

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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 Hearing Date: March 14-17, 2000

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-127

Applicant: City of San Diego

Agent: Frank Belock

Description: Construction of the middle segment of State Route 56 to complete an east-west freeway connection between I-5 and I-15, with approximately 8,000 linear feet of the highway in the coastal zone (approximately 6,500 linear feet in the Coastal Commission's jurisdiction and subject to this permit). The project includes approximately 500,000 cu.yds. of grading and construction of four travel lanes. The project also includes installation of two Continuous Deflective Separation Units on existing State Route 56 West and creation of 1.5 acres of riparian wetlands in McGonigle Canyon as mitigation for project impacts to 0.427 acres of existing southern willow scrub.

Site: Beginning at the east end of existing State Route 56, extending east approximately 1.5 miles through Subarea III of the Future Urbanizing Area of North City, San Diego, San Diego County.

STAFF NOTES:

Due to Permit Streamlining Act constraints, the Commission must take action at the March 14-17, 2000 hearing unless a 90-day extension is requested by the applicant.

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed freeway link, which completes a connection between Interstate 5 (I-5) and Interstate 15 (I-15). Although the proposed alignment for State Route (SR) 56 results in permanent impacts to 0.427 acres of riparian wetlands, and approximately two acres of various sensitive upland habitats, on balance the project is most protective of coastal resources, since it will result in improved water quality as compared to existing conditions. The project also has positive benefits in the areas of providing safe wildlife corridors, clustering future development north of the proposed alignment leaving a large contiguous area of open space south of the alignment, and

facilitating future mass/alternative transit and access from inland communities to the beach. Moreover, all unavoidable project impacts are being mitigated and the proposal represents the least environmentally damaging alternative pursuant to CEQA.

Staff recommends a number of special conditions designed to assure adequate and appropriate mitigation for all project impacts and provision of water quality improvements. As proposed and conditioned, the project will result in erosion control and drainage measures for the proposed middle segment of SR-56, and will also result in retrofitting the existing western segment of SR-56 with additional drainage improvements. In addition, the conditions require monitoring of the installed drainage devices and identification and implementation of remediation measures if standards established by the Regional Water Quality Control Board (RWQCB) for sediment or pollutant loads are exceeded.

Substantive File Documents: Certified City of San Diego Land Use Plans: North City LCP Land Use Plan Addendum, Carmel Valley Neighborhood 8 Community Plan, North City Future Urbanizing Area Framework Plan and Pacific Highlands Ranch Draft Subarea Plan (SDLCPA #3-98); Certified City of San Diego Implementation Plan; Final Environmental Impact Report (LDR No. 95-0099); CCC Files #6-90-123 and #1-98-103

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

- I. **MOTION:** *I move that the Commission approve Coastal Development Permit No. 6-98-127 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.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans for the construction of those portions of the middle segment of State Route 56 located within the Coastal Commission's coastal development permit jurisdiction. The plans shall incorporate the following information:

- a. A site plan(s) showing the entire alignment within the coastal zone, with the coastal zone boundary clearly delineated;
- b. Grading and runoff control plans for the entire alignment within the coastal zone, with existing and proposed contours clearly delineated and descriptions/exhibits of all temporary runoff control facilities, as further detailed in Special Condition # 4;
- c. Elevations of all interchanges and under/over-crossings in the coastal zone;
- d. Descriptions and exhibits of all proposed landscaping improvements within the coastal zone, as further detailed in Special Condition # 6; and
- e. Descriptions and exhibits showing the placement and composition of all proposed permanent drainage facilities, as further detailed in Special Condition # 5.

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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Revised/Final Mitigation and Monitoring Plan/Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final enhancement and monitoring plan designed by a qualified wetland biologist and acceptable to the U.S. Army Corps of Engineers (ACOE), U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (CDFG). Said program shall be in substantial conformance with those portions of the plan identified as *Conceptual Habitat Restoration*

and Monitoring Program for Wetlands Mitigation Associated with the State Route 56 Construction Project (KEA Environmental, Inc., October 14, 1999) applicable to the Lower McGonigle Canyon mitigation area only, but shall be revised to include the following:

- a. A detailed planting plan for the Lower McGonigle Canyon mitigation site, similar in content and design to the plan depicted in Figure 10 of the above-referenced document.
- b. A detailed narrative description of the Lower McGonigle Canyon mitigation project, similar to Sections C and D of the above-referenced document.
- c. Submittal, within six weeks of completion of construction (i.e., planting) at the mitigation site, of an as-built assessment of the mitigation project that includes as-built plans, to determine if the project has been built as approved.
- d. Submittal of annual monitoring reports to the Executive Director of the Coastal Commission, as well as any other required recipients.

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

3. Open Space Deed Restriction. No development, as defined in Section 30106 of the Coastal Act shall occur within the Lower McGonigle Canyon wetland mitigation site consisting of restored wetlands and a minimum 50-foot wetland buffer, as shown in the approved plan required by Special Condition #2 above, except for restoration, monitoring and maintenance activities conducted in accordance with the approved mitigation and monitoring program.

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

4. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for

review and written approval, final grading and erosion control plans that have been approved by the City of San Diego and Caltrans and incorporated into construction bid documents. The approved plans shall be subject to the following requirements and include the following components:

- a. During construction, erosion on the site shall be controlled to avoid adverse impacts to adjacent properties, public roadways and Los Penasquitos Lagoon.
- b. The following temporary erosion control measures shall be used during construction activity: a combination of temporary measures (e.g., geo-fabric blankets, spray tackifiers, silt fences, fiber rolls, straw mulch, hay bales, gravel bags), as appropriate, during each phase of site preparation, grading and project construction.
- c. Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties, public roadways and Los Penasquitos Lagoon.
- d. A narrative report and/or a copy of the Storm Water Pollution Prevention Plan (SWPPP), prepared as a requirement for development under Caltrans individual NPDES permit, which specifies BMPs appropriate for use during each phase of site preparation, grading and project construction, and procedures for their installation, based on soil loss calculations. The submitted calculations will account for factors such as soil conditions, hydrology (drainage flows), topography, slope gradients, vegetation cover and groundwater elevations.
- e. A site plan showing the location of all temporary erosion control measures.
- f. A site plan showing the location of all permanent erosion control measures.
- g. A schedule for installation and maintenance of the permanent erosion control measures.
- h. A plan to mobilize crews, equipment, and staging areas for BMP installation during each phase of site preparation, grading and project construction, with timing of deployment based on the forecast percentage of rainfall occurrence. The plan shall also address provisions for delivery of erosion prevention/control materials, or access to onsite supplies, including unit costs and specifications for adequate storage capabilities.
- i. A plan for landscaping, which shall be installed on all cut and fill slopes prior to November 15th of each year utilizing either temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

j. Limitations on grading activities during the rainy season, from November 15 to March 31 of each year, wherein grading may only occur in increments as determined by the City Engineer and in conformance with the updated Land Development Code of the City of San Diego, effective January 1, 2000. Prior to commencement of any grading activity, the permittee shall submit a grading schedule to the Executive Director. Any variation from the schedule shall be promptly reported to the Executive Director.

k. A requirement that all permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. All areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized in advance of the rainy season.

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

5. Drainage and Polluted Runoff Control Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for the review and written approval of the Executive Director, a final drainage and polluted runoff control plan for existing and proposed SR 56, designed to minimize the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be incorporated into construction bid documents and reviewed and approved by the consulting engineer to ensure the plan is in conformance with the engineer's recommendations. The plan shall be subject to the following requirements, and shall, at a minimum, include the following components:

- a. Post-development peak runoff rate and average volume shall be maintained at levels similar to pre-development conditions.
- b. Post-construction structural and non-structural BMPs effective at removing and/or mitigating pollutants contained in road/highway runoff, such as petroleum hydrocarbons, heavy metals, sediment and other particulates. The BMPs shall include, but not be limited to, erosion-control landscaping, detention and/or desilting facilities, and oil/grease separators at all drainage inlets along the entire proposed alignment. Specific improvements shall include:
 - (1) a detention/desilting basin at the connection of the proposed middle segment to the existing SR-56 West.
 - (2) a vegetated biofilter located in the center median, and replacing the proposed concrete drainage channel. It shall be designed to intercept, infiltrate and/or treat runoff, prior to conveying excess flows off site in a non-erosive manner. Provisions designed to ensure the safety of maintenance workers shall be

incorporated into the plan. Paved crossings shall be allowed intermittently to accommodate maintenance, emergency and law enforcement access to, and across, the median area.

