

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

**RECORD PACKET COPY**

February 19, 1998



**TO:** Coastal Commissioners and Interested Persons

**FROM:** Charles Damm, Senior Deputy Director

**SUBJECT:** Concurrence with the Executive Director's determination that the action of the County of Orange accepting certification with suggested modifications of Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program is legally adequate.

**STAFF RECOMMENDATION**

Staff recommends that the Commission concur with the Executive Director's determination that the County's action is legally adequate.

**BACKGROUND**

On October 9, 1997, the Coastal Commission certified Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program with suggested modifications. The suggested modifications were proposed to bring the Land Use Plan Amendment and the Implementing Actions Program into conformance with the Coastal Act. Land Use Plan Amendment No. 1-95 replaces the certified 1986 Land Use Plan in its entirety. The Implementing Actions Program is the first implementation plan for Bolsa Chica to be submitted to the Commission. The Land Use Plan Amendment No. 1-95 and the Implementing Actions Program together constitute the Bolsa Chica Local Coastal Program.

On February 3, 1998, the County of Orange accepted, and agreed to the Commission's suggested modifications by passing Resolution No. 98-43 and adopting Ordinance O-98-2 incorporating the suggested modifications into the Land Use Plan Amendment and Implementing Actions Program. The County had previously adopted Ordinance 3965 on June 18, 1996 for the Bolsa Chica Development Agreement which is part of the implementation portion of the Bolsa Chica Local Coastal Program.

As provided for in Section 13544 of the California Code of Regulations, the Executive Director must determine that the County's action is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the County's action is legally adequate. Unless the Commission objects to the Executive Director's determination, the certification of the Bolsa Chica Local Coastal Program shall become effective upon the filing of the required notice of certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(V).



**County of Orange**  
**Planning & Development Services Department**

THOMAS B. MATHEWS  
DIRECTOR

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February 9, 1998

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CALIFORNIA  
COASTAL COMMISSION

Mr. Chuck Damm, District Director  
South Coast Area  
California Coastal Commission  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4302

SUBJECT: COUNTY OF ORANGE SUPPLEMENTAL SUBMITTAL  
Bolsa Chica Local Coastal Program (LCP)

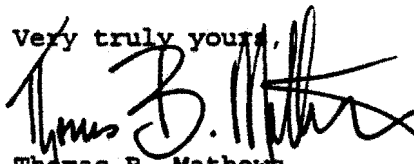
Dear Mr. Damm:

As a follow up for our submittal made on February 4, 1998 for the subject project, by this letter, we are submitting the following items to complete our submittal:

1. Board of Supervisors Resolution No. 98-42 acknowledging that no new environmental documentation is required for CEQA compliance.
2. Board of Supervisors Resolution No. 98-43 approving the incorporation of Coastal Commissions' Suggested Modifications of January 11, 1996; October 9, 1997 and January 12, 1998 to the Bolsa Chica Local Coastal Program.
3. Board of Supervisors Ordinance No. 0-98-2 adopting the Planned Community Program regulations of the LCP as the zoning regulations for Bolsa Chica.
4. Board of Supervisors Minutes for the public hearing dated February 3, 1998 for the subject project.

We are prepared to meet with you if desired to acquaint you with the submittal, answer any questions, or address any issues. Please feel free to contact me or Mr. Ron Tippetts, Chief of Public Projects, at your convenience.

Very truly yours,

  
Thomas B. Mathews  
Director of Planning

cc: Ron Tippetts

Attachment

RT:sf  
8020910230796

RESOLUTION OF THE BOARD OF SUPERVISORS  
ORANGE COUNTY, CALIFORNIA  
February 3, 1998

*Hlea & Lew*  
*For Zippetto*  
**RECEIVED**  
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CALIFORNIA  
COASTAL COMMISSION

On the motion of Supervisor Silva, duly seconded and carried,  
the following Resolution was adopted.

WHEREAS, the County of Orange ("County") elected to prepare a Local Coastal Program in accordance with Section 30500 of the California Coastal Act ("Coastal Act") for the Bolsa Chica Segment of the County's North Coast Planning Unit for its Coastal Zone;

WHEREAS, on December 14, 1994, the Board of Supervisors adopted a Local Coastal Program for Bolsa Chica ("Bolsa Chica LCP") pursuant to Resolution 94-1341 and adopted findings in support thereof;

WHEREAS, the Bolsa Chica LCP consists of an amendment to the Commission-certified Land Use Plan of 1986, and an Implementing Actions Program that consists of the Planned Community Program, and the Wetlands Restoration Program;

WHEREAS, pursuant to Section 30510 of the Coastal Act, a local coastal program must be submitted to the California Coastal Commission ("Coastal Commission") for certification;

WHEREAS, the Board of Supervisors directed the County Planning and Development Services Department to submit the Bolsa Chica LCP to the California Coastal Commission ("Coastal Commission") for certification and approval;

WHEREAS, pursuant to Coastal Act, the Coastal Commission may certify a local coastal program and suggest modifications to the local coastal program, and by a series of actions described in detail below, the California Coastal Commission certified the Bolsa Chica LCP with suggested modifications;

WHEREAS, on January 11, 1996, after a public hearing, the Coastal Commission certified the Bolsa Chica LCP, with suggested modifications;

