

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

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Staff: EL-SD  
Staff Report: July 20, 1999  
Hearing Date: August 10-13, 1999

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

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Application No.: 6-99-63

Applicant: California Coastal Conservancy Agent: Jim King; Chris Nordby

Description: Excavation of existing non-native grasslands and creation of a 20-acre intertidal salt marsh; the proposal includes the conversion of 0.55 acres of existing mid- and high-marsh to low- and mid-marsh habitats.

Site: Approximately 200 yards northwest of the Border Field State Park entrance kiosk, north of Monument Road, Imperial Beach, San Diego County. APN 662-010-02

Substantive File Documents: Certified City of Imperial Beach General Plan/Local Coastal Plan; Tijuana River National Estuarine Sanctuary Management Plan; Tidal Estuary Tidal Restoration Program EIR/EIS; Negative Declaration, adopted December 8, 1998

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**STAFF NOTES:**

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed development with special conditions requiring submittal of ongoing monitoring reports, submittal of a final construction schedule and submittal of copies of other discretionary permits issued by local, state and federal agencies. The proposed wetland restoration project is a permitted use under Section 30233 of the Coastal Act. Issues raised by the proposal include identified impacts to existing wetland habitat, the suitability of dredged materials for beach disposal, effects on water quality, and potential impacts on visual resources and public access. The issues are all resolved through the proposed project's construction methods and scheduling or through the attached special conditions.

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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. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule shall incorporate all seasonal restrictions imposed by the other resource agencies (California Department of Fish and Game [CDFG], U. S. Fish and Wildlife Service [Service] and U. S. Army Corp of Engineers [ACOE]).

2. Final Plans/Mitigation and Monitoring Plan/Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final mitigation and monitoring plan designed by a qualified wetland biologist. Said program shall be in substantial conformance with the biological mitigation criteria outlined on Pages 28-30 of the Negative Declaration approved December 8, 1998 for the subject development and shall also incorporate the performance criteria included in Conditions #20 and 21 of Streambed Alteration Agreement Notification No. 5-519-98. Within 30 days of completion of construction (i.e., grading and planting) of the model marsh, the applicant shall submit an as-built assessment of the mitigation project that includes as-built plans, to determine if the project has been built as proposed. Thereafter, copies of all monitoring reports shall be submitted to the Executive Director of the Coastal Commission, along with any other agencies requiring copies of said reports.

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

3. Other Permits. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, copies of all other required local, 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.

4. Disposal of Graded Materials. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or the local government pursuant to a certified local coastal program.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to construct a 20-acre intertidal salt marsh within a portion of the Tijuana Estuary. The project represents the second phase of a multi-phase, 500-acre marsh restoration effort known as the Tijuana Estuary Tidal Restoration Program. The Commission has not reviewed the plan as a whole, but it approved the first phase, the Oneonta Tidal Linkage, under federal consistency a few years ago. Future phases are anticipated to be brought before the Commission either as consistency or permit matters, depending on whether they are proposed on federal or non-federal lands, as project funding becomes available.

The site is geographically within the boundaries of the City of Imperial Beach, located in Border Field State Park on property owned by the California Department of Parks and Recreation. It is also within the overall boundaries of the Tijuana River National Estuarine Research Reserve. Because the project site is an area of historic tidelands, coastal development permit jurisdiction rests with the Coastal Commission rather than the City of Imperial Beach, and Chapter 3 of the Coastal Act is the standard of review.

The proposal, known as the Model Marsh, would grade approximately 20 acres of existing historic wetlands, which have been filled and diked by human activities, storms and sedimentation in the distant past and now consist primarily of disturbed non-native grasses, to an elevation which would support salt marsh vegetation. Specifically, the Model Marsh will consist of six segments, three with tidal channels and three without and will be connected to the existing South Slough Channel. The marsh will be graded relatively flat, to elevations ranging from +1.8 feet MSL to +2.8 feet MSL over a distance of 500 feet. After the overall marsh is graded, tidal channels will be excavated and graded to an approximate elevation of MSL.

