

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036



RECORD PACKET COPY

Filed: April 20, 1999
49th Day: June 8, 1999
180th Day: October 17, 1999
Staff: EL-SD
Staff Report: April 13, 1999
Hearing Date: May 11-14, 1999

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

WED 15c

Application No.: 6-99-31

Applicant: 22nd District Agricultural
Association

Agent: Patricia Butler

Description: Construction of a 52-foot wide, 6,658-foot long practice track for race horses on the unimproved south and east overflow parking lots at the Del Mar Fairgrounds. The project includes the excavation of the track to a depth of 6 inches (approximately 6,400 cu.yds. of material) and refilling with 6,400 cu.yds. of mixed sand and wood chips; most of the excavated material will be spread 3 inches deep over the 15 acres within the practice track. The project also includes installation of a permanent 8-foot high chain-link fence around the practice track area, the temporary placement of railings along the outside of the track during the racing season and creation of a temporary 20-foot wide, 745-foot long, dirt access path over the existing paved parking lot (main lot) to bring the horses from the existing stable area to the practice track.

Lot Area	207.28 acres (entire property)
Plan Designation	Commercial Recreation/Floodway
Ht abv fin grade	8 feet (perimeter fence)

Site: East and south overflow parking lots of the Del Mar Fairgrounds, 2260 Jimmy Durante Boulevard, North City, San Diego and Del Mar, San Diego County.
APNs 760-145-05 & 12 and 299-030-01, 04 & 05

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending denial of the proposed practice track and perimeter fence, since they will result in significant direct wetland impacts and are not allowed uses in wetlands pursuant to Section 30233 of the Coastal Act. In addition, significant portions of both the

practice track and fencing would occur in areas typically required as wetland buffers, and would be located in close proximity to existing habitat areas and potential nesting sites in the San Dieguito River Channel. Moreover, the perimeter fence could be used as a predator perch or have visual impacts, and the introduction of concentrated equestrian activities close to the river channel will have adverse impacts on water quality. Finally, the proposed improvements occur in areas of the Fairgrounds property mapped as floodway and floodplain in certified land use planning documents.

Substantive File Documents: Certified Torrey Pines Community Plan; Certified Del Mar LCP Land Use Plan; 1985 Updated Master Plan for the Del Mar Fairgrounds and Racetrack and Associated Environmental Impact Report

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Denial.

The Commission hereby denies a permit for the proposed development on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and would 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.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to construct a practice track for race horses within the existing, unimproved south and east overflow parking lots at the Del Mar Fairgrounds. The track, which would be 52 feet wide and 6,658 feet long, would form an uneven loop through the two parking lots and the narrow area that connects them. The track itself would occupy approximately 8 acres of land, and there would be approximately 15 acres of land within the inside of the loop formed by the track. To create a running surface suitable for the horses, the track area would be excavated to a depth of 6 inches (approximately 6,400 cu.yds. total), and refilled with a like amount of a mixture of sand and wood chips. The 6,400 cu.yds. of excavated material would be spread over the fifteen acre interior of the track, with the exception of approximately 320 cu.yds. of material required to lay a temporary dirt surface over a 20-foot wide, 745-foot long portion of the existing, paved main parking lot. The temporary path is needed to bring the horses from the existing stable area to the practice track, without requiring them to walk on pavement. The applicant suggests that this 320 cu.yds. of material will either be stockpiled in the stable area during the non-racing season, or removed from the site and replaced each year with dirt from the main track.

In addition to the track itself, the proposed development includes installation of an 8-foot high chain-link fence around the perimeter of the practice track area, which is proposed as a permanent security feature for however long the practice track may remain. A fence already exists along Jimmy Durante Boulevard and between portions of the east overflow lot and the Surf and Turf leasehold (driving range, clubhouse, etc.) to the east. New fencing is proposed running east-west north of the proposed track location in the east overflow lot, along the eastern edge of the east overflow lot south of where the existing fence ends, along the inside of the berm marking the southeastern extent of the south overflow lot and the connecting area between the two lots, and along the remainder of the south overflow parking lot west of the berm. In addition, some portions of the existing fence are less than 8 feet in height, and will require replacement with an 8-foot high fence. When the racing season ends, a gate will be opened in the fence between the east overflow parking lot and the Surf and Turf driving range. During the horse-racing season, the applicant also proposes to install railings along the outside of the practice track. A permanent subsurface support system for the railings would need to be installed – this would be flush with the ground surface and not be readily apparent when the railings are not in place. The railings themselves would be removed after each racing season and the lots would then be fully available for overflow parking purposes.

The practice track is being proposed as a means to relieve overcrowding on the main track during the annual thoroughbred race meet, which lasts from approximately mid-July to mid-September each year. Trainers who may be racing only a few horses at Del Mar will bring their entire stable along as they complete the racing circuit. Thus, there are many more horses stabled at Del Mar than those actually scheduled to race. All of them require daily exercise, and the main track can only be used during the early morning hours before the day's racing activities begin. The existing training track, located west of the main track on the developed portion of the Fairgrounds, is very short and has tight turns. The Del Mar Thoroughbred Club has identified this as a problem, in that the horses are not receiving the proper type and amount of exercise with the current facilities. Thus, a new, longer practice track is being proposed.

The two parking lots which are the subject of this proposal lie within two separate local jurisdictions. The east overflow parking lot is in the City of San Diego, within the Torrey Pines Community of the North City LCP segment; the City's LCP is fully certified and it issues its own coastal development permits for most of its coastal zone area. The south overflow parking lot is within the City of Del Mar, which has a certified land use plan but not a fully certified LCP, since it has not submitted an implementation program for certification. However, both overflow parking lots are within the Coastal Commission's area of original jurisdiction, with the land use plans being used for guidance, but Chapter 3 of the Coastal Act being the standard of review for permits.

