helicopters will be granted permission to land, hover, or fly over Mariner's Point during the X Games;
- g) Fireworks will not be used at any time during the X Games at Mariner's Point; and
- h) Sound from speakers nearest to the buffer zone will be directed away from the tern colony. The sound system will be adjusted and monitored to preclude excessive noise (noise above the measured ambient noise level; and
- i) The applicant will comply with all other provisions of the Service's October 28, 1997 letter, including the provision to fund a part-time tern monitor to conduct nest checks and band chicks. Said monitor is to be a different person than the monitor observing and reporting on bird responses to X Games activities.

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director copies of its executed contracts with security guards, tern monitors and USDA Animal Damage Control staff, as recommended in the Service's October 28, 1997 letter (Exhibit #3). These contracts shall demonstrate compliance with the above requirements to the extent applicable and shall be reviewed and accepted in writing by the Executive Director. The contract with tern monitors shall include a component to observe both least tern and snowy plover reactions to nearby events (noise, crowds, equipment, etc.) and provide a written report within thirty (30) days after the X Games summarizing said observed responses. If after the end of the nesting season, it is determined by the Service that significant adverse effects on the success of the tern colony has resulted due to X Games activities, the Service may require appropriate and proportional compensation and ESPN shall provide such compensation.

The permittee shall undertake the development in accordance with the approved least tern mitigation plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No change to the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

3. Discontinuance of X Games. Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director, for review and written approval, a written agreement to cease the X Games event should adverse impacts on the least tern colony occur as a result of the Games. The agreement shall provide that:

1) If any of the designated tern monitors notifies ESPN and the Service that adverse effects on the tern colony have been observed, and,

2) if the Service, in consultation with the Executive Director, concurs in the existence of the adverse effects and determines that the adverse effects are significant and are directly related to the conduct of the event, and,

3) if the Service requests the ESPN X Games to be discontinued, then,

4) within 24 hours of receipt of said request, ESPN shall, in consultation with the Service, alter the conduct of the Games to the satisfaction of the Service or discontinue the Games and commence take-down activities in a manner acceptable to the Service.

4. Final Parking/Shuttle Program. Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final parking/shuttle program developed in substantial conformance with the draft Shuttle/Parking/Traffic Plan submitted on November 21, 1997, except as specifically modified herein. The approved parking/shuttle program shall be implemented by the applicant and shall include the following components:

a) A final site plan of the two easternmost parking lots on Mariner's Point, that clearly delineates the VIP parking area, the location and number of spaces reserved for shuttle buses, the number and configuration of handicapped spaces in Lot #2 (compared with the existing handicapped and regular parking space number and layout), the shuttle drop-off/pick-up point and the location and number of parking spaces usurped by the ESPN compound. The plan shall maximize to the extent possible the number of parking spaces in the western lot (Parking Lot #2) remaining available for general public use, and shall guarantee that the western entrance/exit to Parking Lot #2 remains open between 4:00 a.m. and 10:00 p.m. daily;

b) A final schedule listing the dates and times when public parking will be restricted in these two lots. The restricted hours shall represent the minimum required to facilitate the proposed events.

- c) A final shuttle schedule including the number of shuttle buses to be employed, the hours the shuttle program will be in operation, and the frequency of shuttle buses;
- d) A site plan/area map delineating the locations and number of parking spaces for all off-site parking areas and the proposed shuttle bus route;
- e) A publicity campaign for the shuttle program, including the use of radio, television, newspapers, etc. and signage to advertise the off-site parking venues and shuttle program and to emphasize the shuttle is available for use by the public not attending the X Games. Said campaign shall be in substantial conformance with the conceptual signage/publicity program submitted with the application on November 21, 1997, including placement of signs at all locations delineated therein. Signage on westbound West Mission Bay Drive at the Gleason Road and Mission Boulevard intersections shall indicate the availability of alternate public beach parking in Lot #2 and to points west and south of the X Games venue and the shuttle lot location.
- f) Provisions for evaluating the effectiveness of the shuttle plan. The provisions must document the adequacy of off-site parking by identifying the percentage of lots, or number of spaces, occupied during the time of highest attendance each day, the condition of traffic flow along West Mission Bay Drive during weekend events (i.e., free-flowing, slow but moving, congested, gridlock, etc.) and the effectiveness of signage, traffic officers, parking lot amenities etc., based on the applicant's observations and feedback from the public and City of San Diego. Following the event, the monitoring program shall be summarized in a written report which shall be submitted to the Executive Director on or before July 31, 1998. The report should identify any problems that occurred and make recommendations for improvements in the future. The report shall be retained in the file and used in the review of future permit applications for the X Games or similar events.

The permittee shall undertake the development in accordance with the approved parking/shuttle program. Any significant changes to the approved plan should be reported to the Executive Director. No change to the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required. The Commission recognizes that adjustments to the shuttle schedule and route may be required during actual events based on unforeseen circumstances.

5. Final Site Plan/Public Accessway. Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final site plan which shall clearly delineate all perimeter fencing. Said plan shall indicate that the public sidewalk along the south side of West Mission Bay Drive, the access path under the Glen Rick Bridge, and the eastern edge of Mariner's Point extending to the tern nesting site remain unobstructed outside the perimeter fencing and thus available for general public use. The permittee shall undertake the development in accordance with the approved fencing plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No

change to the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

6. Army Corps of Engineers Permit. Prior to the commencement of construction, the applicant shall submit to the Executive Director for review and written acceptance, a copy of the Army Corps of Engineers (ACOE) permit for the subject development. If the terms or conditions of the ACOE permit conflict with the subject coastal development permit, an amendment to this permit may be required.