The excavation/grading will result in approximately 125,000 cu.yds. of material, which will be trucked off-site and disposed of at the Fenton gravel quarry site ½ mile east of the project site to be used to reclaim and restore the abandoned quarry. The disposal site is being addressed in a City-issued non-appealable coastal development permit now undergoing local review. Prior to the issuance of this permit, the applicant needs to submit a copy of a permit for that site, identify that the materials will be trucked out of the coastal zone, or submit a permit for an alternate site, pursuant to Special Condition #4. The project plans also identify an acceptable construction staging area just south of the project site, on existing uplands, and a haul route to transport the graded materials off-site. Portions of the haul road currently exist, but a middle segment will be constructed for the project; it is within uplands and no impacts are identified in association with it.

This project is proposed as a restoration and research project with the hopes that what is learned here can be adapted to future restoration projects in the estuary. Therefore, the applicant proposes to actively plant some areas with both salvaged and new salt marsh species and to leave other areas to natural colonization. The areas not vegetated as part of this proposal are expected to act as salt flats initially until marsh vegetation establishes over time.

2. Wetlands/Sensitive Biological Resources/Beach Replenishment. The following Chapter 3 policies of the Coastal Act apply to the subject proposal and state, in part:

**Section 30230.**

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

**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.

**Section 30233**

(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.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

**Section 30240:**

(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 project site is historic wetlands that have been significantly altered over time until they no longer function as wetlands. During the early part of this century the area was filled and diked to allow agriculture and military uses and additional materials were deposited as a result of floods and sedimentation. Neither military operations nor agriculture has occurred on the site for many years, and the area now consists primarily of non-native grasslands. The proposed development would excavate the site to historic elevations and restore wetland functions to the area.

The proposed project raises issues under Section 30233 of the Coastal Act in two respects. First, the entire project will occur within historic, though non-functioning wetlands. Second, connecting the restored area to the existing South Slough channel will directly impact 0.55 acres of existing mid to high salt marsh habitat. As cited above, under the Coastal Act, disturbance and/or fill of wetlands is severely constrained. Coastal Act Section 30233(a) sets forth a three-part test for all projects involving the fill of coastal waters and wetlands. These are:

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

In this particularly case, the proposed development meets the above requirements. As a restoration project, the development is allowed in wetlands under Section 30233(7). There is no way to connect the restored marsh with the existing tidal channel (i.e., achieve tidal circulation in the restored area) without impacting existing salt marsh habitat. The resource agencies have supported the project as self-mitigating in that impacts to 0.55 acres of salt marsh (mid to high marsh) are adequately compensated by the creation of 20 acres of salt marsh (low, mid and high marsh). Although these impacts are unavoidable, they have been reduced to the maximum extent feasible.

To be more specific, the 0.55 acres of existing salt marsh which is affected by the proposed excavation of tidal channels and grading of the overall 20-acre Model Marsh site, consists of mid to high marsh vegetation. All existing plant materials will be salvaged and replanted around the perimeter of the created marsh, at elevations consistent with the existing elevations. The actual location where the impacts occur will be converted to tidal channels and low to mid marsh, which is considered a more valuable habitat overall. In addition to the restoration of 20 acres of historic wetlands, the project is expected to have some beneficial effects on the surrounding lands as well, simply by the increase of tidal circulation in the area.

The applicant is proposing the Model Marsh as both a restoration effort and a research project. For that reason, not all areas of the project will be planted immediately with salt marsh species; many areas will be allowed to vegetate on their own once the appropriate elevations are restored. The applicant is proposing to plant several patches of cordgrass, using soil amendments for some areas and not modifying soils in other areas. The applicant also proposes to plant different densities and study how the various methods succeed. This research is expected to aid in the design of future phases of the overall 500-acre restoration plan. The results of the research, and of the overall restoration project will be documented through five years of monitoring.

With respect to Section 30240 of the Coastal Act, the proposed development will not degrade or adversely impact sensitive habitats, but will rather restore and expand functioning wetlands. The construction impacts to 0.55 acres of existing salt marsh are not considered a significant disruption of habitat values since the project will result in 20 acres of newly restored wetland habitat.

