

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY****Tu 15b**PROPOSED FINDINGSON CONSISTENCY DETERMINATION

Consistency Determination No. **CD-107-99**
 Staff: JRR-SF
 File Date: 11/10/99
 45th Day: 12/25/99
 60th Day: 1/9/00
 Date of Commission Action: 12/10/99
 Hearing Date: 2/**/2000

FEDERAL AGENCY: **CORPS OF ENGINEERS**DEVELOPMENTLOCATION:

Ballona Creek Flood-Control Channel, Playa Vista, City
 of Los Angeles (Exhibits 1 and 2)

DEVELOPMENTDESCRIPTION:

Replace existing flood-control gates with new ones that
 will allow more water into the wetlands and allow for
 adjusting water elevation (Exhibits 3, 4, 5, 6, and 7)

PREVAILINGCOMMISSIONERS:

Commissioners, Daniels, Desser, Dettloff, Estolano, Orr,
 Potter, Rose, and Wan

EXECUTIVE SUMMARY

The Los Angeles District of the Corps of Engineers has submitted a consistency determination for a proposal to replace existing tidegates on Ballona Creek Flood-Control Channel with new gates that will allow more water into the Ballona Wetlands. Section 1135(b) of the Water Resources Development Act of 1990

authorizes the Corps to review the operation and design of previously constructed projects for the purpose of improving environmental conditions. An analysis of the Ballona Creek flood-control facility indicates that habitat resources within the adjacent wetlands are degrading because the area is isolated from tidal influence. In order to reduce the continued damage from the flood-control facility to the wetlands, the Corps proposes to retrofit two existing culverts with self-regulating tidegates. These tidegates are a mechanical device that allows a reversible flow of water through the culverts. The new tidegates are float-actuated water control valves that automatically open and close based on tidal water levels.

Since the proposed project will increase water circulation within the wetlands, it will improve the habitat value of the resource. The project, however, has the potential to affect nesting habitat for the Belding's Savannah sparrow, a state listed endangered species. The endangered bird nests and habitat may be adversely affected by the increased flooding. However, the Corps has modified its project to address these issues. The Corps has agreed to: 1) construct and implement the project while the sparrows are not nesting in the area; and 2) incorporate the suggestions of the U.S. Fish and Wildlife Service and the California Department of Fish and Game to protect sensitive species and improve. With these modifications, the proposed project is consistent with Section 30240 of the Coastal Act.

The proposed project will avoid significant impacts to water quality resources because the Corps has agreed to submit a water quality plan to the Commission before construction. Therefore, the project is consistent with Section 30231 of the Coastal Act. Finally, the Corps will minimize impacts to public access by avoiding construction activities between Memorial Day and Labor Day, and thus the project is consistent with Section 30210 of the Coastal Act. In conclusion, the project is consistent with the habitat, water quality, and public access policies of the California Coastal Management Program (CCMP).

SUBSTANTIVE FILE DOCUMENTS:

1. Draft Environmental Assessment, Ballona Wetlands 1335 Environmental Restoration Project, August 1999.
2. Draft Fish and Wildlife Coordination Act Report, for Ballona Wetlands Preliminary Restoration Plan, September 1999.

STAFF SUMMARY AND RECOMMENDATION:

I. Project Description.

The Corps proposes retrofitting two of three existing 60-inch corrugated metal pipe culverts, connecting Ballona Creek with the wetlands (Exhibits 3-7). The culvert retrofit will consist of attachment of two Self-Regulating Tidegates to the existing culvert at the central drainage channel, on the levee. Installation of the new tidegates requires excavation of a portion of the levee side slope and construction of a new outlet structure with cut-off walls.

The construction of the proposed self-regulating tide gates is expected to improve tidal action into the existing wetland. Ebb and flow is expected to be in complete synchronization with the normal tidal cycle of lower Ballona Creek. Retention time would be influenced only by the natural tide; near complete exchange of water volume is expected with each tidal cycle. One hundred percent exchange of water volume is expected within a 24-hour period. The tide gates will artificially regulate the height of the high tide.