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 30240 of the Act is applicable and states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The two overflow parking lots contain wetlands. However, the amount of wetlands actually present on the two overflow parking lots has been the subject of some debate over the years. In 1993, a representative of the U.S. Army Corps of Engineers (ACOE)

conducted a wetlands delineation, which resulted in the designation of the entire south overflow lot as wetland and approximately a third of the east overflow lot as well. The applicant contested this delineation and has since conducted its own wetland delineation of both areas. The applicant's delineations have never been certified by the ACOE.

On March 19, 21 and 23, 1996, the applicant conducted a survey (East Parking Lot Wetlands Delineation Report, dated May 10, 1996) and concluded that 1.7 acres of the 18-acre east overflow parking lot (or just less than one tenth) is palustrine wetlands. In January, 1999, the applicant surveyed the south overflow parking lot (South Parking Lot Wetlands Delineation, dated January, 1999) and concluded that a small area is wetlands, but the survey did not include any narrative quantifying the survey results. It appears the wetland in the south overflow lot, as mapped by the applicant, is less than an acre in size, and could be as small as a quarter of an acre. The applicant states it used the federal protocol to conduct the surveys; that is, all three wetland indicators (hydric soils, appropriate hydrology and wetland vegetation) must be present before a site is delineated as a wetland. The discrepancy between the delineation by the ACOE and that conducted by the applicant has not been explained.

However, both the Coastal Commission and the California Department of Fish and Game (CDFG) define wetland as lands that contain any one of the three indicators. The Coastal Act definition of "wetland" states:

"Wetland" means lands within the coastal zone which 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 applicant's south overflow lot survey identified at least one wetland indicator present at every surveyed transect point. Therefore, both the ACOE delineation and the applicant's data indicate that the entire south overflow lot is wetlands according to the protocol used in California (i.e., the Commission and CDFG definition of wetland). The field data sheets for the applicant's east overflow parking lot survey include a number of transect points where one or two indicators were present and the site was not identified as wetlands.

Thus, the Commission finds that the data submitted by the applicant demonstrates that the 1993 ACOE wetland delineation continues to be accurate. Therefore, in the absence of a formal delineation according to California protocol, and in view of the facts presented above, the Commission finds it appropriate to apply the 1993 ACOE wetland delineation to this project. This position is supported by the U.S. Fish and Wildlife Service in its letter of April 19, 1999, attached.

Historically, the east and south overflow parking lots have been used by the applicant as public parking reservoirs during the annual fair and thoroughbred race meet. Because these yearly events predated the Coastal Act by several decades, the Commission has not challenged the continued use of these areas for overflow parking during these two specific events, even though the entire south parking lot and portions of the east parking

lot are wetlands. However, to prepare the lot surfaces for parking each year, the applicant discs and levels them prior to the Mid-June start of the fair (the race meet follows almost immediately after). The preparation activities, and the parking itself, severely inhibit the ability of these areas to support growth of wetland vegetation and thus function successfully as wildlife habitat.

As stated, the Commission has accepted the cited historic use of the overflow lots for parking during the fair and race meet. In addition, in past permit actions, the Commission authorized use of these areas for parking during the five years the Grand Prix was held at the Fairgrounds, allowed the installation of an at-grade paved tram track outside ACOE delineated wetlands in the east overflow lot, and approved use of a small portion of the south overflow lot adjacent to Jimmy Durante Boulevard to stockpile dirt from the flower show, year to year. Except in these specific cases, the Commission has not reviewed or approved any other uses of these lots, nor even use of the lots to accommodate overflow parking outside of the two grandfathered annual events.

Based on the applicant's delineation (as described above), the proposed practice track and associated fence improvements will impact 0.2 acres of existing delineated salt marsh wetlands, 0.13 acres in the south overflow parking lot and 0.07 acres in the east overflow parking lot. The applicant did not count the area inside the proposed track where the excavated materials would be disposed as a wetland impact, even though the applicant's delineation shows some wetlands in this area. However, using the Coastal Act definition of wetland, a much larger portion of the proposed practice track, infield disposal area and fence would be located in wetlands, potentially as much as eight or nine acres. Under either definition of the term wetland, the proposed project involves fill in a wetland and therefore triggers Section 30233 of the Coastal Act. As cited above, under the Coastal Act, dredging and filling of wetlands is severely constrained. Coastal Act Section 30233(a) prohibits dredge and fill of wetlands unless three criteria are satisfied. These are:

- 1) The project is limited to one of the eight stated allowable uses;
- 2) The project has no feasible less environmentally damaging alternative;
and,
- 3) Adequate mitigation measures have been provided to minimize adverse environmental effects.

As currently proposed, the development does not meet any of these tests. The proposal does not represent one of the eight allowed uses in wetlands, there are less environmentally damaging alternatives for use of the east and south overflow parking lots and potential alternative siting for the practice track, and no mitigation has been proposed.

The applicant maintains that creation of the proposed practice track is similar in nature to annual preparation of the lots to accommodate the existing use of the sites for overflow parking. The applicant asserts that the proposed development will not create impermeable surfaces or change drainage patterns, will not significantly modify site

elevations, and will not prevent continued use of the lots for parking during the non-racing season since the trackside railings will be removed during that time and the track surface will accommodate vehicles. For these reasons, the applicant argues that the proposed development is nothing more than a continuance of an existing, approved use.