WHEREAS, the Coastal Commission's suggested modifications (the "1996 Suggested Modifications") included, but were not limited to:

- a. Provisions for "failure to act" situations of the coastal development permit process;
- b. Specifications for agency coordination and maintenance for the 20-acre Huntington Mesa ESHA;
- c. Description of and location of monitoring stations under the Bolsa Chica LCP/Wetland Restoration Program's shoreline monitoring program to measure shoreline changes;
- d. Provisions for accidental spillage of crude oil, gas and petroleum products;

Board Resolution re: LCP

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Resolution No. 98-43

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- e. Provisions for protection of bluff areas and use of drought tolerant plants;
- f. Inclusion of the Department of Fish and Game in consultations regarding the State Ecological Reserve; and
- g. Inclusion of the 50-foot setback along the Bolsa Chica Mesa bluff edge.

WHEREAS, on March 6, 1996, the Bolsa Chica Land Trust, Huntington Beach Tomorrow, Shoshone-Gabrielino Nation, Sierra Club, and Surfrider Foundation filed a Petition for Writ of Mandate against the California Coastal Commission (Bolsa Chica Land Trust et al. v. The California Coastal Commission, originally filed in County of San Francisco as Superior Court No. 976587, subsequently transferred to County of San Diego as Superior Court No. 703570) seeking to vacate and set aside all actions taken by the Coastal Commission on January 11, 1996, with respect to the Bolsa Chica LCP, and all findings related thereto (the "Coastal Act Legal Action");

WHEREAS, on February 14, 1997, all of the lowlands within the Bolsa Chica LCP with the exception of the 42 acres owned by Fieldstone Company (the "Fieldstone Property") and the 51-acre Edwards Thumb Parcel was acquired from Signal Bolsa Corporation and is currently owned by the State of California, through the State Lands Commission;

WHEREAS, the San Diego Superior Court issued a Statement of Decision, dated June 4, 1997, in the Coastal Act Legal Action finding that residential development is not a permitted use for degraded wetlands under either Coastal Act Sections 30233(a) or 30411(b)(3); and that the Coastal Commission failed to proceed in a manner required by law when it approved the filling of Warner Avenue Pond on the Bolsa Chica Mesa in exchange for various mitigation measures;

WHEREAS, the San Diego Superior Court also found that the Coastal Commission's findings with regard to the relocation of the raptor habitat, the adequacy of the buffer between residential development and the lowlands and the adequacy of the protection for archaeological resources in Ora-83 were all supported by the evidence;

WHEREAS, the San Diego Superior Court set aside the Coastal Commission's January 11, 1996, certification of the Bolsa Chica LCP, and remanded the matter back to the Coastal Commission for consideration in light of the court's decisions;

WHEREAS, on October 9, 1997, the California Coastal Commission reconsidered the Bolsa Chica LCP and denied the Bolsa Chica LCP that was approved by the County Board of Supervisors on December 14, 1994, as submitted, and certified the Bolsa Chica LCP as revised by the 1996 Suggested Modifications and certain additional suggested modifications (the "1997 Suggested Modifications"), and deferred certification of the Fieldstone property (the "1997 Revised LCP");

1 WHEREAS, the 1997 Suggested Modifications adopted by the Coastal Commission  
2 addressed the following elements of the 1997 Revised LCP:

- 3 1. Land Use Plan Map. Figure 2.1-1 of the Land Use Plan, and all other  
4 figures in the Bolsa Chica LCP, should be modified to replace the  
5 Low Density Residential land use in the Lowland with the  
6 Conservation land use. Warner Pond should also be designated with  
7 the Conservation land use.
- 8 2. Wetlands Ecosystem Area. The Wetlands Ecosystem Area should be  
9 comprised of all of Planning Areas 1A, 1B and 1D (which includes the  
10 Edwards Thumb area). All lands in the Wetlands Ecosystem Area  
11 should be designated as Conservation, and the land use district  
12 (zone) should allow: the restoration, creation, and protection of  
13 wetlands, ESHAs and buffers; public access for wildlife  
14 interpretation, education, and scientific study, incidental public  
15 service purposes including but not limited to burying cables and  
16 pipes; and on an interim basis, oil production where it currently  
17 exists.
- 18 3. Warner Avenue Pond. Warner Avenue Pond and its associated wetlands,  
19 should be preserved with a conservation designation. A 100 foot  
20 residential development setback should be provided around Warner  
21 Avenue Pond (except where adjacent to Warner Avenue and the Mesa  
22 Connector). Warner Pond and its associated residential development  
23 setback may be included within the boundaries of the Bolsa Chica  
24 Mesa Community Park; however, the Community Park should not contain  
25 less than 17 acres exclusive of Warner Avenue Pond.
- 26 4. Residential Policies. Residential development adjacent to the  
27 Wetlands Ecosystem Area and adjacent to Warner Avenue Pond should be  
28 designed to avoid adverse impacts on habitat resources to the  
maximum extent feasible. Residential development should be  
reasonably distributed throughout the Bolsa Chica Mesa consistent  
with the Planned Community Statistical Table and should not exceed  
a total of 1,235 residential units.