The tidegate is a mechanical device that allows a reversible flow of water through a culvert. The tidegate is an actuated water control valve that automatically opens and closes based on tidal water levels, while using no external source of power. The existing one-way flap-gated culvert allows no reciprocal flow of water through the culvert and the new tidegates will allow tidal water to flow through the culvert, providing water input into the wetland system. Since the new tidegates are located on the tidal side of the culvert, they can be adjusted to close when the incoming water level reaches the design water level for the wetland system without changing the upland runoff drainage capabilities of the culvert. Thus the new tidegates will allow upland stormwater runoff to discharge into the Ballona Creek when tidal water levels are lower than wetland water levels.

Ancillary construction for the implementation of the recommended plan consists of minor levee excavation for the construction of a new cut-off wall, and, the retrofitting of two existing tidegates with self-regulating ones within the cut-off wall. The new tidegates will be recessed within the existing levee slope. This project feature will provide protection to the facility from hydraulic forces due to storm flow and debris flowing down the creek at high velocities during periods of storm flow. In addition, the new tidegate frame assemblies will not protrude above the slope of the existing levee. Construction of the outlet structure and cutoff walls will require excavation of the side slope. A concrete headwall approximately 9 meters long will be constructed. Two adjoining concrete cutoff walls will be constructed to provide stabilization of the excavated side slopes. A debris screen will be constructed over the outlet structure.

The Corps will use conventional earthmoving and construction related equipment. Equipment to be utilized for the proposed project will include:

- 1-2 Haul Trucks
- 1 Bulldozer
- 1 Backhoe
- 1 Concrete-mix Truck
- 1 Water Truck
- 1 Forklift

The Corps will access to the site using existing roadways adjacent to and intersecting the earthen levee. Equipment will be stored and maintained in one or more designated staging areas for the duration of project construction activities. The Corps will use two lots, located on the southeast corner of the pedestrian bridge, near the mouth of Ballona Creek, as staging areas for construction activities. One asphalt lot (60' x 90') and one dirt lot (15' x 75'), abutting the asphalt lot's southern edge, would provide adequate temporary equipment space. The Corps will occupy these lots for approximately 8 to 12 weeks, the expected duration of construction activities. In addition, the Corps and/or local sponsor may designate additional staging areas. The Corps proposes to begin the construction in September 2000. The adjustment and calibration of the new tide will be performed in place. This adjustment period is typically conducted over approximately 2 tidal-cycles.

The Corps of engineers has modified the project to address concerns raised by the Coastal Commission, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game. These modifications include the following measures:

- A. The Corps will develop a plan to manage non-point source pollution resulting from project construction activities.
- B. The Corps will not use the two parking lots for staging areas during the peak summer recreation months, Memorial Day through Labor Day, 2000.
- C. The Corps will coordinate with the Coastal Commission staff prior to selection of a staging area not identified in the environmental assessment.
- D. The Corps will not raise tidal levels to 1.1 meters MLLW until after September 1, 2000.
- E. Beginning with the Year 2000 breeding season, the Corps will monitor nesting and foraging territory locations and size for the Belding's Savannah

sparrow population over a three-year period. The purpose of the monitoring is to determine if there has been a reduction territory size or number of pairs from the pre-inundation baseline condition (i.e., a minimum of one additional pre-inundation and two post-inundation years). Monitoring will establish permanent transects within the historical nesting areas for vegetation sampling, which will be done outside of the breeding season. Nesting territory use monitoring will include the historical use area and new, identified areas and will occur during the nesting season. Specific monitoring protocols will be submitted to the Department and the Commission staff for review and comment prior to beginning the monitoring