7. Set-Up/Take-Down Dates. No construction of structures, placement of equipment or restrictions on public use of any portion of Mariner's Point may commence prior to June 2, 1998. In addition, all temporary improvements must be removed from the site, and the site restored to pre-existing conditions, no later than July 2, 1998. The construction and dismantling schedule shall be in substantial conformance with the schedule approved for the 1997 event and shall minimize impacts to general public use of Mariner's Point and the parking lots to the extent possible.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to stage a series of sporting competitions known as the X Games at Mariner's Point in Mission Bay Park. The games will be held from June 19 to June 28, 1998 and includes two summer weekends to stage the events. Setup will begin on June 2, 1998 and takedown will be complete by July 2, 1998. The overall event will require exclusive use of grass, dirt, water and sand areas, as well as all of one public parking lot and a portion of another. In addition, security fencing will enclose several existing picnic tables. The event will be free to the public, but perimeter fencing will be required to secure the temporary improvements and television equipment. Because the proposed development takes place for more than two weeks continuously, affects coastal access routes and utilizes public parking lots, the development does not qualify for an exemption under the Commission's adopted "Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements." The event is proposed to be the same as the 1997 X Games, which were held during the second half of June, 1997 at the same location, and which were authorized under Coastal Development Permit #6-97-30.

The various sporting events include climbing, snowboarding, barefoot water-skiing, wakeboarding, and several bicycle and skating competitions. The applicant proposes temporary improvements to facilitate these events, including construction of an approximately 75-foot-high climbing wall and a 100-foot-high snowboard ramp. Also proposed are bleachers, a dirt jump, a street course, a dock and jump for water-skiing, concession stands and office and storage trailers; none of these other amenities will exceed thirty feet in height. However, some of the adjustable camera and lighting equipment (such as the Jumbotrons and a cable cam tower) do exceed thirty feet at times.

The proposal also includes traffic and parking programs to handle the expected crowds of up to 10,000 people for some final events. Off-site parking at several other Mission Bay Park locations, combined with a shuttle bus service, are proposed to address this issue and prevent event participants, workers and spectators from interfering with general public access to nearby bay and ocean beaches and recreational amenities. In addition, the proposal includes some avoidance and mitigation techniques to address eelgrass resources in Bonita Cove (the site of the water events) and the adjacent least tern nesting site at the tip of Mariner's Point. These items will be discussed in greater detail in the following findings.

2. Marine Resources/Eelgrass. Sections 30230 and 30231 of the Coastal Act address the maintenance and restoration of marine resources, which include eelgrass beds. Also, Section 30240 addresses development in and adjacent to environmentally sensitive habitats. Under these various policies, adverse impacts to biological resources must be avoided to the extent feasible. If such impacts are unavoidable, they must be mitigated.

Eelgrass is prevalent throughout much of the shallower area of Mission Bay, including within portions of Bonita Cove where the two water events (barefoot waterskiing and wakeboarding) are proposed. The resource is most abundant between elevations -1 and -6 feet MLLW (mean lower low water), with only sporadic vegetation at elevations lower than -10 feet MLLW. Adverse impacts to eelgrass will be avoided to the extent possible by locating the floating dock in deep water where eelgrass is unlikely and by charting a skier access corridor to the dock through an area devoid of eelgrass. A pre-event survey conducted prior to the 1997 X Games delineated an approximately 300' stretch of shoreline without eelgrass resources, allowing last year's games to operate successfully with no impacts on eelgrass. However, the extent and location of eelgrass beds can vary season to season depending on tides, weather, or other factors, such that current information is required for each successive event. The requirements of the Mitigated Negative Declaration (MND) require pre- and post-event surveys for the 1998 games to address this concern, with subsequent mitigation of any documented impacts.

As compared to other wetland habitats (salt marsh and riparian for example), eelgrass is less difficult to replace and return to pre-existing levels of density and aerial extent. In general, eelgrass re-establishment has been very successful throughout Mission Bay. The MND includes several conditions to reduce and/or eliminate adverse impacts to eelgrass; these were also identified in the comment letter on that document from the Service. Moreover, these recommendations are reiterated in Special Condition #1, attached hereto. As conditioned, the applicant is required to comply with the stated avoidance techniques and to conduct pre- and post-activity surveys to determine any adverse impacts. The condition insures that if adverse impacts to eelgrass are documented, they will be mitigated consistent with the Mission Bay Natural Resources Management Plan, which is part of the certified Mission Bay Park Master Plan, and consistent with the requirements of the Southern California Eelgrass Mitigation Policy. As conditioned, the Commission finds the proposal consistent with the cited resource provisions of the Coastal Act.

3. Biological Resources/Least Tern Nesting Site. Section 30240 provides for the protection of environmentally sensitive habitat areas; part (b) specifically states:

(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.

A designated least tern nesting site is located just south of the proposed Mariner's Point X Games venue, at the tip of the point itself. The California least tern is an endangered species, listed with both the state and the federal government. The US Fish & Wildlife Service (Service) and California Department of Fish & Game (CDF&G) are the agencies principally charged with protection of endangered species in California, and the Commission looks to these agencies for guidance and direction when a development could potentially adversely impact a listed species.

The least tern nesting season runs from early April to September, and Mariner's Point has become one of the three most successful nesting sites in San Diego County. In this particular instance, there are serious concerns that the X Games could have adverse impacts on the least tern, since the games are proposed during the nesting season. Proposed competitive events will be held the last two weeks of June, but site improvements will be under construction and/or in place from the first week of June until July 2. The greatest fear is that the various proposed structures (bleachers and camera mounts in particular, since these are the structures closest to the nesting site at a distance of 500 feet) will become predator perches. Any structure that provides a line of sight into the nesting area could potentially be used for this purpose, and predation on tern chicks is a significant threat to the species survival. In addition, noise from the proposed boating activities could potentially interfere to some degree with the tern's foraging habits, since the birds generally forage throughout daylight hours. Also, since the terns are fishers, turbidity caused by the boats could affect the terns ability to see the fish. Finally, lights and noise generated by the competitions and the crowds of spectators could also adversely affect the least tern.

