## South Coast Area Office

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Staff: KFS-LB Staff Report: November 20, 2001 Hearing Date: December 11-14, 2001 Commission Action:



GRAY DAVIS, Governor

#### STAFF REPORT: REVISED FINDINGS

APPLICATION: 5-01-020

## RECORD PACKET COPY

APPLICANT: Tetra Tech, Inc.

AGENT: Tetra Tech, Inc.: Fernando Pagés and Sarah McFadden

**PROJECT LOCATION:** East of Pacific Coast Highway and South of Warner Avenue within the Bolsa Chica Ecological Reserve, in the unincorporated Bolsa Chica area of the County of Orange.

**PROJECT DESCRIPTION:** Restoration of 5,358 square feet of wetlands including removal of concrete and debris; grading to match elevation of adjacent wetlands; replacement of two 15 inch pipes with 18 inch pipes to improve tidal exchange; and placement of 30.52 square feet of rip rap for erosion control which will fill 30.52 square feet of wetland. The proposed restoration is mitigation for impacts to wetlands caused by bulkhead reinforcements along Trinidad and Humboldt Islands in Huntington Harbour.



COMMISSION ACTION: Approval with special conditions

COMMISSIONERS ON PREVAILING SIDE: Dettloff, Allgood, Hart, Kruer, McCoy, Nava, Rose, Chairman Wan

#### SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's approval with special conditions of Coastal Development Permit 5-01-020 on October 8, 2001.

At the Commission hearing, Commission staff revised the recommendation to include special conditions addressing the applicant's proposal to retain 2,136 square feet of the 5,358 square feet of the proposed mitigation as a 'bank' to be applied for wetland impacts which may occur under future bulkhead repair projects. The revision to the staff recommendation resulted in the addition of four special conditions (No.s 8 through 11) which clarified the purpose of the proposed project, the scope of the approval, the establishment of a mitigation credit record keeping system, and notification that future wetland mitigation ratios will be determined on a case by case basis. Findings in support of these changes are found on pages 16 to 18.

#### SUBSTANTIVE FILE DOCUMENTS: See Appendix A

## I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION OF APPROVAL.

I move that the Commission adopt the revised findings in support of the Commission's action on October 8, 2001, concerning Coastal Development Permit 5-01-020.

## 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 October 8, 2001 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 Coastal Development Permit 5-01-020 on the ground that the findings support the Commission's decision made on October 8, 2001, and accurately reflect the reasons for it.

## II. STANDARD CONDITIONS:

- 1. <u>Notice of Receipt and Acknowledgment.</u> 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. <u>Expiration.</u> If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land.</u> These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS:

#### 1. COMPLIANCE WITH PLANS SUBMITTED

The permittee shall undertake development in strict conformance with the proposal and plans as set forth in the application for permit, subject to any special conditions set forth in this coastal development permit approval. Any proposed changes to or deviations from the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 2. CONSTRUCTION RESPONSIBILITIES

The permittee shall comply with the following construction-related requirements:

- (a) Construction equipment, materials, and debris shall be stored within the 'temporary contractor staging area' within the parking lot of the Bolsa Chica Ecological Reserve interpretive center as depicted on Figure 2 of the *Biological Assessment* dated August 24, 2001.
- (b) Prior to commencement of construction within or adjacent to wetlands and environmentally sensitive habitats, the work areas shall be identified for the contractor using staking, fencing, or similar means. Work area demarcations shall be inspected and approved by a qualified biologist. All barriers, staking, fencing shall be removed upon completion of construction.
- (c) As proposed, construction equipment access to work areas shall occur via existing paved roads and unpaved unvegetated roads and parking lots. No vegetation impact, including removal or trampling, for purposes of construction access is authorized under this coastal development permit. No new construction access corridors are authorized under this coastal development permit.
- (d) Vegetation removal shall be limited to the impacts described within Soft Bottom Mitigation Plan, Humboldt Island and Trinidad Island Bulkhead Repair Project, Huntington Beach, California dated April 2000 prepared by Tetra Tech, Inc. of Pasadena, California; Wetlands Delineation for the Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001; and Biological Assessment for the Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001. As proposed, the applicant shall salvage and replant within the proposed restoration area any native vegetation removed pursuant to this coastal development permit in an appropriate location to be determined by the project biologist in consultation with the California Department of Fish and Game.
- (e) No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- (f) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;

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(g) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlets must be protected with sandbags or berms, all stockpiles must be covered, installation of proper sedimentation control measures, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. All BMPs shall be maintained in a functional condition throughout the duration of the project.

Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into wetlands and coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a legal disposal site in accordance with Special Condition 3 of this permit.

#### 3. LOCATION OF DEBRIS DISPOSAL SITE

**PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT**, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. 'Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

#### 4. <u>TIMING OF CONSTRUCTION – ENVIRONMENTALLY SENSITIVE HABITAT</u> <u>AREA</u>

To avoid adverse impacts on the California least tern (Sterna antillarum browni) and the Western snowy plover (Charadrius alexandrinus nivosus) construction shall not occur between March 1 through October 1 of any year.

#### 5. <u>TIMING OF CONSTRUCTION – PUBLIC ACCESS</u>

To avoid adverse impacts on public access to the beach and the Bolsa Chica Ecological Reserve, construction shall not occur between the Memorial Day holiday weekend through the Labor Day holiday weekend, inclusive, during any year in which the proposed development is constructed.

#### 6. <u>COMPLIANCE WITH SOFT BOTTOM HABITAT MITIGATION PLAN</u>

A. As proposed, the applicant shall restore 5,358 square feet of wetland at the Bolsa Chica Ecological Reserve. The applicant shall implement and comply with the recommendations and mitigation contained within *Soft Bottom Mitigation Plan, Humboldt Island and Trinidad Island Bulkhead Repair Project, Huntington Beach, California* dated April 2000 prepared by Tetra Tech, Inc. of Pasadena, California; *Wetlands Delineation for the Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve* by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001; *Biological Assessment for the* 

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Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001; Tidal Analysis for Soft Bottom Mitigation Plan Wetland Improvement Project in Rolsa Chica Ecological Reserve dated June 2001 by Tetra Tech, Inc. of Pasadena, California.

- B. The proposed soft bottom mitigation shall be implemented prior to or concurrent with any development commenced pursuant to Coastal Development Permits 5-98-179, 5-98-201, 5-98-443, 5-98-444, 5-99-031, 5-99-032, 5-99-108, 5-99-473, 5-00-389, or 5-00-390.
- C. At minimum, the applicant shall monitor the proposed mitigation for a period of 5 years. At the end of each year of the continuous monitoring program, the applicant shall submit a monitoring report which shall contain the information identified in the mitigation plan identified above for the review and approval of Executive Director of the Commission. The monitoring report shall describe activities associated with the mitigation since the last monitoring report, progress toward meeting the success criteria established in the mitigation plan and any recommended maintenance or implementation of corrective measures to ensure success of the mitigation. At the end of the five-year monitoring period, a comprehensive report describing the results of the plan shall be submitted to the Executive Director for review and approval. The final comprehensive report shall be accompanied by written evidence of review and comment by the California Department of Fish and Game (CDFG). Written comments from CDFG should address whether the mitigation has been successful. If, at the end of the five-year monitoring period the mitigation program is wholly or partially unsuccessful, a follow-up mitigation program shall be implemented by the applicant in order to correct deficiencies of the mitigation program or to provide an alternative mitigation program. Implementation of a follow up program shall require an amendment to this permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.
- D. Any changes to the approved mitigation plan, including but not limited to changes to the monitoring program to ensure success of the mitigation site, shall require an amendment to this permit from the Coastal Commission or concurrence from the Executive Director that the changes do not require a permit amendment.

#### 7. LEGAL INTEREST

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, written documentation demonstrating that it has the legal ability to carry out the proposed project including any grants of access to the property by the property owner and/or lessee and all conditions of approval of this permit.

#### 8. PURPOSE OF PROPOSED PROJECT

The 5,358 square feet of proposed restored wetlands is intended as mitigation for anticipated fill impacts to soft bottom open water wetlands within Huntington Harbor, Orange County. Specifically, 3,160 square feet of the 5,358 square feet of proposed mitigation is to satisfy the mitigation requirements established under Coastal Development Permits 5-98-179, 5-98-201, 5-98-443, 5-98-444, 5-99-031, 5-99-032, 5-99-108, 5-99-473, 5-00-389, and 5-00-390. In addition, 61 square feet of the 5,358 square feet of proposed restored wetlands shall be mitigation for fill impacts to wetlands caused by the proposed

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mitigation itself. In accordance with a coastal development permit and the procedure outlined in Special Condition 10 the remainder of the proposed wetlands restoration shall only be used to mitigate wetland fill impacts caused by bulkhead repair projects within Huntington Harbor. Any alternative use of the mitigation area shall require an amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

#### 9. SCOPE OF APPROVAL

The availability of any 'banked' restored wetland habitat developed pursuant to this permit shall not be construed as pre-authorization for any wetland impact within the coastal zone.