- F. Establish several vegetation monitoring transects in other potential Belding's Savannah sparrow nesting habitat areas that are not expected be affected by the raised flood levels to compare the vegetation change effects that flooding may produce.
- G. Convene an annual meeting with the regulatory and wildlife agencies to review the previous year's data and results. Based on the results, the Corps or agencies may recommend alterations to the monitoring protocols. Following the third year of monitoring, the Corps will recommend whether to maintain or change the tidal level.
- H. The Corps would advocate raising the tidal level to 1.2 meters MLLW following the third year of monitoring if no documented, significant impacts to the number of pairs of nesting Belding's Savannah sparrow are noted, and if there is a defensible argument that increasing the inundation to 1.2 meters MLLW will not substantially affect Belding's Savannah sparrow territory or nests. If approved, the Corps shall monitor for a minimum of three additional years to determine if the tidal changes have a significant impact on the Belding's Savannah sparrow. If it is determined that Belding's Savannah sparrow nesting success is being significantly impacted by raising the tidal flood level to 1.2 meters MLLW, then the Corps shall reduce the tidal flood level to 1.1 meters MLLW and mitigate for the impact.
- I. The Corps will construct and implement the project between September 1 and January 31.
- J. The Corps shall take all prudent measures during construction to ensure that disturbances, noise, and dust are minimized to the greatest extent possible. Construction methods should be used that prevent turbidity within Ballona Creek. The Corps shall provide a qualified biologist on-site during construction to monitor effects of construction activities on biological resources.

- K. The Corps shall establish a resource baseline by conducting biological surveys prior to construction.
- L. The Corps shall implement, at a minimum, a five-year monitoring and adaptive management program commencing with completion of the project. The monitoring and adaptive management program shall include the following:
 - 1. Study of vegetation community.
 - 2. Study of Belding's Savannah sparrow population and breeding activities.
 - 3. Study of the fish community within the project area.
 - 4. Studies of the benthic and terrestrial invertebrates, amphibians and reptiles, mammals and birds within the project area.

The details of these monitoring elements are described in the U.S. Fish and Wildlife Service Draft Fish and Wildlife Coordination Act Report, September 1999.

II. Status of Local Coastal Program.

The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the Commission certified the LCP and incorporated it into the CCMP, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission has not incorporated the City of Los Angeles' LCP into the CCMP.

III. Federal Agency's Consistency Determination.

The Corps of Engineers has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

IV. Staff Recommendation:

The staff recommends that the Commission adopt the following motion:

I move that the Commission adopt the revised findings in support of the Commission's action on December 12, 1999, concerning CD-107-99.

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the February **, 1999 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

V. Adopted Resolution

The Commission hereby **concurs** with the consistency determination made by the Corps of Engineers for the proposed project, finding that the project is consistent to the maximum extent practicable with the California Coastal Management Program.

VI. Findings and Declarations:

The Commission finds and declares as follows:

A. **Habitat Resources.** The Coastal Act supports the protection and restoration of habitat resources. Section 30230 of the Coastal Act provides that:

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 30240 of the Coastal Act provides that:

(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 purpose of the project is to enhance wetland and endangered species habitat within the Ballona Wetlands. In its environmental assessment, the Corps describes the Ballona Wetlands as follows:

The 165 acre study area is dominated by a dense, near monotypic stand of low growing pickleweed (Salicornia virginica) (approximately 53 acres) (Reed 1998) [Exhibit 8 and 9]. Marsh heather (Frankenia grandifolia), salt grass (Distichlis spicata), and salt wort (Salicornia subterminalis) are also intermixed in the pickleweed stands.

... [U]nder natural conditions pickleweed usually only dominates the upper littoral zone, which is subject to inundation only by high spring tides or storm tides. The dominance of pickleweed in the study area is typical of Southern California salt marshes where tidal flushing is rare or infrequent. The ability of pickleweed to withstand a wide variety of environmental conditions (e.g., low soil moisture and high salinity) makes it the most widespread salt marsh vegetation in disturbed southern California marshes (Zedler 1982 and 1993).

