

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
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# Th 9c

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 Staff: GDC-SD  
 Staff Report: 9/23/99  
 Hearing Date: 10/12-15/99

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-24

Applicant: McMahon Development Group

Agent: Ron McMahon  
 Cynthia Davis

Description: Construction of a two-story, approximately 25,600 sq. ft. office building over subterranean parking and installation of a boxed concrete culvert within an existing drainage channel with surface parking on top, on a vacant approximately 38,768 sq. ft. lot.

Lot Area	38,768 sq. ft.
Building Coverage	13,137 sq. ft. (34%)
Pavement Coverage	17,721 sq. ft. (46%)
Landscape Coverage	7,910 sq. ft. (20%)
Parking Spaces	105
Zoning/Plan Designation	Office Professional (OP)
Ht abv fin grade	42 feet

Site: 500 Stevens Avenue, Solana Beach, San Diego County  
 APN#298-112-16

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

This application was presented to the Commission at the September 16, 1999 hearing in Eureka. The Commission raised questions regarding the status of the drainage and whether wetlands were present. Staff has reviewed these issues and determined that the drainage is, in fact, a natural stream that has been significantly altered and that wetlands

are present in the drainage. Staff is recommending approval of the proposed development with special conditions requiring the submission of revised final plans for the proposed development which document the avoidance of all impacts to Stevens Creek, through the elimination of the boxed concrete culvert to avoid impacts to wetlands. The proposed development proposes to fill the creek with a concrete culvert to accommodate and access a parking area. This will result in impacts to wetlands. Because Section 30233 of the Coastal Act does not allow fill of wetlands for a commercial development, staff is recommending the project be redesigned to avoid all impacts to the creek and its associated wetlands. This can be accomplished by reconfiguring the development or reducing the size of the proposed structure. With these conditions, impacts of the proposed development will be minimized or mitigated, consistent with Chapter 3 policies of the Coastal Act.

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Substantive File Documents: Certified County of San Diego Local Coastal Program; City of Solana Beach General Plan and Zoning Ordinance; City of Solana Beach Development Review Permit #99-14; Mitigated Negative Declaration and Initial Study for McMahon Development dated 1/7/99; Biological Analysis by REC Engineering-Environmental dated September 14, 1998; Biological Update by REC Engineering-Environmental dated December 1, 1998; Memorandum from John Dixon dated September 22, 1999; Dept. Fish and Game "Agreement Regarding Proposed Stream or Lake Alteration" No. 5-039-99 (unsigned); CDP #6-90-213, 6-90-293 and 6-93-197

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#### 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. Final Revised Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final revised grading, site, and building plans for the proposed development that have been approved by the City of Solana Beach which shall demonstrate that the project has been revised to comply with the following requirements:

a. No fill or other development, including grading, concrete, or structures shall occur in or above Stevens Creek (as depicted in the open space deed restricted area shown on attached Exhibit #5) except for that required to replace the existing culverts under and within the right-of-way north of Academy Drive as detailed on sheet #2 on blueprints by Stuart Engineering dated 2/8/99.

b. Parking shall be provided at a minimum of 1 parking space per 250 sq. ft. of gross floor area.

c. Fencing shall be installed between the proposed development site and the adjacent Stevens Creek drainage channel.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Runoff Control Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a runoff control plan for the subject development to prevent polluted runoff from entering Stevens Creek which shall incorporate Best Management Practices including, but not limited to the following:

a. All storms drain inlets shall have stenciling that prohibits the disposal of trash in the drains.

b. The use of oil and grease catch basins or filters sufficient to prevent oils and suspended solids from entering the Stevens Creek.

c. Solid waste shall be removed regularly.

d. Sweeping of all paved surfaces shall occur at least once a week.

The submitted program shall include, at a minimum, a site plan that shows the location of all storm drains, trash receptacles and schedules for removal of trash and sweeping of paved surfaces.

The permittee shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director.

No changes to the plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Open Space Deed Restriction. No development, as defined in section 30106 of the Coastal Act shall occur in the area generally described as Stevens Creek as shown on the attached Exhibit #5 except for any necessary flood control maintenance performed by the City of Solana Beach pursuant to a coastal development permit and the replacement of the existing culverts under and within the right-of-way of Academy Drive as detailed on sheet #2 on blueprints by Stuart Engineering dated 2/8/99.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

4. Staging Areas. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, detailed plans identifying the location of construction staging areas for the proposed development. Said plans shall include the following criteria specified via written notes on the plan:

- a. No construction equipment shall be placed within Stevens Creek.
- b. Use of the area depicted within the open space deed restricted area as identified by the attached Exhibit #5 for the interim storage of materials and equipment is prohibited.

Prior to the commencement of construction, the applicant shall submit evidence that the plans have been incorporated into construction bid documents

The permittee shall undertake development in accordance with the plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Final Landscape Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a detailed landscape plan, approved by the City of Solana Beach, indicating the type, size, extent and location of all plant materials, the proposed

irrigation system and other landscape features. Drought tolerant plant materials shall be utilized to the maximum extent feasible.

The permittee shall undertake development in accordance with the approved landscape plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Sign Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a comprehensive sign program, documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No tall or free-standing pole or roof signs shall be allowed.

The permittee shall undertake development in accordance with the approved sign program. Any proposed changes to the approved sign program shall be reported to the Executive Director. No changes to the sign program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. Other Permits. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, copies of all other required state or federal discretionary permits for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

8. Assumption of Risk. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from flooding and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed development involves the construction of a two-story, approximately 25,600 sq. ft. office building with subterranean and surface parking on a vacant approximately 38,764 sq. ft. lot. The project also includes the construction of a boxed concrete culvert within an altered creek bed resulting in the fill of approximately .2 acre of wetlands (riparian habitat) to provide additional parking areas to accommodate the proposed development and to provide additional access onto the site. To accommodate the necessary parking for the proposed development and avoid the fill of wetlands, the applicants have submitted an alternative proposal for the Commission's review that involves the construction of a bridge over Stevens Creek. The site is located on the southeast corner of Stevens Avenue and Academy Drive in the City of Solana Beach. Stevens Creek (which is identified as a blue-line stream on a 1924 reprint of a 1904 USGS Map), runs north/south through the eastern side of property, eventually flowing into San Dieguito Lagoon.

The Commission has previously approved the subdivision creating the subject parcel (ref. CDP #6-90-293 and 6-93-197/Goudy) and the construction of a 16,800 sq. ft. office building on the property (ref. CDP #6-90-213/Goudy). The previously approved office building included the installation of a storm drain system within Stevens Creek and fill of the creek to enable parking for the development. At the time of approval, however, wetlands had not been identified within the creek. The office building was not constructed and the permit has subsequently expired.

The project site is located within an area that was previously covered by the County of San Diego's Certified Local Coastal Program (LCP). However, the County LCP was never effectively certified and therefore is used as guidance with Chapter 3 Policies of the Coastal Act used as the standard of review.

2. Wetlands/Sensitive Biological Resources. Section 30233 of the Coastal Act states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

- (3) In wetland areas only, entrance channels for new or expanded boating facilities....
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities. . . .

In addition, Section 30231 of the Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition, Section 30236 of the Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

To accommodate access and parking for the proposed 25,600 sq. ft. office building, the proposed development includes the fill of approximately .2 acre of wetlands within Stevens Creek with the installation of a boxed concrete culvert which will connect to the culvert under the adjacent Academy Drive. The subject development site is an approximately 38,768 sq. ft. lot with an approximately 40 to 50 foot-wide section of Stevens Creek running through the eastern portion of the site from north to south. The Commission's ecologist/wetlands coordinator has performed a detailed biological

assessment of Stevens Creek (Exhibit #6) which includes a determination that Stevens Creek is a natural stream:

What is now called Steven's Creek shows up as a blue-line stream on the 1924 reprint of a 1904, 1:250,000 scale USGS map. The area was surveyed in 1891 and 1898-1902. Given San Diego's Mediterranean climate and the tiny water shed, this creek was probably a seasonal stream, wet in the winter and spring and dry the rest of the year. It probably supported some riparian vegetation – plants with deep roots that could tolerate the annual dry season. It probably did not have significant perennial wetland vegetation in the herbaceous layer, but may have supported some annual wetland species during the rainy season. Were the stream in its 1904 condition (which was probably already considerably altered by grazing), we would probably be treating it as a riparian corridor, not as a wetland.

In addition, the Department of Fish and Game recognizes Stevens Creek as a stream and has required the applicant to mitigate for the proposed fill of the stream (see attached Exhibit 9). Although the Department of Fish and Game would require mitigation for impacts to the .2 acre of stream at a rate of 2:1, the proposed development does not include any specific mitigation plan.

In 1976, prior to the effective date of the Coastal Act of 1976, pursuant to approval by the County of San Diego, the prior landowner placed rip-rap along the sides and bottom of the portion of Stevens Creek that is within the subject property. In October of 1990 the Commission approved the construction of an approximately 16,800 sq. ft., two-story office building at the subject site which included the fill and placement of drainage pipes within the creek to accommodate parking for the office building (ref. CDP #6-90-213).