A number of agencies and individuals expressed serious concerns with the 1997 event's potential indirect impacts on least terns, and challenged the adequacy of environmental review conducted by the City of San Diego for that event. Although the event was ultimately approved by all regulatory agencies having jurisdiction, it was strongly suggested that the applicant review alternative sites or times of year before applying for the same event in the future. For the 1998 event, the City prepared a Mitigated Negative Declaration, but did not analyze alternative locations or times for the 1998 X Games.

Absent such information in the environmental document, the applicant has submitted some justification for this specific site and time of year with the current application. Specifically, alternative sites at Fiesta Island, South Shores, Embarcadero Park and Balboa Park were investigated before the Mariner's Point site was selected. The locations were eliminated for

combinations of various reasons, including limited access, an inability to accommodate the expected crowds, competition with nearby attractions (Sea World and the San Diego Zoo), traffic concerns and failure to meet logistical broadcast requirements. It was also maintained by the applicant's biologist that the other Mission Bay Park sites (Fiesta Island and South Shores) have more continuous eelgrass beds along their shorelines; thus the likelihood of direct impacts on this resource was increased at those sites. With respect to the time of year for the proposed event, the applicant's justification is solely economic. The latter part of June represents a "window" in an otherwise full calendar of sporting events, both on ESPN and competing networks. From the applicant's perspective, if they can't carry the X Games at the proposed time, there is no point in scheduling the event at all.

In addition to these reasons for siting the event on Mariner's Point during the last week of June, the applicant maintains that the success of the 1997 event provides further justification to support use of the same venue in 1998. The 1997 X Games included a number of preventive measures to minimize the potential for adverse impacts, and an ongoing monitoring program throughout the event to detect any impacts as they occurred. The final report issued by the project biologist indicated that no adverse impacts attributable to the X Games occurred during the event. In fact, the report indicated a record number of successful fledgings for the colony in 1997 and surmised that the added security presence during the heart of the nesting season may have contributed to the colony's success by eliminating the threat of human intrusion and more quickly detecting and removing animal predators.

The Service, in a letter of comment on the MND dated October 28, 1997 and attached as Exhibit #3, is not formally objecting to the 1998 event, provided it is conducted in the same manner as the 1997 event. Specifically, the comment letter included a number of appropriate mitigation measures to address potential biological impacts. For the most part, these measures are identical to those included in the 1997 event, and the applicant is proposing to continue these practices in the subject application. However, the Service also comments that ESPN should fund a specific nest monitor to conduct nest checks and band chicks within the tern colony itself; this would be in addition to the monitors located outside the site which observe bird reactions to X Games events. The Service's letter (and subsequent phone conversations with Commission staff) stress the importance of this position to the success of the tern colony. The Service describes this as a part time position, requiring less than ten hours a week, and states that there are a number of persons in the area who possess the needed credentials for such an assignment.

The Commission has included a specific condition addressing those aspects of the Service's recommendations most pertinent to Coastal Act policy and thus appropriately monitored/administered by this agency. Special Condition #2 requires installation of bird deterrents on all structures with a line of sight to the least tern nesting area; collection of trash regularly to avoid attracting seagulls and small mammals, which are known to prey on tern eggs and chicks; hiring of appropriate security and monitoring personnel, including the position described above, and posting signs to secure the least tern site; regulation of light to avoid disturbance to the nesting birds; conduct of the water events in conformance with the 1997 Games; and prohibition of the use of

helicopters and fireworks at the Mariner's Point venue. The condition also requires submittal of copies of the applicant's executed contracts with security personnel, tern monitors and USDA Animal Damage Control personnel, to document that these services have been secured consistent with the terms of the Service's conditions. The actual training, deployment and overseeing of these workers is rightly within the direct purview of the wildlife agencies.

A separate condition, Special Condition #3, includes a "shut-down" procedure should adverse effects on the terns be reported by any tern monitor required by Special Condition 2.b. and 2.i. This procedure was a requirement added by the Coastal Commission during the public hearing for the 1997 event. It assures that the X Games will be appropriately modified or discontinued if significant impacts on the tern colony are documented by the tern monitor and substantiated by the Service.

In summary, because of the nature of the proposed sporting activities, it is possible that some adverse, though indirect, impacts to the adjacent least tern nesting site could occur. In addition, although snowy plovers, another endangered species, have not frequented the site in the recent past, the habitat is suitable for this species as well. Thus, the monitors observing tern reaction to X Games events are also to note any reactions from snowy plovers, should this species make use of the area during the event. Therefore, as regulated in the attached special conditions, the Commission finds the proposed development consistent with Section 30240 of the Act.

4. Public Access and Recreation. The proposed special event, to be held in Mission Bay Park during the summer season, has a potential to significantly affect public access to the nearby public beach and park amenities. The following Coastal Act policies are most applicable and state, in part:

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 resource areas from overuse.

Section 30211

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 30220

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

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by ... (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation

Mission Bay Park is a premier aquatic park, and provides numerous recreational opportunities for the public, including national and international visitors. However, Mariner's Point itself is not an area of high public use, although it does have some grass, many picnic tables and a tot lot. Some of the Point, outside of the least tern preserve addressed in the previous finding, is undeveloped dirt area, used intermittently for various special events and to some degree by the general public. During the games, temporary structures will occupy existing grass, dirt and sandy beach areas and security fencing will enclose several picnic tables. In addition, the event itself will usurp one entire public parking lot (Parking Lot #1 in proposal - approximately 200 parking spaces) to use for the ESPN television compound, VIP parking, bus storage and a potential shuttle pick-up/drop-off point. A portion of a second parking lot (Parking Lot #2 in proposal) will be designated for handicapped parking (30 spaces) and will also be used as a shuttle pick-up/drop-off point with public access restricted at one entrance; the remainder of Parking Lot #2 will remain open to the public throughout the event. These two parking lots are located on the south side of West Mission Bay Drive, at the entrance to Mariner's Point (Gleason Road intersection).