The Commission, however, finds that the ongoing use of these sites for overflow parking is not a permitted use in wetlands either under Section 30233 of the Coastal Act, but it has not challenged said use since the activity predates the Coastal Act and has remained the same over the years. The applicant is now proposing to introduce a new activity and development into the east and south overflow parking lots, which, even without the proposed structural improvements, will result in both a change in use of the lots and an intensification of use. As many as 2,300 horses per racing season would train on the subject site, in areas that have not been utilized for equestrian activities in the past. Moreover, the applicant is proposing structural improvements, in the form of excavation, import and deposition of new material to fill the track surface, making it level with the surrounding ground, deposition of the excavated materials within the interior of the track, raising the elevation by approximately 3 inches, installation of fencing where none now exists and installation of an at-grade support system for the seasonal track railings.

In summary, the Commission finds that the proposed activity represents a change in the use and intensity of use of the subject sites, which is considered development under the Coastal Act and thus requires a coastal development permit. In addition, there are a number of physical improvements proposed which also meet the definition of development in the Coastal Act and would, in and of themselves, require a coastal development permit. The proposed facilities and use will have a direct impact on approximately eight or nine acres of wetlands, yet the proposed development is not one of the eight allowed uses in wetlands pursuant to Section 30233.

The Commission finds the subject sites, which in addition to wetland constraints are also mapped as floodway/floodplain properties, could be used in more suitable ways, such as restoration and open space; plus, the ongoing use for fair and race meet overflow parking is expected to continue and is not affected by the Commission's decision on this permit. Thus, less environmentally damaging alternatives for use of the east and south overflow parking lots are available. It is also possible that the proposed development (practice track and associated improvements) could be constructed in a different location, either on the Fairgrounds or other property owned by the applicant. To accommodate a track of the proposed length, which the applicant maintains is critical for proper exercise, such an alternative would likely involve a significant rearrangement of said sites, and would need to take into consideration any development constraints which may exist on those sites and the processing of all required permits. In fact, the Del Mar Thoroughbred Club has indicated it is investigating other options, including use of the Horse Park property east of the Fairgrounds or use of the infield of the main track; both of these options will take some time and expense to develop, but may be feasible. Finally, the applicant has proposed no mitigation for the identified impacts; however, since the development is not an allowed use in wetlands anyway, an analysis of what might otherwise be appropriate mitigation is not relevant. It should be noted that a mitigation plan was required as a

filing requirement but Commission staff agreed to waive this requirement because the proposed development is not an allowable use and because of the applicant's need to go forward. Therefore, the Commission finds it must deny the proposed development because the proposed development involves fill of wetlands and is not one of the eight identified permitted uses under Section 30233 of the Coastal Act.

3. Hydrology – Floodway and Floodplain Issues. The following policies of the Coastal Act apply to the proposed development, and state, in part:

Section 30236

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.

Section 30253

New development shall:

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

The City of San Diego base zoning maps identify the east overflow parking lot as being within the Floodplain/Floodplain Fringe of the San Dieguito River and the City of Del Mar LCP Land Use Plan identifies the south overflow parking lot as Floodway. The 1986 FEMA map for the City of Del Mar confirms that the south overflow lot is within the 100-year floodplain, but does not distinguish between the floodplain and actual floodway. In any case, historically both parking lots have been subject to inundation during some past winters, even though the applicant maintains an earthen berm just north of the river channel along the south side of the east overflow lot and a portion of the south overflow lot. Jimmy Durante Boulevard, which was realigned and raised in elevation during the 1980's pursuant to Coastal Development Permit #6-83-589, acts as a dike, protecting the more developed portions of the Fairgrounds (main parking lot and existing buildings) from flooding except during the most severe flood events. The two subject overflow lots are located between Jimmy Durante Boulevard and the river, so they are not afforded any protection by the road.

In past permit actions, the Commission has denied fill and construction of permanent structures in the floodplain pursuant to Section 30236 of the Coastal Act. It has also denied construction of all types of structures in floodways. The reason for prohibiting fill or structural improvements in these areas is because such development would adversely affect the hydrology of the floodplain and would change the flow and drainage patterns of

the affected area; thus, any form of filling the floodplain is a form of channelization. Under Section 30236, cited above, channelization is only allowed as part of a water supply project, as the only feasible means to protect existing principal structures or as part of a fish or wildlife habitat enhancement project. The applicant maintains that the proposed development does not represent fill in the floodplain, since the completed track will be at the same elevation as existing ground. However, the project involves the importation of approximately 6,400 cu.yds. of new material for the track, with a like amount of excavated materials being deposited within the interior of the practice track. This will raise the elevation within the interior of the track by an average of three inches. Thus, the project does involve filling of the floodplain.

In addition, the applicant is proposing fencing around the perimeter of the project site. Although an open form of fencing is proposed (chain link), portions of the proposed fence will be aligned perpendicular to the river channel and will be constructed much closer to the existing channel than the existing north-south trending fence portions come (see Exhibit #3). Thus, under flood conditions when the river is overflowing its banks, solid materials coming downstream could lodge against the fence, ultimately forming a dam, and redirecting flood flows. This could result in flooding onto other properties upstream of the project site or other portions of the Fairgrounds.

The Fairgrounds was constructed back in the 1930's on fill placed in historic wetlands. Although this is not the type of development that could be found consistent with the Coastal Act today, the fill operation occurred many decades before the Coastal Act was passed. Because of the history and unique nature of the existing Fairgrounds property, the Commission has in the past approved many development permits that technically would meet the definition of fill in a floodplain. However, these past permits have authorized improvements within the partially paved, already developed portion of the Fairgrounds north and west of Jimmy Durante Boulevard. For the most part, these past projects have consisted of the replacement of many of the historic buildings, including the racetrack grandstands, the horse arena and most of the stables. Although the replacement structures have sometimes been larger than the originals, they have been similarly sited and intended for the same historic uses.