All selected structural BMPs for volumetric control (e.g., detention and infiltration basins) and flow-based control (e.g., biofilters and media filters) shall be designed and constructed in accordance with the sizing and design criteria contained in the California Storm Water Best Management Practices Handbook (Municipal) (1993) and/or comparable Caltrans criteria, appropriate for the San Diego region. The final BMP design standard shall be consistent with the municipal storm water regulations in 40 CFR 122.26 to reduce pollutants in stormwater to the maximum extent practicable (MEP). MEP should represent the point of diminishing return for BMP implementation. If, based on such considerations and specifications, with respect to site characteristics, a required BMP is determined by a qualified engineer with appropriate expertise to be infeasible, and will therefore result in changes to the approved plan, a Commission-approved amendment will be required, unless the Executive Director determines that no such amendment is required.

c. A comprehensive sampling protocol to compile water quality data for preconstruction, grading/construction, and post-construction phases at specified upstream and downstream monitoring locations (to be coordinated with Caltrans and Regional Water Quality Control Board [RWQCB]). The plan shall specify criteria pollutant thresholds regulated by the RWQCB to ensure water quality standards are being met in receiving waters downstream of project BMPs. In addition to the new middle segment of SR 56, the monitoring program shall include the discharge points of the two CDS retrofit units, at least two locations within the existing Carmel Valley Resource Enhancement Project (CVREP) and the discharge point west of I-5 where CVREP empties into Los Penasquitos Lagoon. Annual monitoring reports shall be submitted to the Coastal Commission prior to June 1st of each year.

d. A list of, and a commitment to implement, potential remediation measures in the event runoff from the project site or downstream sampling points exceeds criteria pollutant thresholds regulated by the RWQCB. Corrective actions for exceedances should be provided immediately wherever possible, with considerations for worker safety. Where exceedances cannot be corrected immediately, the next annual report shall identify specific remediation measures appropriate to the circumstances and provide a schedule for their implementation.

e. A detailed site plan that shows the size and location of all storm drain inlets, size and location of all structural and non-structural BMPs, detention/desilting facilities and all locations where testing/monitoring will occur. In addition, the program, and associated site plan, shall identify the locations along existing State Route 56 where the applicant is proposing installation of Continuous Deflective Separation Units as a retrofit water quality improvement.

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

6. Landscaping Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, a detailed final landscape plan approved by the City of San Diego and Caltrans indicating the type, size, extent and location of all plant materials, including the specific species to be planted in the grassy swale required in Special Condition #5, any proposed temporary irrigation system and other landscape features. The plan shall be incorporated into construction bid documents and reviewed in consultation with the resource agencies identified below and shall include the following specific features:

- a. Only drought tolerant, non-invasive native plant materials acceptable to the California Department of Fish and Game (CDFG), U.S. Fish and Wildlife Service (Service) and U.S. Army Corps of Engineers (Corps) shall be utilized;
- b. Only temporary irrigation for plant establishment shall be permitted;
- c. A written commitment shall be made that all planted materials shall be maintained in good growing condition;
- d. Use of fertilizers and pesticides which may enter surface runoff or leach into groundwater shall be avoided altogether, where possible, and otherwise minimized to the extent feasible; and
- e. Permanent landscaping shall be installed concurrent with, or within sixty days following, completion of highway construction.

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

7. Construction Staging and Storage Areas. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans showing the locations, both on- and off-site, which will be used as staging and storage areas for materials and equipment during the construction phase of this project. The staging/storage plan shall be subject to review and written approval of the Executive Director. Use of environmentally sensitive wetland and upland habitat areas shall not be permitted.

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

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

9. Future Development. The subject permit is for the construction of four travel lanes and associated improvements only. The construction of additional travel lanes or other improvements within the reserved median in the future will require review by the Coastal Commission as an amendment to this permit. The first priority for use of the reserved median area should be for mass transit or HOV lanes, rather than additional mixed-use lanes. If additional mixed-use lanes are ultimately proposed for the center median, the amendment application should include a thorough analysis of transit alternatives and support why such improvements are not proposed or needed.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The City of San Diego is proposing construction of the middle segment of State Route 56 (SR-56), a major east-west freeway connector between Interstate 5 (I-5) and Interstate 15 (I-15). The total proposed middle segment is approximately 5.5 miles long, with 1.5 miles (approximately 8,000 linear feet) of the alignment in the coastal zone. Of the 1.5 miles in the coastal zone, approximately 1.22 miles (approximately 6,500 linear feet) are in an area of deferred certification (the North City Future Urbanizing Area), where the Coastal Commission retains permit authority and the standard of review is Chapter 3 of the Coastal Act. The Commission recently certified City of San Diego Local Coastal Program Amendment #3-98, which included a land use plan for Subarea III of the Future Urbanizing Area. The proposed freeway alignment is within Subarea III. However, the LCP amendment has not yet been effectively certified. Therefore, development within Subarea III remains within the Commission's jurisdiction. The land use plan for Subarea III indicates that some wetland impacts would occur in conjunction with the extension of SR-56 through the community. The remaining approximately ¼ mile of the middle segment of SR-56 is in the City's permit jurisdiction, in Neighborhood 8 of the Carmel Valley Community Plan. The City has already issued a coastal development permit for this portion of the proposed road.

A portion of the eastern segment of SR-56, which is not in the coastal zone, trends westward from I-15 and has been in place for some time. Likewise, the western segment, which is entirely within the coastal zone, was constructed several years ago pursuant to Coastal Development Permit #6-90-123. The existing western segment extends for approximately two miles eastward from I-5, roughly along the historic alignment of Carmel Valley Road. The existing western segment ends within the City's permit jurisdiction, and it is the westernmost portion of the proposed middle segment which the City has recently approved under its permit authority.

As proposed, the portion of SR-56 addressed in this application is situated along the northern extent of the coastal zone boundary such that in places only a part of the full width of the proposed freeway is actually in the coastal zone. Exhibit #2 delineates the various jurisdictional boundaries and depicts those portions of the proposal which are actually within the Commission's permit jurisdiction.

The City is proposing to grade the entire proposed width of the freeway alignment (approximately 150 feet for most of the alignment, greater where grade separations are required for bridges, interchanges, etc.), but only construct four travel lanes (two eastbound, two westbound) at this time. These travel lanes will be located along the outer portion of the graded right-of-way, in conjunction with required shoulders, etc. The center median area (approx. 40 feet in width) will be retained for future expansion as the need arises. At present, the applicant's typical concept plan (depicting approximately one third of a mile of the proposed alignment) indicates the median will be improved with a concrete drainage channel. Depending on circumstances, the median is to be improved in the future with light rail transit, HOV lanes or additional mixed-use lanes. Special Condition #9 makes it clear that only four through travel lanes, and associated highway improvements, are approved at this time. Future expansion into the reserved median will require additional review by the Coastal Commission as an amendment to this permit. At that time, priority should be given to mass transit improvements. If additional mixed-use lanes are ultimately proposed for the center median, the amendment application should include a thorough analysis of transit alternatives and support why such improvements are not proposed or needed.

At this time, full construction drawings for the highway improvements have not been prepared. Large scale (approx. 1" = 500') site plans showing the full coastal zone road alignment and grading footprint have been submitted and are attached as Exhibits #2 and #3. In addition, a typical detailed plan of an approximately one-third mile portion of the proposed highway has been submitted as an example demonstrating the level of detail to be included in the final drawings. Special Condition #1 requires submittal of final, detailed plans for the entire portion of the alignment addressed in this permit. The final plans are to include site plans, grading plans, elevations of interchanges and over/under crossings, erosion control plans, drainage plans and landscaping plans. The final three types of plans are addressed in greater detail in separate special conditions and in subsequent findings.

2. Environmentally Sensitive Habitats/Biological Resources. The proposed middle segment of SR-56 will result in significant impacts to several wetland and upland habitats, including impacts to riparian corridors, freshwater marshes, vernal pools, and coastal sage and chaparral communities. Most of these impacts occur outside the coastal zone. However, the proposed development will result in permanent impacts to 0.427 acres of riparian vegetation (southern willow scrub) and to approximately 1.5 acres of sensitive upland habitats within the coastal zone. The applicable Coastal Act policies are cited below, and state in part:

Section 30231.

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

Section 30233.

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

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

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

(3) In wetland areas only, entrance channels for new or expanded boating facilities; 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.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The project is located primarily in undeveloped areas of the northern portion of the City of San Diego, although it will be adjacent to existing residential uses at the western end. The surrounding areas, particularly those located north of the proposed highway alignment and thus outside the coastal zone, are designated in the Subarea III land use plan for development with a variety of uses in the future. However, at present, most of

the land consists of undeveloped sloping terrain, steep in places, and several canyons, some of which include seasonal or permanent streams.

The proposed project raises issues under all the above-cited Coastal Act policies. Both during construction and by the increase in impermeable surfaces after construction, the proposed development will generate a high volume of runoff that will cause erosion, which in turn will lead to adverse impacts on downstream and adjacent biological resources. The project includes a number of temporary and permanent erosion control and drainage improvements intended to mitigate the impacts of construction and operation. These issues are more significantly related to water quality, and will be addressed in greater detail in a subsequent section of these findings. This finding will address the project's direct and permanent impacts on biological resources, including both wetlands and uplands.