In the 1997 event, the applicant revised the initial proposal (which would have occupied all of Lot #1 and a significant portion of Lot #2) to eliminate any X Games use of Lot #2 by relocating the ESPN broadcast compound to Lot #1, along with all the other uses already proposed in that lot (VIP parking, shuttle drop-off, bus storage, etc.). However, when the Games were underway, it was apparently determined that the shuttle drop-off/pick-up point in Lot #1 wasn't working as hoped, and this operation shifted to Lot #2 for the remainder of the Games. The buses "looped" through the parking lot, but did not usurp any public parking stalls. Although some "on-the-spot" modifications were discussed with staff by telephone, no formal changes to the proposed/approved program were made. The Commission had acknowledged the potential for adjustments to the shuttle schedule and route, but had not specifically identified potential adjustments in the location of the shuttle drop-off/pick-up location.

Additionally, vehicular access to both lots from the central entrance at Gleason Road was limited to vehicles with VIP passes, handicapped persons and shuttle buses. A second entrance/exit to Lot #2, located to the west of this intersection, was available for use by the general public for beach access. However, signage, plus newspaper and media announcements, made it clear that

there was no X Games parking at Mariner's Point other than for the handicapped, and did not specifically direct general beach users to the west and this secondary access point, or to other public beach lots located in the remainder of Mission Bay Park. In the current proposal, the applicant has identified both parking lots for potential use as shuttle drop-off/pick-up locations, and has stated a desire to conduct the Games in the same manner as they were conducted last year, including the revisions made during the 1997 Games.

The two parking lots described above primarily serve the Bonita Cove area, which is located to the immediate west of Mariner's Point. This is a very popular swimming and picnic locale with large areas of grass and plentiful sandy beach. Moreover, ocean access is only approximately two blocks away in the Mission Beach community. The oceanfront recreational facilities include a public boardwalk, many beach equipment rental outlets, numerous food services and shops, and amusement park attractions at Belmont Park, including an historic roller coaster. More public beach and picnic areas are found on the north side of West Mission Bay Drive at Ventura Cove along with the Bahia Hotel resort complex. There are several public parking lots in the area, in addition to the two being affected by the X Games, to serve these amenities. All of the described facilities within this area of Mission Bay Park (parks, beaches, parking lots, etc.) are in comfortable walking distance from each other.

During the summer, the area parking lots tend to fill up fairly rapidly, especially on weekends. On holiday weekends, the lots are generally completely full by mid-morning and the West Mission Bay Drive/Mission Boulevard intersection (approximately two blocks west of Mariner's Point) is often at gridlock. The proposed X Games will take place the last two weeks of June, and will include sporting events on two weekends. The games are expected to draw crowds of up to ten thousand spectators for some of the event finals, as they did last year. These spectators, along with event workers and participants, could be in direct competition with beach users for the limited amount of public parking available, and could contribute significantly to traffic problems on the adjacent streets.

To address this issue, the applicant is proposing the use of off-site parking facilities at a number of other Mission Bay Park locations, and a shuttle bus system to transport X Games staff, volunteers, participants and spectators, and the general public (those who simply want to go to Mission beach, Bonita Cove, Ventura Cove, etc.), to and from the Mariner's Point venue and adjacent recreational amenities. The off-site parking lots for event spectators will be at South Shores (minimum of 3,000 parking spaces) and the Sunrunner lot at Sea World Drive and Friars Road (approximately 1,000 parking spaces); it is anticipated that spectators will arrive at three per vehicle on average. These off-site lots will be equipped with security personnel, restrooms and lighting. Athletes will be parked in 100 reserved spaces at Marina Village and shuttled to the games. Staff will use the 900-space dirt lot on the south side of Quivira Road, unless there is a conflict with a Hospitality Point concert, in which case staff will park at South Shores. From either location, X Games staff will be shuttled back and forth to Mariner's Point.

The shuttle plan will be extensively advertised in various media forms, and a signage program is included in the applicant's plan. Signage and advertising will stress that there is no X Games parking available at Mariner's Point, and all persons must use an off-site parking lot or alternative public transportation, such as buses, trolleys or taxis. The signs will be placed on the freeways to direct people to appropriate exits for the shuttle lots and in the Pacific Beach community to discourage spectators from heading south on Mission Boulevard into Mission Beach and warning others of potential traffic problems in the area in time to choose alternate routes avoiding X Games and beach traffic. There will also be numerous personnel directing traffic in the area of Mariner's Point, since the shuttle buses and taxis will be coming and going from the site.

The applicant's proposed shuttle and traffic plan is the same as last year's "on-the-ground" program, which worked very well and resulted in maintaining good traffic flow on the nearby City streets. The applicant has worked with various departments of the City of San Diego, including Parks and Recreation and the Police Department, as well as a private consultant experienced in addressing traffic and parking concerns associated with special events. Therefore, the Commission finds the proposed program acceptable for the most part. Special Condition #4 is attached to formalize the applicant's parking and traffic control plans. In addition to calling out specific program components, the condition also requires monitoring during the event and a follow-up report summarizing the effectiveness of the plans. This report will greatly assist the Commission in reviewing any future proposals for this or similar events. A certain degree of flexibility is required in the plan, to allow for on-the-ground adjustments due to unforeseen circumstances.

A change from last year's program is a requirement to provide signage on westbound West Mission Bay Drive at Gleason Road, directing the general beach-going public on to the west and to the shuttle lots. Although many beach-goers last year apparently took advantage of the free remote parking and shuttle service, those wishing to use Lot #2 may not have been readily aware that the secondary access was open. Direct ingress from westbound West Mission Bay Drive is available to Lot #2 west of the main driveway, but there is only space enough to stack two or three vehicles in the delineated left turn area. The applicant maintains that this parking lot was open to the public throughout the event, but was never very full; that may be because people didn't know how to get in with the main access restricted to handicapped persons and shuttle buses. The required signage is intended to assure that the general public is aware that beach parking is available elsewhere in Mission Bay Park, but, at the same time, to acknowledge that the shuttle lot can be used for beach parking as well as X Games parking.

