

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(2) 590-5071

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Hearing Date: 10/10-13/2000
Commission Action:

STAFF REPORT:
REGULAR CALENDAR

APPLICATION NUMBER: 5-00-306 (Playa Capital)

APPLICANT: Playa Capital, Company, LLC

AGENT: Wayne Smith, Psomas

PROJECT LOCATION: Playa Vista: Area A near Fiji and Lincoln near northern property line; Area C west of Marina Freeway near northern property line; Playa Vista, Los Angeles County.

PROJECT DESCRIPTION: Removal of pioneered "bike jump mounds" with hand tools, filling bike jump excavations to pre-existing grade, export of surplus soils, total soil movement 100 cubic yards (approximate) for each bike track area, approximate areas: 180 sq. ft. in Area A, 60 sq. ft. in Area C.

LOCAL APPROVALS RECEIVED:

- 1) AIC, Los Angeles County Department of Regional Planning
- 2) AIC, City of Los Angeles, Planning Department

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to repair damage attributable to two off road bike jumps that have been constructed on its property without its permission. This repair requires a permit because it includes work in a wetland area, with possible removal of or impacts to significant vegetation as part of the project. Wetland vegetation is by definition significant vegetation. Parts of one bike track are located within mapped wetlands; the other track is located about fifty feet from a mapped wetland. If the tracks are not repaired, erosion of the mounds and further compaction and vegetation removal due to off road biking could result in continuing damage to wetland habitat. Staff is recommending approval of this project with conditions to (a) map and monitor tracks and existing vegetation, (b) control damage during construction, (c) avoid any fill of the bike track excavations to higher elevations than previously existed, (d) revegetate the disturbed area, (e) monitor and maintain the restored area for a period

of at least 5 years or until there is a valid Commission approval of grading in this area, and (f) fence repair and increased supervision of the site.

STAFF NOTE

The draft federal and state wetland delineations used as information sources for this permit are not the final state or federal maps. These maps are used for information only. In the view of staff, additional review and some corrections will be necessary before the Commission can rely on these maps to guide its decisions on more permanent development.

The proposed project is located in two jurisdictions. Area A is located in an uncertified area of the County of Los Angeles and Area C is located in the Commission's dual permit jurisdiction within the City of Los Angeles. Prior to certification of a local coastal program, the Commission is responsible for issuing coastal development permits. No portion the City of Los Angeles has a certified local coastal program. Los Angeles has assumed interim permit authority under the terms of Section 30600(b) of the Coastal Act. Pursuant to Section 30601 of the Coastal Act and Section 13307 of the California Code of Regulations, any development located in the dual permit jurisdiction, which receives a local coastal development permit, must also obtain a permit from the Coastal Commission.

None of the wetlands proposed for repair in the permit have been designated as waters of the United States (federal wetlands.) However, the project includes areas that have been designated as wetlands by the State. The proposed project will restore the wetlands and adjacent areas that were damaged by unauthorized bike jumps. The project will not result in permanent fill of former wetlands or the conversion of any wetlands to any other use.

SUBSTANTIVE FILE DOCUMENTS:

1. Schreiber, Ralph W. ed. The Biota of Ballona Region, Los Angeles County, October, 1981
2. Winfield, Ted, Ph.D.; Draft, Identification of Wetlands subject to jurisdiction of the Coastal Commission, Playa Vista Areas A, B, and C, March 30, 1999
3. D. R. Sanders and Associates, Inc; Delineation of "Waters of the United States" of Playa Vista Phase II Federal project, Los Angeles, California, March 2000
4. Straw, W. Thomas, Hydrologic Study of Play Vista Phase II Federal Project, March 2000.
5. Marina del Rey Ballona Land Use Plan 1984; Playa Vista Land Use Plan 1987
6. Coastal Development Permits 5-91-463(Maguire Thomas, Freshwater marsh), 5-95-063 (Maguire Thomas)

7. County of Los Angeles certified Marina del Rey Ballona Land Use Plan, 1984 and 1986
8. City of Los Angeles, certified Playa Vista Land Use Plan, 1987
9. Agreement for Settlement of Litigation in the 1984 case of Friends of Ballona Wetlands, et al. v. The California Coastal Commission, et al., Case No. C525-826
10. Department. of Fish and Game Memorandum (12/20/91) regarding Wetlands Acreage Determination, Playa Vista/Ballona
11. US Army Corps of Engineers Permit 90-426 EV
12. Wetland V US Army Corps 9856474 9856672 Ninth Circuit Opinion
13. United States Central District, Wetland Action Network v United States Army Corps of Engineers June 24, 1998 (Decision)

STAFF RECOMMENDATION

The staff recommends that the Commission approve the permit application with Special Conditions.

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-00-306 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives

that would substantially lessen any significant adverse impacts of the development on the environment. (b2)

II. 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 this permit is reported to the Commission. 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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.

III. SPECIAL CONDITIONS

1. PRE-CONSTRUCTION LAND SURVEY -- AREAS OF DISTURBANCE

Prior to issuance of the permit, the applicant shall provide, for the review and approval of the Executive Director, a map prepared by a licensed civil engineer showing the two bicycle track areas and the edge of any wetlands as shown on the draft delineation by Winfield (Winfield, Ted, Ph.D.; Draft, Identification of Wetlands subject to jurisdiction of the Coastal Commission, Playa Vista Areas A, B, and C, March 30, 1999), and the pre-disturbance elevations of the site at (one foot intervals)) in the area of disturbance. (Exhibits 2 and 4.)

2. PRE-CONSTRUCTION VEGETATION SURVEY -- AREAS OF DISTURBANCE

Prior to issuance of the permit, the applicant shall provide the following:

- A. On a copy of the map required by Special Condition #1 (Exhibits 2 and 4), a qualified biologist shall identify the location of vegetation and the types of vegetation found in the bicycle track area and a description of vegetation in the adjacent wetland and transitional areas. Based on that information, the biologist shall prepare, for the review and approval of the Executive Director, a brief report discussing the plants that likely existed in the bicycle track area prior to the disturbance and their distribution. In order to prepare the map, the consultant shall delineate the track area and the area within 10 feet of the track in 5 ft. by 5-ft. grids. Within these areas, the biologist shall visually assess the vegetative cover for each block and record the findings.

3. GENERAL AGREEMENT -- WORK METHODS.

- A. The applicant shall perform the work authorized in this permit with hand tools only; remove any excess dirt rather than "spreading it out" in the area; confine disturbance within the area noted in Special Conditions 1 and 2 above and carry out the construction according to the methods set out in Special Conditions 4 and 5 below.
- B. Prior to issuance of the permit, the applicant shall provide a written agreement to perform work in accordance with the terms set forth in Section A above.