The proposed project's impacts to wetlands will occur to an isolated drainage containing southern willow scrub riparian wetlands near the western end of the proposed middle segment. The existing western segment of SR-56, approved by the Coastal Commission ten years ago in Coastal Development Permit #6-90-123, was constructed in close proximity (contiguous in places) to the previously-existing east/west trending Carmel Valley Road. Carmel Creek flows in a westerly direction south of both Carmel Valley Road and existing SR 56, eventually emptying into Los Penasquitos Lagoon. In the area of the proposed middle segment, Carmel Valley Road veers away from the proposed SR-56 alignment and trends to the northeast, whereas Carmel Creek continues to flow from the east. A minor tributary to Carmel Creek, in the form of a three-foot-wide streambed and grove of riparian vegetation, follows alongside that northeasterly-trending section of Carmel Valley Road. The stream does not flow year-round, and was dry during a recent site visit; the existing riparian vegetation, though somewhat sparse, grows over and into the streambed as well as on its banks such that the entire drainage area is a wetland. The intermittent stream and grove of riparian vegetation is surrounded by paved roads on three sides, consisting of Carmel Valley Road to the west and north, as it curves, and a private driveway leading to existing and permitted residential, commercial and agricultural uses to the south, and by open grasslands to the east. The proposed middle segment of SR-56 will cross over existing Carmel Valley Road; the proposed cross-over will result in impacts to 0.427 acres of the above-described riparian corridor within the coastal zone through the placement of fill to support the highway.

Under Section 30233 of the Coastal Act, disturbance and/or fill of wetlands is severely constrained. Coastal Act Section 30233(a) sets forth a three-part test for all projects involving the fill of coastal waters and wetlands. These are:

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

In this particular case, the proposed development does not meet the above requirements in that it is not a permitted use pursuant to Section 30233. The proposed road alignment does, however, represent the least environmentally damaging alternative. The City and the public have reviewed many different alignments of the proposed middle segment of SR-56. The original EIR analyzed four potential alignments in detail; as a result of public review of that document, six additional potential alignments were identified and also analyzed in a subsequent final EIR. Various alignments identified different quantities of impact to various resources, but all the alignments had some level of impacts to every identified resource. Most of the differences between the amount of impacts occur outside the coastal zone and affect upland habitats, areas where the highway will cross other riparian corridors and vernal pool habitat near the far eastern end of the proposed middle segment.

The proposed alignment, which is a combination of the "Modified Northern F" alignment on the western part and the "Northern" alignment on the eastern part, represents the least total amount of impacts on wetlands, although it does include greater impacts on some upland habitats than some of the other reviewed alignments. For the proposed, preferred alignment, the only coastal zone wetland impact is near the western end of the proposed highway. That impact is common to all alternatives for two reasons: 1) any alignment near the western end is fixed by existing adjacent residential development and the existing western segment of SR 56, and 2) any east-west trending highway alignment must cross the north-south trending Carmel Valley Road and adjacent tributary creek where the riparian vegetation exists.

In addition, full mitigation is proposed for all identified impacts, both to wetlands and uplands. Impacts to 0.427 acre of southern willow scrub are proposed to be mitigated at a 3:1 ratio through the creation of 1.5 acres of new riparian habitat at the western end of McGonigle Canyon. While the chosen mitigation site is not immediately adjacent to the exact area of impact, it is located nearby the highway alignment of SR-56, upstream and within the same watershed, and within the coastal zone. The applicant submitted a draft mitigation program addressing project impacts. The program is not final yet for coastal zone impacts, but it is complete for impacts occurring further east outside the coastal zone, where highway construction is already underway. The goals, performance standards, implementation methods and monitoring requirements for these impacts are consistent with programs the Commission has reviewed and approved for other projects in the past. Thus, Special Condition #2 requires the applicant to submit a final mitigation plan for all project impacts to wetlands within the coastal zone, that is in substantial conformance with the content and design of the submitted plan, but augmented to include specific maps and narrative addressing the coastal zone impacts.

Three other special conditions also address the project in relation to biological resource protection. Special Condition #3 requires that the mitigation area be preserved in perpetuity as open space. Special Condition #7 further protects both wetlands and uplands by providing that required construction staging and storage areas may not be located within any environmentally-sensitive habitat areas. Finally, Special Condition #8 requires submittal of all other required state and federal permits for the subject

development. The City has applied to the ACOE and CDFG for permits, and has received authorization to proceed with construction of the eastern portions of the highway located well outside the coastal zone. Most of the impacts to federal jurisdiction lands occur to vernal pools located in the eastern part of the middle segment; the ACOE has issued a permit for just that portion, which allows the applicant to begin construction at the eastern end of the middle segment, proceeding towards the west.

Although the applicant is proposing the least-environmentally damaging project alternative, and has proposed appropriate and adequate mitigation for all unavoidable impacts, the proposed development, construction of a freeway segment, is not one of the eight allowed uses in wetlands. The proposed project represents a major east-west highway linkage between two existing segments of SR-56 and ultimately between I-5 and I-15. It has been identified in regional and community planning documents for more than two decades, and only a small portion of the middle segment occurs within the Coastal Commission's jurisdiction (approximately 1 ¼ miles out of 5 ½ miles total). However, although wetland impacts have been avoided to the extent feasible, and full mitigation is proposed, 0.427 acres of existing riparian habitat (southern willow scrub) will still be permanently impacted by the construction of the proposed new highway segment. This development is not consistent with Section 30233 of the Coastal Act, which does not allow fill of wetlands for new roadways. Therefore, it is only through resolving the conflict between the provisions of Section 30233 and other Coastal Act policies that the Commission can find that the proposed development, on balance, provides a greater benefit to coastal resources than is provided by existing conditions.

As previously identified, the proposed development will also impact sensitive upland plant communities, namely coastal sage and chaparral. Within the coastal zone, impacts will occur to 1.34 acres of Diegan coastal sage scrub and coyote bush scrub combined and to 0.18 acres of scrub oak chaparral. In addition, the project will impact more than ½ acre (0.64 acre) of non-native grasslands within the coastal zone. These areas are not considered to be Environmentally Sensitive Habitat Area (ESHA) within the meaning of Section 30240 of the Act for the following reasons: 1) the resource agencies have accepted the development of these areas during their review and designation of appropriate Multi-Habitat Planning Area (MHPA) lands; 2) the proposed highway alignment skirts the northern edge of the MHPA, preserving large contiguous areas of high quality upland habitat; and 3) the proposed impacts to small areas of upland habitats within the coastal zone do not result in significant disruption of habitat values. Moreover, the applicant proposes to mitigate these impacts, along with significantly greater impacts to these and other upland habitats occurring outside the coastal zone (well over 200 acres of impact total) through acquisition of private lands within the delineated MHPA. The MHPA consists of an interconnected regional system of open space preserves including those lands determined to contain the highest value habitats.

The City's new Land Development Code (LDC) established mitigation ratios for various upland habitats, based on whether the impacts and the mitigation occur inside or outside the MHPA. Although the LDC was not effective in the coastal zone at the time the City issued its coastal development permit for the westernmost portion of the middle segment

of SR 56, it became effective in the coastal zone on January 1st of this year. The Commission has certified this document as consistent with the City's certified land use plans and thus with the Coastal Act. The Coastal Act is the standard of review for Commission-issued permits. The Commission does not have any pre-established or historic mitigation ratios for these types of upland habitats, and the LDC parameters, which have been accepted by the California Department of Fish and Game and the U.S. Fish and Wildlife Service pursuant to their approval of the Multiple Species Conservation Plan, provide a reasonable program for mitigation.

Within the Coastal Commission's jurisdiction, impacts to coastal sage and chaparral habitats will occur outside the MHPA and impacts to non-native grasslands occur both within and outside the MHPA. Since these areas are not ESHA within the meaning of Section 30240 of the Coastal Act, the proposed impacts will not involve significant disruption of habitat values. The proposed upland mitigation, which consists of acquisition of lands within the MHPA preserve, is fully consistent with the LDC parameters/ratios and has been accepted by the other resource agencies. Therefore, the Commission finds that upland impacts, which do not occur in ESHA, are appropriately and adequately mitigated and the project can be found consistent with Section 30240 in this regard.

Several aspects of proposed SR 56 will benefit biological resources. Proposed SR 56 will include overcrossings of two major canyons (Gonzalez and McGonigle) which are now traversed by at-grade roads, some paved and some unpaved. Once the subject road segment is constructed, the need for these roads to provide a connection between I-5 and I-15 will be eliminated, and it is expected that actual use of these roads will sharply decline. The canyons provide corridors for wildlife movement between Los Penasquitos Canyon Preserve and the San Dieguito River Valley, and ultimately with habitat areas further east, and likewise all the way west to Los Penasquitos and San Dieguito Lagoons. Due to the significant development which has occurred in the northeastern part of San Diego, these roads, included the unpaved ones, are heavily traveled to save time and distance in reaching I-5 and communities to the west. This has resulted in much death and injury to wildlife attempting to cross these streets to move between habitat areas fragmented by the current informal road system. The project will provide a significant benefit to wildlife by crossing these canyons with bridges and thus allowing free movement of wildlife underneath. Although this benefit occurs primarily outside the coastal zone, it provides additional mitigation for the overall impacts of the project on upland habitats.