A few members of the public did identify an access conflict at the northeast corner of the project venue. An existing accessway runs under the Glen Rick Bridge, allowing persons to move between the north and south sides of West Mission Bay Drive without having to cross this wide and busy street on the surface. This access was blocked to pedestrians and bicyclists during portions of last June, both during construction activities and during some sporting events. The applicant maintains that the access was open most of the time, and only closed when there was a public safety or security concern.

However, it appears the applicant's perimeter fence location can be modified to leave the accessway clear and open to the public throughout the special event. This would also allow use of the entire sidewalk on the south side of West Mission Bay Drive, and portions of upland and riprap along the east side of Mariner's Point used by fishermen. Special Condition #5 requires submittal of a final site plan documenting that the perimeter fence is placed such that maximum public access is maintained.

As conditioned, the Commission finds the proposal consistent with the cited sections of the Coastal Act, and, as required for all projects located between the sea and first coastal roadway, consistent with all other public access and recreation policies as well. Furthermore, it must be noted that the proposed X Games will itself provide a public recreational experience. Although this is not a coastal-dependent recreational use (even the water sports could be conducted at inland locations), it is likely to attract many of the same people who would otherwise be going to nearby beaches. In addition, attendance at the X Games may introduce residents and visitors to areas of Mission Bay Park with which they were not previously familiar. There will be no admission charge to spectators, and free parking and shuttle facilities will also be provided as previously discussed.

5. Visual Resources. Section 30251 of the Coastal Act provides for the protection of scenic coastal areas and for the compatibility of new and existing development. The subject site is located in the western part of Mission Bay Park, and is visible from the Hyatt Islandia Hotel, Hospitality Point, Mission Point Park and portions of the Mission Beach residential community. At least some of the proposed improvements will also be visible from West Mission Bay Drive, a major coastal access route. Additionally, the site itself is a recreational resource and destination point, although less highly used than many other areas of Mission Bay Park.

The City of San Diego has a height restriction of thirty feet for coastal areas, based on a public initiative in 1974. Most of the proposed structures will meet that limitation, including the bleachers, vendor booths, office trailers and most of the sports competition facilities. However, the climbing wall will be 75 feet high, and the snowboard ramp 100 feet high. In addition, some of the camera and lighting equipment will exceed thirty feet, namely the Jumbotrons, a cable cam tower and a boom extension on the lighting truck, which will be a maximum of 100 feet high. When the equipment is not in use, it will be lowered to below thirty feet.

These facilities are necessary in order to conduct and televise the proposed competitions; however, they are all temporary improvements, and will be on the site less than one month. Construction will commence on June 2nd, with the various structures and equipment "arriving" at various times, but with everything on-site when the Games begin June 19th. All temporary improvements will be removed from Mariner's Point on or before July 2, 1998. Special Condition #7 establishes the earliest and latest dates that any temporary X Games improvements may be located on Mariner's Point.

The Commission could not find the structural improvements consistent with Section 30251 of the Coastal Act or the City's LCP, which incorporates the

coastal height limit, as permanent structures. However, since they are of short duration, and associated with a major special event which will provide a low-cost (free) public recreational opportunity, the Commission finds that any temporary visual impacts will not have a significant detrimental effect on the scenic resources of Mission Bay Park. Thus, the Commission finds the proposed development, as conditioned to address other Coastal Act concerns, consistent with the intent of Section 30251 of the Act.

6. 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. Only as conditioned can such a finding be made for the proposed project.

The proposed improvements are located on existing public parklands which are designated in the certified Mission Bay Park Master Plan as parkland (the grass area) and open beach (the dirt and sand areas). The Master Plan does not designate any particular areas of the park for special events, but most special events in Mission Bay occur either on Fiesta Island or Mariner's Point. A Park and Marine Use Permit was issued by the City on November 20, 1997. A permit is also required from the Army Corps of Engineers for the temporary improvements associated with the two "in-water" events (barefoot jumping and wakeboarding). Special Condition #6 requires the applicant to submit a copy of that permit, which is typically issued after the coastal development permit, prior to commencement of construction. The condition also advises the applicant that any conflicts between the two permits may need to be resolved through the amendment process.

The Commission recently certified a land use plan (the Mission Bay Park Master Plan) for Mission Bay. There are no implementing ordinances in place as yet. Thus the entire park remains an area of deferred certification, and Chapter 3 of the Coastal Act remains the standard of review. Even after an implementation package is certified, much of the park will remain under direct Commission permit jurisdiction, since many areas of the park were built on filled tidelands. The proposed development raised a number of concerns under Chapter 3 policies; these have been resolved through special conditions and addressed in previous findings. Moreover, although several of the proposed improvements would be inconsistent with the environmental policies and design parameters of the certified Master Plan, as temporary structures only they can be found acceptable for a short period of time. Therefore, the Commission finds that approval of the proposed temporary improvements, as conditioned herein, will not prejudice the ability of the City to develop a certifiable implementation program for Mission Bay Park or to continue implementation of its fully-certified LCP for the remainder of the City's coastal zone.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives

or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As discussed herein, the proposed project has the potential to cause significant adverse impacts to the environment. Specifically, the project has raised concerns over biological resources, public access, traffic circulation and visual resources. However, with the inclusion of special conditions and as a short-term temporary event, the project has been found consistent with all applicable policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment and still allow the event to proceed. Therefore, the Commission finds that the proposed project, with the inclusion of all special conditions, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

(7145R)

6-97-145



↑
SITE

EXHIBIT NO. 1
APPLICATION NO. 6-97-145
Location Map
California Coastal Commission