The portion of Stevens Creek within the applicant's property is a wetland under the Coastal Act. The Coastal Act defines the term "wetland" as ". . .lands within the coastal zone that may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens." The creek on the subject site meets this Coastal Act definition because there is a source of water and wetland vegetation. The identification of a source of water and wetland vegetation has been confirmed by both the applicant's biological analysis (Exhibit #7) as well as by the Commission's ecologist/wetlands coordinator . Further, staff with the Army Corps of Engineers stated in a phone conversation with Commission staff on August 4, 1999 that the creek is a "wetland" under the federal definition of wetlands.

The applicant asserts that the creek is not a wetland for several reasons. First, a "Biological Update" letter prepared by REC Civil Engineering-Environmental dated December 1, 1998, states that since their initial biological analysis of September 14, 1998 which identified the presence of wetland species, all vegetation had been removed from the site by City of Solana Beach work crews and that therefore, "riparian habitat is no longer onsite." Secondly, the applicant contends that since the entire creek bed and banks within the subject property are completely lined with rip-rap, the area cannot be identified as wetlands.



Commission staff has confirmed with City staff that City of Solana Beach work crews periodically remove vegetation from the open channel areas of Stevens Creek for flood control purposes. However, the City has never obtained a coastal development permit for such vegetation removal (Commission staff has informed the City of the need to apply for a coastal development permit to remove vegetation from Stevens Creek). Recent site inspections by the Commission's staff reveal that the riparian vegetation has re-grown and that without the periodic removal of the vegetation by the City of Solana Beach, the subject site would continue to support riparian freshwater habitat.

In addition, the Commission's ecologist/wetlands coordinator has reviewed the biological information supplied by the applicant and has also visited the subject site. His review which is attached to the staff report as Exhibit #6, indicates that Stevens Creek is "an historic stream that has been drastically altered by urban development". He identifies that Stevens Creek within the subject site is lined with rip rap on its sides and bottom but that the rip rap has been partially filled with soil supporting the growth of vegetation. His review of the applicant's vegetation survey from September 1998 found 7 species that "are characteristically found in wet areas". He concludes that based on the "presence of a preponderance of hydrophytes", the wet area met the definition of wetlands under the Coastal Act. He also considered the applicant's assertion that since the vegetation had been mowed, the wetlands no longer existed. He indicates that although mowing or other destructive maintenance would create an atypical situation, if left undisturbed "riparian vegetation would probably develop along the edges of the flow channel, and channel itself would probably continue to support obligate wetland plants so long as it continued to receive urban runoff" and would "probably develop vegetation which would provide insects, birds and perhaps amphibians an island of moderate habitat value in this urban setting." Thus, although periodically mowed by the City, the Stevens Creek drainage on this site is a wetland under the definition of the Coastal Act and, thus, subject to the protection afforded by Section 30233 of the Act.

Section 30233 of the Act limits the fill of wetlands and coastal waters (including streams) to eight enumerated uses (specified in the quote above). Fill of wetlands to accommodate an office development is not one of the eight allowable uses permitted under Section 30233 of the Act. Further, although the Army Corps of Engineers has indicated that it will permit the proposed fill if mitigated because the wetlands are degraded, Section 30233 the Coastal Act does not distinguish between degraded and pristine wetlands; it applies to all wetlands. In addition, as cited previously, Section 30236 of the Coastal Act prohibits the channelization and other substantial alteration of rivers and streams except under three limited circumstances: 1) water supply projects; 2) flood control projects to protect existing structures and; 3) developments whose function is to improve fish and wildlife habitats. None of these circumstances are present in this case. Thus, the proposed fill of wetlands with a boxed concrete culvert is inconsistent with Sections 30233 and 30236 of the Coastal Act.

The applicants have also presented to Commission staff an alternative to avoid the fill of wetlands, while still providing the necessary parking to accommodate the proposed development. This alternative involves the construction of a bridge approximately 60

feet-wide and 140 feet-long over Stevens Creek to create the same resulting parking area and, thereby avoid filling Stevens Creek (see Exhibit 8). The northern edge of the bridge would coincide with the proposed boxed culvert improvements under Academy Drive and the south side of the bridge would remain open. While this proposal may avoid the fill of wetlands the resulting shading by the proposed bridge would eliminate the light source for the wetland vegetation. In addition, the approximately 20 foot-wide bank areas on either side of the 20 foot-wide streambed which, although also lined with rip rap, currently support various vegetation and acts a buffer for the .2 acre of wetlands would also lose its light source. Section 30231 of the Act requires that wetlands be protected to maintain their biological productivity and to maintain natural vegetation buffer areas that protect riparian habitat. As the Commission's staff ecologist/wetlands coordinator has indicated, the Stevens Creek drainage on the subject site is considered wetland under the definition of the Coastal Act. The applicant's proposal to cover the channel to avoid the "fill" of wetlands would still adversely impact wetlands within the channel by eliminating light sources. Such a proposal is not consistent with Sections 30231 of the Coastal Act.

Therefore, the proposed development can be found consistent with the Coastal Act only if the project is revised to eliminate all proposed development in or over the creek. Special Condition #1 requires the applicant to revise the project to avoid all development in Stevens Creek. Alternatives include reducing the size of the office building so that it requires less parking, or retaining the size but increasing the size of the subterranean parking garage. The Commission finds that the proposed development can be approved if revised, rather than denied altogether, because although there is more than one way to redesign the project to eliminate the fill, none of these options have the potential for adverse impacts on coastal resources. The site is not located near the shoreline and any proposed redesign will not affect public access to the shoreline and, as discussed later in this report, will not effect visual resources in the surrounding area. In addition, any future redesign would still require review and approval by the City of Solana Beach to ensure full compliance with local zoning requirements. With the proposed redesign to avoid encroachment into the Stevens Creek all impacts to wetlands will be avoided, consistent with Section 30233 of the Coastal Act.

Although Special Condition #1 requires that the project be redesigned to avoid all encroachment into Stevens Creek, it does not require a buffer around the creek. Section 30231 of the Act requires that biological productivity and quality of coastal waters, steams and wetlands be protected from the adverse effects of new development through the control of runoff and the maintenance of buffer areas surrounding riparian habitats. However, as discussed in more detail below, the Commission finds that a buffer is not required in this case.

The proposed development site is one of the last vacant parcels along Stevens Avenue that borders Stevens Creek. The majority of Stevens Creek from Interstate 5 southwest to San Dieguito Lagoon is filled and channelized with only a small portion immediately north and south of the subject site remaining as an open channel. An approximately 50,000 sq. ft. office building is located immediately adjacent to the project site on the north side of Academy Drive and a mixture of retail and office uses lie immediately south of the development site. In each of those cases, the creek consists of an open and earthen

channel with only the banks of the creek and an approximately 6 foot-high chain-link fence serving as a buffer separating the development from Stevens Creek. In the case of the subject site, the downward sloping bank within Stevens Creek is approximately 20 feet wide on either side and consists of rip-rap covered with limited non-native vegetation. An approximately 6 foot-high chain-link fence also encloses the creek. The upland subject property consists of a generally flat lot void of vegetation such that a natural buffer does not exist.

The Commission typically requires a 50 foot-wide natural buffer to separate new development from wetlands habitat. However, in this particular case, given that the wetlands are located within an existing creek that has been channelized both up and downstream of the project area, and is surrounded by development, the need for a full 50 foot buffer at the subject site is not necessary. However, the lack of buffer may result in an impression that the creek itself is not required to be protected. Further, in the future, the applicant or future landowners might seek to make improvements to the structure that affect the creek or seek to channelize the creek to protect the approved structure from flooding. It would be inconsistent with section 30233 to allow construction of a structure that will subsequently require fill of the stream to protect against flooding. Therefore, the Commission finds that the applicant must record a deed restriction indicating that no development may occur in Stevens Creek. Only if the applicant and future landowners are placed on notice that the creek cannot be filled will the proposed development be consistent with the wetland protection policies of the Coastal Act. Accordingly, Special Condition #3 requires the applicant to record a deed restriction that specifies that development within Stevens Creek on the subject property is restricted to that necessary to replace the existing culvert under and within the northern right-of-way under Academy Drive and, after receipt of a coastal development permit, any necessary maintenance of the channel by the City of Solana Beach for flood control purposes.

The proposed development involves the construction of an office building and the replacement of drainage culverts under Academy Drive. The existing drainage culverts were installed during the construction of Academy Drive and lie within Stevens Creek. The culverts are in need of repair and the City of Solana Beach has required the applicant to perform those repairs as a condition of approval for the proposed development. Because of the proximity of Stevens Creek to the proposed culvert replacement and the proposed office building, construction activity could indirectly adversely impact the onsite wetlands. Section 30231 requires that new development be performed in ways that will maintain and protect existing wetlands. Therefore, Special Condition #4 has been attached which requires the applicant to submit a construction staging area plan that documents that no construction materials will be stored and no construction equipment will be permitted within the existing drainage channel.

Although the Stevens Creek drainage channel is not a pristine natural creek, polluted runoff entering the channel can harm vegetation growing within the channel and coastal waters downstream. In addition, Stevens Creek carries water to San Dieguito Lagoon. Therefore, run-off from the proposed development, which will drain into Stevens Creek, could adversely impact both Stevens Creek and San Dieguito Lagoon. In order to protect the water quality and resources of the creek and lagoon, the Commission finds that the

proposed project must take steps to reduce the potential for pollutants to contaminate the site run-off. Accordingly, Special Condition #2 requires that the subject development incorporate the use of Best Management Practices, including oil and grease catch basins and other filtering devices to prevent polluted runoff from entering Stevens Creek.

