

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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Staff: DL-SD
 Staff Report: April 19, 2000
 Hearing Date: May 9-12, 2000

Wed 15a

REVISED FINDINGS

Application No.: 6-99-75

Applicant: International Jet Sports Boating Association (IJSBA)

Description: Installation of temporary structures for 1999 IJSBA Jet Ski World Finals to be held on October 10 - 17, with set-up and take-down extending from Oct. 1 - 20, including placement of buoys and a starting tower in the water, a controlled entry gate for paid on-site parking/admission charge, the erection of bleachers, a concert stage, portable toilets, inflatables, fencing, bicycle/skateboard ramps, vendor booths and parking areas.

Zoning	Mission Bay Park Master Plan
Plan Designation	Recreation
Ht abv fin grade	35 feet

Site: Mission Bay west of Fiesta Island and the western portion of Fiesta Island, Mission Bay Park, San Diego, San Diego County.

Substantive File Documents: Certified Mission Bay Park Master Plan; City of San Diego Mitigated Negative Declaration LDR No. 99-0398; U.S. Geological Survey New Release "Research Reveals Link Between Development and Contamination in Urban Watersheds", March 31, 1998; Environmental Protection Agency's Office of Wetlands, Oceans, and Watershed, URL: <http://www.epa.gov/owow/oceans/airdep/air3.html>.

STAFF NOTES:

Summary of Commission Action:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on August 12, 1999 denying the application over staff's recommendation of approval.

Date of Commission Action: August 12, 1999

Commissioners on Prevailing Side: Allgood; Daniels; Desser; McClain-Hill; Nava; Potter; Chairperson Wan.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission adopt the revised findings in support of the Commission's action on August 12, 1999 concerning #6-99-75*

STAFF RECOMMENDATION OF APPROVAL:

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 August 12, 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.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for 6-99-75 on the ground that the findings support the Commission's decision made on August 12, 1999 and accurately reflect the reasons for it.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. **Detailed Project Description.** The proposed project is the International Jet Sports Boating Association (IJSBA) World Finals personal watercraft races. The race is proposed to be held off the western shore of Fiesta Island and the eastern shores of Government and Ski Islands in Mission Bay, in the City of San Diego. The event itself would take place from October 10-17, 1999, with set-up for the event beginning October 1, and clean-up lasting through October 20, 1999. The actual race area in the water would be closed to public use from October 7 to October 19. The proposed temporary event requires a coastal development permit because the 20-day (total) event does not qualify as an event of "limited duration" defined as "a period of time which does not exceed a two week period on a continual basis," in the Guidelines for Temporary Events adopted by the Commission 1/12/93.

The jet ski competition area would consist of a practice area, closed course racing around a roughly circular course marked with buoys, slalom racing around nine stationary buoys, slalom racing around nine stationary buoys and free-style competition. The event area would be marked off with perimeter buoys. A 30-foot tall starting tower supported by four, 1-foot by 1-foot pilings would be located in Mission Bay.

On-shore events would be located on the western side of Fiesta Island and would consist of a parking area, a 300-foot long pit area and bleachers along the shore, signage, a concert stage, bicycle/skateboard ramps, approximately 90 vendor booths, portable toilets, inflatables, fencing and a VIP/media area. Parking would be located on a 65-acre

area, a portion of which has been used in the past for other event parking; the rest of the parking would be provided on a landscaped area where sewage sludge beds were previously located.

In May 1994, the Commission approved a similar jet ski event held by the IJSBA on Ski Beach on the east side of Vacation Isle, Mission Bay; however, this event was much more limited in scale, taking place only over two days in June, with an additional two days of set-up time (#6-94-59). The permit was approved with special conditions requiring submittal of a final parking program and documentation of the level of attendance at the event and any parking problems. Prior to 1994, the event had been held at that same location for three years, however, 1994 was the first time a parking/admission charge was proposed, and was the first year the Commission asserted jurisdiction over the event. In April 1995, the Executive Director determined that since the 1995 event was essentially the same as the previously approved event (same location, duration, season, and operating conditions) it could be excluded from coastal development permit requirements.