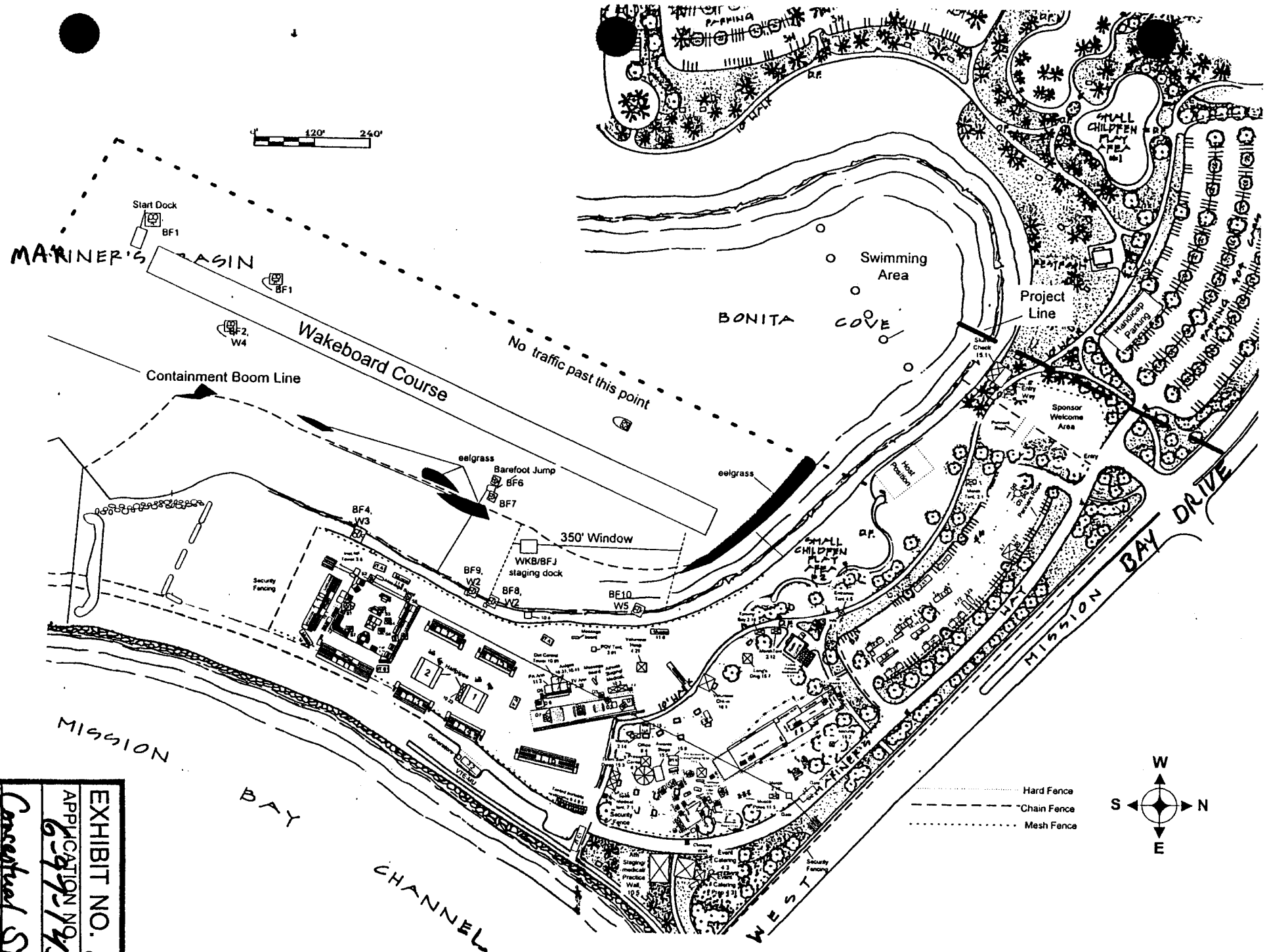


EXHIBIT NO. 2
 APPLICATION NO. 6-99-145
 Conceptual Site Plan
 California Coastal Commission

6-99-145

6-97-145



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Field Office
2730 Loker Avenue West
Carlsbad, California 92008

OCT 28 1997

Mr. John Kovac, Senior Environmental Planner
City of San Diego
Development Services/Land Development Review
1222 First Avenue, Mail Station 501
San Diego, California 92101

RE: Mitigated Negative Declaration for the 1998 ESPN X-Games at Mariner's Point at
in the Mission Bay Regional Park, San Diego, California

Dear Mr. Kovac:

The U.S. Fish and Wildlife Service (Service) has reviewed the Draft Mitigated Negative Declaration (MND) for the proposed 1998 ESPN X-Games to be held at Mariner's Point and Bonita Cove within the City of San Diego's Mission Bay Park. The ESPN X-Games are a series of competitive sporting activities such as wall climbing, biking, snowboarding, wakeboarding, and waterskiing that will begin June 19 and continue through June 28. Associated with this event would be the temporary construction and installation of related X-Game structures such as a ski board ramp, skating ramps, climbing wall, viewing bleachers, large television broadcast compound, crane/towers for television cameras, concession stands, floating docks and storage/office trailers. The entire time necessary for the setup of the X-Games, the competition, and the dismantling of the event would entail a 30 day period from June 2 through July 2. The project proposes off-site parking with shuttle service to the events.

The federal and state endangered California least tern (*Sterna antillarum brownii*; least tern) established a nesting colony at Mariner's Point in 1989 and the breeding population has steadily increased every year since that time. In 1997 approximately 270 least tern pairs were observed nesting at this site. The habitat at Mariner's Point could also support the federally threatened western snowy plover (*Charadrius alexandrinus nivosus*; plover) that breeds along coastal habitats including coastal dunes, lagoon margins, and sandy spits. Plovers were not observed breeding within Mariner's Point in 1997, but the potential for a pair of plovers breeding at this site does exist.