In summary, the proposed middle segment of SR 56 will result in impacts to wetland and upland habitats, both within and outside the coastal zone. Within the coastal zone, the project will impact 0.427 acres of riparian wetlands and approximately one and a half acres of upland habitats. The project includes mitigation for all these impacts, and the Commission finds the impacts to upland habitats, as mitigated, consistent with the intent of Coastal Act policies. However, the Commission cannot find the proposed wetland impacts consistent with Section 30233 of the Coastal Act.

3. Water Quality. The project site is well inland of I-5, but the proposed roadway will be located within the Los Penasquitos Lagoon watershed. Portions of the road will also be adjacent to Carmel Creek and/or to other creeks or streams which ultimately feed into the lagoon. Potential runoff both during and post-construction raises concerns over the degradation of water quality. Such runoff can carry significant amounts of both sediments and urban pollutants and deposit these materials in downstream sensitive receiving waters. The following Coastal Act policy is most applicable to this issue:

Section 30231

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

In California, the Regional Water Quality Control Boards (RWQCB) are generally responsible for administering the water pollution control permit programs set up under the state Porter-Cologne Water Quality Act and the federal Clean Water Act. Locally, the *Water Quality Control Plan for the San Diego Basin* has established water quality objectives necessary for achieving its identified beneficial uses for surface waters. Both the City of San Diego and Caltrans have National Pollutant Discharge Elimination System (NPDES) permits under which they construct and operate development. These permits require that all discharges to surface waters meet the standards established in the *Water Quality Control Plan for the San Diego Basin*; the NPDES permits identify the Best Management Practices (BMPs) that can be used to meet these standards.

The proposed freeway segment will result in an increase in impermeable surfaces and thus increase the amount and velocity of stormwater runoff. Use of the coastal zone portions of the freeway for an anticipated 100,000 average daily trips within the first few years (and increasing steadily thereafter) will result in the deposition of a significant amount of vehicular pollutants (oils, fuels, tire residue, etc.) along the road which will become part of the stormwater runoff. In addition, the construction activities will result in an increased likelihood of sedimentation to downstream resources. Approximately 50 acres will be graded within the coastal zone to create approximately 8,000 linear feet of freeway, approximately 150 feet in width, resulting in a large area of temporarily exposed soil. Of this total, approximately 40 acres of grading and approximately 6,500 linear feet of freeway are in the Coastal Commission's jurisdiction and addressed in this permit; the remainder was already permitted by the City in its area of permit jurisdiction. Moreover, the construction equipment itself will produce much the same vehicular-related pollutants as will the future freeway traffic.

Downstream resources include Carmel Creek, the Carmel Valley Resource Enhancement Program (CVREP) area and Los Penasquitos Lagoon. When the western segment of SR-56 was constructed a few years ago, CVREP was the mitigation component for the entire I-5/SR-56 project. It was intended primarily to allow 100-year flood flows in Carmel Creek at non-erosive velocities, establish a healthy riparian corridor through the valley and reduce the amount of sediments entering Los Penasquitos Lagoon. CVREP consists of a significantly widened channel for historic Carmel Creek (ranging from 100 to 300 feet in width), a series of drop structures along the streambed, a detention basin at the western end of the improvements and an intense riparian revegetation program; it occupies the area of Carmel Valley between I-5 on the west and Carmel Country Road on the east. CVREP has been in place now for several years, and the detention basin at its western end has been cleaned out once, at the behest of the RWQCB; approximately 5,000 cu.yds. of sediments were removed.

Other than this, it is not known whether, or how well, CVREP is achieving its goal of reducing sediments entering Los Penasquitos Lagoon. The Commission's approval of CVREP did not include a monitoring program, and City staff has indicated that monitoring is not done on a routine or regular basis. Furthermore, the primary purpose of CVREP was to trap sediments; it was not intended as a means to remove urban pollutants from the water. However, it is expected that the existing riparian wetlands do remove some amount of pollutants simply because that is a normal and natural function of wetlands.

In this particular case, the middle segment of SR-56 will be constructed and operated under the Caltrans statewide NPDES permit. According to correspondence from the applicant, the City is responsible for constructing the eastern portion of the middle segment, outside the coastal zone. Caltrans will construct the western portion, including all areas within the coastal zone; this portion of the overall construction is not anticipated to begin for at least another year. The City of San Diego, as the applicant for the western portion, is required, under the terms of the Caltrans NPDES permit, to fully mitigate all water quality impacts directly attributable to the construction and operation of the middle segment of SR-56. Thus, the applicant is proposing a wide range of temporary and permanent erosion control devices and strategies intended to assure that runoff leaves the site at non-erosive velocities and in as clean a condition as at present.

Caltrans submitted a list and descriptions of the temporary and permanent BMPs they suggest for the middle segment of SR 56. The submitted material describes under what circumstances Caltrans would typically apply which BMP. It also provides the BMP's limitations, design guidance and expected maintenance requirements. Temporary (construction) BMPs proposed include silt fences, fiber rolls, check dams, sand/gravel bags, soil stabilization and temporary detention basins. The applicant also proposes to schedule construction activities in conjunction with installation of the proposed temporary BMPs. To date, no temporary erosion control plans incorporating these measures have been prepared for the proposed highway segment to demonstrate how these BMPs are typically deployed on the ground, and the final deployment of said devices is generally left to the discretion of the contractor. Special Condition #4 requires

submittal of a final erosion control plan, which shall be incorporated into construction bid documents, that will clearly delineate all proposed temporary BMPs, provide for mobilization of personnel in the event of a major storm or other unforeseen circumstances and provide for planting of all slopes prior to November 15th of each year construction activities are ongoing.

With respect to permanent drainage facilities, the applicant is proposing to construct concrete ditches at the toe of fill slopes (which will be at a 1:3 slope angle on average) and bioswales at the top of cut slopes (which will be at a 1:2 slope angle on average), as needed/required. Pipe culverts under the new freeway segment will facilitate existing natural drainage patterns, and velocity dissipaters and flared culvert end sections will be installed at culvert entrances and exits. Slopes on both sides of the freeway will be planted, and an asphalt dike along the edge of pavement will direct roadway runoff away from the slopes. Permanent soil stabilization will be installed on slopes under the bridge deck over Gonzalez Creek, where shading prohibits plant growth. Also, the applicant proposes a paved low flow channel within the reserved center median. Caltrans has submitted a drawing of a portion of the coastal zone alignment, as an example to demonstrate the typical placement and types of permanent drainage facilities to be installed within the middle segment of SR 56 (see Exhibit #4).

Staff has analyzed the proposed BMPs, particularly the permanent drainage facilities, and has identified concerns with the adequacy and appropriateness of some of the proposed structural improvements. All of the proposed permanent BMPs are designed to control sediments, not remove hydrocarbons and other pollutants associated with automobiles. Both the applicant and Caltrans maintain that sedimentation, not contaminants, is the primary water quality problem identified in the Los Penasquitos watershed. Los Penasquitos Lagoon is identified by the RWQCB as an impaired water body; the City advises this is due to sediments, not pollutants. However, the City has indicated there is no current program to test for various forms of contaminants, either in the lagoon itself or upstream within CVREP.

With this in mind, it appears the proposed BMP program can be augmented, or various components replaced with other improvements, to address both sediments and the pollutants that can be expected in anticipated runoff from the proposed highway segment. Of particular concern in this regard is the applicant's proposal to construct a paved low flow channel down the middle of the reserved center median. When alternative use of a grassy (vegetated) strip was suggested, the applicant's (and Caltrans') objections included several factors: 1) the need to contain and direct large volumes and high velocities of water during major storm events; 2) the need for maintenance and law enforcement vehicles to use the center median area to make U-turns, etc.; and 3) the safety of workers maintaining any vegetation within the median. In addition, Caltrans has indicated it is currently conducting a study on the water quality benefits of bioswales, but will not have results for another year.

Special Condition #5 addresses the proposed permanent project BMPs for the middle segment of SR 56. It requires submittal of a final BMP program that includes the

following features: 1) oil/grease separators at all catch basins along the alignment; 2) a detention basin at or near the western end of the proposed middle segment; and 3) installation of a grassy strip along the center median. With respect to the oil/grease separators, there are a number of different products and methods available to achieve this BMP. In fact, the applicant has proposed one type of equipment as a retrofit measure for the existing western portion of SR 56. The applicant is proposing to install two Continuous Deflective Separation Units (CDS units), one at SR 56 and Carmel Creek Road and one at SR 56 and El Camino Real. The underground units create a vortex of water which deflects contaminants into a sump, where they are retained for later removal. The units are designed to handle 100% of the runoff in the tributary area, capture 95% of the gross pollutants and remove coarse sediments. They are designed to treat a one-year, 24-hour storm event and, as proposed, will require clean-out when the units are 85% full or when floating debris is 12 inches deep.