#### 10. USE OF BANKED MITIGATION CREDITS

The Executive Director shall maintain a record showing the quantity of proposed restored wetland habitat and the quantity of said restored habitat which the applicant has committed as mitigation for impacts to wetlands caused by bulkhead repair projects within Huntington Harbor. As needed, the applicant shall submit written request, subject to review and approval by the Executive Director, to dedicate any previously uncommitted restored wetland as mitigation for wetland fill impacts caused by a bulkhead repair project.

#### 11. MITIGATION RATIO

The mitigation ratio for any wetland impact caused by bulkhead repair projects within Huntington Harbor shall be determined on a case by case basis pursuant to a coastal development permit.

## **IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

## A. Project Description and Location

The proposed project is the restoration of 5,358 square feet of wetlands east of Pacific Coast Highway and south of Warner Avenue, in the unincorporated Bolsa Chica area of the County of Orange (Exhibit 1 and 2). The proposed restoration would occur within the Bolsa Chica Ecological Reserve. This land is owned by the California State Lands Commission and leased to the California Department of Fish and Game, both of whom are supportive of the project (see also the section regarding "Legal Ability to Undertake Development" in these findings). The proposed project would be located adjacent to and within existing wetlands located in the area of the California Department of Fish and Game's interpretive center and parking lot for the reserve. Restoration, described more fully below, would involve two basic activities: 1) removal of concrete and debris from an upland area and grading the area to match the elevation of adjacent wetlands; and 2) replacement of two 15 inch diameter pipes with 18 inch diameter pipes to improve tidal exchange.

Presently, there is a rectangular building foundation (approximately 66'6" x 36'3") adjacent to Pacific Coast Highway which remains from a previously demolished building (demolition date unknown). Debris, including concrete, brick, dirt, dead vegetation, and non-native vegetation are

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within the old building foundation and strewn around the area of the foundation (Exhibit 2). The applicant is proposing to remove all of the foundation and debris (approximately 60 to 90 cubic yards), except for the portion that is within 15 feet of the edge of the pavement of Pacific Coast Highway (PCH). The applicant proposes to leave the area within 15 feet of PCH in it's present condition because disturbance of this part of the foundation could have an impact upon the adjacent roadway. Once the foundation and debris are removed, the foundation area plus a 15 foot wide band adjacent to the foundation, as well as an area north of the existing foundation would be graded to match the elevation of the functioning wetland north of and adjacent to the site (approximately +3 ft NGVD). In total, this portion of the project would restore approximately 5,358 square feet of wetlands.

There are two distinct wetlands within the project area, known as the West Cell wetland and the East Cell wetland which are connected to the main channel of the Bolsa Chica wetlands (herein 'Bolsa Chica Channel') (Exhibit 2). The East Cell wetland receives tidal flushing via an approximately 18 foot long 15 inch diameter corrugated metal pipe that connects the wetland to the Bolsa Chica Channel. The West Cell wetland is connected in tandem to the East Cell via a 46 foot long 15 inch diameter corrugated metal pipe. These existing corrugated metal pipes are rusting and collapsing, restricting tidal exchange to the existing wetlands. These pipes need to be replaced and expanded to improve tidal flushing of the existing wetlands and to provide tidal flushing for the proposed restoration area.

Accordingly, the second element of the project would improve the tidal flushing of the East and West Cell wetlands and provide tidal flushing for the restored wetlands (located in the West Cell) ' by replacing the existing 15 inch pipes with larger 18 inch diameter high density plastic (HDPE) pipes. The existing 18 foot long pipe between the East Cell and the Bolsa Chica Channel would be replaced by an approximately 14 foot long pipe. A total of 21.9 square feet of rip rap would be placed at the pipe ends to reduce erosion. In addition, the 46 foot long pipe. A total of 8.62 square feet of rip rap would be placed at the pipe ends for erosion control. The total amount of rip rap to be placed by the project would be 30.52 square feet.