Mitigation measures for the 1998 X-Games would follow the same conditions and procedures as conducted during the 1997 event. These would include:

EXHIBIT NO. 3
APPLICATION NO. 6-97-145
10/28/97 Letter
From USFWS
California Coastal Commission

- 1) A 500 foot buffer between the least tern nesting area/preserve at the tip of Mariner's Point and the X-Games venue. The southern end of the venue will be temporarily fenced to assure this buffer.
- 2) Predatory bird deterrents will be installed on all temporary, venue structures and equipment over 35 feet in height and within the line of sight into the least tern nesting site. The cable for the camera will be lowered when not in use.
- 3) Twenty-four hour security guards will patrol the 500-foot buffer zone and the perimeter of the least tern nesting during the event setup, competition, and event dismantling of the 1998 X-Games to prevent any inadvertent adverse effects by unauthorized entry into the buffer and bird nesting areas.
- 4) A certified biologist will monitor the least tern colony from 0700 to 2100 hr during the event setup, competition, and event dismantling of the 1998 X-Games to observe the least tern and snowy plover. The biological monitor will observe and record any reactions of these birds to noise, presence of crowds and venue equipment, and other venue activities. The certified biologist will supervise at least one monitor during event act up and breakdown and two monitors during the sporting event/competition.
- 5) The certified biologist will provide daily monitoring records to the Service and will prepare a final report summarizing the monitoring/observation and analyzing the effects of the event on the least terns and snowy plovers within 30 days of the completion of the removal of the event facilities. A copy of this report shall be submitted to the City of San Diego.
- 6) If the certified biologist determines that any action related to the event would cause a significant adverse effect on the least tern or snowy plovers, the certified biologist will immediately advise both the authorized, resident ESPN event manager and the Service. The ESPN event manager will be responsible to take reasonable action to immediately address the potentially adverse conditions. The certified biologist, the biological monitor, and the resident event manager will be supplied with cellular phones or other communication equipment such that rapid advisory warnings, consultation, and any remedial action can occur as soon as possible.
- 7) City lifeguards will patrol the waters around the least tern nesting area/preserve.
- 8) Predator control of the least tern nesting area, will be conducted by USDA animal damage control.
- 9) Event lighting will be directed away and shielded from the nesting site and monitored for adverse effects to nesting site throughout the event setup, competition, and event breakdown of the 1998 X-Games.

6-97-145
Exhibit #3-pg. 2

- 10) No fireworks, strobe lights, pulsating lights, or sky tracker lights will be used.
- 11) Garbage dumpsters and trash cans will be emptied several times a day during the event to prevent overflow and all dumpsters will be covered to prevent the attraction of gulls, mammals, or other predators to the site.
- 12) The event layout will be designed such that the highest structures would be at the opposite (northern) end of Mariner's Point from the tern nesting site.
- 13) A containment boom line will be installed offshore in Bonita Cove to keep unauthorized boats from the nesting area.

The Service concurs that the aforementioned measures proved to be successful last year in maintaining a productive least tern breeding colony and we agree that each of these conditions should be continued in 1998. In conjunction with the least tern behavioral monitoring associated specifically with the X-Games, a biologist under contract with the California Department of Fish, funded through Section 6 of the Endangered Species Act, monitored the reproductive biology throughout the entire nesting season. Unfortunately, it has come to our attention that Section 6 funding for the least tern program will not be available in 1998. The Service maintains that nest monitoring is an integral component in determining potential adverse impacts due to the X-Games. In lieu of the absence of this funding, the Service recommends that any permit issued for the subject project contain a provision for the funding of nest monitoring for the health and productivity of this colony can be monitored throughout the entire nesting season, including pre- and post X-Games activities.

The least tern and the snowy plover are both covered species under the City of San Diego's Multiple Species Conservation Program (MSCP) approved on July 16, 1997. In Table 3-5 of the City of San Diego MSCP Subarea Plan it is stipulated that area specific management directives must include "protection of nesting sites from human disturbance during the reproductive season, predator control, and specific measures to protect against edge effects to this species." The Service has previously agreed that a 500 foot buffer was adequate in 1997 to protect against detrimental edge effects for this breeding least tern colony during the X-Game activities. However, it is also our understanding that other sporting and/or recreational events were allowed within 150 feet of the colony during the same year. We understand that in an urban setting it is difficult to manage one resource such as Mission Bay for an array of land uses including such diverse activities as active recreation and habitat preservation. In this instance, a designated recreational area is immediately adjacent to a designated endangered species breeding habitat per the 1994 Mission Bay Master Plan. It is hoped that, by following the directives of the MSCP Table 3-5 and protecting this site against edge effects, recreation and endangered species can co-exist. To this end, the Service recommends that a uniform buffer area of 500 feet be inacted adjacent to the least tern colonies and snowy plover nest sites to hopefully eliminate detrimental edge effects as called for under the Subarea Plan. The Natural Resources Management Plan for Mission Bay should be updated to address all applicable provisions of the MSCP and City of San Diego Subarea Plan, including the above mentioned measures to serve as the area specific

Mr. Kovac

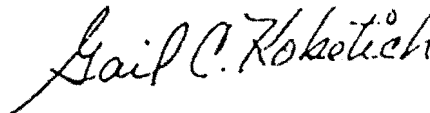
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management directive for Mission Bay. The Service will work with the Parks and Recreation Department in revising the management plan.

Placement of any structures within bay waters may require a permit from the Army Corps of Engineers. Impacts to eel grass (*Zostera marina*) should be avoided and any unavoidable impacts need to be mitigated consistent with the Southern California Eelgrass Mitigation Guidelines as stipulated in the MND.

The Service appreciates the opportunity to review and comment on the draft MND for the proposed ESPN X-Games in 1998. We look forward to working with the City of San Diego and ESPN during the 1998 X-Games. Please contact Susan Wynn or Patrice Ashfield of my staff (760-431-9440) with any questions or comments.