The subject development will be located immediately adjacent to Stevens Creek an historic stream. As indicated previously, because of concerns of flooding in areas adjacent and downstream of Stevens Creek, the City periodically maintains Steven Creek by removing vegetation. Although the risk of flooding in this area is low, the risk of flooding cannot be eliminated entirely. Therefore, in order to find the development consistent with section 30235 of the Coastal Act, the Commission finds that the applicant and future property owners must be made aware of the flooding potential and must assume the risk of property damage from flooding. Accordingly, Special Condition #8 has been attached which requires the applicant to record a deed restriction assuming all risks involved with development adjacent to Stevens Creek and agreeing to indemnify the Commission in the event that third parties bring an action against the Commission based upon damage resulting from the approved development..

Since the proposed project is required to be redesigned to avoid any encroachments into Stevens Creek, other responsible government entities having review authority over the proposed site may require revisions to their earlier approvals or conditions or some approvals may still be pending. As such, Special Condition #7 has been attached which requires the submission of any additional approvals from state or federal entities to ensure that their requirements do not conflict with or require additional amendment to the subject coastal development.

In summary, the proposed development, as conditioned herein, will avoid all fill of wetlands, appropriately mitigates for the indirect affects of construction activity and runoff, provides an adequate buffer to separate the development from wetland resources and includes an open space restriction over all wetland resources and buffer areas. Therefore, the Commission finds the proposed development is consistent with Sections 30231, 30233, 30236 and 30240 of the Coastal Act.

3. Public Access/Parking. Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities . . . .

The Coastal Act requires that new development provide for adequate parking facilities so as not to compete with or preclude the public's access to the coastal area by usurping on-street public parking spaces. Because inadequate parking and congestion interfere with public access opportunities, the provision of adequate off-street parking is critical for all commercial, recreational and residential development in near shore areas.

As proposed, the approximately 25,600 sq. ft. office building will include 105 parking spaces to be located in a subterranean parking area and on a surface lot. The City of Solana Beach parking ordinance requires that office buildings between 7,501 sq. ft. and 40,000 sq. ft. provide 1 parking space per 250 sq. ft. of gross floor area. The subject development, therefore, would require 102 parking spaces. The applicant is proposing 105 parking spaces, 3 more than the City requires. While the previously certified County of San Diego LCP, which the Commission utilizes for guidance within Solana Beach, would require 114 parking spaces for an office building in excess of 25,000 sq. ft. (1 space per 225 sq. ft.), the proposed development site is not located along a major beach access corridor and any parking insufficiency would not directly affect the beach going public. Therefore, in this case, the City's minimum parking standards are sufficient and will not adversely affect public access. In addition, as previously indicated, Special Condition #1 requires the applicant to submit revised project plans that eliminate any encroachment into the Stevens Creek. Since Stevens Creek had been proposed to be filled to accommodate parking spaces, the applicant is required to revise the project design but ensure that any new design maintain the City's parking standard of 1 space per 250 sq. ft. of gross floor. Therefore, the proposed development will not affect public access and the Commission finds the proposed development, as conditioned, consistent with Section 30252 of the Coastal Act.

4. Visual Impacts. Section 30251 of the Coastal Act states, in part that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. . .

The proposed project is not located within or visible from any significant public view corridors. There are no visual impacts anticipated to the surrounding community since the proposed structure is compatible in design and scale to other structures along Stevens Avenue that include office and commercial buildings with surface parking. Nonetheless, the applicant is proposing landscaping, but has only submitted conceptual plans. Therefore, Special Condition #5 requires the submission of final landscape plans that will serve to make the proposed development more compatible with surrounding development. In addition, the applicant did not propose and the City did not require any sign program for the proposed office building. Typically the Commission and the City restrict the size, number and extent of signage to protect adverse visual impacts. As, such Special Condition #6 is attached which requires the submission of a comprehensive sign program that details that only monument or facade signs are proposed and which prohibit any tall freestanding signs.

In summary, the proposed development is not located within an area that will affect public views and, as conditioned, has been designed to be compatible with surrounding development. With the submission of a detailed landscape plan and sign program the

potential for impacts to the visual quality of the surrounding area have been reduced to the maximum extent possible. Therefore, the Commission finds that the proposed development, as conditioned, consistent with Section 30251 of the Coastal Act.

5. 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. In this case, such a finding can be made.

The subject site is designated and zoned Office Professional by the City of Solana Beach General Plan and Zoning Ordinance. The proposed development is consistent with this designation. The site is not located within any sensitive coastal resource overlay area as identified in the previously certified County LCP. In addition, the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and, as conditioned, no adverse impacts to coastal resources are anticipated. Therefore, the Commission finds the proposed project, as conditioned, should not prejudice the ability of the City of Solana Beach to prepare a certifiable local coastal program.

6. 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, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the wetlands and visual resource policies of the Coastal Act. Mitigation measures, including revised project design, open space deed restriction, construction staging areas, runoff control plan, landscaping plan, signage program and submission of other government approvals, will minimize all adverse environmental impacts. As conditioned, there are no less feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds the proposed project is the least environmentally-damaging alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

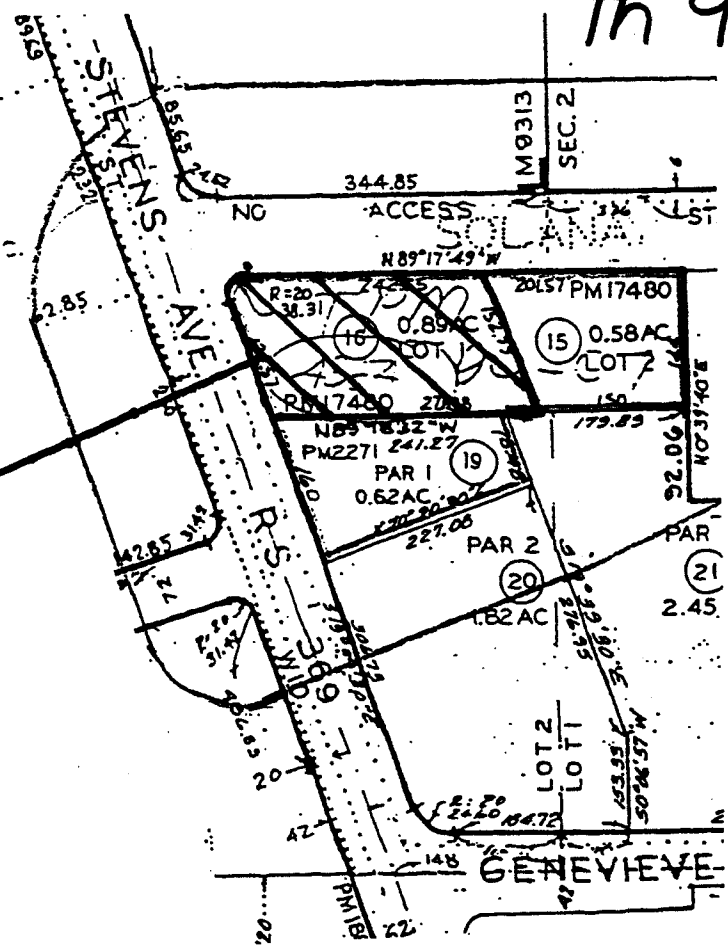
#### STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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

th 9c

Site



N ↑

EXHIBIT NO. 1  
 APPLICATION NO.  
**6-99-24**  
 Location Map

California Coastal Commission



ACADEMY DRIVE



new entry /  
exit drive

E

landscape area

landscape

line of  
parking level  
below

offsite  
approval

PROPOSED BUILDING  
FIN. FLOOR ELEV.

