

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370

## RECORD PACKET COPY

**Thu 16b**Staff: EL-SD  
Staff Report: September 12, 2001  
Hearing Date: October 9-12, 2001**AMENDMENT REQUEST**  
**STAFF REPORT AND PRELIMINARY RECOMMENDATION**

Application No.: 6-92-240-A3

Applicant: City of San Diego, Water Operations Division      Agent: Jafer Kazem

Original Description: Removal of old Pump Station 65 and construction of a 4,500 sq.ft. new pump station adjacent to Sorrento Valley Road. The project includes the infrastructure associated with the sewer improvements, as well as installation of water and sewer mains and mitigation and restoration components.

Proposed Amendment: Excavation of a 12' x 12' x 10' (deep) area to access and repair a leaking valve along the pipeline just north of the new pump station. Also, installation of a 4" PVC pipeline to divert fresh-water inflows to the sewer system to protect existing salt marsh. These activities have already occurred, some under emergency authorization and some without a coastal development permit.

Site: West of Sorrento Valley Road, and north of Pump Station 65, North City, San Diego, San Diego County.

Substantive File Documents: Certified City of San Diego Local Coastal Program (LCP); Freshwater Intrusion Study, Sorrento Valley Pipelines, Los Penasquitos Lagoon and Salt Marsh (Ninyo &amp; Moore), last revised May 25, 2001

**STAFF NOTES:****Summary of Staff's Preliminary Recommendation:**

Staff recommends approval of the proposal for after-the-fact authorization of non-exempt repair activities, retention of the existing repair work, and diversion pipe development. Although the project occurs in wetlands, no permanent impacts occur and temporary impacts have been fully mitigated.

**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-92-240 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**II. Findings and Declarations.**

The Commission finds and declares as follows:

1. Project History/Amendment Description. The approved, and constructed development represents significant public works improvements, the highest benefits being a new pump station adjacent to Sorrento Valley Road to replace an older one which had been located within the wetlands of Los Penasquitos Lagoon. The project included abandoning the piping system within the lagoon, and installing new pipes roughly following the alignments of Carmel Valley and Sorrento Valley Roads. These included water mains, along with sewer gravity and force mains. The project was constructed years ago, and all associated mitigation and restoration activities completed as well.

Over two years ago, a valve on one of the new pipes started leaking, and the City undertook repairs. Because the valve/pipes are located in wetlands, the City's repair project was not exempt from coastal development permit requirements under the Commission's repair and maintenance guidelines and regulations; however, the City conducted the repair activities without first obtaining a coastal development permit from the Commission. Several months later a similar break occurred and repairs were again

undertaken. In both these instances, it must be noted that the City did request emergency authorization, but it was determined that the specifics of the cases did not meet the standards established in the Coastal Act for emergency actions (i.e., no imminent threat to life or property). The City was advised to seek a regular coastal development permit, but it did not submit an application either time. Access to the leaking valve was gained by excavating a 12' long, 12' wide and 10 feet deep hole within existing wetlands, which was later refilled and replanted.

Even after both repair actions, freshwater inflow continued to intrude into the lagoon, threatening to overtake the fragile salt marsh vegetation. Therefore the City, believing the water to be coming from an undetected pipeline break, began an investigation to discover the source of the freshwater and determine a course of action to eradicate it. While this study was underway, the City proposed to install a diversion pipe between the existing water and sewer lines, such that low-flow freshwater would be directed into the sewer system rather than the lagoon. At that time, the City proposed this small project to the Commission as an emergency action. Authorization was granted pursuant to Section 30611 of the Coastal Act, as standing freshwater in this area had created a vector control (mosquito) problem, and County Environmental Health officials indicated this posed a public health threat.

Ultimately, no additional pipeline leaks were discovered, and the City has concluded that the freshwater inflow represents runoff from intensely developed areas further upstream (east) within the lagoon watershed. Thus, since no additional repairs are needed, the current project consists of after-the-fact approval of the previous repairs, a follow-up permit for the emergency action to install the diversion pipeline, and a request to retain the diversion pipeline for current and future use. The project location is in the tidelands and public trust lands of Los Penasquitos Lagoon and thus within the Coastal Commission's original permit jurisdiction, with Chapter 3 of the Coastal Act being the legal standard of review.