4. EXTENT OF WORK, CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL.

- A. LIMITS OF WORK. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which identifies (a) the area of repair, (b) any construction staging area(s) and (c) the corridor(s) intended to be used to access the site. The locations used for truck access shall be shown. Vehicular access, staging, storage of tools and storage of debris shall not take place except on service roads or in the area of repair itself. Such activities shall not take place on any undisturbed wetland or sensitive area as identified in the map prepared as required in Condition 1 above. Foot access shall be controlled to minimize habitat damage. The plan shall include the following:

- (1) Prior to authorization of construction, the applicant and its biological consultant shall clearly delineate the area in which work shall take place with flags and stakes (work area). The flags and stakes shall be consistent with the proposed plan and the assessment prepared under Condition 1 above and shall be reviewed in the field by the Commission staff. The area shall include only the area that is impacted by the unauthorized bike jumps construction and a corridor approved for foot access.
 - (2) Upon approval of the work area and any corridor to access this area, the applicant shall place visible hazard fencing around the work area and the access corridor.
 - (3) No clearance of native vegetation, excavation, placement of fill or storage of materials, foot entry or trampling shall occur outside the designated work area. No construction materials, debris, or waste shall be placed or stored outside the work area. The work area shall include the immediate areas impacted by the bike tracks, and limited areas necessary for stockpiling that are located on existing roads or already disturbed areas. The applicant shall not identify wetland areas for stockpiling.
 - (4) All work in the work area or on the access corridor shall be done with shovels and wheelbarrows. No trucks or machinery shall be allowed at any time in the work area identified above or outside the gas company roads.
 - (5) Any and all debris resulting from construction activities shall be removed daily by light hand tools and wheelbarrows. Excess earth shall be removed and disposed of outside the coastal zone. No debris or loose earth shall remain within two days after completion of construction. No excess dirt shall be disposed of by spreading the material onsite.
 - (6) All material removed from the jumps shall be re-deposited in the excavations created by the bikers. The fill shall not extend above the elevation of the pre-existing grade as indicated in the map prepared in fulfillment of Condition 1 above.
- B.** The permittee shall undertake development in accordance with the approved final plans and the requirements of this permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the

Executive Director determines that no amendment is required.

5. REVEGETATION PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, a plan for restoration of wetlands and related upland areas adversely impacted by the unauthorized bike track areas and by the project.

The plan shall be prepared by a qualified biologist in consultation with the California Department of Fish and Game. The plan shall provide for the restoration of the disturbed areas with Southern California obligate wetland plants identified in the original survey required in Condition 1 above as naturally occurring on the site, and in areas identified as predominately upland, with wetland facultative species and non-invasive upland species native to the immediate area. If the previous cover is debatable, Salicornia and rabbit grass common in transitional (wetland and upland) areas elsewhere on the site shall be employed, and the previously mixed status of the area recorded. The plan shall include a plant list; installation plan and a monitoring plan. The plan shall include, at a minimum, the following components:

- (1) A final inventory and a map showing the present location of existing wetland plants, if any, and other vegetation within the restoration site; (as described in Special Condition (1))
- (2) Performance standards that will assure achievement of the mitigation goal (i.e., attainment of 90% coverage at the mitigation site within five years).

B. SPECIFIC PROVISIONS. The plan shall also include the following specific provisions:

- (1) Soil preparation: The applicant shall rough up compacted pioneered roads and tracks. Trash, debris and exotic plants shall be removed. Measures shall be taken to control exotic species. Such measures shall be described in the approved plan and shall not include mass application of herbicides.
- (2) Plant sources. The applicant shall use plants salvaged from the site and/or cultivated from wetland obligate and facultative species found in the Ballona wetlands.
- (3) Coverage: the mitigation site shall be covered with Salicornia and other wetland obligate species as shown in the revegetation plan

at 90% coverage within five years of the initial planting. There shall be 50% coverage in one year after the initial filling is completed and 70% coverage in two years with species on the approved plant list in the locations identified in the plan. Non-native species shall be removed regularly so that the plants that are established conform to the goals of the plan.

- (4) Area of restoration. The area intended for restoration and enhancement shall be mapped. The area shall include an area devoted to Salicornia not less than four times the area of the Salicornia disturbed by the bicycle jumps or by construction. It shall also include area of transitional wetland facultative and native upland plants no less than two times the area dominated by non-wetland transitional plants (as mapped in the initial survey) that has been or will be disturbed by the bicycle jumps or by construction. The areas shall be as shown on Exhibits 2 and 4 and as mapped in conditions 1 and 4 A (1).
- (5) Planting. Initial planting at the restored site shall be completed within 10 days after the fill work authorized by this permit is completed. Plantings shall be irrigated.
- (6) Monitoring and maintenance. To assure the establishment of the newly established vegetation, the applicant shall monitor and maintain the sites for no less than two years after the completion of initial planting. At a minimum, the applicant shall;
 - (a) Irrigate the site as necessary with portable containers for a period no less than two years, and
 - (b) Remove invasive weeds and replace plants as necessary to achieve 70% coverage after two years.
- (7) Annual Report. A report that describes densities, and recommended maintenance and replanting measures shall be submitted annually to the Executive Director.
- (8) Final Review. A comprehensive report describing the results of the plan shall be submitted at the end of the five-year period; and a follow-up program shall be implemented if the original program is wholly or partially unsuccessful in achieving the performance standards established in the revegetation plan.

C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans

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

6. BIOLOGICAL MONITOR

A qualified biological monitor shall be on site at all times during construction. The monitor shall prevent work outside the specified area of repair. The monitor shall also stop work if nesting birds or new or unforeseen habitat is discovered, and report the changed circumstance to the applicant and to the Executive Director in writing. If notified by the Executive Director that it is necessary to change the scope or conditions of the project to avoid damage to the previously unidentified habitat, the applicant shall seek an amendment to this permit. If no notification is received from the Executive Director within 15 days of the written report of changed circumstance, the applicant may resume work on the project.

7. INSPECTIONS

The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

8. SUPERVISION AND FENCING

- A. Prior to issuance of the permit the applicant shall provide for the review and approval of the Executive Director a plan for supervision of the site. The plans shall include methods to monitor and maintain the fence, patrol the area and to educate the off road bicyclists with regard to the sensitivity of the site. At a minimum, the applicant shall repair the fences surrounding the site, and shall provide extra security during the installation of the project and for a period of no less than three years after the completion of the project. The fence line shall be patrolled, and a log kept of attempts to repair the fence line shall be provided to the Commission staff.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. RECURRENT DAMAGE

If repeated damage occurs, repair of newly created bike jumps shall require a new permit or an amendment to this permit.