parking 44  
visitor parking

landscape  
area

landscape  
screening wall

wash

**APPROXIMATE LOCATION OF EXISTING  
STEVENS CREEK DRAINAGE EASEMENT**

req'd parking @ 4/1000 = 104  
actual parking 102

SITE PLAN

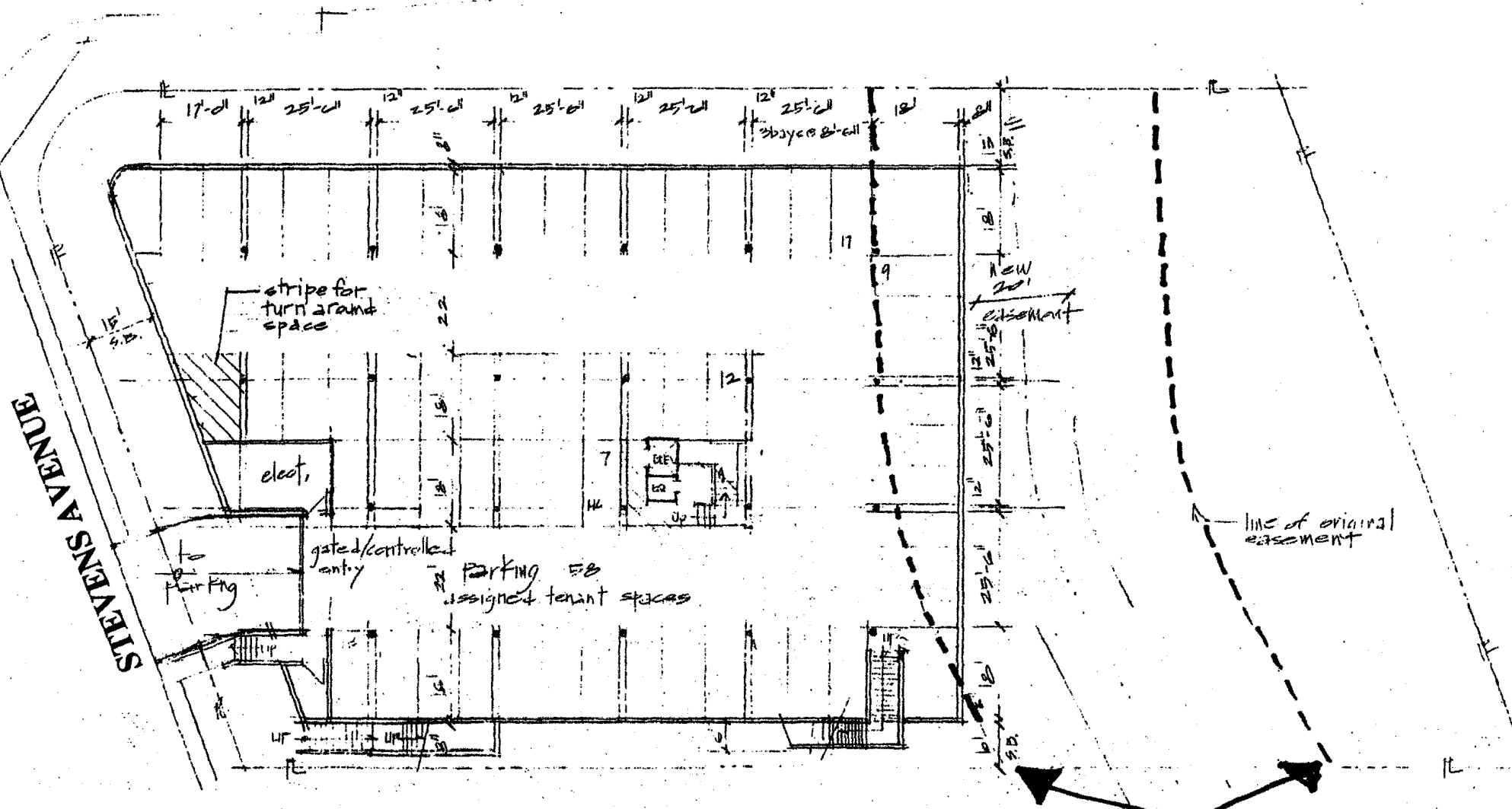
STEVENS AVENUE

EXHIBIT NO. 2  
APPLICATION NO.  
6-99-24

Site Plan

California Coastal Commission

ACADEMY DRIVE



STEVENS AVENUE

stripes for turn around space

elect.

to parking

gated/controlle entry

parking EB assigned tenant spaces

new 20' easement

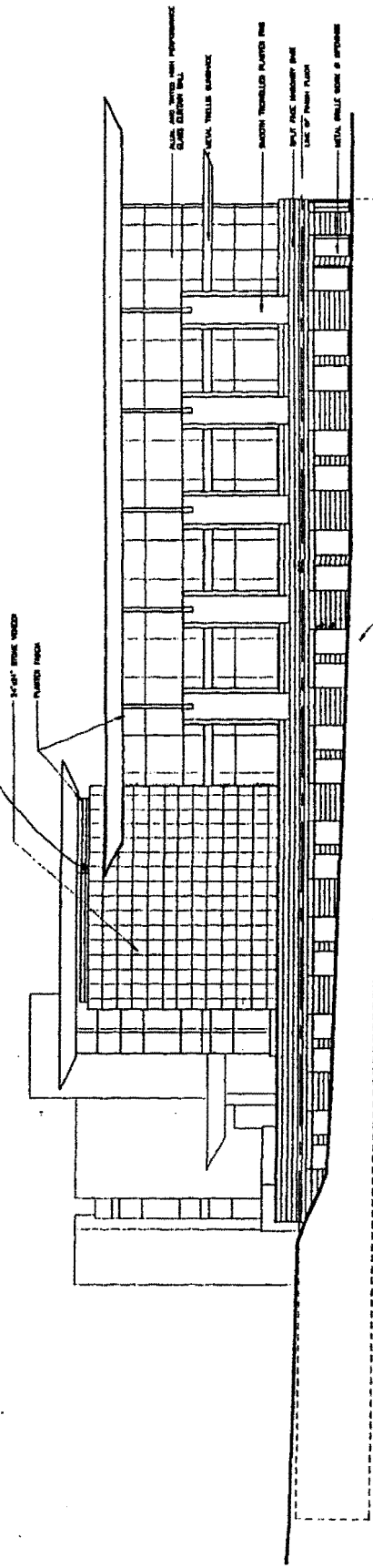
line of original easement

APPROXIMATE LOCATION OF EXISTING STEVENS CREEK DRAINAGE EASEMENT

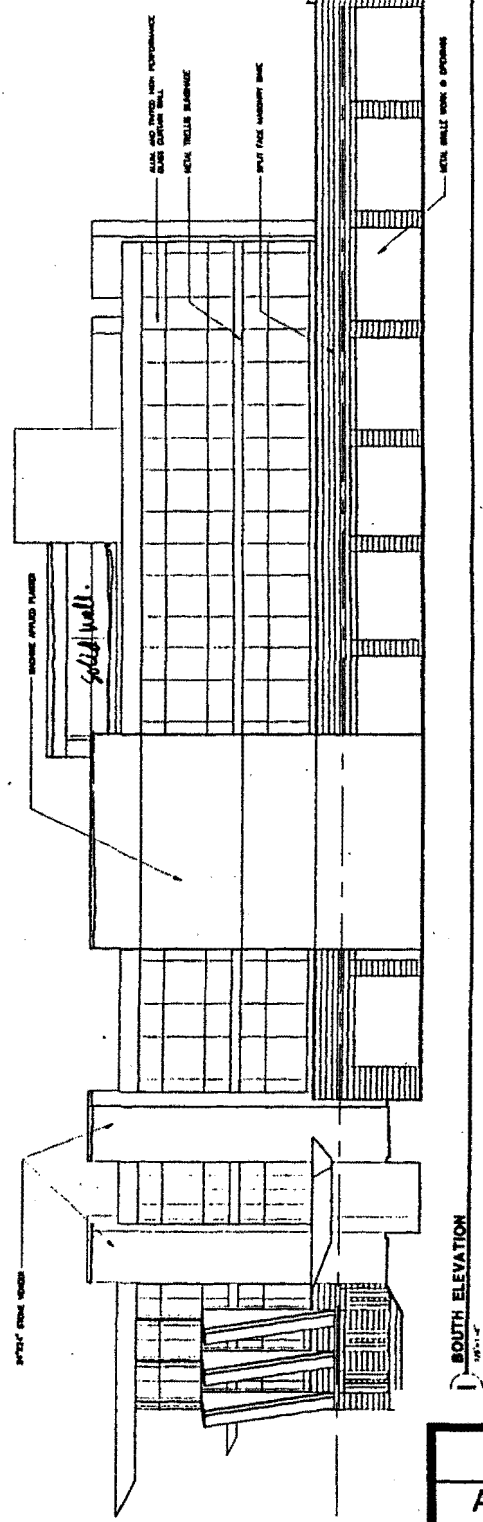
California Coastal Commission	EXHIBIT NO. 3
	APPLICATION NO.
	6-99-24
	Site Plan of Subterranean Parking

- 10 LAYOUT
- 11 FOUNDATION
- 12 FLOOR PLAN
- 13 CEILING PLAN
- 14 EXTERIOR WALL
- 15 EXTERIOR DOOR
- 16 EXTERIOR WINDOW
- 17 EXTERIOR STAIR
- 18 EXTERIOR ROOF
- 19 EXTERIOR SIGN
- 20 EXTERIOR LIGHT
- 21 EXTERIOR PAINT
- 22 EXTERIOR MATERIAL
- 23 EXTERIOR FINISH
- 24 EXTERIOR TRIM
- 25 EXTERIOR ACCESSORY
- 26 EXTERIOR DETAIL
- 27 EXTERIOR SECTION
- 28 EXTERIOR ELEVATION
- 29 EXTERIOR PERSPECTIVE
- 30 EXTERIOR PHOTO
- 31 EXTERIOR MODEL