In the absence of tidal circulation no low or mid-littoral zone or associated vegetation exist in the study area. For example, cordgrass (Spartina foliosa) is conspicuously absent from the study area.

The second largest type is largely composed of ruderal and exotic vegetation species (82 acres), such as brome (Bromus spp.), iceplant (Carpobrotus edulis), Oxalis (Oxalis pescaprae) and Ryegrass (Lolium spp.).

The next largest habitat-type is the mudflat/saltflat type (21 acres) (Reed 1998). The intertidal mudflats in the study area is the narrow band of intertidal areas of the channels that are essentially devoid of vegetation and are periodically covered by water during the rise and fall of tides. The mudflat/saltflat habitat type occupies the area west of the main (or central) channel. This area is generally devoid of vegetation, except for the presence of green algae during spring. In general, this habitat type is not as regularly flooded as mudflats, but do[es] accumulate some water during the wet season and [is] covered with a salt crust in the dry season.

Vegetation surveys conducted for the larger Playa Vista Project (Reed 1998:10) report that the general vegetation change in Playa Vista Phase I & II Area B (see Figure 3) over the past ten years appears to be a change from saline conditions (and vegetation) to freshwater and upland vegetation.

.... Estuarine fish populations in the tidal channels were dominated by the arrow goby (Clevelandia ios), mosquito fish (Gambusia affinis) (an

introduced exotic species), topsmelt (Atherinops affinis) and killifish (Fundulus parvipinnis). These fish are common residents of small bays of southern California, and this fish fauna is considered relatively normal for an estuary with restricted tidal circulation.

....

Bird surveys performed in the wetlands consistently indicate a fair species diversity and number of birds; between 30-60 species of birds have been reported. Most species occur in fall and winter, when a relatively large number of migratory shorebirds move into the area. Many typical salt marsh species use the marsh, for example: shorebirds, gulls, terns, ducks. Other upland birds (such as small raptors and passerine birds) are also common visitors. The confirmed nesters in the marsh are the killdeer (Charadrius alexandrinus), northern mockingbird (Mimus polyglottos), loggerhead shrike (Lanius ludovicianus), Belding's Savannah sparrow (Passerculus sandwichensis geldingi), and the northern oriole (Icterus galgula).

The small mammal population is currently dominated by the exotic house mouse (Mus musculus). A depauperate population of native small mammals, such as the western Harvest mouse (Reithrodontomys megalotis), California meadow vole (Microtus californicus), cottontail rabbit (Sylvilagus audubonii), and pocket gopher (Thomomys bottae) also occurs in the study area. Predation of small mammals by the introduced red fox (Vulpes vulpes) is generally believed to be the cause of the poor small mammal diversity in the area. (The red fox is also believed to be a voracious predator of birds, eggs and nestlings in southern California coastal areas [Palazzo 1994:183]).¹

Although the Ballona wetlands support many wetland plant and animal species, the quality of the resource has degraded over the years. Restrictions to tidal circulation are generally credited for the reduction in the quality of the habitat within this area. The Corps proposes to enhance the wetlands by improving the tidal flows into the wetlands. The proposed modifications to the tidegates will improve tidal flows and still protect nearby roads and development from flooding hazards. According to the

¹ Environmental Assessment, pp. 23-25.

Fish and Wildlife Service, the proposed project will improve the habitat values in the following ways:

1. Increase the number and diversity of fish and benthic species;
2. Provide better foraging habitat for shorebirds, waterfowl, herons, egrets, and terns;
3. Invigorate the existing pickleweed habitat;
4. Increase native plant diversity; and
5. Create conditions unfavorable for non-native plant invasion and spread.²

In addition, the Service concludes that:

Without construction the preferred alternative, the salt marsh habitat in Area B [of Ballona] will likely continue to degrade over time with adverse effects on fish and wildlife resources. Degradation of habitat and loss of some species known from the project area have been noted between the 1970's and the 1990's. Non-native species, both plants and wildlife, have increased their presence in the area in the past 20 years. Presence of non-native species is correlated with declines of native species in many systems (Courtenay and Meffe, 1994)³

The Commission agrees with the conclusions of the Service and finds that the proposed project will enhance wetland resources and habitat diversity. The proposed project, however, has the potential to adversely affect the state listed Belding's Savannah sparrow. The sparrow nests within the wetlands, on pickleweed vegetation. The increased water flow will flood areas currently used by the sparrow for nesting. If the tidegates are opened and the water elevation increases during the sparrow-nesting season, the project could destroy the nests and adversely affect the bird. The preferred alternative will allow inundation of 13.5 acres of wetlands. The tidal waters will fill existing channels and flood into marsh vegetation. According to the Service, the project will flood "part of the most heavily used Belding's Savannah sparrow nesting area."⁴ In order to minimize any impacts to the sparrow, the Corps

² Draft Fish and Wildlife Coordination Act Report, September 1999, pp. 27-28.

³ Draft Fish and Wildlife Coordination Act Report, September 1999, pp. 28-29.

⁴ Draft Fish and Wildlife Coordination Act Report, September 1999, p. 26.

of Engineers has agreed to modify its project. Specifically, the Corps will not begin construction until after September 1, 2000, and has committed to completing the project within 12 weeks, which would avoid any changes to the wetland hydrology during the nesting season of the Belding's Savannah sparrow. Additionally, the Corps will initially restrict the tidal changes to 1.1 meters above MLLW and monitor the project area to determine if the changes will result in impacts to the sparrows. If the Corps can demonstrate that either the 1.1- or the 1.2-meter tidal elevation does not or will not affect the sparrow, the Corps can increase the tidal water levels to 1.2 meters MLLW. In addition, the Corps has agreed to conduct biological surveys to establish a baseline prior to project construction and monitor for five years after construction. (All of the modifications are identified in detail in the recommendation section of the U.S. Fish and Wildlife Service's draft Fish and Wildlife Coordination Report and the comment letter from the Department of Fish and Game, Exhibit 10 and Exhibit 11.) The changes to the wetland hydrology will reduce the area available to the sparrow for nesting, because the bird will avoid nesting in pickleweed habitat that is regularly flooded. The Ballona wetlands contain approximately 54 acres of pickleweed habitat that support 10 to 13 nesting pairs of sparrows.⁵ The project, at the 1.2 meter MLLW inundation level, will flood an additional 10 acres of pickleweed habitat (currently 3.5 acres are flooded under the existing tidegates and 13.5 acres will be flooded after the improvements). The project will not flood a significant percentage of the nesting area available to the sparrow. In the phased approach to this project, the Corps, after establishing a biological baseline, will initially increase tidal inundation to 1.1 meters above MLLW, which will not significantly increase the pickleweed areas that are inundated. After two additional years of monitoring, the Corps will determine if the project is adversely affecting the sparrow. If it can make such a conclusion, the Corps will increase the tidal inundation to 1.2 meters above MLLW. The Corps will continue with its monitoring to determine if the increased inundation is adversely affecting the sparrow. If the monitoring demonstrates an adverse effect, the Corps will lower the tidal inundation to 1.1 meters above MLLW. With these project changes, the Corps will avoid or minimize impacts to the Belding's Savannah sparrow. In addition, the Corps believes that the increased inundation will improve the pickleweed habitat and may eventually result in an increase in nesting areas for the sparrow. Therefore, the Commission finds that the proposed project, as modified, will enhance endangered species resources and wetland habitat in a manner consistent with the habitat policies of the CCMP.

B. Water Quality Resources. Section 30231 of the Coastal Act provides for the protection of water quality resources. That section provides that:

⁵ Environmental Assessment, p. 27.