The applicant initially proposed to deposit all excavated materials from the project on the nearby beach. In fact, the Negative Declaration was drafted with this option in mind. However, subsequent testing of many soil samples from the site has demonstrated that the soils are not suitable for beach replenishment. Although there are some small pockets of soils that appear to be compatible with the identified receiver beach, they are co-mingled with a much larger portion of unsuitable soils, based on sand grain size factor and sand to silt ratios. Thus, all reviewing agencies, including the Environmental Protection Agency, the Regional Water Quality Control Board and the ACOE have determined that beach disposal is not an appropriate option for the subject excavated materials. Therefore, the applicant proposes to dispose of the spoils at an inland site, a former quarry, where they will be used to reclaim the site and restore coastal sage habitat. This site is within the City of San Diego's coastal development permit jurisdiction.

Two special conditions address the biological aspects of the proposed development. Condition #1 requires submittal of a final construction schedule, documenting consistency with the seasonal restrictions imposed by the other resource agencies. The restrictions are imposed to prevent construction activities at those times and in those places where it could adversely affect several threatened and endangered avian species that use the project area for breeding and foraging. Condition #2 requires submittal of a final mitigation/monitoring program to address biological impacts. The final plan should be consistent with the parameters outlined in the project's Negative Declaration and also with the specific performance criteria established in the Streambed Alteration Agreement from CDFG. Finally, the plan should identify that copies of all monitoring reports are sent to the Commission, in addition to any other agencies requesting such information. In summary, the proposed wetland restoration project is a permitted use under Section 30233 of the Act, all impacts have been minimized to the extent feasible and mitigation for all remaining impacts is included in the project. As conditioned, the Commission finds the proposed Model Marsh project consistent with the cited Coastal Act policies.

3. Water Quality. The following Coastal Act policy is applicable to the proposed development 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 project site is located within the Tijuana River Valley, south and west of existing tidal channels and approximately  $\frac{3}{4}$  of a mile south of the Tijuana River itself. The proposed marsh restoration is not anticipated to have any adverse impacts on existing water quality. In fact, the increase in tidal prism and additional surface water storage is expected to have a beneficial effect and serve to minimize sedimentation.

However, adverse impacts could result from the construction phase of the development, depending on the construction methods used. The applicant proposes to construct a temporary checkdam at the connection point between the excavated marsh and existing slough channel to keep tidal water out of the site until excavation is complete. Only after excavation is finished will the dam be removed and tidal flows be allowed to enter the restored area. In addition, a temporary dewatering basin will be constructed in the staging area out of geo-textile fabric and haybales to dewater excavated materials before they are trucked off-site. These measures will minimize, if not eliminate, any potential adverse impacts from project construction on the water quality of the estuary. The Commission finds, with these methods as part of the proposal, that the development is consistent with Section 30231 of the Act.

4. Public Access. Many policies of the Coastal Act address the provision, protection and enhancement of public access opportunities, particularly access to and along the shoreline. In the subject inland area, the following policies are most applicable, and state, in part:

**Section 30210**

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



**Section 30213**

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

**Section 30223**

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

**Section 30604**

... (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). ...

There are a number of unimproved roads criss-crossing the river valley, some in close proximity to the project site. These are used by State Parks and the Border Patrol more than the public, but the entire area is relatively accessible. In addition, there is an equestrian staging area, including stables, at the Border Field State Park entrance kiosk, just southeast of the proposed project, and pedestrian and hiking trails in the periphery of the project area. Access to all these areas will remain open during construction and the applicant will post signs to alert the public to the project.

The project site is located between the sea and first coastal road, which is Monument Road in this area of the river valley. The actual shoreline is approximately 800 feet west of the westernmost part of the proposed development, and, other than the trails just described, there are no formal recreational facilities in the immediate area. The more developed part of Border Field State Park, which includes picnic areas, restrooms and parking facilities, is located approximately  $\frac{3}{4}$  of a mile to the south/southwest of the project site. This area of the park will not be affected in any way by the proposed development. Although trucks hauling graded materials will be using Monument Road, the only access route to the improved public recreational facilities at Border Field State Park, this park is highly underutilized and traffic along this road, even during summer months, is minimal. Moreover, the construction impacts will be temporary in nature and are scheduled to occur outside the summer beach season. The Commission thus finds that the proposed project will not have a significant adverse impact on existing public access in the area, even during construction. Therefore, the Commission finds the development, as conditioned to address other concerns, consistent with the cited access policies of the Coastal Act and, as required in Section 30604(c), consistent with all other public access and recreation policies as well.