In summary, the Commission finds that the proposed development, which would be located between Jimmy Durante Boulevard and the San Dieguito River, on unimproved dirt lots mapped as floodplain and floodway, represents channelization of the river within the meaning of Coastal Act Section 30236. The proposed development is not a water supply or wildlife enhancement project and will not provide protection from flooding to existing principal structures; moreover it is proposed in an area identified with a high flood hazard. Therefore, the Commission finds the proposal inconsistent with Sections 30236 or 30253 of the Act. In addition, the proposed development is not a replacement of a pre-Coastal Act structure or facility and represents the introduction of new structures, fill material and new activities into a sensitive floodplain area where such does not now exist. The Commission thus finds it must deny the project.

4. Water Quality. The following policy of the Coastal Act addresses this issue and states:

Section 30231

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.

The applicant's existing storm drain system collects all site drainage from the developed portions of the Fairgrounds (i.e., those portions north and west of Jimmy Durante Boulevard, including the existing race track, training track, stables and horse arena). That drainage passes through existing grease traps in the inlets draining the main parking lot, then discharges into the river channel. There are no formal drainage facilities in the east or south overflow lots, since these are unimproved areas where water ponds during the winter storm season, then either evaporates or percolates into the ground. The applicant maintains that the nature of the proposed construction will not result in any change to existing drainage patterns or require construction of any new drainage facilities. Thus, it is the applicant's position that the development will have no adverse impacts on water quality.

The Commission finds that introducing approximately 2,300 horses into an area within, and immediately adjacent to, existing wetland habitat does raise a significant concern over the maintenance of optimum water quality in the wetlands and in the river channel as well. The applicant has not proposed any Best Management Practices to address animal waste, yet operation of the proposed facility could be expected to generate a significant amount. Therefore, the Commission finds the development, as currently proposed with no program for the collection, treatment or disposal of animal waste, inconsistent with Section 30231 of the Coastal Act.

5. Visual Resources. The following policy of the Coastal Act provides for the protection of scenic coastal resources, and states, in part:

Section 30251

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 two parking lot sites are located between Jimmy Durante Boulevard and the San Dieguito River channel. In addition to Jimmy Durante Boulevard, they are visible from I-5, Camino del Mar, Via de la Valle, San Dieguito Road and portions of the San Dieguito Lagoon. The views from Camino del Mar and Via de la Valle are intermittent and partially obscured by intervening development; views from the other identified areas are fairly unimpeded. The proposed practice track will be flush with the surrounding ground and the three-inch elevational rise inside the track, resulting from the proposed deposition of the excavated materials, would certainly not be visually significant. Moreover, the proposed temporary railings along the outside of the practice track, which are typically only a couple feet tall and would only be in place during the race meet itself, do not appear to raise a significant visual issue. In addition, since these unimproved overflow parking lots have never before been used in this manner, the presence of a large number of horses practicing daily on the proposed track will indeed change the visual character of the site during the approximately two-month duration of the racing season each year.

The one proposed project feature with the potential for visual impacts is the installation of a permanent eight-foot high chain-link fence around the entire perimeter of the proposed site. In addition to increasing the height of existing fencing between the east overflow lot and the Surf and Turf leasehold, fencing would be extended into areas where it does not now exist. Fencing would be installed in an east-west alignment across the east overflow lot north of the proposed practice track, running from the Surf and Turf lease line to Jimmy Durante Boulevard. Also, there would be new fencing along the south side of both overflow lots and the narrow connecting area between them. There is an existing earthen berm along part of this alignment, approximately four to six feet in height, and the fence would be installed to the north, and at the base of, that berm. Thus, when viewing the area from the lagoon or Jimmy Durante Boulevard, the fence would not be especially prominent when seen against, or slightly above, the berm.

However, the berm ends part way along the south overflow parking lot, and, from there westward to the existing fence sections near the Jimmy Durante Bridge over the river there is no barrier of any kind between the parking lot and the existing wetland habitat south of the lot. The salt marsh habitat exists on land now owned by the San Dieguito River Park Joint Powers Authority, but which was formerly owned by the applicant. It is in this area that the proposed fence would be most visible, since there are no other existing features that would serve as an immediate backdrop. Whether this would be considered a significant adverse visual impact is again somewhat subjective. However, at least portions of the proposed fence would be quite visible from several diverse vantage points and these portions are located in areas where there are currently unimpeded views of, and across, open undeveloped land, including portions of the lagoon and hillsides to the south. Therefore, the Coastal Commission finds the proposed development is not consistent with Section 30251 of the Act.

6. Public Access and Recreation. The Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. The

following Coastal Act policies, which address the protection of public access and recreational opportunities, are most applicable to the proposed development:

Section 30210

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby....

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30604(c)

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The applicant, the 22nd District Agricultural Association, is a public state agency primarily involved in the operation of fairgrounds throughout the state. In addition to the annual fair and thoroughbred race meet, the Del Mar Fairgrounds hosts numerous shows and activities throughout the year. Most, if not all, of these are available to the general public, typically at prices comparable to other relatively low-cost forms of entertainment, such as movies or baseball games. Thus, the Commission finds that this public facility provides low-cost, though not coastal dependent or related, public recreational opportunities.