The proposed restoration project would serve as mitigation for impacts to wetlands caused by bulkhead reinforcements occurring on Trinidad Island and Humboldt Island in Huntington Harbour, City of Huntington Beach, Orange County (Exhibit 1) approved by the Commission under Coastal Development Permits 5-98-179, 5-98-201, 5-98-443, 5-98-444, 5-99-031, 5-99-032, 5-99-108, 5-99-473, 5-00-389, and 5-00-390. The bulkheads around Trinidad and Humboldt Islands were constructed in the 1960's and have suffered damage due to erosion around the base of the bulkhead and deterioration of the supporting piles. In some cases, reinforcement of these bulkheads requires placing a sheetpile seaward of the existing bulkhead and backfilling the void between the sheetpile and bulkhead with concrete grout. This repair results in the fill of soft bottom open water wetlands.

Trinidad and Humboldt Islands are located between ½ to 2 miles from the subject restoration site. On-site wetland restoration is not feasible because the impact area is a bulkheaded harbor area where there are no opportunities for restoration. Meanwhile, the subject restoration site is within the Bolsa Chica Ecological Reserve which is an open space area managed as a passive recreation and wildlife habitat area. The impact site and restoration site are hydraulically connected to one another via Huntington Harbour and the Bolsa Chica wetlands complex. The Bolsa Chica Ecological Reserve area contains wetlands and historic wetland habitat that has been impacted over time by human development. Restoration of the wetlands within this area would increase the



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function and value of the habitat within the reserve. The proposed restoration would mitigate impacts caused by the fill of some open water soft bottom which surrounds Trinidad and Humboldt Islands. The habitat to be impacted around the islands consists of un-vegetated soft bottom containing infaunal clam beds consisting of wavy chione, California chione, and common littlenecks. These species are common to soft bottom habitat throughout the harbor. No sensitive wildlife species are known to occur within this habitat surrounding the islands. Meanwhile, the proposed project would restore wetland habitat in an area known to be high in plant and animal species diversity, including rare and endangered species. Therefore, the restoration of habitat at Bolsa Chica Ecological Reserve would be beneficial to a wide variety of wildlife. Any restored wetland habitat in a bulkheaded harbor area similar to the impact area would not be expected to attract the diversity and abundance of wildlife that the proposed restoration site would. The applicant anticipates a high probability of successful restoration at the site because the project would restore former and degraded wetland areas. Commission staff have reviewed the restoration plan and agree with the applicant's expectation of success. Accordingly, the Commission is requiring a mitigation to impact ratio of 2:1 for the impacts authorized under Coastal Development Permits (CDPs) 5-98-179, 5-98-201, 5-98-443, 5-98-444, 5-99-031, 5-99-032, 5-99-108, 5-99-473, 5-00-389, and 5-00-390. A higher mitigation ratio, such as 4:1, has not been required due to the anticipated success of the restoration and the high habitat value that the restored wetland area will have compared with the impact area.

The proposed project has been reviewed and approved by the California Department of Fish and Game and the National Marine Fisheries Service (Exhibit 4 and 6). The California Department of Fish and Game determined that the proposed wetlands mitigation is adequate to offset the impacts' caused by the bulkhead reinforcement projects on Trinidad and Humboldt Islands authorized under CDPs 5-98-179, 5-98-201, 5-98-443, 5-98-444, 5-99-031, 5-99-032, 5-99-108, 5-99-473, 5-00-389, and 5-00-390.

As of the date of this staff report, the Commission has approved ten coastal development permits covering 42 properties for repairs to the bulkheads on Trinidad and Humboldt Islands which have had an impact upon open water, soft bottom wetlands<sup>1</sup>. Issuance of these permits is dependent upon approval of a coastal development permit for the proposed wetlands mitigation. The coastal development permit numbers, associated impacts, and required mitigation are identified in the following table:

(Table printed on following page)

<sup>&</sup>lt;sup>1</sup>Please note that the Commission has approved several other applications for the reinforcement of bulkheads on Trinidad and Humboldt Islands. However, these other coastal development permits did not involve reinforcements which resulted in impacts to open water, soft bottom wetlands.