*Handwritten note:*  
 14'-0" BRICK WORK  
 PAVED WALK



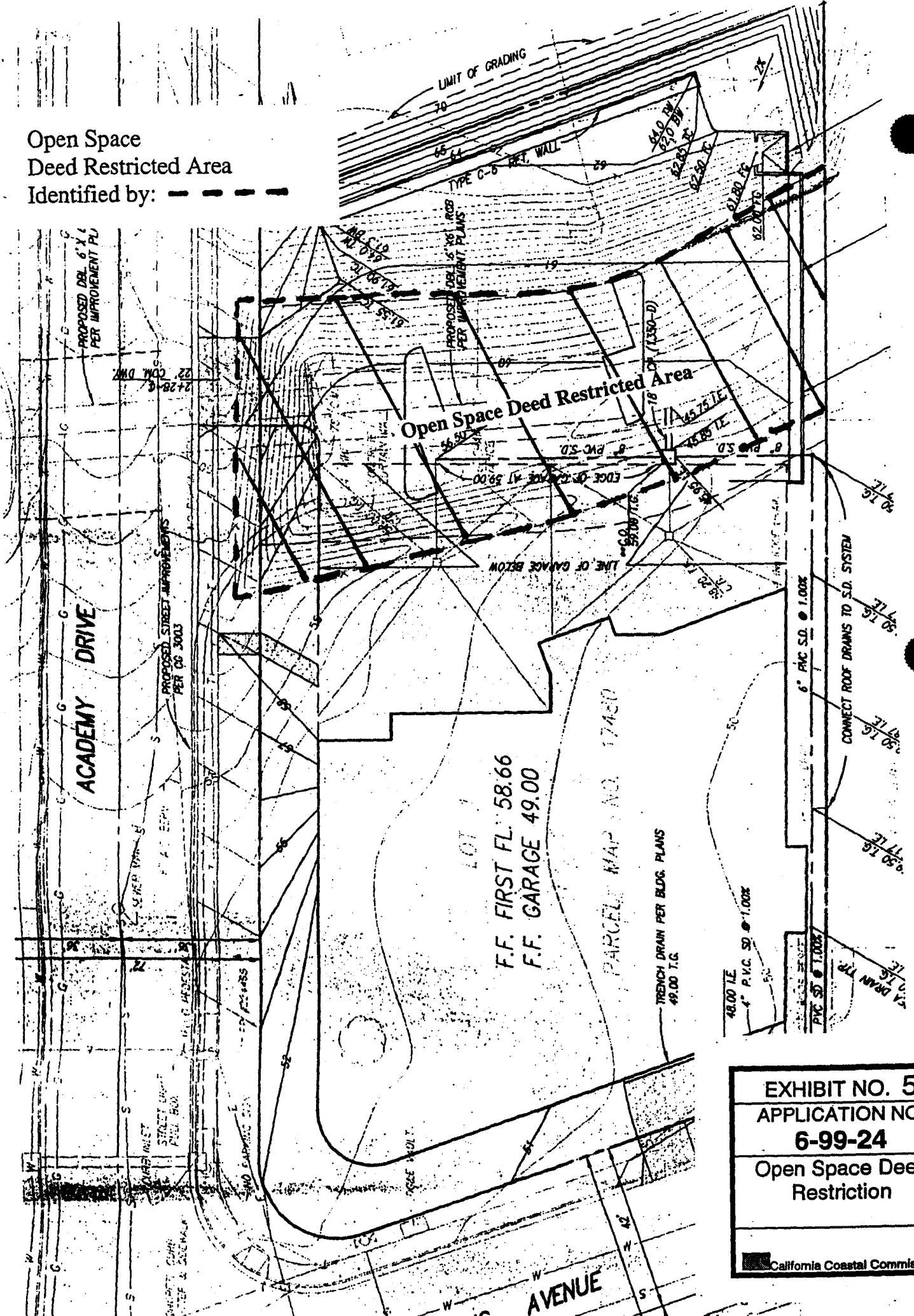
**3 NORTH ELEVATION**  
 1/8" = 1'-0"



**1 SOUTH ELEVATION**  
 1/8" = 1'-0"

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
**6-99-24**  
**Elevations**

Open Space  
 Deed Restricted Area  
 Identified by: - - - - -



**EXHIBIT NO. 5**  
**APPLICATION NO.**  
**6-99-24**  
**Open Space Deed**  
**Restriction**

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



## MEMORANDUM

TO: Gary Cannon, Lee McEachern, Amy Roach, Sherilyn Sarb

FROM: John Dixon

SUBJECT: Steven's Creek – McMahon Project

DATE: September 22, 1999

This memo is a response to Lee's request that I summarize my understanding of the biological status of Steven's Creek, particularly of that portion that passes through the McMahon property.

First, it is important to acknowledge that this is a natural stream – not a constructed drainage channel. What is now called Steven's Creek shows up as a blue-line stream on the 1924 reprint of a 1904, 1:250,000 scale USGS map. The area was surveyed in 1891 and 1898-1902. Given San Diego's Mediterranean climate and the tiny water shed, this creek was probably a seasonal stream, wet in the winter and spring and dry the rest of the year. It probably supported some riparian vegetation – plants with deep roots that could tolerate the annual dry season. It probably did not have significant perennial wetland vegetation in the herbaceous layer, but may have supported some annual wetland species during the rainy season. Were the stream in its 1904 condition (which was probably already considerably altered by grazing), we would probably be treating it as a riparian corridor, not as a wetland.

During the past 95 years, this stream has been substantially altered. The upper portion of the stream enters a culvert on the west side of I-5 and disappears under fill supporting a parking lot and shopping center. On a July 12, 1999 site visit, we searched the east side of I-5, but found no remnants of the stream. The land is relatively level and completely built-out. At the terminus of the culvert, there is a small area of standing water and wetland vegetation. This appears to be maintained by urban runoff. From this ponded area south to Academy drive, the stream occupies a broad, grassy channel which is completely enclosed by a chain-link fence. In July, it was dry and appeared to have been recently mowed. Just north of Academy Drive, the stream bed is lined in concrete and receives runoff from nearby urban development. It passes under Academy Drive in 3 corrugated steel culverts. South of Academy Drive to the next cross street the sides and bottom of the stream have been lined with rip rap. The rip rap has been partially filled in with soil, especially around the flow channel, probably due to sedimentation. Farther south the stream enters an open concrete box culvert which becomes closed and goes underground beyond La Colonia Park. In July, the stream channel across the McMahon property had standing water. The vegetation had been cut fairly recently.

EXHIBIT NO. 6
APPLICATION NO. <b>6-98-24</b>
Memo from Commission's Ecologist/Wetlands Coordinator
Page 1 of 2

The wet area around the flow channel supports wetland vegetation. In a letter report from Elyssa Robertson of REC to Ron McMahon of McMahon Development Group it is stated that on August 31, 1998, the dominant plant in the drainage was willow weed, which is a non-native, obligate wetland plant. Appendix A of that report is a list of 33 plant species that were observed on the site. Of these, 15 are not listed in the "National List of Plant Species That Occur in Wetlands: California (Region 0)" and are presumed upland species and one has no indicator status. The remaining species are known to occur in wetlands. Of those, 10 are either equally likely to be found in uplands or are generally found in uplands. On the other hand, seven species are characteristically found in wet areas. These include willow and cottonwood trees, willow weed, and cattails. The actual area that has a preponderance of hydrophytic vegetation apparently has never been determined. In a letter to Gary Cannon dated May 28, 1999, Denise Dixon of REC wrote that all vegetation is removed quarterly by the City of Solana Beach. She concluded that, "Since the site is maintained routinely and dominated by non-native plants, the wetland plant parameter is not met." This, of course, is an unjustified conclusion. The non-native or native status of plants is immaterial to a wetlands determination. Mowing or other destructive maintenance creates an atypical situation, but does not mean an area is not a wetland. In fact, based on the presence of a preponderance of hydrophytes, the wet area around the flow channel would no doubt delineate as wetlands based on the definition in the California Coastal Commission Regulations (Section 13577).

In summary, this drainage is an historic stream that has been drastically altered by urban development. The portion of the stream that crosses the McMahon property has been armored with rip rap some time in the past. Currently, the flow channel has standing water even during the dry summer months due to urban runoff, probably from nearby irrigation of lawns. The channel is dominated by upland mostly non-native plants characteristic of disturbed areas. However, the wet area surrounding the flow channel supports wetland species. If the area was not periodically cut, riparian vegetation would probably develop along the edges of the flow channel, and the channel itself would probably continue to support obligate wetland plants so long as it continued to receive urban runoff. In its "maintained" state, the channel provides standing water but has little other habitat value. Were it left alone, it would probably develop vegetation which would provide insects, birds and perhaps amphibians an island of moderate habitat value in this urban setting.



September 14, 1998

Mr. Ron McMahon  
McMahon Development Group  
380 Stevens Avenue, Suite 313  
Solana Beach, CA 92075

Subject: Biological Analysis of Academy Drive Parcel

Dear Mr. McMahon,

REC biologists visited the 1.3 acre Academy Drive Project to assess the biological resources on the site. The site was surveyed for habitats, plants, and wildlife value. A summary of the findings, including plant and wildlife species lists, is provided below. The majority of the site is disturbed and/or developed with a drainage on-site. The 1.3 acre parcel is bounded to the west by Stevens Avenue, to the south and east by commercial development, Academy Drive and industrial development, borders the northern edge of the property.

The project site was surveyed on foot by REC biologists Elyssa Robertson. All habitats were visited, and all observed species were recorded. Wildlife species were identified directly by sight or by vocalizations, and indirectly by scat, tracks, or burrows. Field notes were maintained throughout the surveys and species of interest were mapped. Surveys for plant and wildlife resources were conducted between 1300 and 1430 hours on August 31, 1998. The sky was clear and the temperature was approximately 80°F. No focused surveys for sensitive plant or wildlife species were conducted, however, all species observed were noted and the presence or absence of suitable habitat for sensitive species was identified.