10. APPROVALS BY OTHER AGENCIES.

PRIOR TO ISSUANCE OF A PERMIT, the permittee shall provide to the Executive Director a copy of a permit for the work authorized herein issued by the United States Army Corps of Engineers (ACOE) or evidence that no permit or permission is required for the work. The applicant shall inform the Executive Director of any changes to the project required by the ACOE. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

11. PUBLIC RIGHTS.

By acceptance of this permit, the applicant acknowledges, on behalf of him/herself and his/her successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

12. TERM OF PERMIT

The vegetation in the areas restored pursuant to this permit shall not be disturbed and all requirements of this permit shall be in force until such time as grading, if any, authorized by a valid coastal development permit commences on the site of the restoration.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows.

A. PROJECT DESCRIPTION.

The applicant owns extensive property located south of Marina del Rey that it has proposed for development. The entire property includes 1,087 acres but only about 543 acres are located within the Coastal Zone. In 1991, the Department of Fish and

Game indicated to the Commission staff that there are a total of 196.53 acres of wetlands in the Coastal Zone in this property. The property is the subject of on-going planning efforts and litigation over previous entitlements.

In order to simplify discussions about the property, the applicant has named four quadrants of the property, divided along the axes of Lincoln Boulevard and Ballona Creek. Areas A and B are west of Lincoln Boulevard. Area A is north of Ballona Creek and is located in Los Angeles County. Area A extends from Ballona Creek to Fiji Way on the north and west. Area B is south of the creek and extends from the toe of the Playa del Rey bluffs on the south, to Playa del Rey on the west. It is located in the City of Los Angeles, as are Areas C and D. Area C, located east of Lincoln Boulevard, extends from Lincoln to the Rt. 90 (Marina) Freeway and from Ballona Creek north to the La Villa Marina apartments. All of Area D is outside the coastal zone. For the most part south of Jefferson Boulevard, it extends slightly east of the intersection of Centinela and Jefferson Boulevards.

The bike tracks the applicant proposes to remove are located in Area C near the apartments and the Marina Freeway and in Area A near Lincoln Boulevard. To obtain approvals for Phase II development, the applicant is preparing a combined EIS/EIR that applies to development inside the coastal zone. This EIS/EIR has not yet been circulated. While the process proceeds, the property is fenced and vacant, and vulnerable to vandalism.

In two locations, off-road biking enthusiasts have trespassed and created bike jump tracks. To create the jumps, the bicyclists dug three to four foot wide, four-foot deep pits. Bikes have worn significant trails in the Salicornia and other cover, leaving compacted dirt. In both instances, the off road tracks are located in and adjacent to mapped state wetlands. In Area A, an undeveloped area in Los Angeles County, the track and jumps are located in a mapped state wetland, but outside Corps jurisdictional wetlands. In Area C, the jump track is fifty feet away from a state wetland that the applicant's consultant has identified in a draft report on state wetlands. This map has not yet been finalized, so additional areas in Area C may yet be identified as wetland. Because the map is not approved, the distance from the jump to the wetland may be considered less (or more) when the Commission and/or Fish and Game approve the final wetland determination maps. The bike track is located 100 feet away from the designated federal wetland in Area C. The proposed project does not involve work in the designated federal wetland.

The applicant proposes to restore the two wetland areas to their previous condition. Restoration would involve removal of a number of four to six foot high hills and replacing the material in pits that the bicyclists have excavated. The applicant proposes to use only hand tools and to provide a biological monitor to supervise the process. The applicant is concerned that the property is in an unsafe condition, and notes the habitat damage as well.

Even though this proposed development is repair and maintenance, which is ordinarily exempted by Section 30610(d), the excavation and fill proposed does require a permit because the work is located in an environmentally sensitive habitat area (CCR 13252(a) (3)).

B. PUBLIC ACCESS AND RECREATION.

This site has been fenced historically and the present and previous owners have long attempted to exclude the public. Though unauthorized, this activity is a recreational use. The Coastal Act contains strong protections of existing public access. Section 30210 requires the Commission to require maximum public access to the sea – consistent with “the need to protect ...resource areas from overuse.” Section 30211 requires that development shall not interfere with public access to the sea. Similarly, Section 30221 encourages reservation of ocean front lands suitable for public recreation.

Section 30210.

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

Section 30211.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30221.

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

In this instance, the Commission can allow the area to be closed and rehabilitated because of habitat concerns. The recreational activity is occurring in a time, place and manner that is not compatible with protecting the habitat values of the wetland. The wetland, at some part of the year supports nesting birds. At other times of the year, the wetland is visited by flocks of migratory birds. Many of these animals are dependent on the vegetative cover, which in this as in other wetlands is commonly a mixture of *Salicornia* and other wetland obligate plants. Other vegetation present on

the site also supports birds. Protecting the habitat from off road bicycle damage requires limitations on this type of public use and access on the site. Such a closure, if carried out as part of an effort at habitat protection, is consistent with the Coastal Act policies cited above.

The Commission is required under Section 30211 to prevent development from interfering with the public's right of access to the sea where acquired through use or legislative authorization. As a result, where there is substantial evidence that such rights may exist, the Commission must ensure that proposed development would not interfere with any such rights. There is presently no substantial evidence that more than a handful of bicyclists has entered the property for recreational cycling, at least up to now. There has not been a demonstration that such use amounts to a prescriptive right of access. The bike jumps were constructed without a coastal development permit from the Commission; therefore they are not an authorized recreational use on this property. The Commission's approval of this permit does not change any rights that might exist, or which may be demonstrated to exist in the future.

Public access and recreation will be addressed when the Commission examines the much bigger project proposed for the property. When and if a new project is approved, public access and public recreation facilities that are appropriate under the Coastal Act may be required to serve the population of the new development and to mitigate the burden of the development of the site on nearby park and recreation facilities.

The conditions of approval require that, by acceptance of this permit, the applicant acknowledges, on behalf of him/herself and his/her successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. As proposed and as conditioned, this project is consistent with the public access and recreation policies of the Coastal Act.

C WETLANDS AND OTHER SENSITIVE HABITAT AREAS.

Ballona includes the largest undeveloped wetland in Los Angeles County. At one time, it covered several thousand acres, but draining Venice, the creation of the Marina del Rey, urban development and the channelization of Ballona Creek have reduced its extent. In 1991, the Department of Fish and Game, having assisted in the 1989 Corps of Engineers survey, identified 196.53 acres in the Ballona planning area, including 170.56 acres of wetland in Area B; 3.37 acres in Area D, 2.5 acres in Area C, and 20 acres in Area A north of the Channel.

The proposed project will involve filling pits that are located in and adjacent to wetlands that identified by the criteria used by the Department of Fish and Game, and

removal of soil piled on wetlands. Work in each area is more specifically described below.