5. Visual Resources. The following policy of the Coastal Act addresses visual 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 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 subject site is located in an undeveloped area of Border Field State Park, in the southwestern portion of the Tijuana River Valley. Except for the entrance kiosk and stables, there are no structural improvements in the general vicinity and the topography is relatively flat. The area is vegetated with non-native grasses and criss-crossed by dirt trails and roads. North and east of the proposed Model Marsh there are existing tidal channels and areas of salt marsh vegetation. Upon completion of the project, there will be significantly more tidal channels and salt marsh vegetation than at present. Although a somewhat subjective call, most would consider this an aesthetic improvement over existing conditions; however, the general "openness" of the area will not significantly change. Therefore, the Commission finds that the proposed development is consistent with Section 30251 of the Act.

6. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made for the proposed development, as conditioned.

The proposed project site is designated as open space by the City of Imperial Beach, both in the certified land use plan and zoning. The proposed wetland restoration is fully consistent with the City's Conservation and Open Space element which seeks to conserve and protect natural resources. Although Imperial Beach has a fully-certified LCP, the site is within the Coastal Commission's area of original jurisdiction, since the project occurs on tidelands. Thus, Chapter 3 of the Coastal Act is the standard of review with the City's LCP used for guidance only.

In addition, the subject site is located within an area of Border Field State Park which is managed for wildlife conservation and interpretation, and also within the Tijuana River National Estuarine Sanctuary. The proposed development is consistent with the goals and policies of the Tijuana River Comprehensive Management Plan and of all involved entities. Also, previous findings have determined that the proposed Model Marsh, as conditioned herein, is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as

conditioned, will not prejudice the ability of the City of Imperial Beach to continue implementation of its fully-certified LCP.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the biological and marine resources, water quality, visual resource and public access policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