The residential cap on the total number of units on the Bolsa Chica  
Mesa should apply to and include all current and subsequent  
ownerships on the Mesa, and any development rights that may accrue  
from the Edwards Thumb parcel.

- 22 5. Wetlands Residential Development Setback. A 50-foot wide  
23 residential development setback should be established within the  
24 development Planning Areas along the edge of the Bolsa Chica Mesa  
25 and a 100-foot wide setback around Warner Pond (except where  
26 adjacent to Warner Avenue and the Mesa Connector). The development  
27 setback should be landscaped exclusively with native and drought-  
28 tolerant plant material that provides habitat value and a naturally  
appearing visual transition between the Wetlands Ecosystem Area and  
residential/community park areas of the Planned Community.

1 WHEREAS, in connection with its actions, the Coastal Commission directed  
2 its staff to prepare revised findings that combines those findings made by  
3 Coastal Commission in its initial action on the Bolsa Chica LCP on January 11,  
4 1996, and which were adopted by reference at the October 9, 1997, hearing with  
5 the new findings made by the Coastal Commission at its hearing on October 9,  
6 1997;

7 WHEREAS, the Coastal Commission further authorized its Executive Director  
8 to review the Bolsa Chica LCP and make appropriate revisions to the land use plan  
9 and implementation program to bring them into compliance with the Coastal  
10 Commission's action of October 9, 1997;

11 WHEREAS, on November 18, 1997, the Board of Supervisors considered and  
12 accepted the 1996 Suggested Modifications and 1997 Suggested Modifications, made  
13 to the Bolsa Chica LCP by the Coastal Commission on October 9, 1997;

14 WHEREAS, on January 12, 1998, the Coastal Commission was presented with the  
15 Revised Findings for the Court Remanded Bolsa Chica Local Coastal Program (LCP),  
16 Land Use Plan Amendment No. 1-95/Implementing Actions Program ("Revised  
17 Findings");

18 WHEREAS, pursuant to the direction of the Coastal Commission in preparing  
19 the Revised Findings, the Coastal Commission staff also made additional changes  
20 to its suggested modifications consisting of minor technical corrections to  
21 achieve compliance with the Coastal Commission's action of October 9, 1997 ("1998  
22 Suggested Modifications");

23 WHEREAS, pursuant to Public Resources Code Sections 30512 and 30513, and  
24 Section 13544 of Title 14 of the California Code of Regulations, the local  
25 government with jurisdiction over the area governed by the certified local  
26 coastal program by action of its governing body, may acknowledge receipt of the  
27 Coastal Commission's resolution of certification including any terms or  
28 modifications which may have been suggested for final certification; and may, if  
it chooses to concur in the suggested modifications, accept and agree to any such  
terms and modifications, take whatever formal action is required to satisfy the  
terms and modifications, and agree to issue coastal development permits for the  
total area included in the certified local coastal program;

WHEREAS, the County, by its action of November 18, 1997, accepted the  
Coastal Commission's 1996 Suggested Modifications and the 1997 Suggested  
Modifications, and now is considering the acceptance of the 1998 Suggested  
Modifications;

WHEREAS, the 1998 Suggested Modifications will require the modification and  
elimination of several general regulations in the Bolsa Chica Planned Community  
Program which is a component of the Bolsa Chica LCP Implementing Actions Program  
to reflect the February, 1997, acquisition of a portion of the Bolsa Chica  
lowlands by the State of California ("Zone Change");

WHEREAS, the Board of Supervisors has found that the public interest,  
health, comfort, convenience, safety, order and general welfare will be served

Board Resolution re: LCP

1 and provided by accepting the 1998 Suggested Modifications to the Bolsa Chica LCP  
2 and adopting the Zone Change;

3 WHEREAS, this Board of Supervisors has conducted a duly noticed public  
4 hearing to consider the acceptance of the 1998 Suggested Modifications and  
5 adoption of the Zone Change;

6 WHEREAS, the County has previously prepared studies, analyses, reports or  
7 documents as required by the California Environmental Quality Act ("CEQA") which  
8 are contained in the County certified 1996 Final EIR No. 551;

9 WHEREAS, the Bolsa Chica LCP, as revised by the 1996 Suggested  
10 Modifications, the 1997 Suggested Modifications, and 1998 Suggested  
11 Modifications, and the Zone Change will implement the goals and policies of  
12 County's General Plan and all specific plans (as referenced in Government Code  
13 Sections 65450 et seq.) applicable to the proposed Bolsa Chica project and will  
14 provide balanced and diversified land uses and will impose appropriate standards  
15 and requirements with respect to land development and usage so as to maintain the  
16 overall quality of life and of the environment within the County;

17 WHEREAS, Government Code Section 65990 provides that any new housing  
18 development within the coastal zone shall, where feasible, provide housing units  
19 for persons and families of low or moderate income;

20 WHEREAS, Public Resources Code Section 30500.1 provides that no local  
21 coastal program shall be required to include housing policies and programs;

22 WHEREAS, residential product types and pricing will not be capable of being  
23 determined until planning for the project has progressed to the point where  
24 coastal development permits will be required;

25 WHEREAS, the Board of Supervisors is only considering the adoption of a  
26 local coastal program, and no application for a coastal development permit for  
27 new housing development is before the Board;