Area A is a 139-acre site. It was a wetland up to the 1950's but was filled with dredge spoils when the County developed the Marina del Rey. Its surface is 10 to 12 feet above mean sea level. The Department of Fish and Game identified 38 acres of wetland on Area A in 1984. In 1992, the Commission concurred with a new delineation that identified 22.1 acres. A recent site visit revealed patches of dense pickleweed and more extensive areas where pickleweed was interspersed with foxtails and other upland weeds. The applicant is preparing a re-delineation.

There is a ditch on the site that is connected to the Marina del Rey. This ditch is inundated with seawater. A dike separates the ditch from the rest of the area. In the 1970's, a survey by the Los Angeles County Museum of Natural History Foundation (Dock, 1980, in Schreiber, Biota of Ballona Region) identified an endangered bird, the Belding's savannah sparrow, on the site. Surveys recently conducted by the owner's consultants have not shown these birds to be present on Area A. The Salicornia is the habitat of choice of the sparrow.

Area C is a 66-acre site, also built on fill and also 12 to 13 feet above mean sea level. In 1991, Fish and Game identified 2.5 acres of the site as state wetland. These include a ditch that connects to the marina basin at Fiji Way. A flap gate and a headwall are installed to prevent the water from flowing back upstream with the tide. The gates are not entirely effective, and the bottom of the channel is covered with Salicornia. Salicornia is also found in a 500 sq. foot depression on the northeast corner of the property. This depression has been cut in two by bikers, who have again constructed hills and ditches with a run into the middle of the Salicornia.

Section 30233 provides for wetland fill only in a limited set of circumstances.

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; and in a degraded wetland, identified by the Department of Fish and Game

pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation Channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(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.

All wetlands are considered sensitive habitat. The Coastal Act provides in Section 30240 that sensitive habitat shall be protected and only uses dependent on such habitat shall be allowed in the environmentally sensitive habitat area. Wetlands are specially protected habitat because many migratory birds and the State's fisheries depend on them and the state has lost about 90% of its wetlands, making loss of any more significant.

Disturbance and work in wetlands is allowable for restoration purposes. The Commission has approved restoration in such habitat areas. In this case, the applicant has proposed to fill the holes, but has not proposed to restore the Salicornia. Instead it proposes monitoring during construction to avoid further damage. Generally, the Commission requires sufficient restoration to ensure that the adverse impacts to wetlands are adequately mitigated. The applicant states that it plans to work only in the disturbed areas, but some disturbance of intact patches surrounded by mounds will necessarily occur. Moreover, the applicant failed to prevent the habitat disturbance on its property, even if the disturbance occurred by vandalism. Temporary removal of habitat can damage the animals that depend on the habitat. The loss of habitat on these wetlands due to both the construction and the bikes must be mitigated by restoring and enhancing the damaged habitat onsite.

The applicant proposes a non-intrusive method of fill. Even with hand tools, the presence of workers, wheelbarrows and shovels can damage wetlands. In order to protect the wetland and minimize the impacts on the habitat value of the wetland, it is necessary to take precautions. These precautions are outlined in the conditions adopted in this action.

The conditions require that before carrying out any work, the applicant must survey the area to determine the type and quantity of the adjacent vegetation so that the type of vegetation that existed on the disturbed area before the biking occurred can be identified. Secondly, the applicant shall identify the pre-existing natural grade, so that the fill of the bike jumps will not result in increased elevation. To carry out this provision, the conditions require that excess soil be removed from the property, not spread out or left above the pre-existing grade. Third, the conditions require the preparation of a revegetation program to reestablish wetland vegetation where it previously existed and irrigation, maintenance and monitoring of the resultant restored wetland to enhance the biological productivity of this and the adjacent wetland. The restored and enhanced area should extend beyond the boundary of the old disturbed area so that the interim damage can be mitigated. The Commission finds that, to ensure that the adverse impacts to wetlands and wildlife will be mitigated, the enhanced area identified should be about four times the area of the disturbed area. The enhancement should include as much as possible wetland plants, but also other native plants that occur on the site. Areas that are determined by the biological survey to have once supported *Salicornia*, should be restored with plants, such as *Salicornia*, that occur only on wetlands (wetlands obligate plants.) In areas determined to have been transitional, some of that enhancement may include native upland plants (coastal dune scrub and coastal sage scrub), and plants that can survive both in wetlands and in areas adjacent to them (facultative wetland plants). Finally, the Commission requires the applicant to intensify its efforts at supervision, including, educational efforts.

Restoration of the area where the jumps were constructed must be conducted so as not to create additional disturbance and cannot result in loss of habitat due to the activity. Therefore, the Commission has imposed conditions relating to the extent of the work, the manner of carrying it out, the depth of the fill, and the restoration of the site after the work is complete. If carried out as proposed, the work will result in the restoration of wetland and habitat areas and will be consistent with the requirements of Sections 30233 and 30240 of the Coastal Act.

D. HISTORIC AND ARCHAEOLOGICAL RESOURCES

The Ballona wetland is the site of a number of mapped historical and archaeological resources. The applicant's predecessor in interest conducted a preliminary archaeological survey of the entire property and has entered into an agreement with state authorities (SHPO). In 1993 the Commission approved the extraction of

preliminary core samples in four locations on the property that were identified in the surveys as possible locations of archeological deposits (5-95-063(Maguire Thomas). The applicant has identified the locations of the potential sites in the maps provided as part of the current application. The preliminary surveys did not identify any of the areas subject to this application as potential archaeological or historic sites. The archaeological site is not located in the of the bike track areas.

E. PREJUDICE TO THE PREPARATION OF A LOCAL COASTAL PROGRAM.

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a local coastal program which conforms with Chapter 3 policies of the Coastal Act. The Commission has approved both the City of Los Angeles and the County of Los Angeles LUPs for the areas affected by the proposed project. As conditioned, this restoration project, located in an area identified for urban development in those plans, is consistent with Chapter 3 policies of the Coastal Act and would not preclude marina development as described in the certified Land Use Plan. It will not change the fundamental nature of the site from what it was before the damage occurred. If as some groups advocate, all areas of the property were restored to wetlands, restoration of this portion would not represent a permanent commitment to one kind of restoration. The decisions on the plan may be based in part on the present condition on the property. Restoration of this area to its previous condition after a careful survey, and the mitigating enhancement of the habitat should not prevent the Commission from making its decision based on the habitat that existed before the project was carried out and before the destruction of habitat by off road bikes. Therefore, the Commission finds that approval of this permit will not prejudice the ability of the local government to prepare a local coastal program that is consistent with the Coastal Act.