The subject site is located between the sea and first coastal roadway, being located immediately north of San Dieguito Lagoon. There is no direct or formal beach access in this location, and the ocean itself is some distance west of the south overflow parking lot,

beyond Jimmy Durante Boulevard, the railroad tracks and Camino del Mar. However, pedestrian access to the parking lots can be gained both from the Surf and Turf leasehold to the east and via a pedestrian ramp into the south overflow lot, located near the Jimmy Durante Bridge over the river. There is some evidence that people do use this area for casual strolling and to walk dogs, although there is no formal access at the site. The installation of the proposed perimeter fence will effectively preclude the continuance of this form of access during the racing season, although it is understood that there will be open gates in the fence at other times. In any case, the Commission finds that the proposed development would not interfere with direct beach access, since none exists at the overflow parking lot sites at this time.

7. 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 cannot be made.

The 22nd District Agricultural Association, a state agency, manages land lying within the purview of the Cities of Del Mar, Solana Beach and San Diego. The certified land use plan for the City of Del Mar and the certified land use plan for the County (which is now the City of Solana Beach) designate the racetrack area itself for public recreation facilities; some of the land use designations for other areas of the District's property do conflict with those shown in the updated Master Plan for overall development of the Fairgrounds, which has not been subject to review by either the Coastal Commission or the local jurisdictions involved. Additionally, the entire site is included within the Commission-approved San Dieguito Lagoon Enhancement Plan which is a component of the certified Del Mar LCP Land Use Plan and is referenced in the Torrey Pines Community Plan, a component of the City of San Diego North City LCP segment. Moreover, the Fairgrounds property is primarily an area of public trust lands where permit jurisdiction remains with the Coastal Commission, and Chapter 3 of the Coastal Act, rather than the various LCP documents, is the standard of review.

Specifically, the east overflow parking lot is within the geographic limits of the City of San Diego and the south overflow parking lot is within the geographic limits of the City of Del Mar. The City of San Diego, in the certified Torrey Pines Community Plan, has designated the east overflow lot for low intensity commercial recreational uses and identified it as within the 100-year floodplain of the San Dieguito River. The City of Del Mar, in its certified LCP Land Use Plan, identifies most of the 22nd District Agricultural Association property as Fairgrounds/Racetrack, but identifies the south overflow lot only as floodway.

However, the 22nd District Agricultural Association, which owns and operates the actual Fairgrounds, is a state agency. The District has completed an updated Master Plan, and adopted a draft Public Works Plan. Because the Fairgrounds is a special State District, they have the option of submitting a public works plan under Section 30605. The proposed racehorse practice track and associated improvements, however, are not

included in either the Updated Master Plan or draft Public Works Plan, and neither of those documents has been formally submitted for review and approval of the Coastal Commission. The proposed project has not been found consistent with the Chapter 3 policies of the Coastal Act addressing wetlands, floodplains and visual resources. Therefore, the Commission finds that project approval could prejudice the ability of the involved communities to complete certifiable plans for their respective jurisdictions and could prejudice the ability of the applicant to prepare a certifiable Master Plan or Public Works Plan as well.

8. Consistency with the California Environmental Quality Act (CEQA). As previously stated, the proposed development will result in impacts to delineated salt marsh wetlands, floodplain areas and visual resources which will result in unmitigable environmental impacts. Furthermore, alternative use of the overflow parking lots or alternative siting of the practice track would lessen the environmental impact of the proposed project on coastal resources. The Commission therefore finds that there are feasible alternatives or mitigation measures available which would substantially lessen the significant adverse impacts which the proposed development may have on the environment of the coastal zone.