28 WHEREAS, this Board of Supervisors has listened to and considered the  
public comments that were presented to it at all of the public hearings held on  
this project; and

WHEREAS, Resolution 94-1341 and the Bolsa Chica Local Coastal Program  
Findings and Facts in Support Thereof, are herein incorporated by reference to  
the extent that the findings therein, including but not limited to the references  
to policies, regulations, and text, of the Bolsa Chica LCP remain unchanged by  
the Coastal Commission's October 9, 1997, certification of the Bolsa Chica LCP,  
and January 12, 1998, adoption of the Revised Findings;

WHEREAS, Resolution 97-505 and the Bolsa Chica Local Coastal Program  
Suggested Modifications Findings and Facts in Support Thereof, attached thereto  
as Exhibit B-1, are herein incorporated by reference to the extent that the  
findings therein, including, but not limited to, the references to policies,

1 regulations, and text, of the Bolsa Chica LCP remain unchanged by the Coastal  
Commission's January 12, 1998, adoption of the Revised Findings.

2 NOW, THEREFORE, BE IT RESOLVED, that based upon the foregoing recitals,  
3 which are incorporated herein as findings of this Board of Supervisors, this  
Board of Supervisors hereby acknowledges receipt of and accepts the 1998  
4 Suggested Modifications adopted as part of the Coastal Commission's approval of  
the Revised Findings.

5 BE IT FURTHER RESOLVED that this Board of Supervisors hereby reconfirms its  
6 acceptance of the Coastal Commission 1996 Suggested Modifications and the 1997  
Suggested Modifications to the Bolsa Chica LCP.

7 BE IT FURTHER RESOLVED that this Board of Supervisors finds that the Bolsa  
8 Chica LCP, revised to reflect and incorporate the 1996 Suggested Modifications,  
1997 Suggested Modifications, and 1998 Suggested Modifications, is consistent  
9 with and conforms to the policies of the Chapter 3 of the Coastal Act of 1976.

10 BE IT FURTHER RESOLVED that by accepting the suggested modifications to the  
Bolsa Chica LCP which will result in the certification of the Bolsa Chica LCP  
11 that this Board of Supervisors hereby agrees to issue coastal development permits  
for the total area included in the certified Bolsa Chica LCP.

12 BE IT FURTHER RESOLVED that this Board of Supervisors hereby directs County  
13 Planning and Development Services Department to notify the executive director of  
the Coastal Commission of this Board's action to accept the suggested  
14 modifications to the Bolsa Chica LCP, so that this Board's action can be reported  
to the Coastal Commission by the executive director at the Coastal Commission's  
15 next regularly scheduled public hearing in order to deem the certification of the  
Bolsa Chica LCP final and effective.

16 BE IT FURTHER RESOLVED that this Board of Supervisors hereby finds that the  
17 determination of feasibility of providing low and moderate housing required by  
Government Code Section 65590 will occur prior to or in conjunction with the  
18 issuance of coastal development permits for new residential development in  
accordance with the Bolsa Chica LCP, as revised pursuant to this Board of  
19 Supervisors resolution.

20 BE IT FURTHER RESOLVED that this Board of Supervisors hereby adopts the  
Zone Change to implement the 1998 Suggested Modifications to the Bolsa Chica LCP  
21 Implementing Actions Program.



*Jim Silva*

Chairman of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOUCMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD

*Darlene J. Bloom*

DARLENE J. BLOOM  
Clerk of the Board of Supervisors  
of Orange County California

AYES: SUPERVISORS JAMES W. SILVA, WILLIAM G. STEINER, CHARLES V. SMITH,  
TODD SPITZER, AND THOMAS W. WILSON

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.

I, DARLENE J. BLOOM, Clerk of the Board of Supervisors of Orange County, California,  
hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board  
at the regular meeting thereof held on the 3rd day of February 1998, and passed by a unanimous vote of  
said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3<sup>rd</sup> day of February, 1998.



*Darlene J. Bloom*

DARLENE J. BLOOM  
Clerk of the Board of Supervisors  
of Orange County, California

*Please show  
Ron Jipsett.*

ORDINANCE NO. 0-98-2

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA ADOPTING  
THE BOLSA CHICA LOCAL COASTAL PROGRAM PLANNED COMMUNITY  
REGULATIONS IN ACCORDANCE WITH THE COMPREHENSIVE ZONING  
CODE OF ORANGE COUNTY (PA970143)

The Board of Supervisors of the County of Orange, California does  
ordain as follows:

SECTION 1. The Bolsa Chica Planned Community Regulations  
(Sections 1 through 13), Zoning Map (Appendix A-1) and Statistical  
Summary (Appendix A-2) all of the Bolsa Chica Local Coastal Program  
Implementing Actions Program presented to the Board of Supervisors on  
February 3, 1998 are hereby adopted, superseding Ordinance No. 3991.

OFFICE OF  
COUNTY COUNSEL  
ORANGE COUNTY

F0192-210 (5/77)

1  
2 SECTION 2. This ordinance shall take effect and be in full force  
3 thirty (30) days from and after its passage and, before the expiration  
4 of fifteen (15) days after the passage thereof, shall be published  
5 once in the Orange County Register, a newspaper published in the  
6 County of Orange, State of California, together with the names of the  
7 members of the Board of Supervisors voting for or against the same.