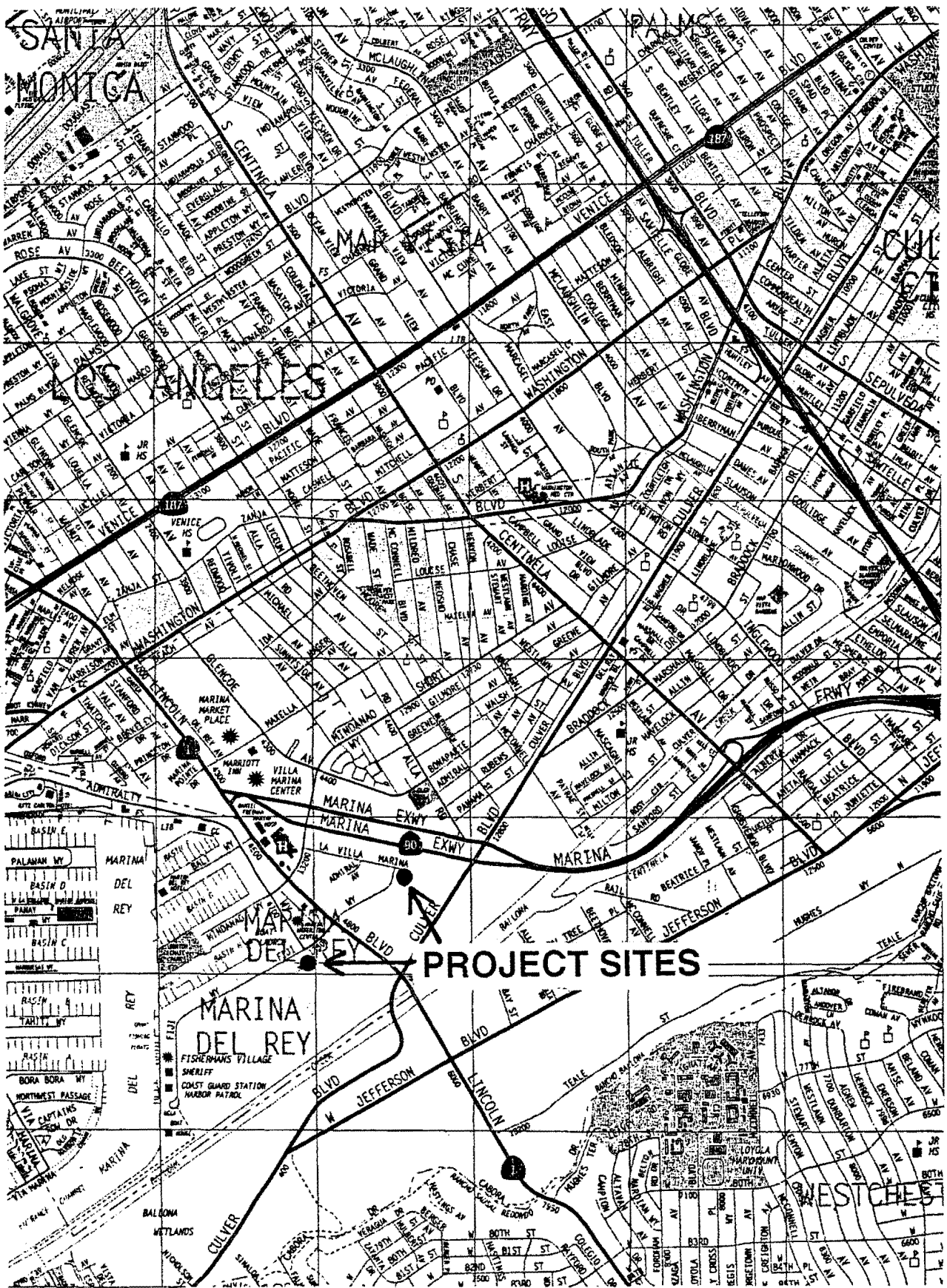
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 alternative to the present activity would be to do nothing, in which case the result would be further damage. While parts of this area may be developed as a marina or

for other purposes in the future, no decision has yet been made. Leaving the damage alone could prejudice decisions that depend on the extent of the existing wetland, by allowing their continuing degradation. The restored area will provide interim habitat value to the many birds and other animals that are found in this wetland. There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

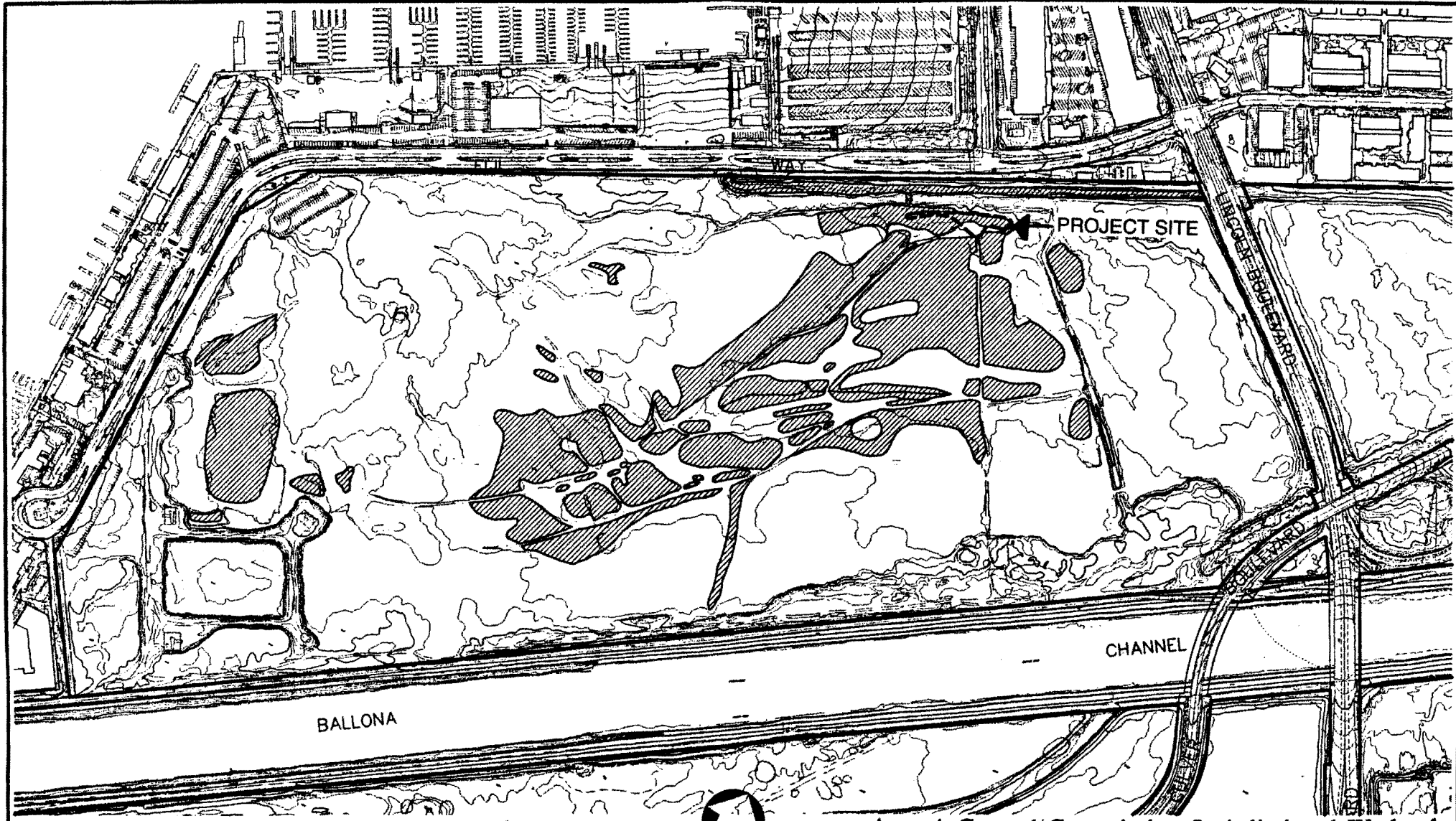
H:\playa vista\permits\5-00-306 playacapitalrestore wetland.doc