Although the Commission has certified a land use plan (the Mission Bay Park Master Plan) for the Mission Bay segment of the City's LCP, there are no implementing ordinances in place as yet for this area. Thus, the entire park remains an area of deferred certification, and Chapter 3 of the Coastal Act is the standard of review.

2. Environmentally Sensitive Habitats/Marine Resources/Water Quality. The following Coastal Act policies, which address the protection of sensitive habitats, are most applicable to the subject development proposal and state, in part:

Section 30230

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

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored....

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.

Until the late 1940's, Mission Bay was a shallow, unnavigable marsh supporting saltwater, swamp, and mud flat habitats. Most of Mission Bay Park was created during the 1950's through a massive operation involving dredging and filling 25-million cubic yards of sand and silt to create the landforms in the Bay. The park is a regional destination for water recreation, picnicking, walking, and bicycling. It also hosts a number of commercial operations including a major aquatic park (Sea World), resort hotels, recreational vehicle camping, and not-for-profit leases such as youth camping and sailing facilities.

In addition, there are a variety of sensitive biological resources present in San Diego Bay. There are seven Least Tern nesting sites; those near Fiesta Island include existing and proposed nesting sites on FAA island and at the north end of Fiesta Island, and on Stony Point at the south tip of Fiesta Island. There are eelgrass meadows growing on the low intertidal to high subtidal slopes throughout the bay. Coastal salt marsh habitat includes the Northern Wildlife Preserve in the northeast section of Mission Bay.

In recent years, there have been growing concerns regarding the contribution personal watercraft make to air and water pollution. Most jet ski-type watercraft are conventional "two-stroke" design that burn fuel inefficiently and discharge up to 30 percent unburned fuel into the air and water environment. According to the California Environmental Protection Agency's Air Resources Board (ARB), a 100-horsepower personal watercraft operated for seven hours emits more smog-forming emissions than a new car driven more than 100,000 miles. San Francisco Bay, Lake Tahoe and other National Parks, and San Juan County (Washington State) are among areas where personal watercraft use has been banned or restricted, at least temporarily, because of environmental concerns.

In December 1998, the ARB adopted regulations requiring new engines and watercraft sold in 2001, and thereafter, to meet more stringent emission reduction standards. There are no requirements to modify or retrofit engines or watercraft sold prior to 2001. It is anticipated that the majority of the watercraft involved in the proposed event will not meet the most-recently adopted emission standards.

Water Quality/Air Quality

The Mission Bay Park Master Plan designates an area southeast of Fiesta Island in the South Pacific Passage for jet skis-only, but jet skis are not prohibited from using a number of other areas in the bay, including the area west of Fiesta Island where the proposed races would take place. The City of San Diego conducted an environmental initial study and adopted a Mitigated Negative Declaration (MND) for the project. The City attempted to first estimate the amount of fuel/oil discharge that is currently

discharged into Mission Bay as a result of personal watercraft activity, and second, to determine how much discharge would occur as a result of the proposed event.

Based on an informal survey of boating activity conducted by City lifeguards during two days in August 1997, the City estimates that during the summer months, average weekday usage of jet skis is 98 jet skis, and average weekend-day use is 253. The City assumed four operating hours per jet ski, thus, average weekday jet ski operating usage would be 392 (98 x 4) hours and weekend use would be 1,012 (253 x 4), for a total of 3,984 hours over a one-week period.

The City obtained information from the ARB indicating that a typical jet ski consumes five gallons of gasoline per hour and discharges 20% to 30% of the fuel/oil mixture unburned into the water. Thus, the City estimates that existing jet ski discharge into the bay is 5,976 gallons a week (3,984 hours x 5 gallons per hour x 30% = 5,976 gallons per week).