The primary focus of the survey was to assess the size, location, and general quality of all habitat types and to document the presence or potential presence of any sensitive resources (plant or wildlife) on-site. No detailed plant transects or animal trapping studies were conducted as part of this effort. Nomenclature for this report conforms to Hickman (1993), Munz (1974) or Beauchamp (1986) for plants, Holland (1986) for plant communities and habitat types, American Ornithological Union (AOU 1982) for birds, Jennings (1983) and Stebbins (1985) for reptiles and amphibians, and Jones (1992) for mammals.

<b>EXHIBIT NO. 7</b>
<b>APPLICATION NO.</b>
<b>6-98-24</b>

<b>Applicant's Biological Analysis</b>
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<b>Page 1 of 7</b>
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## Results

It appears that the entire site has been previously disturbed. The 1.3 acre parcel is comprised of disturbed lands dominated by non-native weedy species and appears to be maintained by mowing. A drainage and small manufactured slope exist at the eastern edge of the site. The drainage is completely fenced and the slope is currently landscaped. The location of the habitats has been mapped on the attached Biological Resources Map. A list of plant species found on-site is attached as Appendix A. A list of wildlife species found on-site is attached as Appendix B.

### Disturbed

The majority of the area is disturbed ruderal habitat. This area is primarily bare ground but also supports scattered non-native species such as Bermuda grass, Australian saltbush, brome grass, wild oats, and mustard. A single eucalyptus tree occurs at the corner of Stevens Avenue and Academy Drive. The slope on the eastern edge of property has also been disturbed but appears to have been landscaped after the construction of the commercial/office to the east. This area supports primarily iceplant, with radish fennel, and Brazilian pepper. Of the 1.3 acres, 1.1 acres supports disturbed/ruderal designation.

### Stevens Creek

A portion of Stevens Creek traverses the site along the eastern edge. Stevens Creek on-site is an open channel culverted on both the upstream and downstream end of this drainage. The channel is completely fenced in and vegetation appears to be routinely maintained most likely to minimize flooding. Minimal riparian vegetation occurs in the channel with the majority of the plant species being non-native. The dominant plant within the drainage is willow weed (*Polygonum lapathifolium*) a non-native plant introduced from Europe. Other species which occur within the drainage but to a much lesser extent include, fennel, castor bean, cattail, umbrella sedge, mustard, cottonwood saplings, goldenbush, palm trees, iceplant, white clover, and a single willow tree. Therefore, this drainage does not support any significant biological resources. Although Stevens Creek on-site is not identified as a wetland by the U.S. Fish and Wildlife Service nor the City of Solana Beach (1988), it still may be considered a Waters of the U.S. by the U.S. Army Corps of Engineers (ACOE) and a streamcourse by the California Department of Fish and Game (CDFG). Approximately 0.2 acres of this drainage habitat occurs onsite. This acreage is approximate and should be surveyed in prior to submitting for resource agency approval if needed.

### Wildlife Resources

Wildlife species are not diverse onsite. This is due primarily to the small size and disturbed nature of the site. The site does not provide any valuable nesting, roosting, or foraging habitat for wildlife. The disturbed portion of the site is dominated by weeds which are mowed and the drainage onsite is completely engulfed with willow weed.



Wildlife species found onsite include bushtits, California towhee, ground squirrel, and fence lizard. These animals are typically found in disturbed and urban areas.

### **Sensitive Resources**

No rare, threatened, or endangered, or otherwise sensitive plant or animal species were identified on the project site. Sensitive or special interest plant and wildlife species and habitats are those which are considered rare, threatened, or endangered within the state or region by local, state, or federal resource conservation agencies. Sensitive habitats, as identified by these same groups, are those that generally support plant or wildlife species considered sensitive by these resource protection agencies or groups. Sensitive species and habitats are so called because of their limited distribution, restricted habitat requirements, particular susceptibility to human disturbance, degradation due to development or invasion by non-native species, or a combination of all of these factors. Sources used for the determination of sensitive biological resources include: U.S. Fish and Wildlife Service (USFWS) (USFWS 1996, 1997); CDFG (CDFG 1994, 1997); California Natural Diversity Database (1992); and California Native Plant Society (CNPS) (Skinner and Pavlik 1994).

### Stevens Creek

Stevens Creek on-site is currently a fenced channel. This creek is not shown as a blueline drainage on USGS maps, on the Soil Conservation Maps, or the City of Solana Beach wetland maps. This channel appears to be a created channel for storm drain purposes. However this channel may still be considered a Waters of the U.S. by the ACOE and, therefore, may be regulated by that agency. Although the drainage onsite is small the ACOE may still regulate impacts to this area under their Nationwide Permit process, which allows for minor impacts to waters. The drainage onsite, may or may not be regulated under the ACOE, however, consultation with the ACOE would confirm their regulatory authority.

Whether or not these drainage areas on-site support a great biological diversity or are man-made (urban runoff), these areas may also be regulated by the CDFG. The CDFG regulates stream courses and drainages under Section 1601/1603 of the California Fish and Game Code through their Streambed Alteration Agreement Program. Any alteration of any drainage within the State of California requires a "Streambed Alteration Agreement" from the CDFG. The Streambed Alteration Agreement application process requires the applicant to submit project plans, a mitigation program and certified California Environmental Quality Act (CEQA) documentation.

### Sensitive Wildlife and Plant Species

No rare, threatened, endangered, or sensitive wildlife species were observed on-site nor are they expected. The site is considerably disturbed and appears to have been in this condition for some time as evidenced by the amount of non-native species on site.

## **Impacts**

Since a development plan has not yet been prepared, it is assumed for this analysis that complete buildout is expected. Therefore, the proposed project would impact 1.1 acres of disturbed lands and 0.2 acres of drainage area. No significant impacts to biological resources are expected to occur due to development of this site. The site is predominately disturbed from past uses and, therefore, does not support any constraining resources. Impacts to Stevens Creek channel may be considered significant by the resource agencies for regulatory purposes if considered a natural channel. Consultation with the ACOE and the CDFG should be conducted to determine regulatory authority and appropriate permitting action. This drainage is not listed by the City of Solana Beach as an important wetland resource and therefore no conflict with the City of Solana Beach Open Space and Conservation Element of the General Plan is expected.

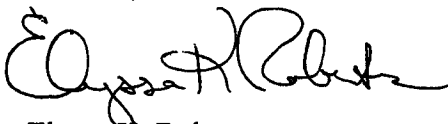
## **Mitigation**

Since no significant impacts are expected to occur to biological resources, no mitigation is required. If resource agency permits are required from the ACOE and CDFG, then that process may identify some mitigation measures needed to comply with those regulations. The resource agencies typically request avoidance of such channels, and if avoidance is not feasible that the impact be minimized to the greatest extent practicable. If minimization is also infeasible then mitigation may be required.

## **Conclusion**

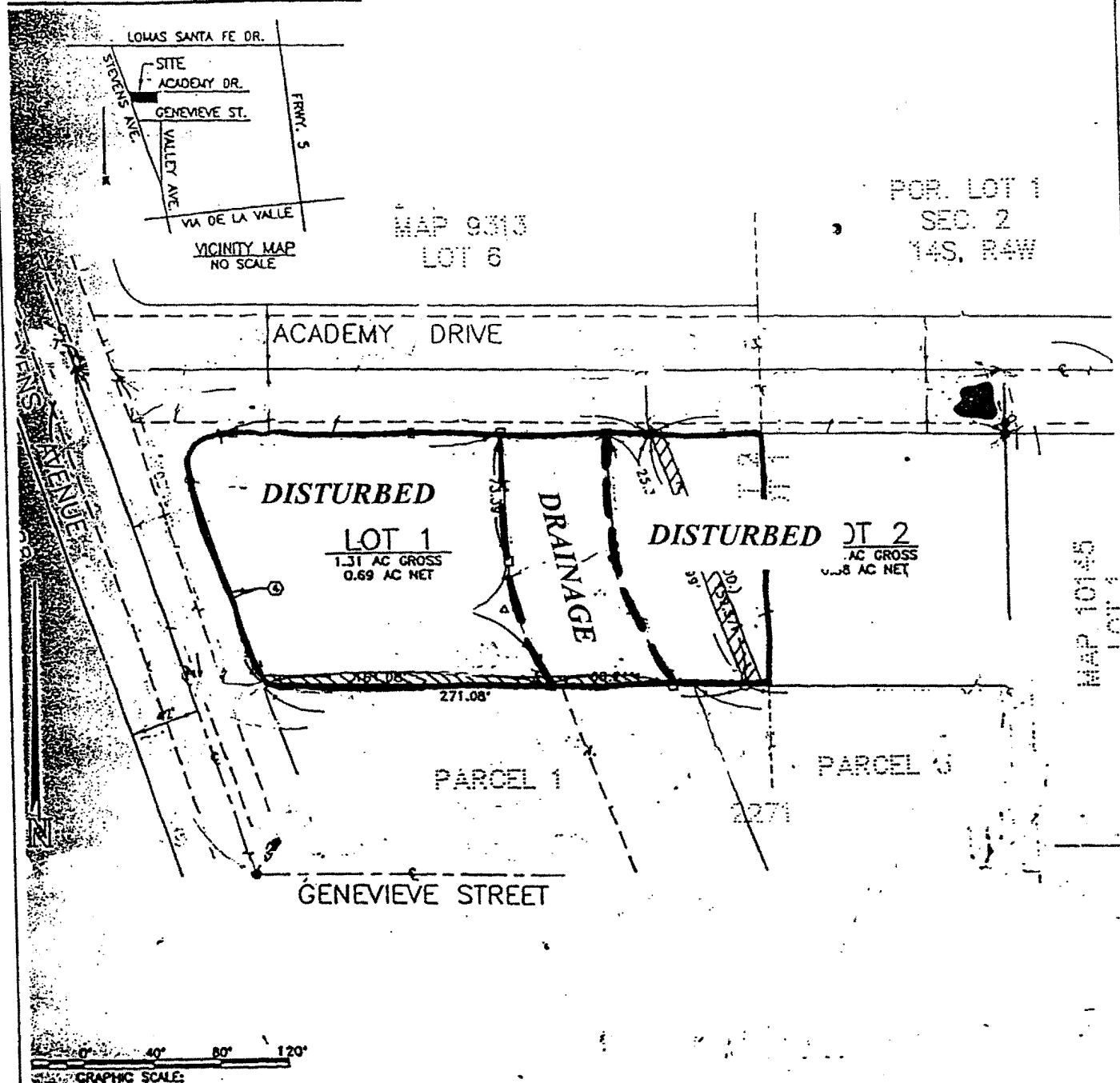
In general, development of this area would have no significant biological impacts. Impacts to Stevens Creek, may be regulated by the resource agencies and permits may be required. Consultation with those agencies should be conducted to determine jurisdiction. This concludes our review of the biological resources on the Solana Beach Towne Centre Project site. If you have any questions, please do not hesitate to call.