8  
9  
10  
11 *Jim Silva*

12 Chairman of the Board of Supervisors  
13 of the Orange County, California

14 SIGNED AND CERTIFIED THAT A COPY  
15 OF THIS DOCUMENT HAS BEEN DELIVERED  
16 TO THE CHAIRMAN OF THE BOARD

17 *Susan Novak*

18 DARLENE J. BLOOM  
19 Clerk of the Board of Supervisors  
20 of Orange County, California

21 STATE OF CALIFORNIA )  
22 ) ss.  
23 COUNTY OF ORANGE )

24 I, DARLENE J. BLOOM, Clerk of the Board of Supervisors of Orange  
25 County, California, do hereby certify that at a regular meeting of  
26 said Board held on the 3rd day of February, 1998, the foregoing  
27 ordinance containing two (2) sections was passed and adopted by the  
28 following vote:

29 AYES: SUPERVISORS James W. Silva, William G. Steiner, Thomas W. Wilson  
30 Todd Spitzer and Thomas W. Wilson

31 NOES: SUPERVISORS

32 ABSENT: SUPERVISORS

33 IN WITNESS WHEREOF, I have hereunto set my hand and affixed t  
34 official seal of the Board of Supervisors of Orange County,  
35 California, this 3rd day of February, 1998.



39 *Susan Novak*

40 DARLENE J. BLOOM  
41 Clerk of the Board of Supervisors  
42 of Orange County, California

*File & Rev  
Hon Jipeto*

RESOLUTION OF THE BOARD OF SUPERVISORS  
ORANGE COUNTY, CALIFORNIA

February 3, 1998

On the motion of Supervisor Silva, duly seconded and carried,  
the following Resolution was adopted.

WHEREAS, the County prepared a Local Coastal Program for the Bolsa Chica property ("Bolsa Chica LCP"), and in connection with the adoption of the Bolsa Chica LCP, the County, among other actions, proposed the amendment of certain elements of its General Plan and the adoption of a Zone Change;

WHEREAS, in connection with those actions, the County determined that the approval of those actions constituted a "project" as defined by the California Environmental Quality Act ("CEQA"), Cal. Public Resources Code § 20000 et seq., and prepared an Environmental Impact Report pursuant to the requirements of CEQA and the State Guidelines for Implementation of the California Environmental Quality Act ("State CEQA Guidelines"), 14 Cal. Code of Reg. § 15000 et seq., as more fully described below;

WHEREAS, in connection with the consideration of the Bolsa Chica LCP, and other discretionary actions including the amendment of certain elements of the General Plan, and approval of a Zone Change (collectively, "the Bolsa Chica Project"), the County prepared a Draft Environmental Impact Report 551, dated December 23, 1993 (the "1993 Draft EIR"), as revised by Revised Draft Environmental Impact Report 551 (the "1994 Revised Draft EIR"), and the Supplement to the Revised Draft Environmental Impact Report, dated October 6, 1994 (the "1994 Supplement") (collectively, "the 1994 Bolsa Chica EIR"), circulated the 1994 Bolsa Chica EIR for public review, reviewed all comments received on the 1994 Bolsa Chica EIR and prepared Responses to Comments pursuant to the requirements of CEQA and the State CEQA Guidelines, and the County's environmental analysis procedures;

WHEREAS, on December 14, 1994, the Board of Supervisors certified the 1994 Bolsa Chica EIR as Final EIR 551 pursuant to Resolution 94-1340, and adopted a Local Coastal Program for Bolsa Chica (the "Bolsa Chica LCP") pursuant to Resolution 94-1341 which represented the alternative project recommended by the Orange County Planning Commission and included the Wetlands Restoration Program with a tidal inlet;

WHEREAS, on January 17, 1995, the Bolsa Chica Land Trust, City of Seal Beach, Gabrielino Shoshone Nation, Huntington Beach Tomorrow, and Sierra Club filed an Amended Petition for Writ of Mandate against the Board of Supervisors of Orange County and the County of Orange (Bolsa Chica Land Trust et al. v. County of Orange, Superior Court No. 741344) seeking to vacate and set aside the Board of Supervisors approval of Resolution 94-1340 certifying Final EIR 551 (the "Legal Action");

WHEREAS, on February 16, 1996, the Orange County Superior Court rendered its decision in the Legal Action, and rejected all challenges to the review of particular environmental impacts, but ruled that inclusion of the tidal inlet

Resolution re: CEQA Compliance

-1-

Resolution No. 98-42  
Bolsa Chica LCP Project

BPD:ep

1 within the project after the close of the public comment period required  
2 recirculation of the EIR and vacated Board of Supervisors Resolution No. 94-1340  
3 certifying Final EIR 551 and adopting various findings pending full compliance  
4 with CEQA as provided in the court's order;

5 WHEREAS, in accordance with the court's order, the County revised the 1994  
6 Revised Draft EIR 551 and prepared the 1996 Recirculated Draft EIR which  
7 described and analyzed the Bolsa Chica LCP approved by the Board of Supervisors;