With respect to the requirement to replace the proposed concrete low flow channel with a vegetated biofilter, the Commission makes the following findings with regard to the City's objections. First, a vegetated strip will allow at least some of the expected large volumes of stormwater to percolate into the ground and will also serve to reduce the velocity of water. The proposed concrete channel, although it will quickly move the water through the area, and ultimately into Los Penasquitos Lagoon, will only accelerate the rate of flow. Second, the special condition allows periodic paved crossings, if necessary, to facilitate U-turns, and other necessary maneuvers, by law enforcement, emergency and maintenance vehicles. The Commission finds it is not necessary to have a continuous paved median to achieve this, and further questions whether a paved low flow channel (identified on the project plans as a "drainage ditch") would actually facilitate vehicular movements any more efficiently than would a vegetated strip. And last, the condition also recognizes the need to address worker safety, and allows for sufficient "shoulder space" to achieve this. Moreover, a vegetated biofilter does not necessarily have to be grass; some other low-growing vegetation species may accomplish the same goal with a significantly lower maintenance requirement. Special Condition #6 (Landscaping) requires the applicant, among other things, to identify the species to be used for the required vegetative strip.

The Commission recognizes that the City proposes the wide center median to reserve adequate area for future highway expansion. Thus, it is possible the vegetated strip may be removed through some future amendment action approving light-rail transit or additional travel lanes in this location. At that time, the applicant would need to demonstrate how this particular pollution control function was being replaced in the context of an expanded highway. The requirement to provide a vegetated strip through the center median is only one component in a wide array of runoff and pollution control facilities. As technological advances occur, other BMPs may be discovered/invented which will adequately serve this function as part of an expanded freeway. However, the Commission finds that the potential that this particular BMP may not be in existence for the full life of the project does not diminish its value at this time.

The two CDS units proposed by the City as a retrofit to existing SR 56 are considered here as an example of one type of oil/grease filtering BMP. These specific units are relatively small in size, since they must be fit into an existing system where available space is a constraint. This should not be a limiting factor in the case of the new middle segment of SR 56, where the proposed alignment is surrounded by undeveloped open land. Whether the applicant proposes this same type of unit to comply with Special Condition #5, or selects a different type of oil/grease separator, the chosen BMPs must meet the performance parameters of the special condition.

With respect to the requirement for a detention basin at the western end of the proposed alignment, this facility would provide for the settling of sediments prior to the flows entering the eastern end of the CVREP mitigation area. This detention basin will become ever more critical as the areas north of proposed SR 56, part of Subarea 3 of the North City Future Urbanizing Area (Pacific Highlands Ranch), develop with residential and commercial uses and several schools. Nearly all the identified development area of Pacific Highlands Ranch is outside the coastal zone, and thus outside the purview of the Commission. However, opponents of the highway project have raised the issue that this future development will have significant adverse impacts on the resources of the coastal zone, since all runoff from this vast development area will eventually reach coastal streams and lagoons. Development of this area is dependent on having a viable circulation system in place, and the proposed middle segment of SR 56 will complete a major link in that system. Therefore, the Commission finds it entirely appropriate that downstream resources be protected by all possible means, including the placement of a detention basin at this critical juncture.

In summary, the Commission finds that the proposed development will have significant adverse effects on downstream water quality. This will occur both because of the construction impacts of grading and massive landform alteration, and through the increase in impervious surfaces which will modify existing drainage patterns and increase the amount and velocity of runoff. Therefore, the Commission finds that Special Conditions #4, #5 and #6, which mitigate these adverse impacts as described above, are necessary in order to find the proposed development consistent with the water quality protection policies of Chapter 3. In combination, these conditions will assure that site runoff is appropriately treated and discharged to protect the quality of downstream waters, which include Carmel Creek, the CVREP mitigation area and Los Penasquitos Lagoon. In addition, the applicant is proposing to retrofit existing SR 56 (west end) with two CDS units which will improve water quality. Only as conditioned can the Commission find the proposed highway construction, and subsequent highway operation, consistent with the cited policies of the Coastal Act.

4. Visual Resources. The following policy of the Coastal Act addresses visual resources, and states, in part:

Section 30251

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

The project site is well removed from the shoreline and is not located within any designated public park or recreation area. However, the portions of the proposed middle segment of SR 56 within the coastal zone will be located primarily in currently undeveloped lands consisting of rolling hills and canyons, streams (some seasonal) and both native and non-native vegetation. The westernmost part of the proposed highway, addressed in a previous City-issued permit, will be located adjacent to existing residential development, but the highway segment addressed herein is located mostly in currently open countryside. However, the approved future land uses north of much of the proposed highway (out of the coastal zone) will consist of a mix of residential, commercial and institutional (school) uses. The area will build out over time, which will gradually change the visual character of the area from open land to urban development. South of the proposed highway, most of the land will remain in open space.

The proposed highway segment itself will not be especially prominent, since it will be built primarily on the ground surface, with the exception of grade separations necessary at the interchanges and bridges over canyons. The applicant proposes to landscape the right-of-way on both sides of the proposed highway. The configuration of the coastal zone boundary in this area trends mainly east-west, since it is intended to include as much of the Los Penasquitos Lagoon watershed through Carmel Valley as the five-mile inland limitation will allow. Because of this, most of the right-of-way north of the proposed highway, and even some portions of the highway itself, are not in the coastal zone. Thus, the Commission has no ability to dictate the types of landscaping or irrigation applied to those areas. Because this area will be built out with urban uses in the future, Caltrans has expressed an intent to use ornamental landscaping north of the road. The Commission has several concerns with this approach as inappropriate species composition, irrigation systems, fertilizers and pesticides could affect downstream resources in the coastal zone.

In contrast, the right-of-way area south of the proposed highway is entirely within the coastal zone. Thus, the Commission has the ability to address landscaping improvements in this location, and has done so in Special Condition #6. This condition was addressed briefly in the previous finding on water quality, in relation to the choice of vegetation to be used in the center median. Since the areas south of the road in the coastal zone, except where residential development already exists, will remain in an undeveloped condition, Caltrans has expressed an intent to use native vegetation consistent with the surrounding vegetative communities. However, no landscaping plan has been prepared to date reflecting this intent. Special Condition #6 requires submittal of a final landscaping plan

for all the areas of right-of-way, including the area north of the proposed highway covered by the subject permit.

The plan required in the condition must do the following: 1) it must utilize drought tolerant, non-invasive native plant materials acceptable to the CDFG, the Service and the Corps; 2) it must allow only temporary irrigation for plant establishment; 3) it must include a written commitment to maintain all planted materials in good growing condition; 4) and it must avoid or minimize the use of fertilizers and pesticides. Finally, the condition also provides that permanent landscaping must be installed concurrent with, or within sixty days following, completion of highway construction. As conditioned, the Commission finds the proposed middle segment of SR 56 consistent with the visual resource policies of the Coastal Act. The special condition also enhances the project's consistency with biological resource and water quality policies of the Act by controlling the types of vegetation installed adjacent to sensitive resources and minimizing use of fertilizers and pesticides that could enter nearby water bodies.

5. Public Access/Traffic Circulation. Many policies of the Coastal Act address the provision, protection and enhancement of public access opportunities, particularly access to and along the shoreline. In the subject inland area, the following policy is most applicable:

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.

The proposed middle segment of SR 56 will complete a partially built, east-west trending highway connecting two north-south trending highways, namely an inland freeway (I-15) and a coastal freeway (I-5). It will provide the only connection between these two freeways between SRs 52 and 78, which are located approximately seven miles to the south and eighteen miles to the north of the proposed SR 56 at its western end (I-5). Currently, the western segment of SR 56, extending from I-5 approximately two miles inland through Carmel Valley, is completed (pursuant to coastal development permit #6-90-123), as is a small eastern portion extending west from I-15 (outside the coastal zone) for about two miles. Moreover, the City has already begun construction of the easternmost part of the proposed middle segment, which is also well out of the coastal zone.

In recent years, the communities located along the I-15 corridor, in the northeastern portion of the City of San Diego, have seen intense growth. For the most part, these are bedroom communities, with neighborhood commercial facilities intended only to serve the immediate area. However, SR 56 has been identified as a critical part of the regional traffic system for decades, and is not a recent response to growth. Historic regional

employment and shopping centers are located in many other areas, including downtown San Diego, Mission Valley, Sorrento Valley, Kearney Mesa and the Golden Triangle/Torrey Pines Mesa area. In addition, the major regional public recreational facilities (all county beaches and Mission Bay Park) are located a significant distance to the west. Thus, residents in the northeastern part of San Diego generally commute daily, both for work and recreation. The primary purpose of the highway connection is to alleviate traffic on other portions of the regional circulation system and neighborhood streets, particularly during peak commuter hours. Although not specifically designed to enhance public access to the coast, the completion of SR 56 will certainly reduce required travel times from these rapidly-developing inland communities to the shorelines of Del Mar and Torrey Pines. Therefore, the Commission finds the proposed highway segment consistent with Section 30210 of the Act.

6. Conflict between Coastal Act Policies. Section 30007.5 of the Coastal Act provides the Commission with the ability to resolve conflicts between Coastal Act policies. This section provides that:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

A. Conflict. In order for the Commission to utilize the conflict resolution provision of Section 30007.5, the Commission must first establish that a substantial conflict between two statutory directives contained in Chapter 3 of the Coastal Act exists. The fact that a project is consistent with one policy of Chapter 3 and inconsistent with another policy does not necessarily result in a conflict. Rather, the Commission must find that to deny the project based on the inconsistency with one policy will result in coastal zone effects that are inconsistent with another policy.