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 proposed project will increase tidal circulation within Ballona Wetlands and the increased water flow will improve water quality within the wetlands. The project, however, includes use of heavy equipment adjacent to Ballona Creek and the use of nearby parking lots for staging and maintenance of equipment. These activities could result in an increase in non-point pollution into the wetlands and creek. The Corps' environmental assessment includes general statements that conclude that this impact will not be significant. The Corps, however, did not provide the Commission with a water quality protection plan that includes specific best management practices to prevent discharges of contaminants into coastal waters. In response to this concern, the Corps has agreed to develop a water quality protection plan that addresses non-point source pollution and best management practices. That plan will be submitted to the Commission before the Corps finalizes its agreement with the contractor. The Corps has also agreed to incorporate the terms of the water quality plan into the plans and specifications. With these measures, the Commission finds that the proposed project will protect water quality resources in a manner consistent with the policies of the CCMP.

C. Public Access to the Shoreline. The Coastal Act provides for the protection of public access to the shoreline. Section 30210 of the Coastal Act provides that:

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.

The proposed project requires the use of two staging areas. The Corps proposes to use existing public parking areas as staging areas. These parking areas are used for public parking for access to coastal resources, including Ballona Creek levee, Ballona wetlands, and the beach. In its environmental assessment, the Corps

concludes that this impact will not be significant. The Corps basis this conclusion on one site visit that its staff conducted in May. This evidence is not sufficient to relieve the Commission of concerns over the impact to public access. These parking lots are located within an urban area and adjacent to popular coastal areas including Marina del Rey and Dockweiler State Beach. The Commission believes that these parking areas could be heavily used and that the project could remove parking spaces that would be used for access to the coast. In order to mitigate for this impact, the Corps has modified its project to include the following measures:

1. The staging areas will only be used after the Labor Day weekend and before Memorial Day;
2. The Corps will notify the Commission for its review and approval before it utilizes another staging area.

With these measures, the project will not significantly affect public access to the shoreline. Therefore, the Commission finds that the project is consistent with the access policies of the CCMP.



ATTACHMENT 1
PROPOSED FINDINGS WITH CHANGES
IDENTIFIED



authorizes the Corps to review the operation and design of previously constructed projects for the purpose of improving environmental conditions. An analysis of the Ballona Creek flood-control facility indicates that habitat resources within the adjacent wetlands are degrading because the area is isolated from tidal influence. In order to reduce the continued damage from the flood-control facility to the wetlands, the Corps proposes to retrofit two existing culverts with self-regulating tidegates. These tidegates are a mechanical device that allows a reversible flow of water through the culverts. The new tidegates are float-actuated water control valves that automatically open and close based on tidal water levels.

Since the proposed project will increase water circulation within the wetlands, it will improve the habitat value of the resource. The project, however, has the potential to affect nesting habitat for the Belding's Savannah sparrow, a state listed endangered species. ~~If The endangered bird nests and habitat may be adversely affected by the increased flooding. is nesting within the wetlands when the tidal increases their nests could be flooded.~~ However, the Corps has modified its project to address these issues. The Corps has agreed to: 1) construct and implement the project while the sparrows are not nesting in the area; require that the tidal level will not change until after the nesting season is over and 2) incorporate the suggestions of the U.S. Fish and Wildlife Service and the California Department of Fish and Game to protect sensitive species and improve. With ~~this~~ these modifications, the proposed project is consistent with Section 30240 of the Coastal Act.

The proposed project will avoid significant impacts to water quality resources because the Corps has agreed to submit a water quality plan to the Commission before construction. Therefore, the project is consistent with Section 30231 of the Coastal Act. Finally, the Corps will minimize impacts to public access by avoiding construction activities between Memorial Day and Labor Day, and thus the project is consistent with Section 30210 of the Coastal Act. In conclusion, the project is consistent with the habitat, water quality, and public access policies of the California Coastal Management Program (CCMP).