8 WHEREAS, the project analyzed in the 1996 Recirculated Draft EIR provided  
9 for the development of a maximum of 3,300 dwelling units overall in the LCP area,  
10 and consisted of two components, a "Mesa Component" that proposes a maximum of  
11 2,500 dwelling units on Bolsa Chica Mesa, and regional park use on Huntington  
12 Mesa; and a "Lowland Component" that proposes the development of a maximum of 900  
13 residential units, and the expansion, creation and restoration of a 1,112.7 acre  
14 coastal wetland ecosystem, and the construction of a non-navigable tidal inlet  
15 to maximize and enhance biological diversity and marine resources on-site (the  
16 "Bolsa Chica Project");

17 WHEREAS, the 1996 Recirculated Draft EIR also incorporated an additional  
18 study on water quality in the wetlands and nearby ocean waters that was prepared  
19 in September, 1995, during the course of the Coastal Commission's review of the  
20 Bolsa Chica LCP, and submitted that study to the Coastal Commission;

21 WHEREAS, the 1996 Recirculated Draft EIR also incorporated the suggested  
22 modifications approved by the California Coastal Commission on January 11, 1996,  
23 and analyzed these suggested modifications in the 1996 Recirculated Draft EIR;

24 WHEREAS, the County on March 31, 1996, published a Notice of Availability  
25 for the 1996 Recirculated Draft EIR, and circulated the 1996 Recirculated Draft  
26 EIR for public review for a period of forty-five (45) days from April 1, 1996 to  
27 May 15, 1996, and reviewed the public comments that have been submitted on the  
28 1996 Recirculated Draft EIR and prepared responses to comments;

WHEREAS, in accordance with Section 15132 of the State CEQA Guidelines,  
Final EIR 551, as revised ("1996 Final EIR 551") consisted of:

- a. 1996 Recirculated Draft EIR, dated March 21, 1996, and all  
appendices thereto;
- b. Comments and Responses to Comments on the 1996 Recirculated Draft  
EIR;
- c. Errata Document prepared for the 1996 Recirculated Draft EIR;
- d. Supplement to 1994 Revised Draft EIR 551, dated October 5, 1994;
- e. Comments and the Responses to Comments on the Supplement to 1994  
Revised Draft EIR 551;

- 1 f. 1994 Revised Draft EIR 551, dated August 22, 1994, and  
2 appendices thereto;
- 3 g. Comments and the Responses to Comments on the 1994 Revised Draft EIR  
4 551;
- 5 h. Errata sheet to the 1994 Revised Draft EIR;
- 6 i. 1993 Draft EIR 551, dated December 20, 1993, and all appendices  
7 thereto;
- 8 j. Comments and the Responses to Comments on the 1993 Draft EIR 551;
- 9 k. A list of persons, organizations, and public agencies commenting on  
10 the 1993 Draft EIR, the 1994 Revised Draft EIR, and the Supplement  
11 to the 1994 Revised Draft EIR;
- 12 l. EMA Staff Reports to the Planning Commission, dated September 21,  
13 1994; September 29 1994; October 12, 1994; October 24, 1994;  
14 November 9, 1994; November 21, 1994; November 30, 1994; and June 4,  
15 1996; and
- 16 m. All attachments and documents incorporated by reference identified  
17 in items a. through l. above.

18 WHEREAS, appropriate mitigation measures were identified to mitigate the  
19 effects of the project described in 1996 Final EIR 551, and were set forth in the  
20 revised Mitigation Monitoring Program which incorporates all of the project  
21 design features, standard conditions and mitigation measures identified for the  
22 Bolsa Chica Project described and analyzed in the 1996 Final EIR 551, and  
23 incorporates the suggested modifications adopted by the California Coastal  
24 Commission on January 11, 1996;

25 WHEREAS, the Board of Supervisors fully considered and reviewed the 1996  
26 Final EIR 551 and listened to and considered the public comments that were  
27 presented to it at all of the public hearings held on this project, and  
28 determined after review and consideration to approve the 1996 Amended Bolsa Chica  
LCP;

WHEREAS, the Board of Supervisors found pursuant to CEQA that 1996 Final  
EIR 551 constituted adequate environmental documentation for the 1996 Amended  
Bolsa Chica LCP, the General Plan Amendment and other County actions taken with  
respect to the Bolsa Chica project, and was complete and adequate and fully  
complied with all requirements of CEQA, the State CEQA Guidelines, and the  
County's environmental analysis procedures, and certified the 1996 Final EIR 551;

WHEREAS, Section 21081 of the CEQA Statute and Section 15091 of the State  
CEQA Guidelines require that this Board of Supervisors make one or more of the  
findings, set forth in Section 21081 of the CEQA Statute, prior to approval of  
a project for which an EIR has been prepared identifying one or more significant

1 effects of the project, together with a statement of facts in support of each  
2 finding;

3 WHEREAS, Section 15093(a) of the State CEQA Guidelines requires this Board  
4 of Supervisors to balance the benefits of a proposed project against its  
5 unavoidable environmental risks in determining whether to approve the project;