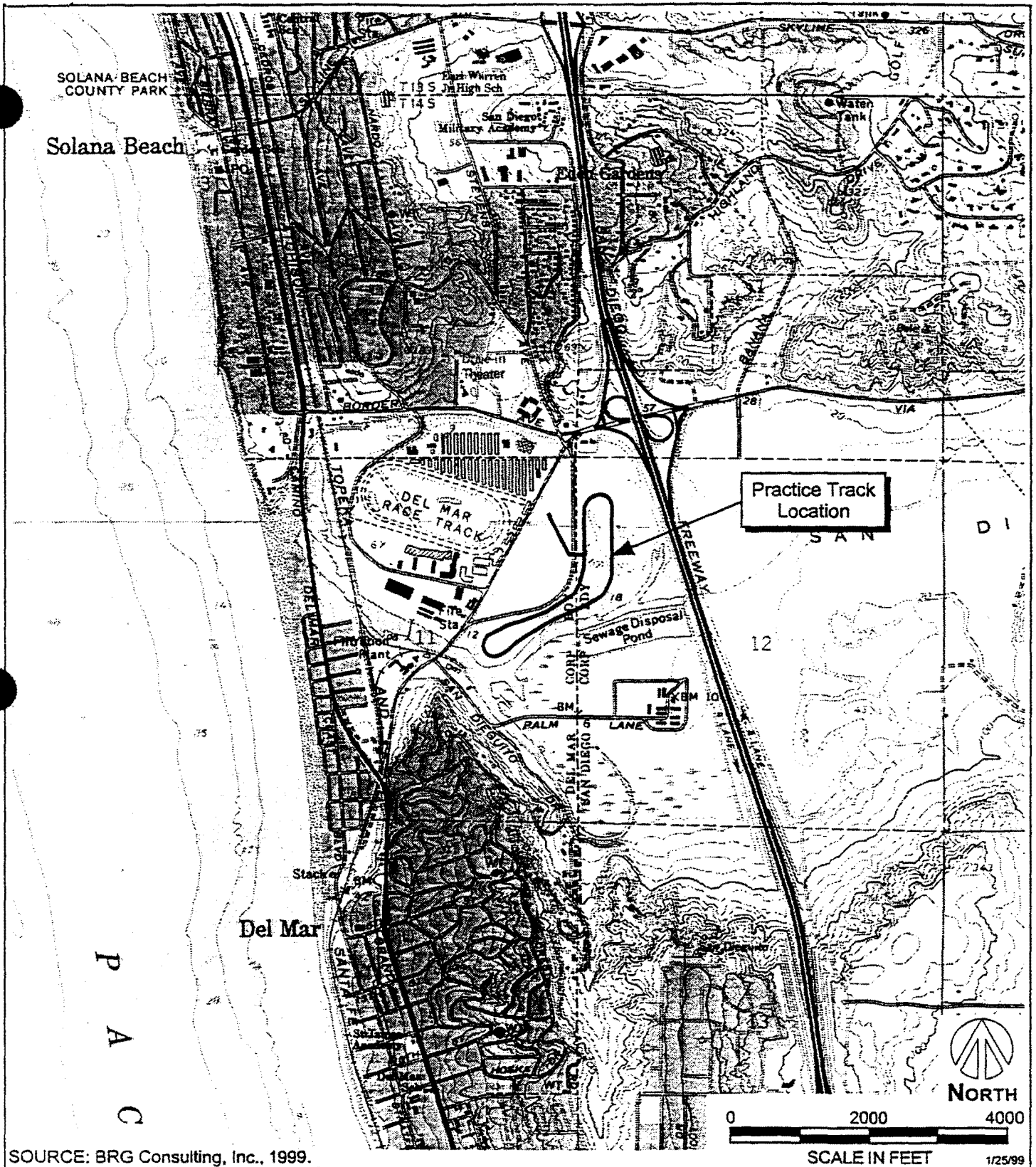
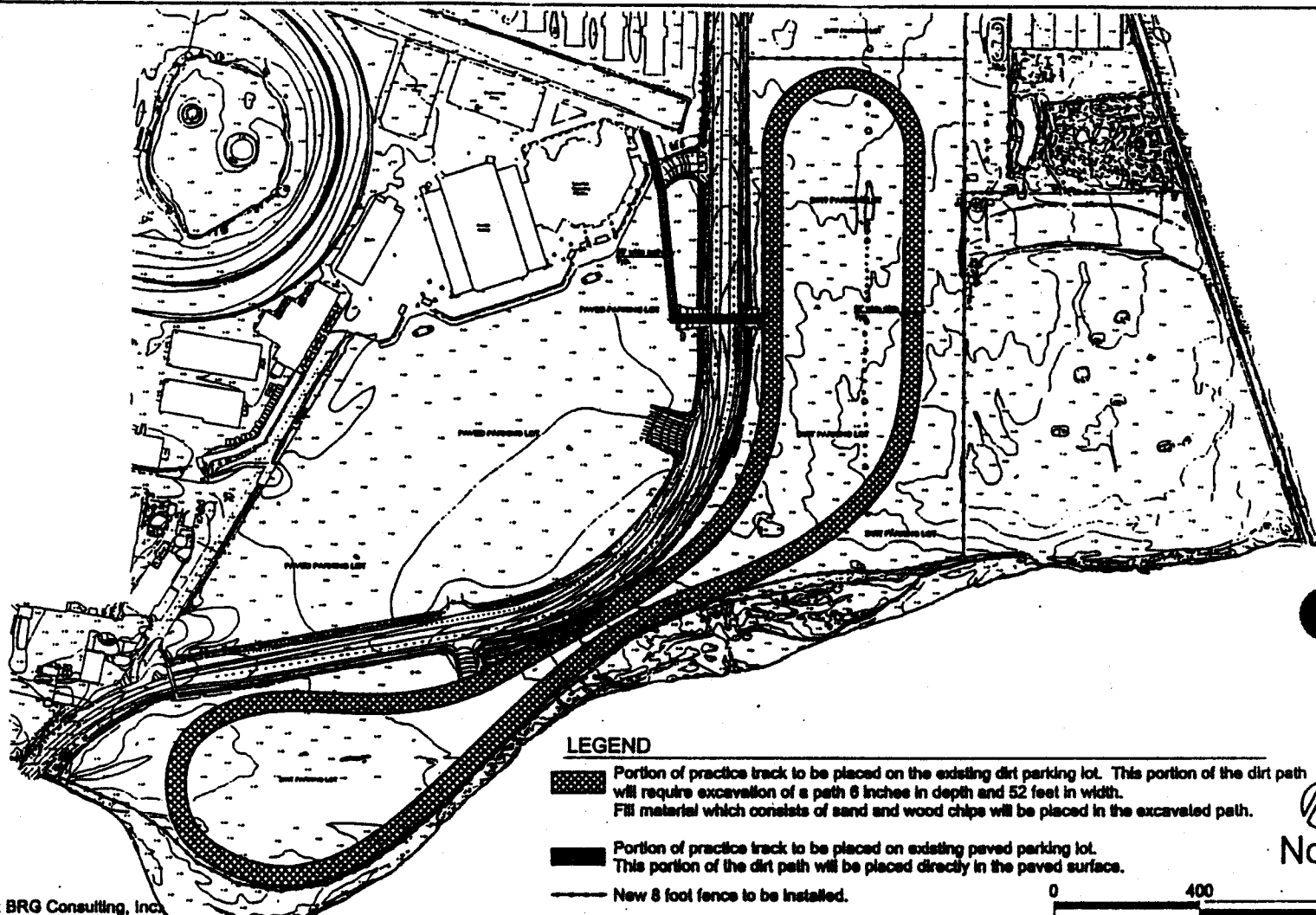