SUBSTANTIVE FILE DOCUMENTS:

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excavated side slopes. A debris screen will be constructed over the outlet structure. The Corps will use conventional earthmoving and construction related equipment. Equipment to be utilized for the proposed project will include:

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- A. The Corps will develop a plan to manage non-point source pollution resulting from project construction activities.
- B. The Corps will not use the two parking lots for staging areas during the peak summer recreation months, Memorial Day through Labor Day, 2000.
- C. The Corps will coordinate with the Coastal Commission staff prior to selection of a staging area not identified in the environmental assessment.
- D. The Corps will not raise tidal levels to 1.1 meters MLLW until after September 1, 2000.
- E. Beginning with the Year 2000 breeding season, the Corps will monitor

nesting and foraging territory locations and size for the Belding's Savannah sparrow population over a three-year period. The purpose of the monitoring is to determine if there has been a reduction territory size or number of pairs from the pre-inundation baseline condition (i.e., a minimum of one additional pre-inundation and two post-inundation years). Monitoring will establish permanent transects within the historical nesting areas for vegetation sampling, which will be done outside of the breeding season. Nesting territory use monitoring will include the historical use area and new, identified areas and will occur during the nesting season. Specific monitoring protocols will be submitted to the Department and the Commission staff for review and comment prior to beginning the monitoring

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- G. Convene an annual meeting with the regulatory and wildlife agencies to review the previous year's data and results. Based on the results, the Corps or agencies may recommend alterations to the monitoring protocols. Following the third year of monitoring, the Corps will recommend whether to maintain or change the tidal level.
- H. The Corps would advocate raising the tidal level to 1.2 meters MLLW following the third year of monitoring if no documented, significant impacts to the number of pairs of nesting Belding's Savannah sparrow are noted, and if there is a defensible argument that increasing the inundation to 1.2 meters MLLW will not substantially affect Belding's Savannah sparrow territory or nests. If approved, the Corps shall monitor for a minimum of three additional years to determine if the tidal changes have a significant impact on the Belding's Savannah sparrow. If it is determined that Belding's Savannah sparrow nesting success is being significantly impacted by raising the tidal flood level to 1.2 meters MLLW, then the Corps shall reduce the tidal flood level to 1.1 meters MLLW and mitigate for the impact.
- I. The Corps will construct and implement the project between September 1 and January 31.
- J. The Corps shall take all prudent measures during construction to ensure that disturbances, noise, and dust are minimized to the greatest extent possible. Construction methods should be used that prevent turbidity within Ballona Creek. The Corps shall provide a qualified biologist on-site during construction to monitor effects of construction activities on biological

resources.

- K. The Corps shall establish a resource baseline by conducting biological surveys prior to construction.
- L. The Corps shall implement, at a minimum, a five-year monitoring and adaptive management program commencing with completion of the project. The monitoring and adaptive management program shall include the following:
1. Study of vegetation community.
 2. Study of Belding's Savannah sparrow population and breeding activities.
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 4. Studies of the benthic and terrestrial invertebrates, amphibians and reptiles, mammals and birds within the project area.

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III. Federal Agency's Consistency Determination.

The Corps of Engineers has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

IV. Staff Recommendation:

The staff recommends that the Commission adopt the following motion:

I move that the Commission adopt the revised findings in support of the Commission's action on December 12, 1999, concerning CD-107-99.

Fish and Wildlife Service, the proposed project will improve the habitat values in the following ways:

1. Increase the number and diversity of fish and benthic species;
2. Provide better foraging habitat for shorebirds, waterfowl, herons, egrets, and terns;
3. Invigorate the existing pickleweed habitat;
4. Increase native plant diversity; and
5. Create conditions unfavorable for non-native plant invasion and spread.²

In addition, the Service concludes that:

Without construction the preferred alternative, the salt marsh habitat in Area B [of Ballona] will likely continue to degrade over time with adverse effects on fish and wildlife resources. Degradation of habitat and loss of some species known from the project area have been noted between the 1970's and the 1990's. Non-native species, both plants and wildlife, have increased their presence in the area in the past 20 years. Presence of non-native species is correlated with declines of native species in many systems (Courtenay and Meffe, 1994)³

The Commission agrees with the conclusions of the Service and finds that the proposed project will enhance wetland resources and habitat diversity. The proposed project, however, has the potential to adversely affect the state listed Belding's Savannah sparrow. The sparrow nests within the wetlands, on pickleweed vegetation. The increased water flow will flood areas currently used by the sparrow for nesting. If the tidegates are opened and the water elevation increases during the sparrow-nesting season, the project could destroy the nests and adversely affect the bird. The preferred alternative will allow inundation of 13.5 acres of wetlands. The tidal waters will fill existing channels and flood into marsh vegetation. According to the Service, the project will flood "part of the most heavily used Belding's Savannah sparrow nesting area."⁴ In order to minimize any impacts to the sparrow, the Corps

² Draft Fish and Wildlife Coordination Act Report, September 1999, pp. 27-28.

³ Draft Fish and Wildlife Coordination Act Report, September 1999, pp. 28-29.

⁴ Draft Fish and Wildlife Coordination Act Report, September 1999, p. 26.

of Engineers has agreed to modify its project ~~to avoid this impact~~. Specifically, the Corps will not begin construction until after September 1, 2000, and has committed to completing the project within 12 weeks, which would avoid any changes to the wetland hydrology during the nesting season of the Belding's Savannah sparrow. Additionally, the Corps will initially restrict the tidal changes to 1.1 meters above MLLW and monitor the project area to determine if the changes will result in impacts to the sparrows. If the Corps can demonstrate that either the 1.1- or the 1.2-meter tidal elevation does not or will not affect the sparrow, the Corps can increase the tidal water levels to 1.2 meters MLLW. In addition, the Corps has agreed to conduct biological surveys to establish a baseline prior to project construction and monitor for five years after construction. (All of the modifications are identified in detail in the recommendation section of the U.S. Fish and Wildlife Service's draft Fish and Wildlife Coordination Report and the comment letter from the Department of Fish and Game, Exhibit 10 and Exhibit 11.) ~~With this project change, the Corps will avoid direct impacts to the sparrow during the nesting season.~~

~~However,~~ The changes to the wetland hydrology will reduce the area available to the sparrow for nesting, because the bird will avoid nesting in pickleweed habitat that is regularly flooded. The Ballona wetlands contain approximately 54 acres of pickleweed habitat that support 10 to 13 nesting pairs of sparrows.⁵ The project, at the 1.2 meter MLLW inundation level, will flood an additional 10 acres of pickleweed habitat (currently 3.5 acres are flooded under the existing tidegates and 13.5 acres will be flooded after the improvements). The project will not flood a significant percentage of the nesting area available to the sparrow. ~~The remaining 43.8 acres of pickleweed is more than adequate to support the nesting sparrows.~~ In the phased approach to this project, the Corps, after establishing a biological baseline, will initially increase tidal inundation to 1.1 meters above MLLW, which will not significantly increase the pickleweed areas that are inundated. After two additional years of monitoring, the Corps will determine if the project is adversely affecting the sparrow. If it can make such a conclusion, the Corps will increase the tidal inundation to 1.2 meters above MLLW. The Corps will continue with its monitoring to determine if the increased inundation is adversely affecting the sparrow. If the monitoring demonstrates an adverse effect, the Corps will lower the tidal inundation to 1.1 meters above MLLW. With these project changes, the Corps will avoid or minimize impacts to the Belding's Savannah sparrow. In addition, ~~Finally,~~ the Corps believes that the increased inundation project will improve the pickleweed habitat and may eventually result in an increase in nesting areas for the sparrow. Therefore, the Commission finds that the proposed project, as modified, will

⁵ Environmental Assessment, p. 27.