2. Environmentally Sensitive Habitat Areas (ESHA). The subject proposal involves the repair of an existing water pipeline and installation of a water diversion line within the wetlands of Los Penasquitos Lagoon, just west of Sorrento Valley Road and north of the new Pump Station 65. The project will temporarily impact 144 sq.ft. of salt marsh vegetation for workers to access the damaged pipe and make repairs; an additional 120 sq.ft. of wetland is temporarily impacted by trenching for the diversion pipe. The project will have no permanent wetland impacts. The following Coastal Act policy is most applicable to the proposed development, and states, in part:

**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.

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

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

In this particular case, the proposed development meets the above requirements. The project represents an incidental public service activity to repair a damaged pipeline and install a water diversion pipe. Such activities are allowed in wetlands under Section 30233(a)(5). Moreover, the methods employed assure that, although the project site is

wetlands, only temporary impacts to wetland vegetation occur. The repair work has already occurred without a coastal development permit, and the diversion pipe installed pursuant to Section 30611 of the Coastal Act.

Temporary impacts were minimized to the extent possible, as the location of the site (about ten feet west of the existing Sorrento Valley Road pavement) allowed all mechanical equipment to be kept on the pavement and operated from there. Only maintenance crews on foot had to actually be in the wetlands to conduct the repairs. The applicant performed 1:1 mitigation for the temporary impacts by replanting the area after the repairs were completed and the pipeline installed. The diversion pipeline has had a further benefit of removing much of the unnatural freshwater inflow from upstream of the lagoon. The amount of inflow had been so great that freshwater vegetation was thriving and invading areas that were previously salt marsh. Now the freshwater species are less likely to continue without this water source, and there are indications that salt marsh species are again proliferating in the area. A recent site visit by Commission staff confirmed that it is no longer possible to detect the exact location where the repairs and improvements occurred, as the revegetation efforts are complete and the area has completely revegetated. The Commission finds that, because of the temporary nature and minimal scope of wetland impacts incurred in the permitted repair/maintenance operation, no further restoration efforts are needed.

In summary, the proposed repair and maintenance activities are a permitted use in wetlands under the Coastal Act and all permanent impacts were avoided; the temporary impacts are unavoidable but adequate mitigation occurred. Under these parameters, the proposal is consistent with Section 30233 of the Act. Although the repair activities occurred without benefit of a coastal development permit, the Commission finds that they are fully consistent with the cited resource protection policies of the Coastal Act.

3. Marine Resources/Water Quality. The following Coastal Act policy is most applicable to the proposed development and states:

**Section 30231.**

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

The proposed repair and maintenance activity is not anticipated to have any adverse impacts on the water quality of San Dieguito Lagoon. The proposal involves the repair of a damaged water pipeline and the installation of a water diversion pipe to divert upstream runoff into the sewer system. The site is a portion of the Los Penasquitos Lagoon salt

marsh wetlands. The repairs and improvements occur underground, such that the activities will not affect drainage patterns in the area. Furthermore, no increase in the amount of impermeable surfaces will occur as a result of the proposed project. Finally, diversion of the upstream urban runoff removes a potential source of contaminants in the form of hydrocarbons, fertilizers and pesticides. Therefore, the Commission finds the proposed amended development consistent with Section 30231 of the Act.

4. . Public Access and Recreation. The following Coastal Act policies are most pertinent to the proposed development, and state, in part:

Section 30211

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

Section 30213

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

Section 30604(c)

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

Los Penasquitos Lagoon is a tidal estuary providing many different habitat communities; the lagoon area is utilized by several listed species and also provides passive recreational opportunities for the public. The specific site of the proposed repair/improvement activities, is located between the first coastal roadway and the lagoon, being sited west of both Interstate 5 and Sorrento Valley Road, which has been permanently closed to vehicular traffic in this area. Conceptual plans for the future of Sorrento Valley Road include a pedestrian/biking trail and a bridge over Carmel Creek. Although the applicant proposes staging the project from Sorrento Valley Road, this is an after-the-fact permit for activities that have already occurred. No additional work is proposed for the area in association with this project, so the subject development will not interfere with any future plans for enhanced public access. Therefore, the Commission finds the proposal consistent with the cited Coastal Act policies, and with all other public access and recreation policies as well.

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

**Section 30251**

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

The project site is within a publicly-owned natural open space area, the Los Penasquitos Lagoon, which consists of a mixture of salt and freshwater marshes and associated upland areas. The subject site itself is north of Pump Station 65 and west of Sorrento Valley Road and consists mostly of salt marsh vegetation. The entire lagoon is visually appealing and, because the improvements are underground and the surface is revegetated, the project will not have adverse visual impacts and will not modify the overall appearance of the area. Therefore, the Commission finds the proposed amendment consistent with Section 30251 of the Act.