In this case, as described above, the proposed project is inconsistent with the wetland protection policies of the Coastal Act because the proposed fill of 0.427 acres of riparian wetlands is not an allowable wetland fill activity as identified by Section 30233(a)(1)-(8). However, to deny the project based on this inconsistency with Section 30233(a)(1)-(8) would result in significant adverse impacts inconsistent with the water quality provisions of Section 30231. A major component of the proposed project is to improve water quality on the existing portion of SR 56 by retrofitting the facility with two CDS units, which have been described previously. These are designed to filter out both sediments and pollutants from the road runoff and will pretreat the discharge before it enters the CVREP mitigation site. The units are proposed just east of the SR 56 interchanges at El Camino Real and Carmel Creek Road. Exhibits #5 and #6 show the proposed locations and the units' design.

Proposed SR 56, existing SR 56 and CVREP are all located upstream of Los Penasquitos Lagoon, which empties into the Pacific Ocean between Torrey Pines State Beach and the beaches of Del Mar. In addition to providing a variety of wetland habitats (riparian as well as freshwater, brackish and salt marshes) utilized by avian and mammal species, the lagoon also serves as nursery area for juvenile fish. Moreover, it provides some public recreation opportunities as people play and swim at the lagoon's mouth; in particular, families with small children tend to gather here, since the waters are shallow, warm and absent large waves. Storm events often result in posting of the area with signs warning people to avoid water contact, due to dangerous levels of contaminants. Los Penasquitos Lagoon is also identified as an impaired water body due to sediments. Installation of the two proposed CDS units will result in a reduction of both sediments and urban pollutants eventually reaching the lagoon and lagoon mouth, thus enhancing the area for both wildlife and human use.

If the Commission were to deny the project based on the project's inconsistencies with the wetland fill provisions of Section 30233(a)(1)-(8), the water quality impacts from pollutants and sediments would not be reduced. The proposed CDS units will only be installed in conjunction with construction of the proposed highway segment; the City is not otherwise legally required to install them. As discussed previously, there is no feasible alternative alignment of the middle portion of SR 56 that would avoid the 0.427 acres of impacts to coastal zone wetlands other than the "no project" alternative. This alternative is not feasible because the current populations living in the northern part of San Diego, and significant additional growth expected in this area, make this segment a highway linkage without which there will be significant loss of mobility, increased congestion and travel time, greater air emissions and increased noise pollution on local streets. Except for a few small, infill-type projects, these areas of intense residential and commercial growth are all located outside the coastal zone, and thus not subject to any oversight by the Coastal Commission. In addition, all possible alternative alignments would result in greater environmental impacts overall than the proposed, environmentally-preferred alternative.

With respect to the project's wetland impacts in the coastal zone, these would be identical and unavoidable for all possible alignments, since they occur at the western end of the project where the alignment is fixed by existing surrounding development. Thus, selecting any alternative alignment would not avoid the conflict with Section 30233(a)(1)-(8) and deny the project altogether would result in a conflict with Section 30231, since the CDS units retrofitting existing SR 56 would not be installed.

The proposed project includes wetland fill that is inconsistent with the wetland policies of the Coastal Act. However, this project will provide water quality benefits that will improve the biological productivity and the quality of coastal waters. Without the project, sediments and pollutants from the existing SR 56 will continue to enter Carmel Creek, CVREP and Los Penasquitos Lagoon at current levels, resulting in degradation of water quality resources and public access in a manner inconsistent with the Coastal Act. Therefore, the Commission finds that the proposed project creates a conflict among Coastal Act policies.

B. Conflict Resolution. After establishing a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict in a manner that is on balance most protective of coastal resources. In this case, the proposed project would result in the fill of 0.427 acres of isolated southern willow scrub riparian wetlands. A road accessing residential, commercial and agricultural uses separates the subject riparian habitat area from Carmel Creek, whose main riparian corridor occurs further west. In the specific location where this small, seasonal tributary stream crosses under the road and connects with Carmel Creek, there is little or no vegetation of any kind, due to the presence of residential development, drainage improvements which partially channelized Carmel Creek and a small golf course. Thus, although the roughly half-acre of southern willow scrub is correctly identified as a wetland, there is some doubt that it provides much viable wildlife habitat, since it does not connect to any larger habitat area. It also appears to have a very limited water source, consisting mainly of runoff from surrounding roads.

There are important factors in the Commission's use of the conflict resolution provisions of Section 30007.5 that, in this particular case, create a unique situation. SR 56 as a whole has been identified as a critical transportation facility in regional planning documents since before the Coastal Act was passed and the Coastal Commission created. It is also identified in several documents certified by the Coastal Commission, including the North City Local Coastal Program Land Use Plan Addendum, the Carmel Valley Neighborhood 8 Community Plan, the North City Future Urbanizing Area Framework Plan and the Pacific Highlands Ranch Subarea Plan. The proposed middle segment of SR 56 will connect two existing segments of a major regional transportation linkage, the western segment having been constructed under Coastal Development Permit #6-90-123 and the eastern segment being located outside the coastal zone. Most of the proposed highway segment is located outside the coastal zone. This includes not only the more than three miles of the alignment east of the coastal zone's inland extent, but also portions of the proposed highway where the coastal zone boundary bisects the road in a linear fashion, as depicted on Exhibits #2 and #3. Moreover, most of the development this linkage will serve is located in inland areas, rather than in the coastal zone, such that the Commission has no ability to address growth limitations or alternative development patterns that could have reduced or eliminated the need for SR 56. If this project did not represent completion of a partially-constructed highway that has been identified in formal planning documents for decades, and that has also been endorsed by the Commission in several prior LCP and permit actions, the Commission could not permit the wetland fill through the use of Section 30007.5, and would accept that ongoing water quality concerns would remain.

However, the proposed project will improve water quality through the applicant's proposal to retrofit the existing western segment of SR 56 through the installation of two CDS units. The applicant has chosen to place these in the two locations they feel will provide the most benefit, although additional discharge points along existing SR 56 will not be similarly improved. The applicant maintains the two proposed BMPs are a reasonable improvement commensurate with the project's level of biological impact. The Commission concurs in this instance, and finds that the benefits of these water

quality improvements would be substantial. They are designed to handle 100% of the runoff in the tributary area and will capture 95% of gross pollutants, in addition to removing small coarse sediment and pretreating the discharge before it enters the CVREP mitigation area. The reduction in contaminants will enhance the use of downstream resources by wildlife and humans. In addition, the applicant will provide a new monitoring program, including monitoring the discharge points from the two CDS units, monitoring water quality at two locations within the CVREP mitigation area, and monitoring the discharge point where CVREP empties into Los Penasquitos Lagoon.

In addition, the proposed project includes the creation of riparian wetlands as mitigation for the project's impacts. The mitigation site is located in McGonigle Canyon, in an area identified in the City's Multiple Species Conservation Plan MHPA system. It will be part of a much larger open space complex which connects with Los Penasquitos and San Dieguito Lagoons, as well as large habitat areas to the east. Thus, the mitigation site is likely to provide more viable habitat than currently exists in the isolated wetland area to be impacted. The Commission therefore finds that the proposed project would have significant resource benefits.

In addition, the major regional public recreational facilities (all county beaches and Mission Bay Park) are located a significant distance to the west of the rapidly expanding population in the northeastern portion of San Diego. Thus, residents in these communities generally commute daily, both for work and recreation. The completion of this east-west highway connector, identified in many regional planning documents for decades, will enhance public access to the coast by reducing required travel times from these developing inland communities to the shorelines of Del Mar and Torrey Pines. Without construction of the middle segment of SR 56, the mandate of Section 30210 of the Coastal Act to maximize public access to the coast will not be fully realized.

In resolving the identified Coastal Act conflict, the Commission finds that the impacts on coastal resources from not constructing the project will be more significant than the project's wetland habitat impacts. Therefore, the Commission finds that approving the project is, on balance, most protective of coastal resources.

This finding that approving the project is most protective of coastal resources is based, in part, on the assumption that the water pollution control facilities to be constructed will be continually managed and maintained in the designed manner in the future. It is also based on an assumption that the wetland mitigation site will be constructed as proposed and maintained in perpetuity. Should either the constructed water pollution control facilities not be managed and maintained as designed, or the mitigation site not be implemented as proposed, the benefits of the water quality improvement project would not be realized to an extent that would outweigh the loss of nearly half an acre of wetland habitat. Therefore, the Commission attaches several special conditions to ensure that the desired result is achieved; these have been discussed in detail in the previous findings addressing biological resources and water quality. The Commission finds that without the special conditions, the proposed project could not be approved pursuant to Section 30007.5 of the Coastal Act.