Sincerely,



Elyssa R. Robertson  
Principal

attachments



**REC**

**FIGURE 1 - STEVENS AVENUE BUILDING PROJECT MAP**



**APPENDIX A**  
**PLANT SPECIES OBSERVED ON THE SOLANA BEACH TOWNE CENTRE PROJECT**

Family Name	Species Name	Common Name	Habitat
AIZOACEAE	* <i>Carpobrotus</i> sp.	Ice plant	Disturbed, drainage
ANACARDIACEAE	<i>Malosma laurina</i>	Laurel sumac	drainage
	* <i>Schinus terebinthifolius</i>	Brazilian Pepper	drainage
APIACEAE	* <i>Foeniculum vulgare</i>	Fennel	Disturbed, drainage
ARECACEAE	* <i>Washingtonia robusta</i>	Mexican fan palm	Drainage
ASTERACEAE	<i>Ambrosia psilostachya</i>	Western ragweed	Disturbed
	<i>Haplopappus venetus</i>	Goldenbush	Drainage
	<i>Stephanomeria virgata</i>	Wreath plant	Disturbed
	* <i>Lactuca serriola</i>	Prickly lettuce	Disturbed
BRASSICACEAE	* <i>Brassica nigra</i>	Black mustard	Disturbed, drainage
	* <i>Raphanus sativus</i>	Wild radish	Disturbed, drainage
CHENOPODIACEAE	* <i>Chenopodium ambrosioides</i>	Mexican Tea	Disturbed
	* <i>Atriplex semibeccata</i>	Australian Saltbush	Disturbed
	* <i>Salsola iberica</i>	Russian Thistle	Disturbed
CYPERACEAE	* <i>Cyperus odoratus</i>	Umbrella sedge	Drainage
EUPHORBIACEAE	* <i>Ricinus communis</i>	Castor bean	Drainage
FABACEAE	* <i>Acacia redolens</i>	Acacia	Disturbed
	<i>Lotus scoparius</i>	Deerweed	Disturbed
	* <i>Melilotus alba</i>	White clover	Drainage
GERANIACEAE	* <i>Erodium botrys</i>	Filaree	Disturbed
	<i>Malva parviflora</i>	Cheeseweed	Disturbed
MYRTACEAE	* <i>Eucalyptus</i> sp.	Eucalyptus	Disturbed
ONAGRACEAE	<i>Oenothera hookeri</i>	Evening Primrose	Disturbed, Drainage
POACEAE	* <i>Avena</i> sp.	Oat	Disturbed
	* <i>Bromus rubens</i>	Brome grass	Disturbed
	* <i>Cynadon dactylon</i>	Bermuda grass	Disturbed
	* <i>Cortedaria jubata</i>	Pampas grass	Disturbed
	* <i>Penesetum setiva</i>	Fountain grass	Disturbed
POLYGONACEAE	* <i>Polygonum lapathifolium</i>	Willow Weed	Drainage
SALICACEAE	<i>Salix lasiolepis</i>	Willow	Drainage
	<i>Populus fremontii</i>	Cottonwood	Drainage
SOLANACEAE	* <i>Nicotiana glauca</i>	Tree Tobacco	Drainage
TYPHACEAE	<i>Typha latifolia</i>	Cattail	Drainage

\* = Non-native Plant Species

**APPENDIX B  
WILDLIFE SPECIES OBSERVED AT THE SOLANA BEACH TOWNE CENTRE PROJECT**

Common Name	Scientific Name	Habitat Observed *
<b>Reptiles</b>		
Fence Lizard	<i>Sceloperus occidentalis</i>	Disturbed
<b>Birds</b>		
American crow	<i>Corvus brachyrhynchos</i>	Overhead
Anna's hummingbird	<i>Calypte anna</i>	Disturbed
Black phoebe	<i>Sayornis nigricans</i>	Disturbed
Bushtit	<i>Psaltriparus minimus</i>	Disturbed, drainage
California Towhee	<i>Piplo fuscus</i>	Drainage
European starling	<i>Sturnus vulgaris</i>	Disturbed
House finch	<i>Carpodacus mexicanus</i>	Disturbed
Mourning dove	<i>Zenaida macroura</i>	Disturbed
Song sparrow	<i>Melospiza melodia</i>	Disturbed
<b>Mammals:</b>		
Botta's pocket gopher	<i>Thomomys bottae</i>	Disturbed
Ground squirrel	<i>Spermophilus beecheyi</i>	Disturbed



September 21, 1999

RECEIVED

SEP 22 1999

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Mr. Gary Cannon  
Coastal Program Analyst  
California Coastal Commission  
3111 Camino Del Rio North, Suite 200  
San Diego, CA 92108

Re: Application No. 6-99-24,  
Office Building; 500 Stevens Avenue  
Solana Beach, California

Dear Mr. Cannon:

In response to the Agenda Item 18a discussion at the Coastal Commission hearing on September 16, 1999, we have resubmitted information regarding Scenario 2.

**Scenario 2 - The channel can not be filled.**

In the case that the channel can not be filled, we have spent additional time reviewing a possible alternative. In this case, we would propose to bridge a section of the channel bottom. The current "bottom" of the channel, as calculated by Rick Engineering, is 20' wide. We have previously provided several plans in plan and section view depicting the bridge from 40' to 60' in width.

In this Scenario, we bridge over the channel bottom and replace the three pipes under the street with the concrete box culvert. We have the parking structure wall to the west and riprap on the bottom and a portion of the east side. The construction for this alternative will impact the channel for a short period of time. The riprap will be reset into the channel as quickly as possible.

We have discussed this alternative with the Planning Department at the City of Solana Beach. They understand our constraints and would support this adjustment. Shannon at the Army Corps has also reviewed this alternative and would not change their approval. We have not had time to contact all other agencies regarding their position, but will continue to pursue their comments.

If you need further information, please feel free to contact me at (858) 350-0200.