6. No Waiver of Violation. Although development has taken place prior to submission of this amendment application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

7. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit, or permit amendment, shall be issued only if the Commission finds that the permitted/amended 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.

The original project was found consistent with both land use plan and zoning designations, as a major public works project. The proposed amendment does not change the scope or purpose of the original project; it simply authorizes repairs and a slight modification to the previously-approved development. Moreover, the proposed amendment has been found consistent with all applicable Coastal Act policies, which are the legal standard of review in this original jurisdiction area. Therefore, the Commission finds that approval of the proposed amendment will not prejudice the ability of the City of San Diego to continue implementing its certified Local Coastal Program.

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

consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the biological, visual and marine resource 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.



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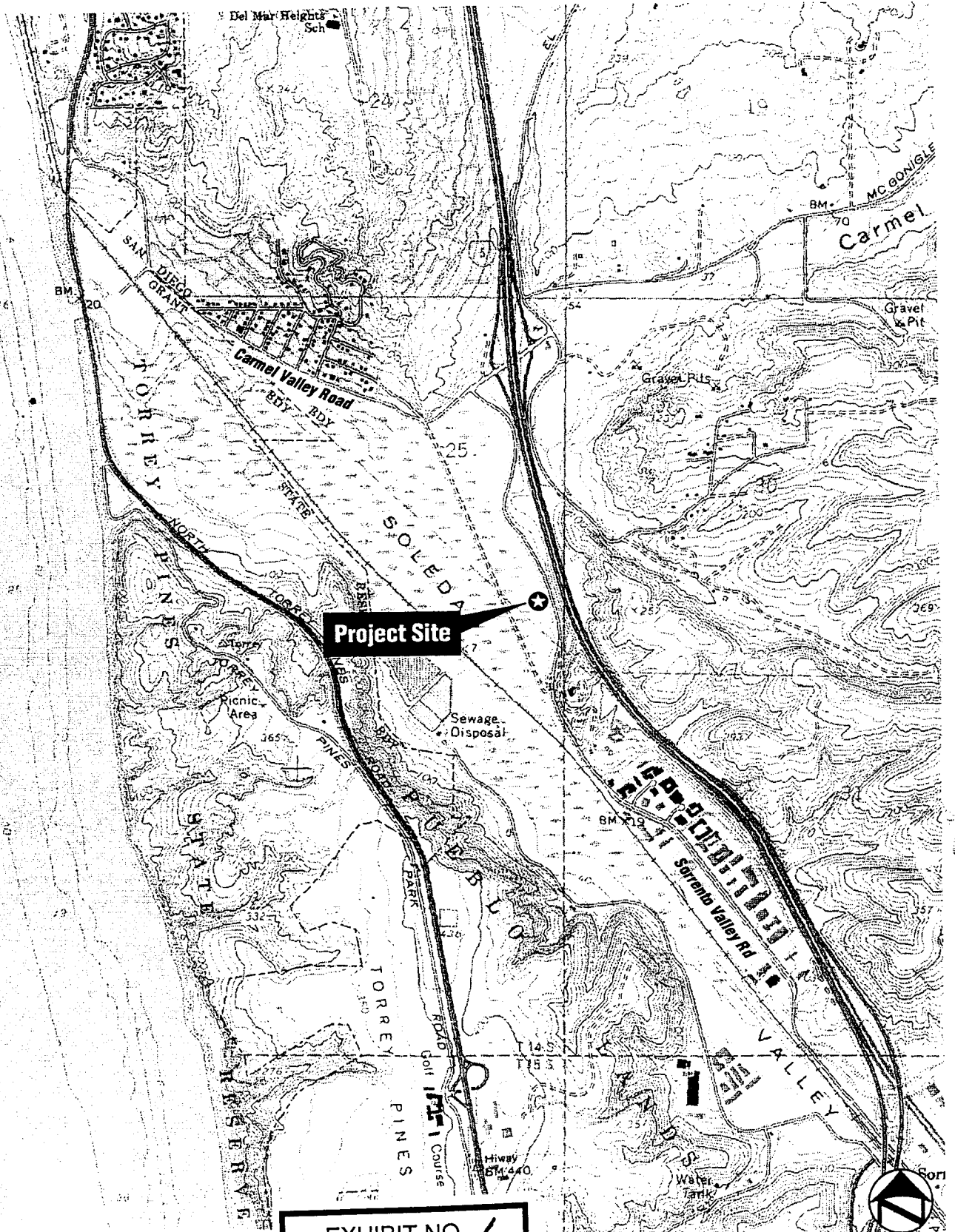