The City then estimated that the proposed project would result in 2,576 hours of jet ski operation over the eight-day event period. At 12 gallons per hour, the event would use 30,912 gallons of gasoline and, at a 30% unburned discharge rate, the City estimates that the event would discharge 9,275 gallons of unburned fuel into the bay over the eight-day event.

Although the City has indicated that the project applicant provided the estimate of 2,576 hours of jet ski operation, the applicant has stated that they do not agree with the City's calculations. In material submitted to staff, the applicant contends that the actual amount of hours during which jet skis would be in the water, including practice time, would be far less than 2,576 hours, and thus, much less than 30,912 gallons of gasoline would be consumed and 9,275 gallons discharged. The IJSBA conducted a study that documented the actual time that personal watercraft spend on the water during the 1998 IJSBA World Finals event in Lake Havasu City, Arizona. Based on this study, the IJSBA estimates that total fuel consumption associated with the proposed event would be 7,080.06 gallons, or 590 hours of jet ski activity. Thus, at a 30% discharge rate, approximately 2,124 gallons of unburned fuel would be discharged into the bay during the course event.

The applicant has conceded that there is no way to predict the exact amount of hours of use and fuel consumption that would occur during the event. In reviewing this type of development, the Commission must assess a "worst-case" situation, to ensure potential impacts to coastal resources are not underestimated. It may be that the City has overestimated the amount of discharge based on a higher-than-realistic estimate of the number of hours jet skis would be on the water. However, the City's figures apparently do not take into account practice hours that may occur outside of the eight-day event. On the other hand, calculating the impact of the event based on the number of hours the jet skis would be in the water could be an overestimation, since the discharge occurs only when the engines are actually in operation, which could be less than the time the vehicles are in the water. It is also possible that there would be a reduction in the number of hours of non-race-related jet ski operations in the area because the general public would not be able to use the site for jetskiing during the race event. Clearly, there are a variety of

factors involved in determining the amount of jet ski hours associated with this type of event. Given the scarcity of information available at this time, it is simply not possible to accurately estimate the number of hours that personal watercraft would be in the bay as a result of the proposed project.

However, even if the City's approximate of 2,576 hours of jet ski operation is used, it is difficult to determine what the actual impact that the event would have on the bay environment. In order to assess the significance of the proposed event and 9,275 gallons of discharge into the bay, the City looked at two recent studies of existing water pollution in Mission Bay. The MND cites a study conducted in September 1996 by the State Water Resources Control Board as part of the State's Bay Protection and Toxic Cleanup Program. The report tested for PAHs (polycyclic aromatic hydrocarbons) in sediments in the San Diego Bay region.

A press release from the U.S. Geological Survey, March 31, 1998, describes PAH's as "an organic chemical class...universal products of combustion of natural fuels...also present in unburned coal or oil. Although ubiquitous in aquatic environments, they are typically not detectable in most water samples, but area bound up in sediment." According to the City's MND, the State Water Resources Control Board report found that in Mission Bay, the detectable ranges for both low molecular weight PAHs and high molecular weight PAHs were below the "Threshold Effects Level", the level at or below which no toxic biological effects are expected.

The second study cited by the MND is a study conducted as a condition of removing sewage sludge drying beds from Fiesta Island. In November 1998, the City of San Diego monitored water quality in four groundwater wells on Fiesta Island and three shore stations around the perimeter of Fiesta Island. Testing for contaminants that could be linked to gasoline and oil pollution included benzene, toluene, ethyl benzene, naphthalene, chloroform, bromodichloromethane, dibromochloromethane, bromoform and 1-1-1 trichloroethane. The City's study found that none of these compounds were detectable in the tests. Thus, the MND concluded that, since currently in the summer months, approximately 3,984 hours of jet ski usage occurs every week in Mission Bay, apparently without resulting in detectable levels of pollutants, the additional 2,576 hours associated with the event would not likely produce detectable levels of pollutants, and thus would not represent an environmental impact. However, this testing occurred near, but not at the actual project site, and thus, does not represent an adequate baseline study of the water quality at the project site.