Sincerely,

McMahon Development Group



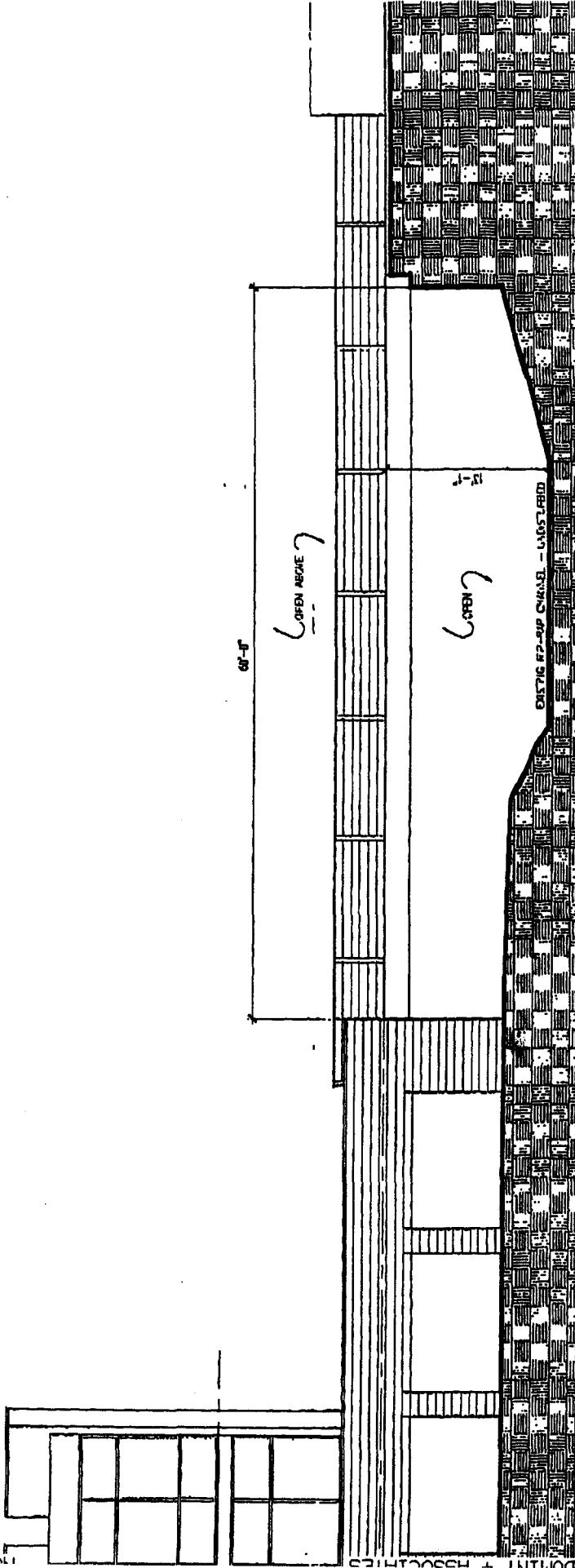
  
Cynthia Davis  
Project Manager  
ed

EXHIBIT NO. 8
APPLICATION NO. 6-98-24
Applicant's Proposal to Bridge Over Stevens Creek
Page 1 of 2
 California Coastal Commission



ELEVATION AT SOUTH PROPERTY LINE

12/1/81

**CALIFORNIA DEPARTMENT OF FISH AND GAME**

330 Golden Shore, Suite 50  
Long Beach, California 90802

Notification No. 5-039-99

Page 1 of 5

**AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION**

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and Cynthia Davis of McMahon Development Group, LLC: 380 Stevens Ave. suite 313, Solana Beach, CA 92075: 619-350-0200, State of California, hereinafter called the Operator, is as follows:

WHEREAS, pursuant to Section 1603 of California Fish and Game Code, the Operator, on the 10<sup>th</sup> day of February, 1999, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed(s) of, the following water(s): Stevens Creek, a tributary to the Pacific Ocean, San Diego County, California, Section 2 Township 14S Range 4W.


WHEREAS, the Department (represented by Terri Dickerson through a site visit on the 8<sup>th</sup> day of December, 1998) has determined that such operations may substantially adversely affect those existing fish and wildlife resources within Stevens Creek, specifically identified as follows: Birds: Anna's hummingbird, Black Phoebe, Bushtit, California Towhee; Mammals: Botta's Pocket Gopher; riparian vegetation which provides habitat for those species; willows, cattails; and all other aquatic and wildlife resources, including that riparian vegetation which provides habitat for such species in the area.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife resources during the Operator's work. The Operator hereby agrees to accept the following measures/conditions as part of the proposed work.

If the Operator's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this Agreement and with other pertinent code sections, including but not limited to Fish and Game Code Sections 5650, 5652, 5937, and 5948, may result in prosecution.

Nothing in this Agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute Department of Fish and Game endorsement of the proposed operation, or assure the Department's concurrence with permits required from other agencies.

This Agreement becomes effective the date of Department's signature and 31, 2000 for project construction only. This Agreement shall remain in effect necessary to satisfy the terms/conditions of this Agreement.

EXHIBIT NO. 9
APPLICATION NO. <b>6-98-24</b>
Proposed Dept. of Fish and Game's Streamline Alteration Agreement
Page 1 of 5
 California Coastal Commission



1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Operator is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement shall be subject to separate notification pursuant to Fish and Game Code Sections 1600 et seq.

2. The Operator proposes to alter the streambed to construct a boxed culvert, impacting 0.2 acre of stream. Approximately 1400 cubic yards of bed material consisting of soil, sand, and gravel will be removed. The project site is located at the southwest corner of the intersection of Stevens Avenue and Academy Drive in the City of Solana Beach.

3. The agreed work includes activities associated with No. 2 above. The project area is located in San Diego County. Specific work areas and mitigation measures are described on/in the plans and documents submitted by the Operator, and shall be implemented as proposed unless directed differently by this agreement.

4. The Operator shall not impact 0.2 acre of stream. All impacts are permanent.

5. As discussed at the Operator's pre-project planning meeting, the Operator shall mitigate for the permanent impacts to the stream. The Operator shall mitigate with the creation of 0.4 acre of wetland habitat. The Operator shall submit a Revegetation/Mitigation plan for Department review within 30 days of signing this Streambed Alteration Agreement. The Operator shall receive Department approval prior to project initiation/impacts. The plan shall: identify the mitigation site; include a long-term maintenance provision; and include a plant palette. Revegetation shall use only native species.

All mitigation shall be installed within 90 days of project impact and no later than April 30, 2000.

6. The Operator shall not remove vegetation within the stream from March 15 to July 15 to avoid impacts to nesting birds.

7. No equipment shall be operated in ponded or flowing areas.

8. Disturbance or removal of vegetation shall not exceed the limits approved by the Department. The disturbed portions of any stream channel shall be restored. Restoration shall include the revegetation of stripped or exposed areas with vegetation native to the area.

9. Installation of bridges, culverts, or other structures shall be such that water flow is not impaired. Bottoms of temporary culverts shall be placed at stream channel grade; bottoms of permanent culverts shall be placed at or below stream channel grade.

10. Preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

11. Water containing mud, silt or other pollutants from aggregate washing or other activities shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.
12. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.
13. The perimeter of the work site shall be adequately flagged to prevent damage to adjacent riparian habitat.
14. Staging/storage areas for equipment and materials shall be located outside of the stream.
15. The Operator shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the operator to ensure compliance.
16. If a stream's low flow channel, bed or banks/lake bed or banks have been altered, these shall be returned as nearly as possible to their original configuration and width, without creating future erosion problems.
17. All planting shall have a minimum of 80% survival the first year and 100% survival thereafter and/or shall attain 75% cover after 3 years and 90% cover after 5 years for the life of the project. If the survival and cover requirements have not been met, the Operator is responsible for replacement planting to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for 5 years after planting.
18. All planting shall be done between October 1 and April 30 to take advantage of the winter rainy season.
19. An annual report shall be submitted to the Department by Jan. 1 of each year for 5 years after planting. This report shall include the survival, % cover, and height of both tree and shrub species. The number by species of plants replaced, an overview of the revegetation effort, and the method used to assess these parameters shall also be included. Photos from designated photo stations shall be included.
20. Access to the work site shall be via existing roads and access ramps.
21. Spoil sites shall not be located within a stream/lake, where spoil shall be washed back into a stream/lake, or where it will cover aquatic or riparian vegetation.
22. Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. These materials, placed within or where they may enter a stream/lake, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.

23. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

24. No equipment maintenance shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas under any flow.

25. The Operator shall **provide a copy of this Agreement to all contractors, subcontractors, and the Operator's project supervisors. Copies of the Agreement shall be readily available at work sites at all times during periods of active work** and must be presented to any Department personnel, or personnel from another agency upon demand.

26. The Department reserves the right to enter the project site at any time to ensure compliance with terms/conditions of this Agreement.

27. The Operator shall notify the Department, **in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities.** Notification shall be sent to the Department at 330 Golden Shore, Suite 50, Long Beach, CA 90802, Attn: ES.

28. It is understood the Department has entered into this Streambed Alteration Agreement for purposes of establishing protective features for fish and wildlife. The decision to proceed with the project is the sole responsibility of the Operator, and is not required by this agreement. **It is further agreed all liability and/or incurred cost related to or arising out of the Operator's project and the fish and wildlife protective conditions of this agreement, remain the sole responsibility of the Operator.** The Operator agrees to hold harmless the State of California and the Department of Fish and Game against any related claim made by any party or parties for personal injury or any other damages.

29. The Department reserves the right to suspend or cancel this Agreement for other reasons, including but not limited to the following:

- a. The Department determines that the information provided by the Operator in support of the Notification/Agreement is incomplete or inaccurate;
- b. The Department obtains new information that was not known to it in preparing the terms and conditions of the Agreement;
- c. The project or project activities as described in the Notification/Agreement have changed;
- d. The conditions affecting fish and wildlife resources change or the Department determines that project activities will result in a substantial adverse effect on the environment.

30. Before any suspension or cancellation of the Agreement, the Department will notify the Operator in writing of the circumstances which the Department believes warrant suspension or cancellation. The Operator will have seven (7) working days from the date of receipt of this notification to respond in writing to the circumstances described in the Department's notification. During the seven (7) day response period, the Operator shall immediately cease any project activities which the Department specified in its notification. The Operator shall not continue the specified activities until that time when the Department notifies the Operator in writing that adequate methods and/or measures have been identified and agreed upon to mitigate or eliminate the significant adverse effect.

CONCURRENCE

(Operator's name)

California Dept. of Fish and Game

\_\_\_\_\_  
(signature) (date)

\_\_\_\_\_  
(signature) (date)

\_\_\_\_\_  
(title)

Environmental Specialist III  
(title)