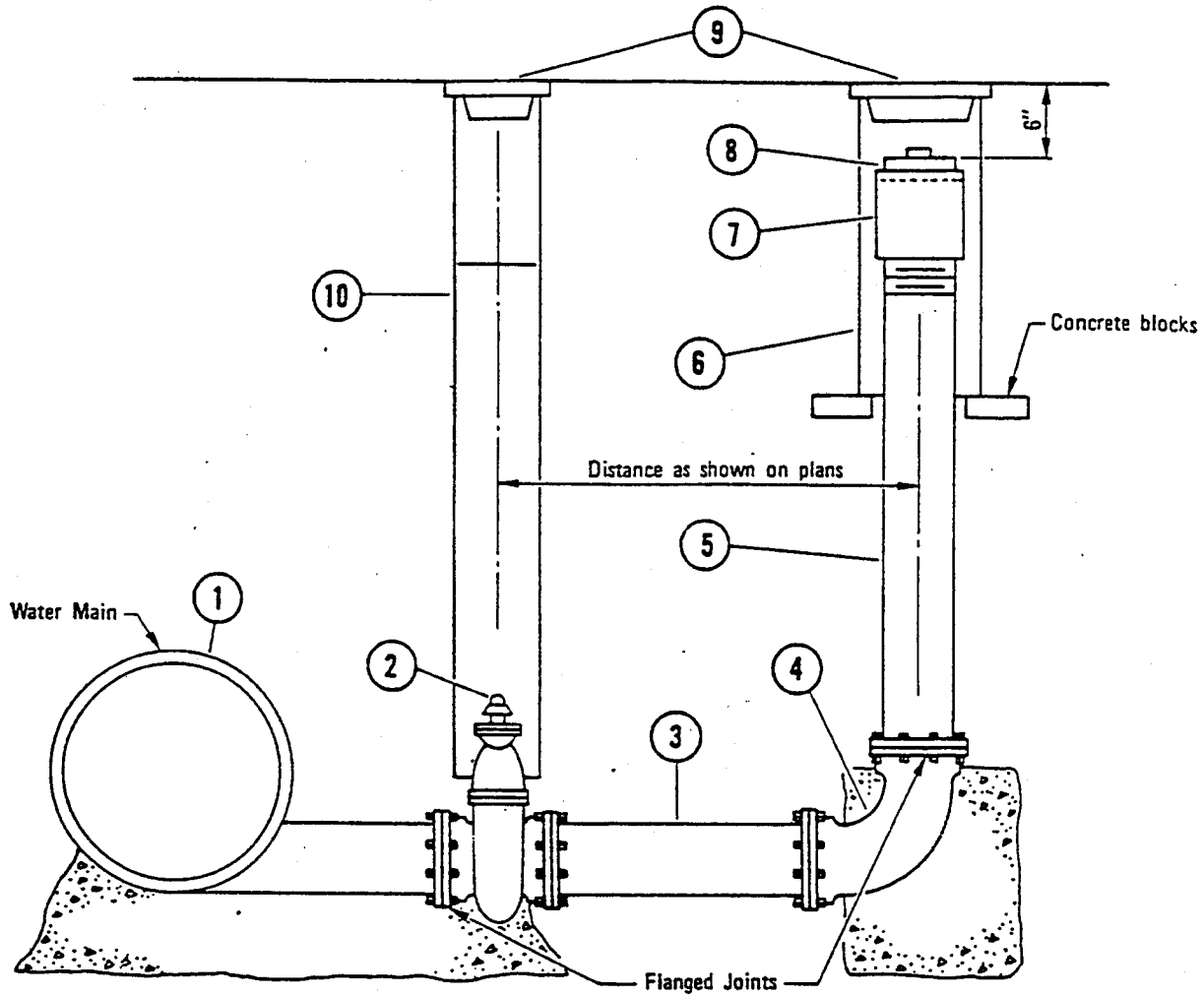


EXHIBIT NO. 1  
APPLICATION NO.  
6-92-240-A3  
*Location Map*

 California Coastal Commission

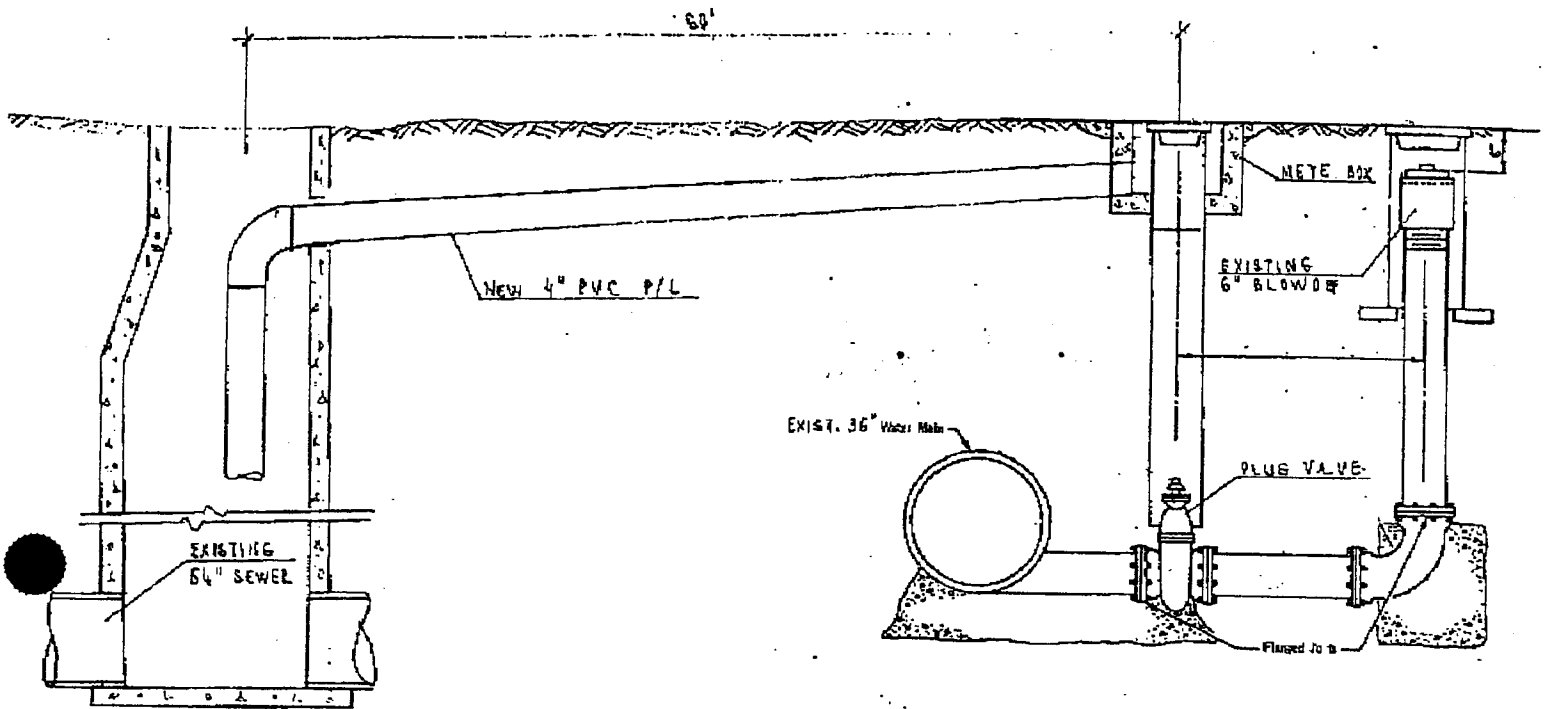
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- ① Main Size x Flanged Outlet, cement lined and coated.
- ② Flanged Gate Valve (F x RT for A.C. Pipe).
- ③ Cast Iron Pipe or A.C. Pipe (6 1/2' min for A.C. Pipe).
- ④ F x F 90° Bend (F x RT for A.C. Pipe).
- ⑤ Galvanized Iron Pipe, threaded and flanged.
- ⑥ 10" Class 200 A.C. Pipe Gate Well.
- ⑦ Galvanized Iron Coupling, threaded.
- ⑧ Galvanized Iron Plug.
- ⑨ Gate Well Cap with 4" skirt.
- ⑩ Valve Well (see Standard Drawing W-12).

EXHIBIT NO. 2
APPLICATION NO.
6-90-240-A
Equipment Needing Repair
California Coastal Commission

6-92-240-A3



EXISTING SEWER MANHOLE

SORRENTO VALLEY LAGOON  
DIVERSION OF FRESH WATER

NOT TO SCALE

EXHIBIT NO. 3
APPLICATION NO.
6-90-240-A3
Freshwater
Diversion
California Coastal Commission