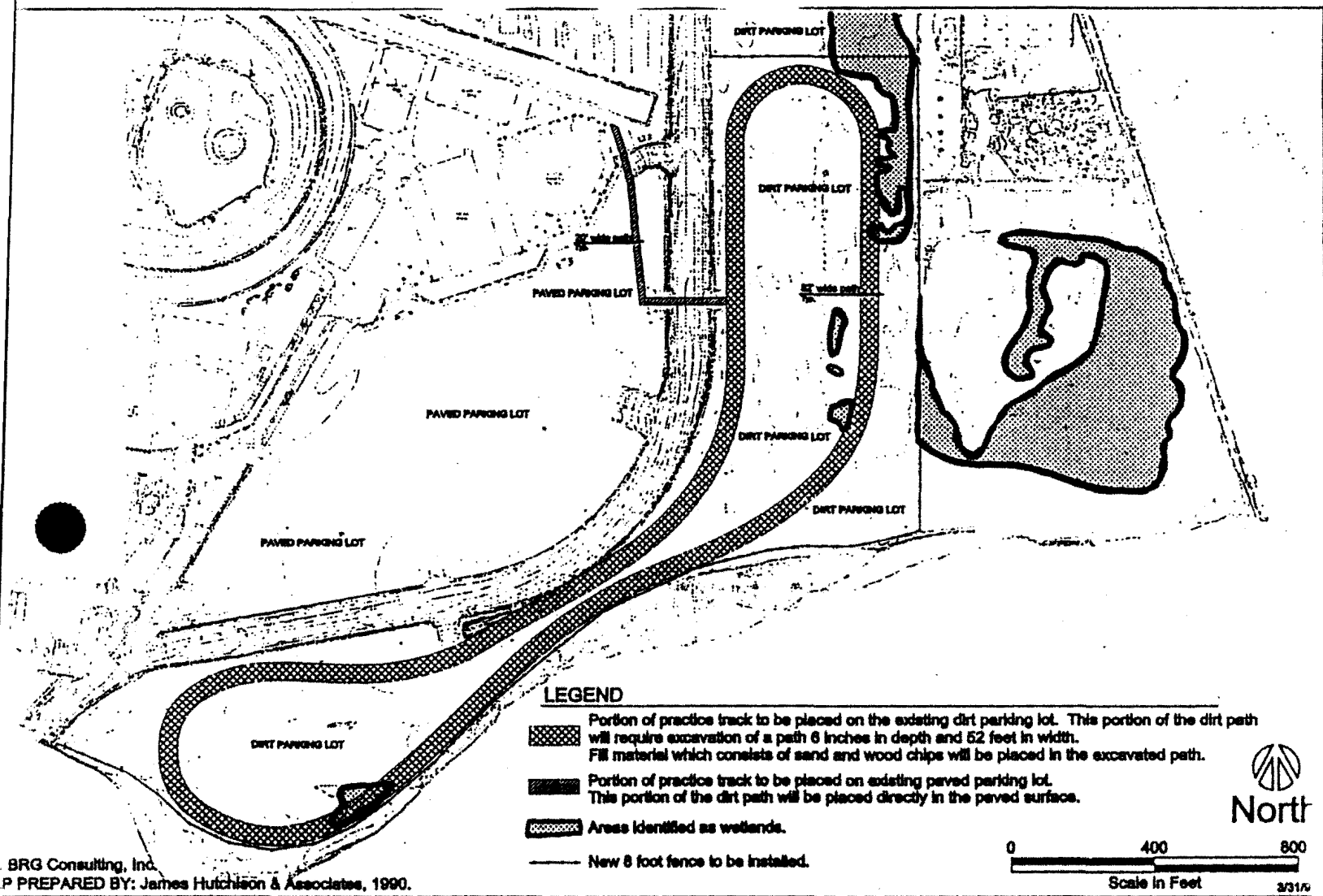
EXHIBIT NO. 1
APPLICATION NO.
6-99-31
Location Map
California Coastal Commission



CE: BRG Consulting, Inc.
MAP PREPARED BY: James Hutchinson & Associates, 1990.

North

EXHIBIT NO. 2
APPLICATION NO.
6-99-31
Site Plan
California Coastal Commission



BRG Consulting, Inc.
P PREPARED BY: James Hutchison & Associates, 1990.

EXHIBIT NO. 3
APPLICATION NO.
6-99-31
Applicant's Wetland Delineation
California Coastal Commission