6 WHEREAS, Section 15093(b) of the State CEQA Guidelines requires that, where  
7 the decision of this Board of Supervisors allows the occurrence of significant  
8 effects which are identified in an EIR, but are not at least substantially  
9 mitigated, the Board of Supervisors must state in writing the reasons to support  
10 its action based on the Final EIR or other information in the record;

11 WHEREAS, Section 21091.6 of the CEQA Statute requires that where an EIR has  
12 been prepared for a project for which mitigation measures are adopted, that a  
13 mitigation monitoring or reporting program be adopted for said project;

14 WHEREAS, on June 18, 1996, by Resolution 96-463, this Board certified 1996  
15 Final EIR 551, and adopted the Findings required by CEQA Section 21081, a  
16 Statement of Overriding Considerations as required by State CEQA Guidelines  
17 Section 15093, and a mitigation monitoring or reporting programs as required by  
18 CEQA Section 21091.6, all of which are hereby incorporated by reference;

19 WHEREAS, on February 14, 1997, all of the lowlands within the Bolsa Chica  
20 LCP with the exception of the 42 acres owned by Fieldstone Company (the  
21 "Fieldstone Property") and the Edwards Thumb Parcel was acquired from Signal  
22 Bolsa Corporation and is currently owned by the State of California, through the  
23 State Lands Commission;

24 WHEREAS, the San Diego Superior Court issued a Statement of Decision, dated  
25 June 4, 1997 ("Statement of Decision"), in the Petition for Writ of Mandate  
26 against the California Coastal Commission (Bolsa Chica Land Trust et al. v. The  
27 California Coastal Commission, originally filed on March 6, 1996, in County of  
28 San Francisco as Superior Court No. 976587, subsequently transferred to County  
of San Diego as Superior Court No. 703570) seeking to vacate and set aside all  
actions taken by the Coastal Commission on January 11, 1996, with respect to the  
Bolsa Chica LCP, and all findings related thereto (the "Coastal Act Legal  
Action");

WHEREAS, the Statement of Decision found that residential development is  
not a permitted use for degraded wetlands under either Coastal Act Sections  
30233(a) or 30411(b)(3); and that the Coastal Commission failed to proceed in a  
manner required by law when it approved the filling of Warner Avenue Pond on the  
Bolsa Chica Mesa in exchange for various mitigation measures;

WHEREAS, the Statement of Decision also found that the Coastal Commission's  
findings with regard to the relocation of the raptor habitat, the adequacy of the  
buffer between residential development and the lowlands, and the adequacy of the  
protection for archaeological resources in Ora-83 were all supported by the  
evidence;

Resolution re: CEQA Compliance

1 WHEREAS, the San Diego Superior Court set aside the Coastal Commission's  
2 January 11, 1996, certification of the Bolsa Chica LCP, and remanded the matter  
3 back to the Coastal Commission for consideration in light of the court's  
4 decisions;

5 WHEREAS, on October 9, 1997, the California Coastal Commission reconsidered  
6 the Bolsa Chica LCP in light of the court's decisions and denied the Bolsa Chica  
7 LCP that was approved by the Board on December 14, 1994, as submitted, and  
8 approved the Bolsa Chica LCP as revised by the 1996 Suggested Modifications, and  
9 certain additional suggested modifications (the "1997 Suggested Modifications"),  
10 and deferred certification of the Fieldstone property;

11 WHEREAS, in connection with its actions, the Coastal Commission directed  
12 its staff to prepare revised findings that combines those findings made by the  
13 Coastal Commission in its initial action on the Bolsa Chica LCP on January 11,  
14 1996, and which were adopted by reference at the October 9, 1997, hearing with  
15 the new findings made by the Coastal Commission at its hearing on October 9,  
16 1997;

17 WHEREAS, the Coastal Commission further authorized its Executive Director  
18 to review the Bolsa Chica LCP and make appropriate revisions to the land use plan  
19 and implementation program to bring them into compliance with the Coastal  
20 Commission's action of October 9, 1997;

21 WHEREAS, pursuant to Public Resources Code Sections 30512 and 30513, and  
22 Section 13544 of Title 14 of the California Code of Regulations, the local  
23 government with jurisdiction over the area governed by the certified local  
24 coastal program by action of its governing body, may acknowledge receipt of the  
25 Coastal Commission's resolution of certification including any terms or  
26 modifications which may have been suggested for final certification; and may, if  
27 it chooses to concur in the suggested modifications, accept and agree to any such  
28 terms and modifications, take whatever formal action is required to satisfy the  
29 terms and modifications, and agree to issue coastal development permits for the  
30 total area included in the certified local coastal program;

31 WHEREAS, on November 18, 1997, the County approved the Bolsa Chica LCP that  
32 incorporated the 1996 and 1997 Suggested Modifications of the California Coastal  
33 Commission (the "1997 Revised Bolsa Chica LCP"), and approved a General Plan  
34 Amendment (PA970143) which included a Land Use Amendment and Zone Change to  
35 implement the 1997 Revised Bolsa Chica LCP (collectively, the "1997 Bolsa Chica  
36 Project");