#### STANDARD CONDITIONS:

1. Notice of Receipt and 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.

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PROJECT SITE

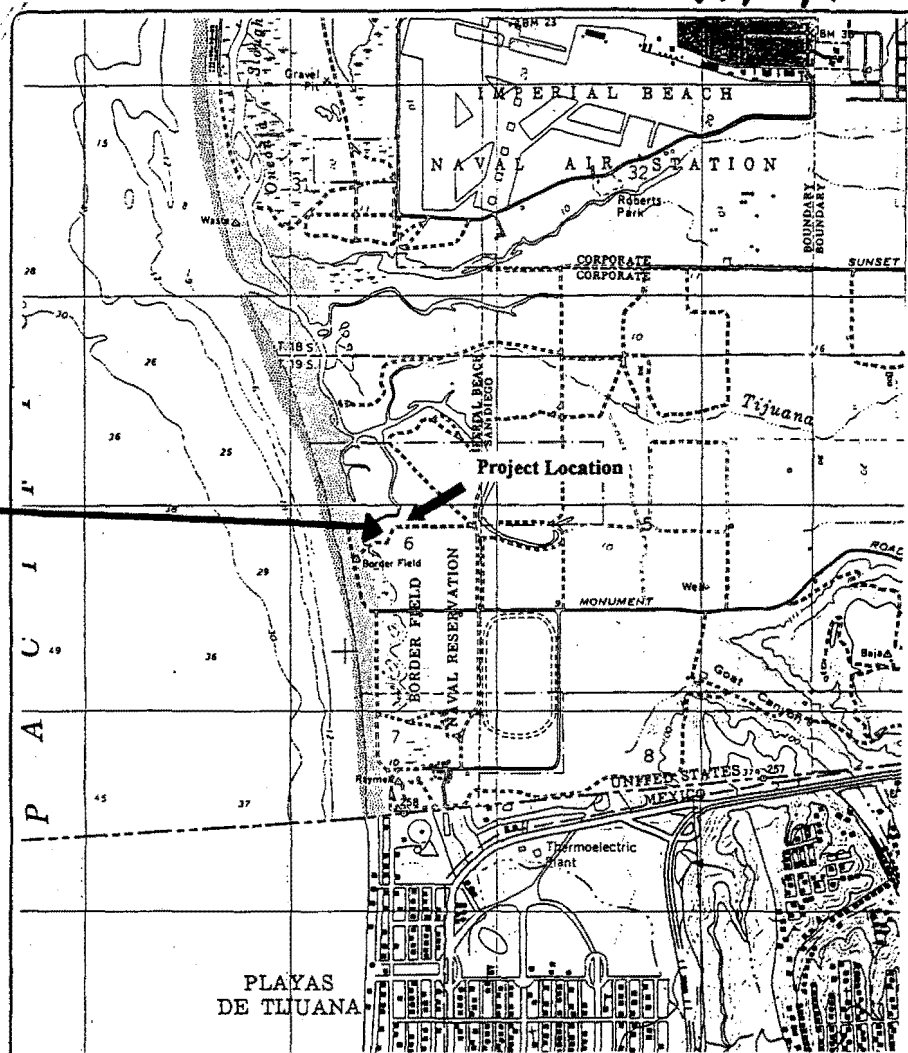
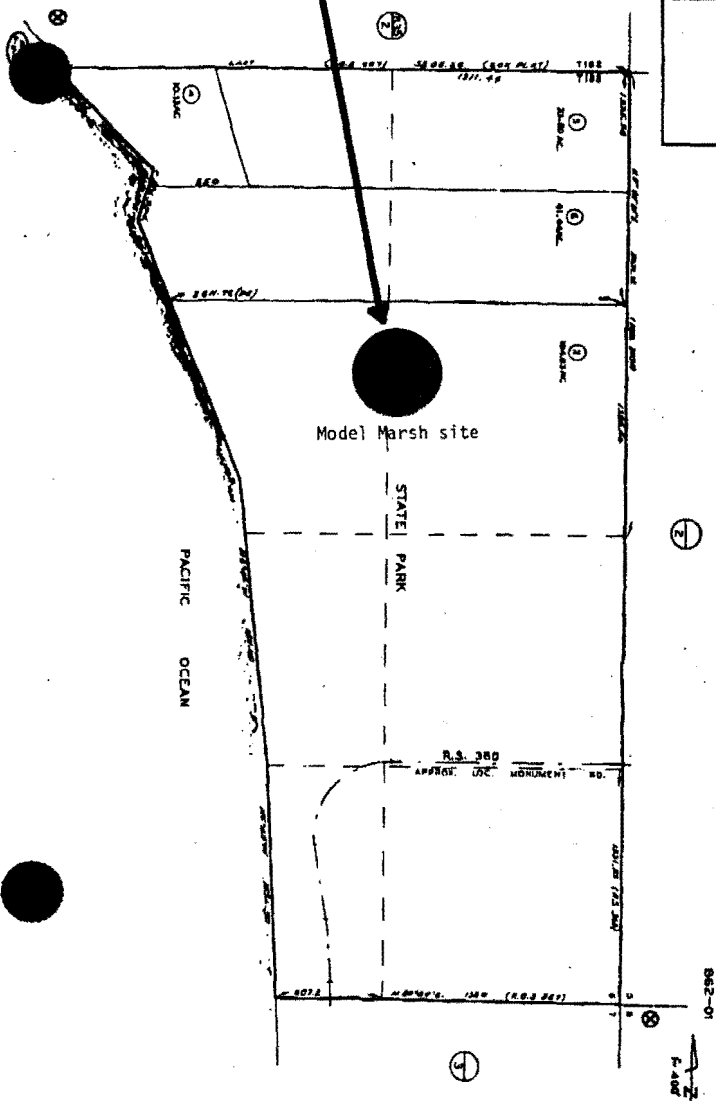