Sincerely,



Gail C. Kobetich
Field Office Supervisor

1-6-97-HC-28

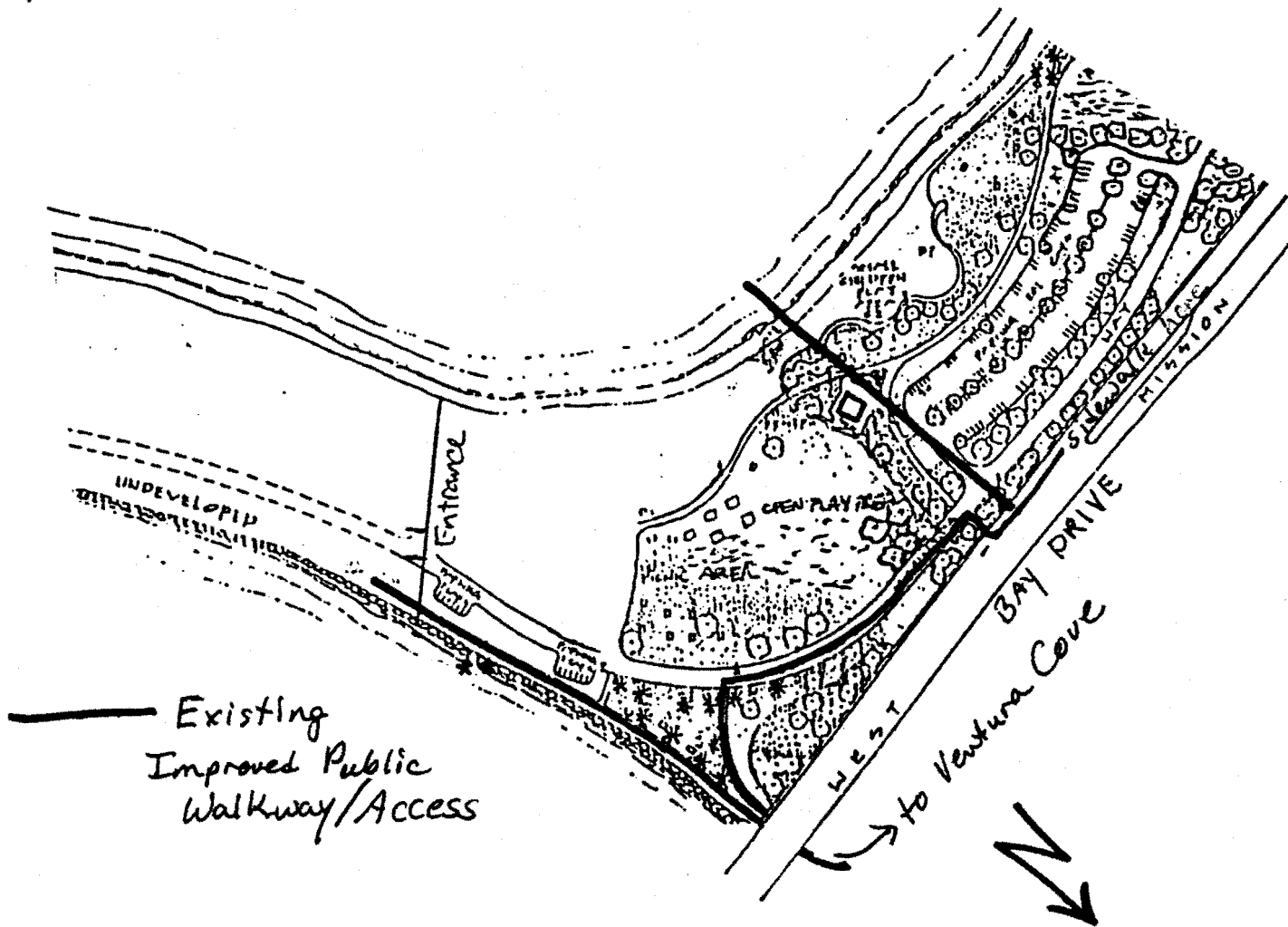
cc: California Coastal Commission, San Diego, CA (Attn: Ellen Lierly)
Corps of Engineers, Los Angeles, CA (Attn: Terry Dean)

6-97-145
Exhibit #3-pg. 4

6-97-145

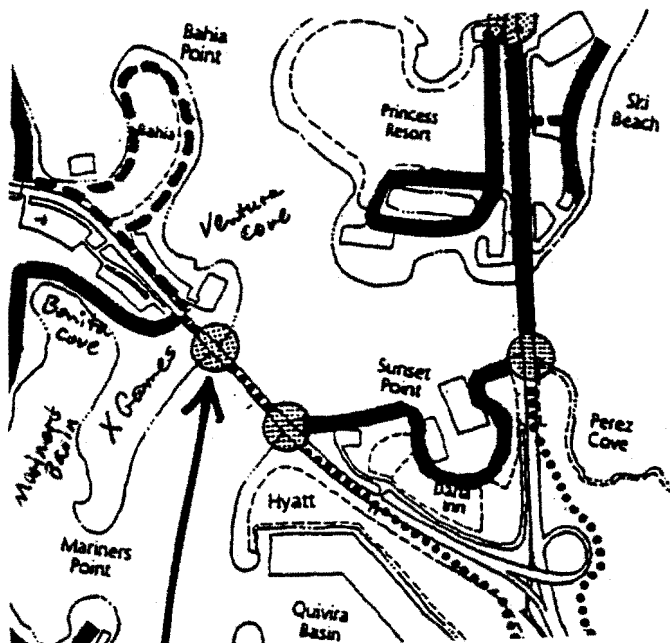
BASIN

BONITA COVE








Existing Improved Public Walkway/Access

From Mission Bay Park Master Plan:



LEGEND

-  Existing Pedestrian/Bicycle Path
-  Proposed Pedestrian/Bicycle Path
-  Roadside Bicycle Lane
-  Boardwalk (Under Bridge)
-  Existing Under-Bridge Connection

Site

Exhibit # 4
6-97-145

Under Bridge Access