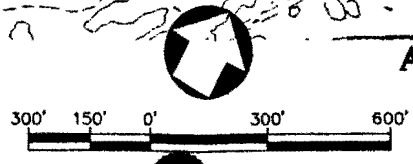
VICINITY MAP

Source: Thomas Bros. Guide

Exhibit 1
5-00-306
LOCATION



5-00306 Exhibit 2
 Playa Capital Company, LLC Area A
 Playa Vista Development CCC wet-lands



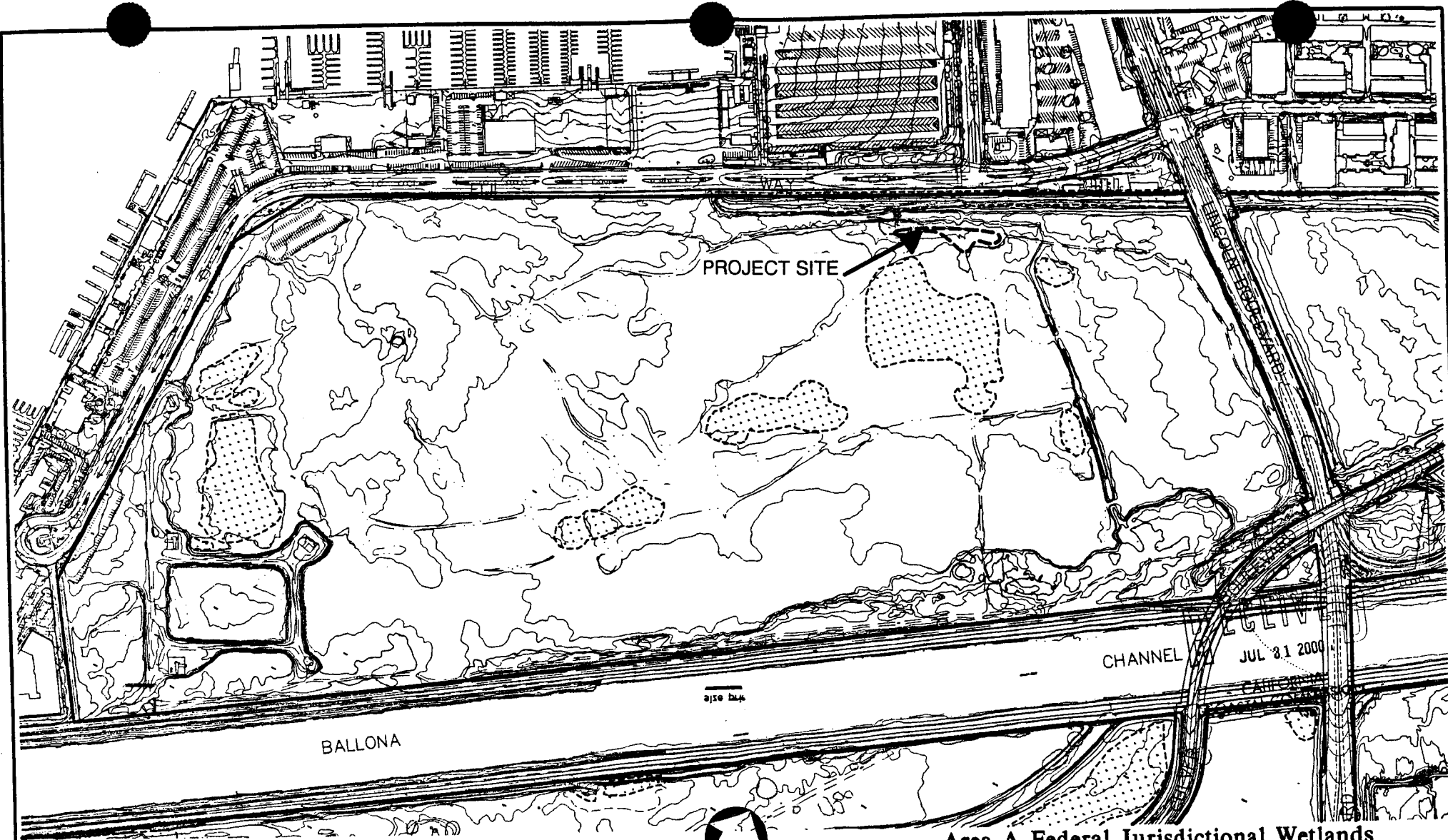
NOTE: For reduced scale, original scale is in inches.

Area A Coastal Commission Jurisdictional Wetlands
 (1992 Delineation)

WETLANDS

PSOMAS

DATE: 07/20/00 REVISED ON:
 JOB No: 04.47



Playa Capital Company, LLC
 Playa Vista Development



NOTE: For reduced size prints, original scale is in inches.