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

The portion of SR 56 addressed in this permit is located in the North City Future Urbanizing Area (FUA), which is an area of deferred certification in the City of San Diego's LCP. The Commission certified a Framework Plan for the FUA several years ago; this plan identified that the area was divided into five subareas, and future planning would occur through the development, and certification, of subarea plans. Only at this stage would the City request that permit jurisdiction be transferred from the Commission to the City. The proposed road segment, which is identified in many previous planning documents including the Framework Plan, is also identified as an integral component of the circulation element in the Pacific Highlands Ranch Subarea Plan (Subarea III of the FUA), certified with suggested modifications by the Commission approximately one year ago. Final, effective certification has not occurred to date and permit jurisdiction has not transferred. Moreover, the subject application was deemed filed in September, 1999, such that the Commission would continue to process the permit in any event, unless the City wished to withdraw the subject application and process its own coastal development permit for the proposed development.

Although Chapter 3 of the Coastal Act is the standard of review for this project, the proposal is consistent with the Commission's past actions on both the Framework Plan and the more recent subarea plan. In addition, as discussed above and with the inclusion of special conditions, the project has been found consistent with all cited policies of the Coastal Act. Therefore, approval of the development, as conditioned, will not prejudice the City's ability to complete the LCP process for this area.

8. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the permit, 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.

As discussed herein, the proposed project, as conditioned, will not cause significant adverse impacts to the environment. Specifically, as conditioned, the project has been found consistent with the biological resources, water quality, visual resources and public access policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact

which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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



6-98-127

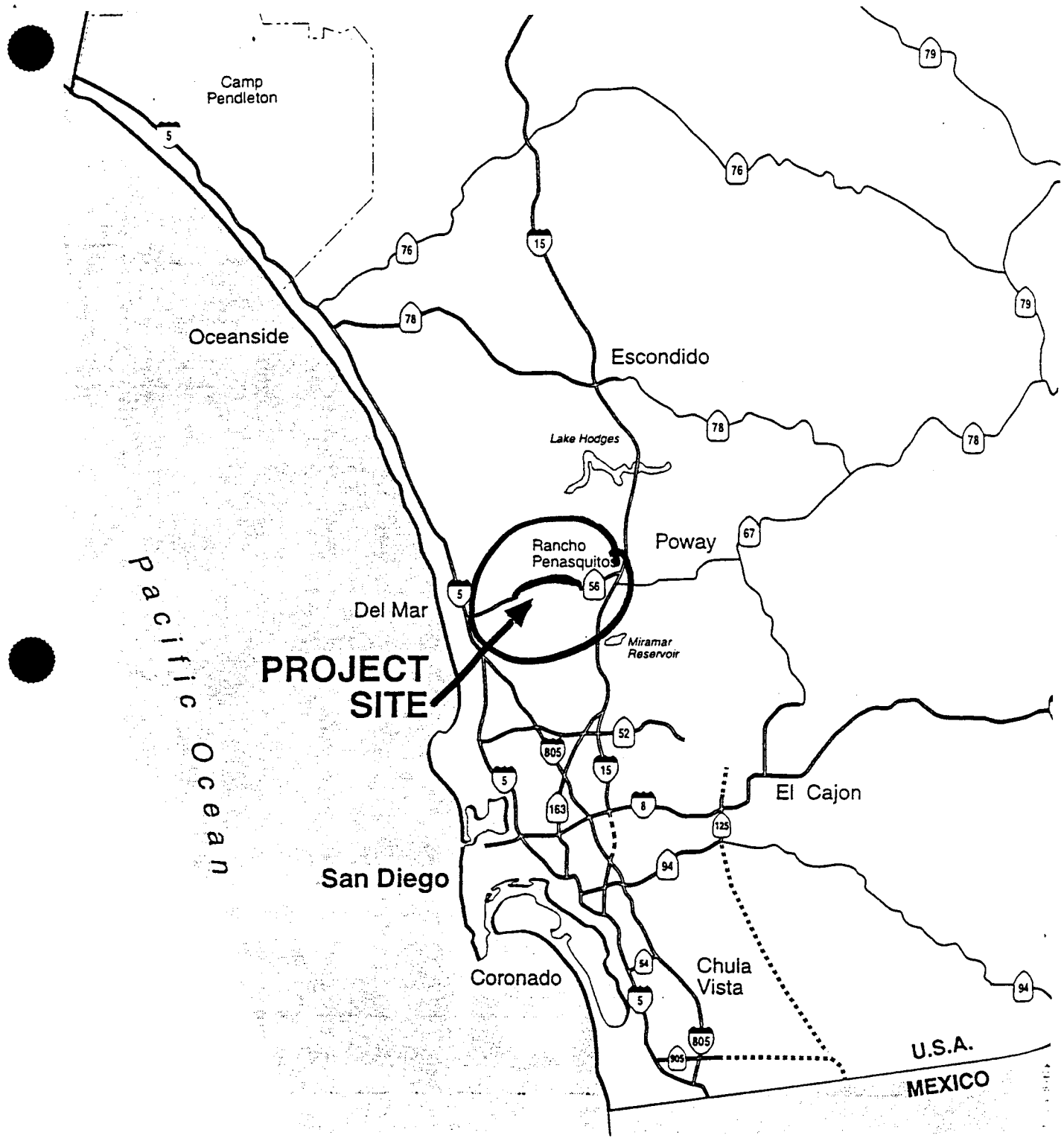



EXHIBIT NO. 1
APPLICATION NO.
6-98-127
Location Map
 California Coastal Commission

6-98-127



EXHIBIT NO. 2
APPLICATION NO.
6-98-127
Site Plan with Coastal Zone Boundaries
(approx.)
California Coastal Commission

6-98-127

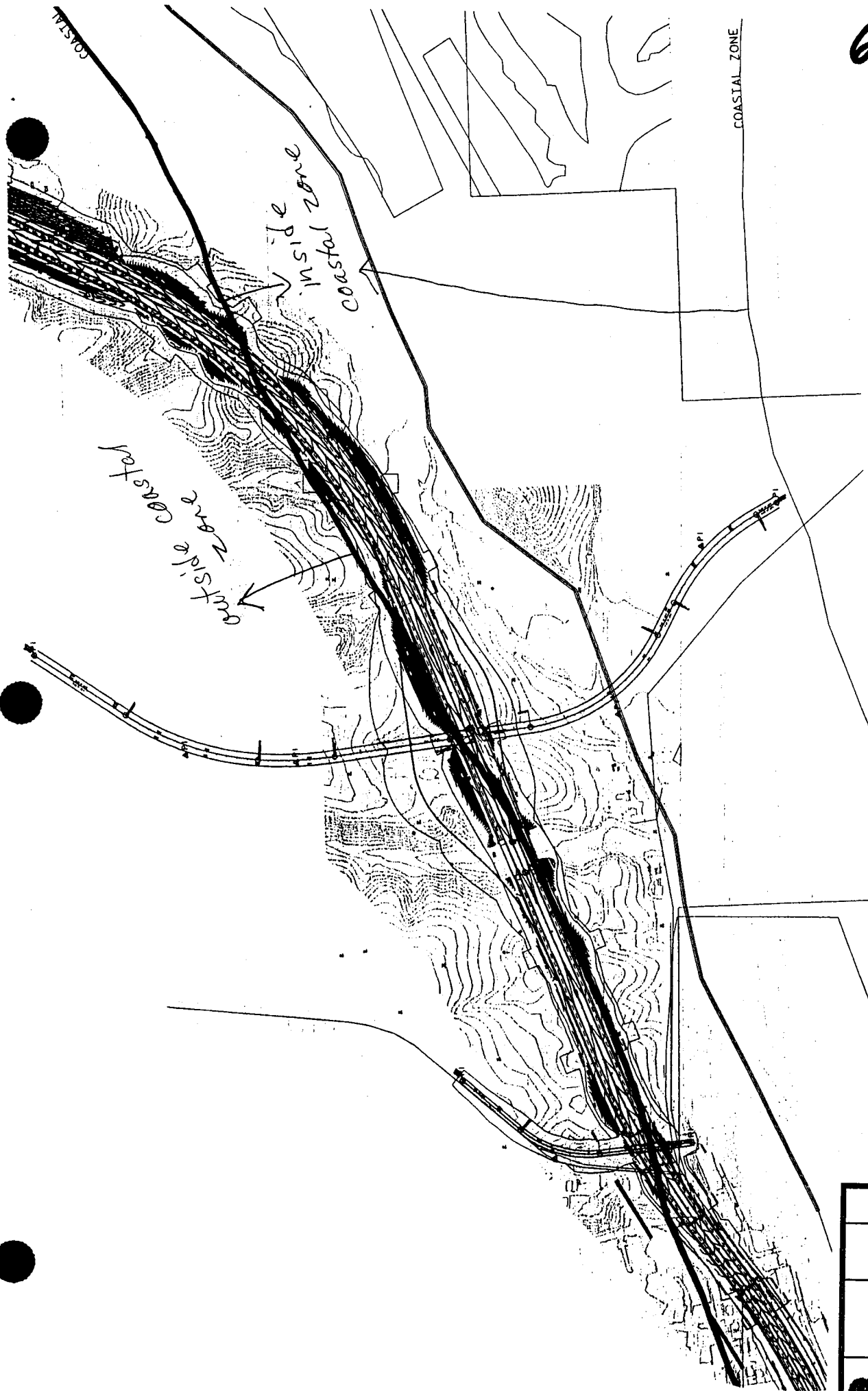


EXHIBIT NO. 3
APPLICATION NO.
6-98-127
Grading Footprint with Coastal Zone Boundaries
(approx)
 California Coastal Commission