37 WHEREAS, 1996 Final EIR 551 was a Program EIR and as set forth in CEQA  
38 Guidelines Section 15168(a), the purpose of a Program EIR is to analyze a series  
39 of actions which can be characterized as one large project and are related either  
40 (1) geographically, (2) as logical parts in the chain of contemplated actions,  
41 (3) in connection with the issuance of rules, regulations, plans, or other  
42 general criteria to govern the conduct of a continuing program, or (4) as  
43 individual activities carried out under the same authorizing statutory or  
44 regulatory authority and having generally similar environmental effects which can  
45 be mitigated in similar ways;

46 Resolution re: CEQA Compliance



1 WHEREAS, as set forth in CEQA Guidelines Section 15168(c), subsequent  
2 activities must be examined in light of the program EIR to determine whether an  
3 additional environmental document must be prepared;

4 WHEREAS, on November 18, 1997, pursuant to Resolution 97-504 and Exhibit  
5 A-1 attached to Resolution 97-504, both of which are hereby incorporated by  
6 reference, this Board determined that the 1997 Bolsa Chica Project was within the  
7 scope of the project covered by the 1996 Final EIR 551 which was a program EIR,  
8 that no new effects could occur, no new mitigation measures were required, and  
9 that no new environmental document was required because the 1996 Final EIR 551  
10 served as adequate and appropriate environmental documentation for the 1997 Bolsa  
11 Chica Project;

12 WHEREAS, on January 12, 1998, the Coastal Commission was presented with the  
13 Revised Findings for the Court Remanded Bolsa Chica Local Coastal Program (LCP),  
14 Land Use Plan Amendment No. 1-95/Implementing Actions Program ("Revised  
15 Findings");

16 WHEREAS, pursuant to the direction of the Coastal Commission in preparing  
17 the Revised Findings, the Coastal Commission staff also made additional changes  
18 to its suggested modifications consisting of minor technical corrections to  
19 achieve compliance with the Coastal Commission's action of October 9, 1997 ("1998  
20 Suggested Modifications");

21 WHEREAS, the 1998 Suggested Modifications will require the modification and  
22 elimination of several general regulations in the Bolsa Chica Planned Community  
23 Program which is a component of the Bolsa Chica LCP Implementing Actions Program  
24 to reflect the February, 1997, acquisition of a portion of the Bolsa Chica  
25 lowlands by the State of California ("Zone Change");

26 WHEREAS, the Board has considered the Zone Change and the Bolsa Chica LCP,  
27 as revised by the 1998 Suggested Modifications, and has determined that no new  
28 effects could occur or no new mitigation measures would be required.

18 NOW, THEREFORE, BE IT RESOLVED THAT:

19 1. The Orange County Board of Supervisors has reviewed and considered  
20 1996 Final EIR 551 (State Clearinghouse No. 93-071064), and finds that the Zone  
21 Change and the Bolsa Chica LCP, as revised by the 1998 Suggested Modifications,  
22 are within the scope of the project covered by 1996 Final EIR 551 which was a  
23 program EIR, that no new effects could occur and no new mitigation measures are  
24 required, and that no new environmental document is required.

25 2. This Board finds that 1996 Final EIR 551 serves as adequate and  
26 appropriate environmental documentation for the adoption of the Zone Change and  
27 acceptance of the 1998 Suggested Modifications to the Bolsa Chica LCP.

*Jim Silva*

Chairman of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOUCMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD

*Susan Novick for*

DARLENE J. BLOOM  
Clerk of the Board of Supervisors  
of Orange County California

AYES: SUPERVISORS JAMES W. SILVA, WILLIAM G. STEINER, CHARLES V. SMITH,  
TODD SPITZER, AND THOMAS W. WILSON

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.

I, DARLENE J. BLOOM, Clerk of the Board of Supervisors of Orange County, California,  
hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board  
at the regular meeting thereof held on the 3rd day of February 1998, and passed by a unanimous vote of  
said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3<sup>rd</sup> day of February, 1998.



*Darlene J. Bloom for*

DARLENE J. BLOOM  
Clerk of the Board of Supervisors  
of Orange County, California

# ORANGE COUNTY BOARD OF SUPERVISORS

## MINUTE ORDER

***The following is action taken by the Board of Supervisors on February 3, 1998.***

APPROVED AS RECOMMENDED ☒

OTHER ☐

B.O. Closed public hearing

Unanimous ☒ (1) Smith (2) Silva (3) Spitzer (4) Steiner (5) Wilson

*Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order*

### **Documents accompanying this matter:**

☒ Resolution(s) R-98-42; R-98-43

☒ Ordinances(s) O-98-2

☐ Contract(s)

Submitting Agency/Department:

*Planning and Development Services*

Topic: Public Hearing to consider adopting "An Ordinance of the County of Orange, California Adopting The Bolsa Chica Local Coastal Program Planned Community Regulations in Accordance with the Comprehensive Zoning Code of Orange County (PA970143)" and adopting California Environmental Quality Act Resolution finding that 1998 Bolsa Chica LCP project is covered by the 1996 Final EIR 551 and that no new environmental document is required and adopting Resolution approving revised findings for the Court Recommended Bolsa Chica LCP offered by Coastal Commission on 1/12/98  
- District 2

File No. 19649

Item No. 28

Special Notes:



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.

DARLENE J. BLOOM, Clerk of the Board

Copies sent to:

CEO  
Plan + Dev. Don Jipsett  
2/5

By: Carol Martin

Deputy