Area A Federal Jurisdictional Wetlands
 (1989 Delineation)

WETLANDS

JUL 31 2000
 PSOMAS
 DATE: 07/26/00 REVISED ON:
 JOB No: 1PCC0204.47

500306
 Exh. b. + 3
 Area A Federal Wetlands/project

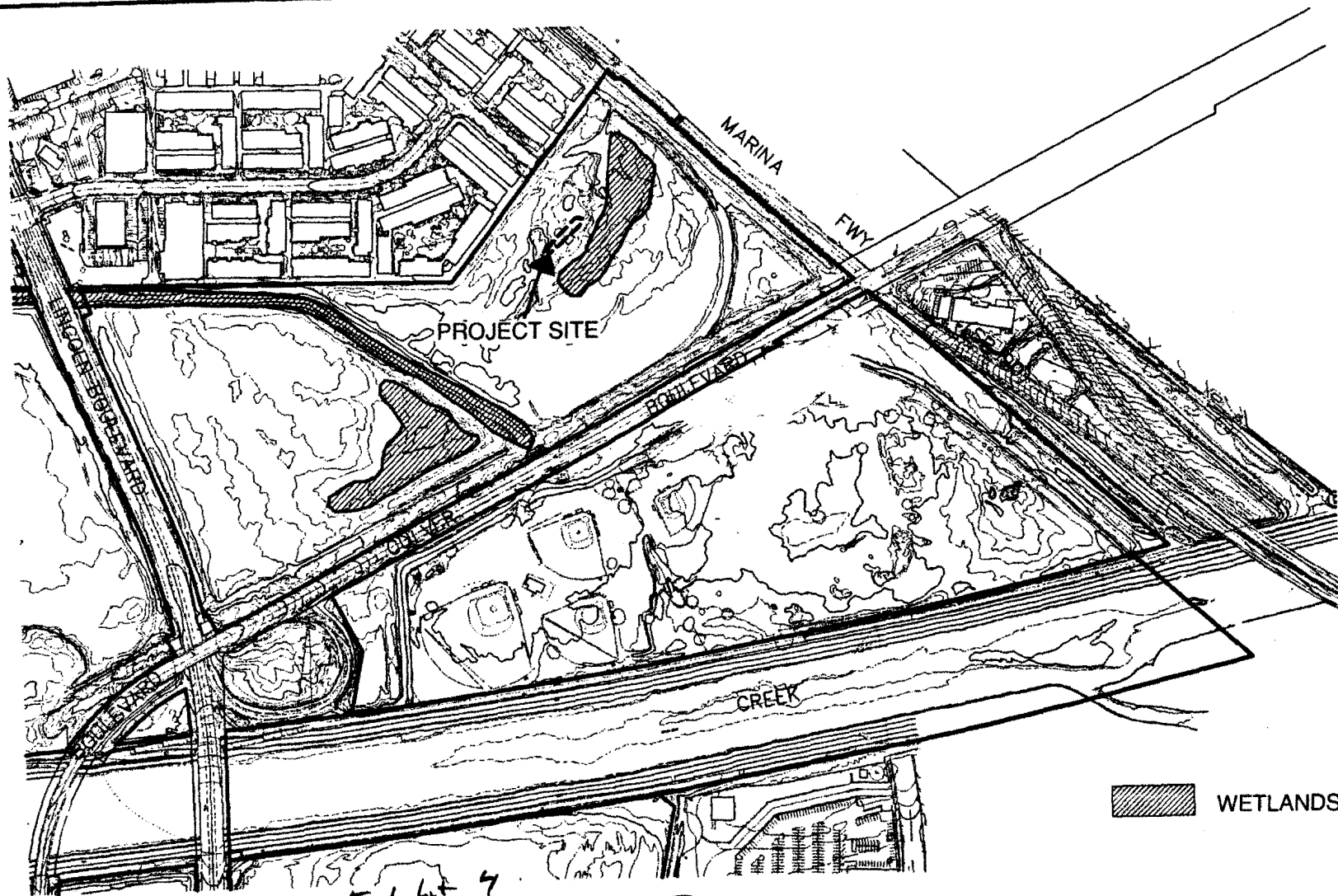
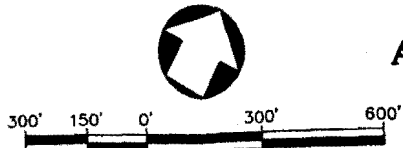


Exhibit 4
S.00 306
Area c
state
wetlands

Playa Capital Company, LLC
Playa Vista Development

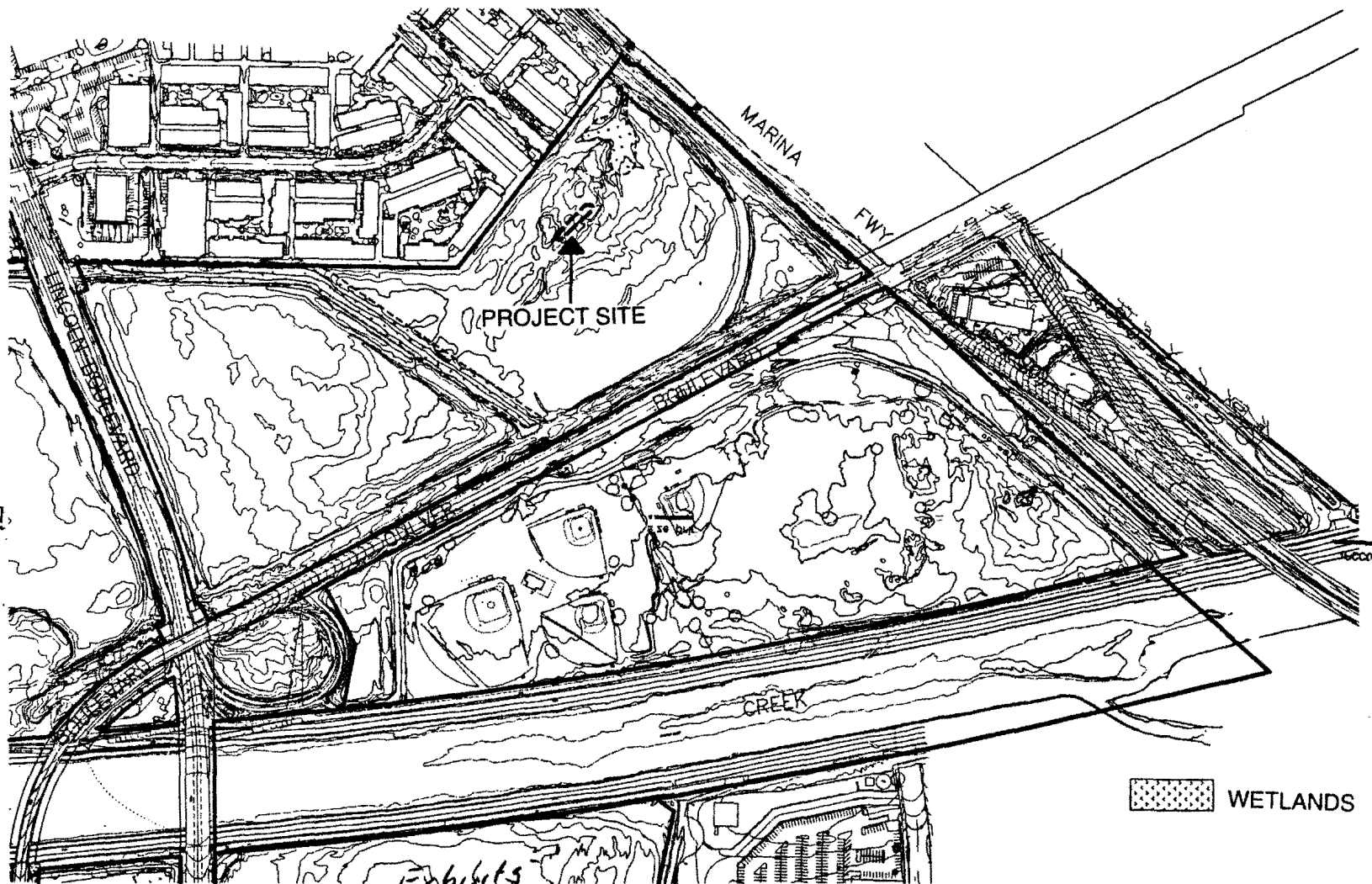


NOTE: For reduced scale, original scale is in inches.