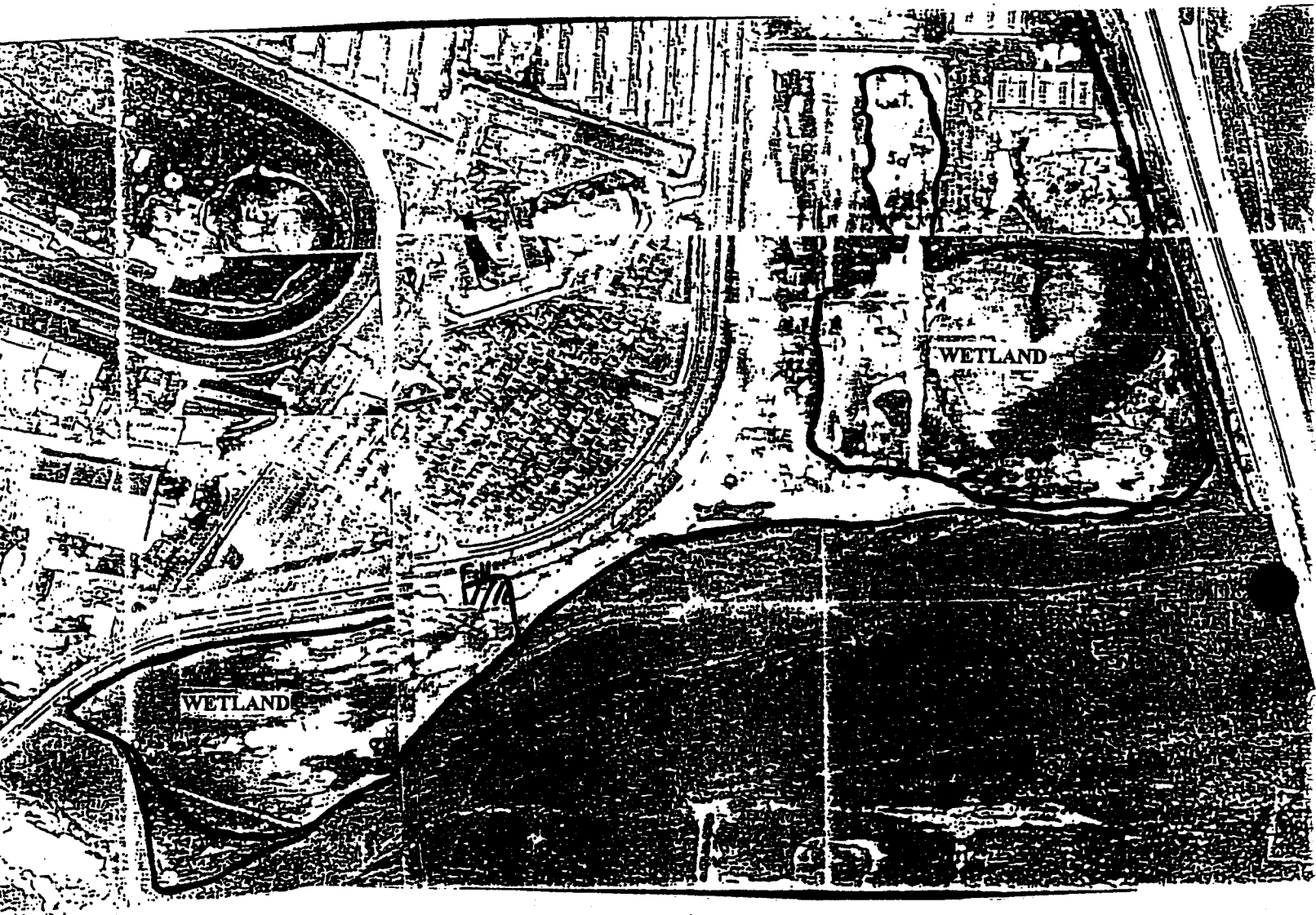


EXHIBIT NO. 4

APPLICATION NO.

6-99-31

ACOE 1993 Wetland
Delineation

 California Coastal Commission



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services

Carlsbad Fish and Wildlife Office

2730 Loker Avenue West

Carlsbad, California 92008

RECEIVED

APR 19 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

April 19, 1999

Ms. Ellen Lirley, San Diego Area
California Coastal Commission
2111 Camino del Rio North, Suite 200
San Diego, CA 92108-1725

Re: Coastal Development Application #6-99-31, Dirt Practice Track, Del Mar Fairgrounds, next to San Dieguito Lagoon

Dear Ms. Lirley:

We recently learned of this proposal by the 22nd Agricultural District (Ag. District) to seasonally construct a 1.26-mile dirt practice track for race horse training adjacent to San Dieguito Lagoon. As you know, we are working with the Coastal Commission staff, San Dieguito River Valley Joint Powers Authority, Southern California Edison, and others, to prepare the Environmental Impact Report/Statement (EIR/S) for the restoration of the lagoon. We have been interacting with the Ag. District on the restoration project, as well, on project features and impacts that may have some relationship to their property or activities. However, they had not mentioned this practice track proposal. We offer these brief comments for Coastal Commission consideration of the Ag. District's referenced application.

Much of the area proposed for this practice track is within Federally delineated jurisdictional waters and wetlands. The 1993 delineation by the Corps of Engineers will be used in our restoration project EIR/S and remains valid today. For the required Federal permit, the applicant will need to develop an analysis of less damaging practicable alternatives to discharging fill in wetlands. If they were able to establish that there were no such alternatives, they would then need to develop a compensatory mitigation plan. We believe the California Coastal Act requires analogous analyses. At this moment, the applicant has apparently done neither.

The Ag. District also proposes to construct an 8-foot fence around the entire facility. As a result of the extensive analyses being assembled for the restoration project EIR/S we predict that this fence may aggravate some of the adverse effects of storm water flow over this area and be a visual blight. The track and fence configuration also appear to preclude any consideration of public trail access along the edge of the San Dieguito River.

EXHIBIT NO. 5

APPLICATION NO.

6-99-31

Letter of Opposition
from Fish & Wildlife

California Coastal Commission

Ms. Ellen Lirley, California Coastal Commission

2

Based on the information provided, to date, we could make no other recommendation to the Coastal Commission than to deny this application. Any further discussion or questions should be referred to Mr. Jack Fancher at (760) 431-9440.

Sincerely,

Nancy Dilbert

for Sheryl A. Barrett
Assistant Field Supervisor

cc: Corps of Engineers, San Diego
CDFG, San Diego
San Dieguito River IPA