As further evidence that the project would not significantly impact water quality in Mission Bay, the MND cites a smaller jet ski event held in Orange County in October 1997. For this event, water was impounded in a 1,000 by 3,000 sq.ft., 14.5 million-gallon artificial pond. The event consisted of a total of 360 hours of jet ski operation in the pond. After the event, the water was tested for contaminants that would indicate gasoline or oil pollution. None were detectable, and the water was discharged into the Orange County Water District's recharge basin. Although the Orange County event was far smaller than the proposed event, the artificial pond was approximately .003% the size of Mission Bay. Thus, the discharge into the artificial pond was likely far more

concentrated that the discharge into Mission Bay would be. Therefore, the MND concluded that discharges from the proposed event would likely not be detectable either. Nevertheless, there are no standards associated with this determination of non-significance, no testing has been performed at the project site (or Mission Bay in general) and in the absence of evidence to the contrary, the Commission must find that even an incremental increase in pollution would potentially be harmful to biological resources.

The MND also looked at the impact the project could have on air quality. According to the U.S. EPA Oceans and Coastal Protection Division, air pollution can have a significant impact on water quality, as air pollutants can be deposited on land and water, contributing to declining water quality, contaminated fish, harmful algal blooms, and unsafe drinking water.

Based on the California Air Resources Board's estimate that seven hours of jet ski operation is equivalent to 100,000 passenger car miles, the City's MND determined that 2,576 hours of jet ski operation would equate to a total of 36,800,000 vehicle miles over eight days. The MND acknowledges that this number seems significant, but notes that during the month of October, it is estimated that 2,041,500,000 vehicle miles would be traveled in the San Diego Air Basin without the jet ski races. The 36,800,000 vehicle miles would represent 1.8% of the month's total. Over the course of a year, the percent increase of emission in the County due to the event would be 0.015%. The MND concludes this increase is not significant and thus, no mitigation is required.

Despite the conclusions of the MND, there is ample evidence that, overall, discharges from marine engines contribute significantly to air quality problems throughout the United States. The EPA estimates that of non-road sources, gasoline marine engines are one of the largest contributors of hydrocarbon emissions, approximately 30% of the non-road portion. Eliminating this total contribution would clearly significantly improve air and water quality. As discussed above, what is not known is precisely what the impact of this particular event would be, because the amount of discharge and number of hours of jetski operation associated with the project is not clear. Therefore, the Commission cannot be assured that the project would not have adverse impact on water quality. Although the applicant has proposed to do water quality monitoring before, during, and after the event, the Commission must be able to find that approval of the proposed project will not adversely impact sensitive habitat or resources, and determining the impact "after-the-fact" could result in substantial harm to coastal resource.

In summary, it has been established that the operation of personal watercraft is associated with some amount of air and water pollution. Conflicting information on the extent of this particular event would have on air and water quality has been offered. Detailed studies on the effluent and air emissions from personal watercraft, and a recent assessment of water quality and pollution levels in Mission Bay would allow the Commission to determine both the absolute and relative impact of the proposed project. However, in the absence of this type of specific evidence, the Commission cannot be assured that the proposed project will avoid or minimize impacts to water and sensitive biological resources. If similar watercraft events are anticipated in the future, these types of studies should be completed well in advance of the event. Therefore, the Commission

finds that the proposed event cannot be found consistent with Sections 30230 and 30231 of the Coastal Act and must be denied.

3. Public Access and Recreation/Parking. The Coastal Act contains many policies addressing the issue of public access to and along the shoreline. The following are most applicable to the proposed development and state, in part:

Section 30210

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

Section 30212

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

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby...

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30223

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

Additionally, pursuant to Section 30604(c), every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The area which would be occupied by the temporary improvements associated with the proposed races is currently unimproved sandy beach area normally available for general public use.