Area C Coastal Commission Jurisdictional Wetlands
(1984 Delineation) and Archaeological Sites

PSOMAS

DATE: 07/28/00 REVISED ON:
JOB No. 204.47



Δ5

Exhibits

5-00-306

Area C

Federal Wetland

+ Project



NOTE: For reduced size prints, original scale is in inches.

Area C Federal Jurisdictional Wetlands
(1989 Delineation)

PSOMAS

DATE: 07/26/00 REVISED ON:
JOB No: 1PCC0204.47

Playa Capital Company, LLC
Playa Vista Development

1:25000 Scale, 1989 Delineation, 1989

PROJECT DESCRIPTION

Applicant: Playa Vista Company, LLC
12555 West Jefferson Boulevard, Suite 300
Los Angeles, CA 90066
Contact: Catherine Tyrrell (310)822-0074

Agent: Psomas
11444 West Olympic Boulevard, Suite 750
West Los Angeles, CA 90064
Contact: Wayne Smith (310)954-3700

Request: A Coastal Permit to remove dirt bicycle jump ramps

Exhibit 6
2.00 306
Applicant's
request

Project Description

The applicant proposes to use hand shovels to remove some small areas of dirt mounds and holes created by trespassers for bicycle jump ramps. The purpose of removing these holes and dirt mounds is to reduce liability hazard and to restore such areas to their pre-disturbance conditions. All work will be done without disturbance to existing vegetation.

Project Location

The project sites are located within Areas A and C of the Playa Vista property, more specifically on the eastern part of Area A (west of Lincoln Blvd. and south of Fiji Way) and eastern part of Area C (north of Culver Blvd. and west of Highway 90 – Marina Freeway). Please see attached map. The bike jumps consist of a series of small dirt mounds separated by pits, located within bare dirt tracks bordered by vegetation including coyote bush (*Baccharis pilularis*), pickleweed (*Salicornia virginica*), alkali heath (*Frankenia salina*) and saltbush (*Atriplex lentiformes*). No nesting bird species were observed to be occupying these areas at the time of the survey, nor would any be expected to occur given the high level of disturbance in these areas. Please see attached biologist's report.

Delineated Wetlands

The project for which this permit is requested will not impact any state or federal delineated wetlands. The attached exhibits illustrate both the federal wetland delineation for the Playa Vista property as well as the current state delineation pertaining to Areas A and C of the property adopted by the Coastal Commission in 1992 and 1984, respectively. Please see attached biologist's report and exhibit maps.

Employed Biologist

The applicant proposes to avoid disrupting any sensitive vegetation by employing a qualified biologist to survey the areas prior to the relocation of any dirt from the bike ramps. The biologist will be required to be present on-site to monitor the work and document avoidance of biological impacts.

Exhibit 6 306
5.00.~
p2

Archeological Information

One known archaeological site has been identified near the proposed work in Area C. The certified EIR for the Playa Vista Second Phase project includes a report for the subject properties titled Playa Vista Archaeological and Historical Project, Research Design, by Jeffrey H. Altschal, Richard S. Crolek-Torrello, Jeffery A. Homburg and Mart T. Swanson. This report identifies one culturally significant site in the vicinity of the intersection of Culver Boulevard and the Marina Freeway in the northern portion of Area C. This site is approximately 600 feet to the south east of the proposed work. Since the proposed work involves only minor replacement of surface dirt previously disturbed, no impacts to cultural resources are expected in this area. In addition, since the report does not identify any cultural sites in Area A, impacts to cultural resources are also not expected to occur as a result of the proposed work in this area.

PSOMAS**MEMORANDUM**Exhibit ?
500 306
biological
inventory**To:** Gary Jones, Catherine Tyrrell - Playa Vista**Cc:** Wayne Smith, Psomas**From:** Edith Read, Psomas *ER***Date:** July 25, 2000**Subject:** Clearance request #00-13: coastal zone access request for bike jump removal

The purpose of this memo is to document conditions in Areas A and C preparatory to removing numerous "bike jumps" that have been built by trespassers. The work consists of using hand tools such as shovels to remove the jumps. The work is proposed to be conducted in a way that would avoid disturbance to existing vegetation. These areas were surveyed on July 19, 2000 by my assistant wildlife biologist, Patricia Cole, as well as by me earlier that week in conjunction with the Coastal Act wetland delineation effort.

In both Areas A and C, the bike jumps are located within bare dirt tracks that are bordered by vegetation including, coyote bush (*Baccharis pilularis*), pickleweed (*Salicornia virginica*), alkali heath (*Frankenia salina*), and saltbush (*Atriplex lentiformes*). No nesting bird species were observed to be occupying these areas at the time of the survey, nor would any be expected to occur given the high level of disturbance in these areas. During field work in Area A associated with the ongoing Coastal Act wetland delineation effort, I counted six young boys utilizing the bike jumps for the better part of a day, and I expect this activity is almost a daily occurrence. I also observed dust had settled on some of the pickleweed adjacent to the dirt tracks. The boys appear to be entering Area A (as we did) along a path at the northeast corner of the property, just south of the ditch that parallels Fiji Way. The chain link fence ends at this point and there is easy access to the property here. Area C is accessed through a hole in the fence at the northeast corner, and possibly from other points.

The bike jumps consist of a series of small dirt mounds separated by pits and (at least one location) a partially buried shopping cart. Construction of the pits, particularly in Area A, appears to be an ongoing effort with new pits/mounds frequently appearing at new locations. Removal of the bike jumps would not impact any sensitive species. However it appears that at least part of the work to remove the jumps would need to take place within (or at least within a few feet of) the surveyed perimeters of the Corps delineated jurisdictional areas, as well as within the tentative boundary of the Coastal Act jurisdictional areas. A precise survey of the bike jump locations relative to the jurisdictional areas would be needed to quantify the acreages involved.

While we do not expect the proposed work will impact sensitive species, the fact that the work is occurring within (or at least immediately adjacent to) federal and state jurisdictional areas warrants special consideration. Specifically, we recommend that a biologist be present on-site to monitor the work and document avoidance of biological impacts.