6-98-127

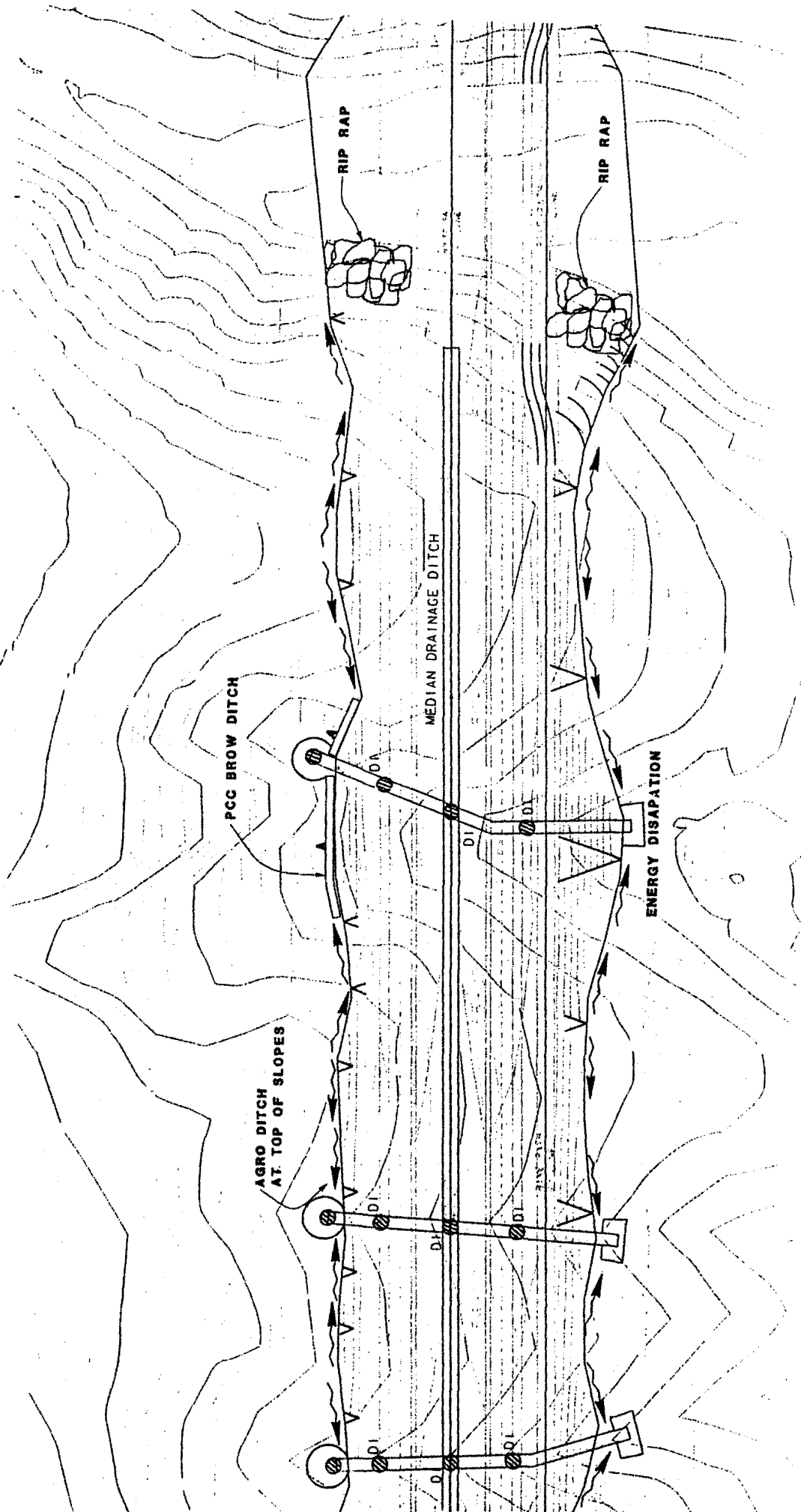
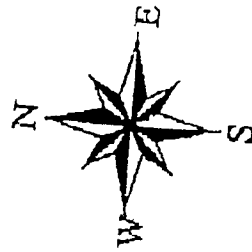


EXHIBIT NO. 4
APPLICATION NO.
6-98-127
Typical Road Portion with Drainage Facilities
 California Coastal Commission

6-98-127




LOCATION 2
CDS UNIT
TRIB AREA 2 AC

CARMEL CREEK

LOCATION 1
CDS UNIT
TRIB AREA .8 AC

EL CAMINO RD

EXHIBIT NO. 5
APPLICATION NO.
6-98-127
CDS Locations and Tributary Areas
 California Coastal Commission

6-98-127

Figure 1 Cross-section of a Continuous Deflective Separation Unit

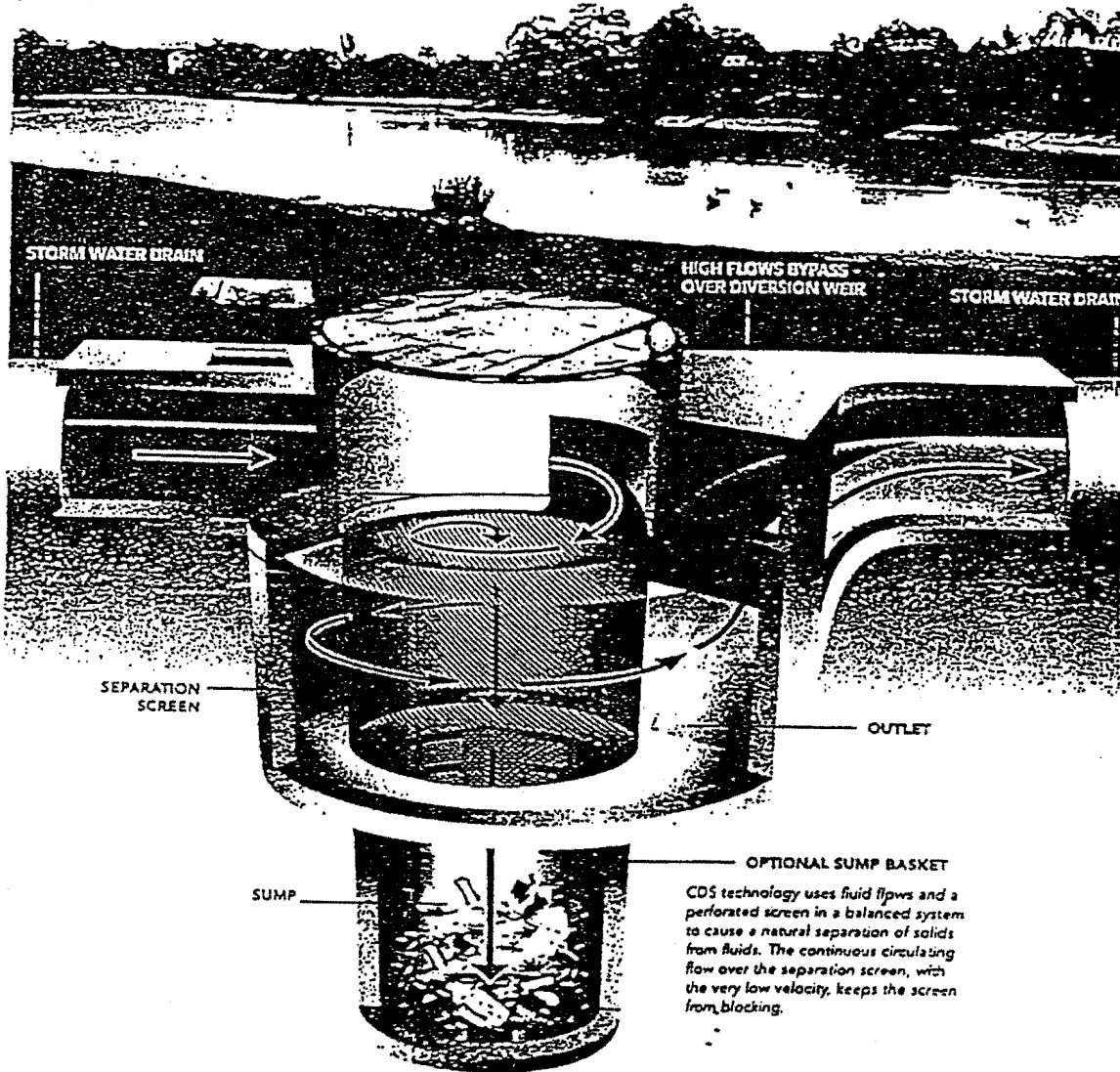



EXHIBIT NO. 6
APPLICATION NO.
6-98-127
CDS Unit
 California Coastal Commission