EXHIBIT NO. 1
APPLICATION NO.
6-99-63
Location Map
California Coastal Commission



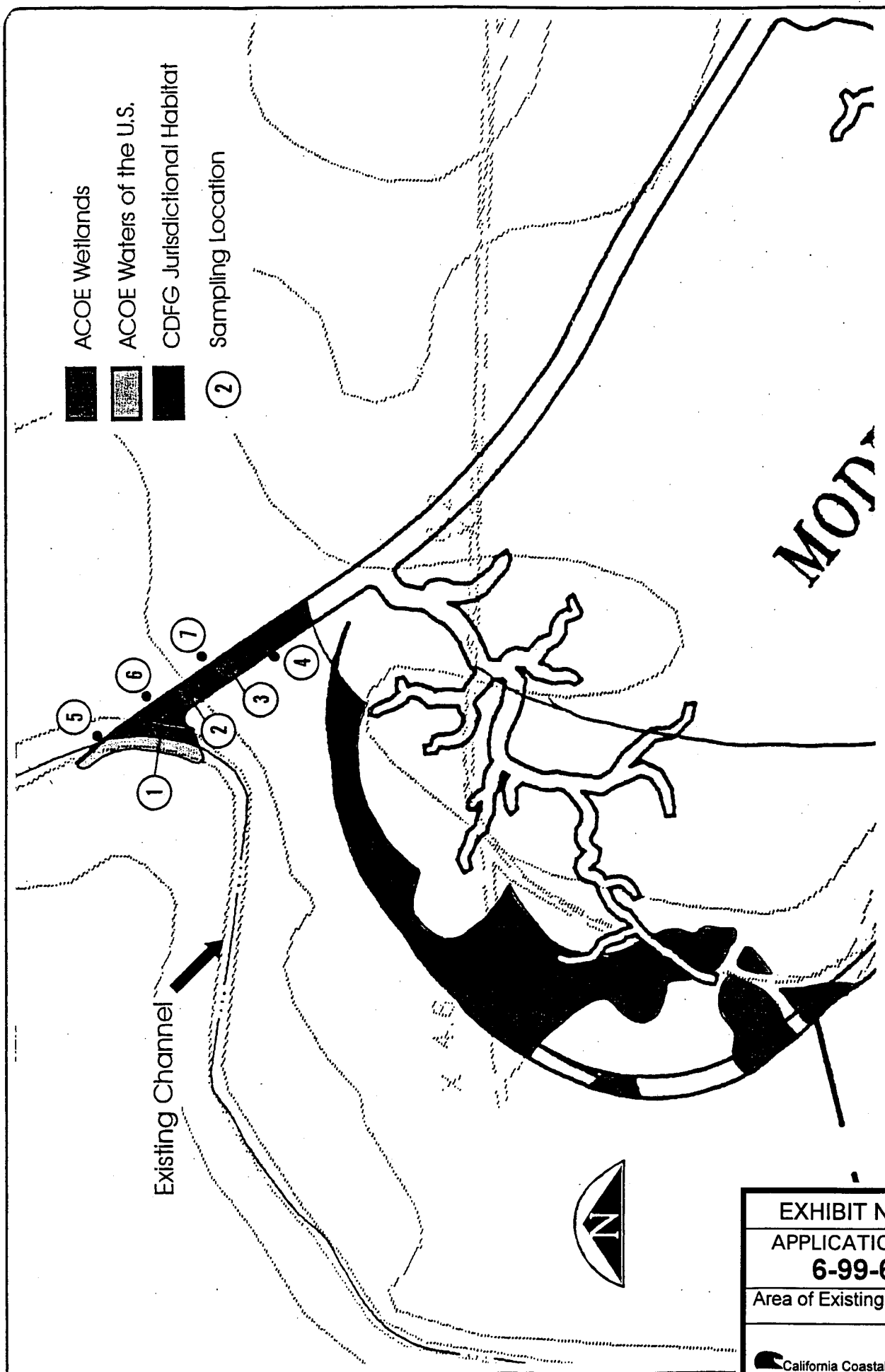


EXHIBIT NO. 3

APPLICATION NO.

6-99-63

Area of Existing Wetlands

California Coastal Commission