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CCC Permit Application Number	Site Address (HI = Humboldt Island) (TI = Trinidad Island)	Applicant Tract		Lot #	Soft bottom Impacted (ft <sup>2</sup> )	Soft bottom mitigated (ft <sup>2</sup> )
5-98-179	16581 Carousel Lane, HI	Kompaniez, P. & V.	1	134	64.6	129.2
5-98-201	16682 Wanderer Lane, HI	Anderson, J.	<b>–</b>	158	122.7	245.4
5-98-443	16541 Carousel Lane, HI	Whyte, W. & E.	T	130	81	162
5-98-444	16551 Carousel Lane, HI	Barrad, B.		131	62.3	124.6
5-99-031	16741 Carousel Lane, HI	Lady, Jr., L.		150	67.5	135.0
5-99-031	16752 Wanderer Lane, HI	Woods, Jr. H.		151	77.9	155.8
5-99-031	16742 Wanderer Lane, HI	Zadro, Z.		152	0	0
5-99-032 (was 5-99-008)	16501 Carousel Lane, HI	Yacoel, C. & M.		126	36.3	72.6
5-99-032 (was	16531 Carousel Lane, HI	McClory, R.		129	57.1	114.2
5-99-032	16601 Carousel Lane, HI	Clark, O. & J.		136	51.9	103.8
5-99-032	16611 Carousel Lane, HI	Baron, R.	<b> </b>	137	51.9	103.8
5-99-032	16621 Carousel Lane, HI	Mettler, L.		138	51.9	103.8
5-99-032	16631 Carousel Lane, HI	McGwire, M.		139	51.9	103.8
5-99-032	16641 Carousel Lane, HI	Kao, J. & M.		140	51.9	103.8
5-99-032	16651 Carousel Lane, HI	Appel, A. & S.		141	51.9	103.8
5-99-032	16661 Carousel Lane, HI	Schuster, R. & I.		142	51.9	103.8
5-99-032	16671 Carousel Lane, HI	Faber, B. & S.		143	51.9	103.8
5-99-032	16681 Carousel Lane, HI	Brady, Jr., J.		144	51.9	103.8
5-99-032	16691 Carousel Lane, HI	Goss, J. & J.		145	51.9	103.8
5-99-032	16701 Carousel Lane, HI	Hutton, T. & V.		146	0	0
5-99-032	16711 Carousel Lane, HI	DeAlmeida, G.		147	21.8	43.6
5-99-032	16721 Carousel Lane, HI	Sun, Y. H.		148	0	0
5-99-032	16731 Carousel Lane, HI	Grossman, J.		149	62.3	124.6
5-99-108	16571 Carousel Lane, HI	Pineda, A.		133	51.9	103.8
5-99-473	16575 Ensign Circle, HI	Gelbard, A.		170	18.7	37.4
5-00-389	3801 Ragtime Circle, TI	Dauger, A.	9168	31	16.6	33.2
5-00-389	3751 Nimble Circle, TI	Ashby, R.	9168	41	3.1	6.2
5-00-389	3671 Venture Circle, TI	King, P.	9168	64	53	106
5-00-389	3431 Sagamore Drive, TI	Jan, Jr., A.	9347	73	24.9	49.8
5-00-389	3461 Sagamore Drive, TI	Silverman, L.	9347	76	0	0
5-00-389	3501 Sagamore Drive, TI	Chiu, F.	9347	79	3.1	6.2
5-00-389	3521 Sagamore Drive, TI	Johnson, R. & H.	9347	81	7.3	14.6
5-00-389	3531 Sagamore Drive, TI	Streisfield, G. & I.	9347	82	11.4	22.8
5-00-390	3382 Venture Drive, TI	McInally, T. & L.	8636	10	49.8	99.6
5-00-390	3362 Venture Drive, TI	Kosta, N.	8636	12	31.1	62.2
5-00-390	3352 Venture Drive, TI	Younessi, Y.	8636	13	1	2
5-00-390	16281 Typhoon Lane, TI	Burggraf, R. & M.	8636	23	22.8	45.6
5-00-390	3612 Venture Drive, TI	Rayhan, S.	9168	69	15.6	31.2
5-00-390	3602 Venture Drive, TI	Daniels, D. & L.	9168	70	14.5	29
5-00-390	3582 Venture Drive, TI	Dauger, A.	9335	46	6.2	12.4
5-00-390	3421 Sagamore Drive, TI	Uva, T. & E.	9347	72	12.5	25
5-00-390	3441 Sagamore Drive, TI	Ong, H.	9347	74	64.4	128.8
Total			]		1,580.4	3,160.8

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As noted in the table above, a total of 1,243.1 square feet of wetlands would be impacted around Humboldt Island and a total of 337.3 square feet of wetlands would be impacted around Trinidad Island. In total, as approved under the coastal development permits identified above, 1,580.4 square feet of wetlands would be impacted. The Commission required the applicants for the above identified permits to mitigate the wetland impact at a ratio of 2:1. Accordingly, the total required mitigation would be 3,160.8 square feet of wetland restoration. The proposed project would provide 5,358 square feet of wetland mitigation. Therefore, there would be 2,197.2 square feet of wetland remaining for mitigation of other wetland impacts that the proposed project, or other projects, may have.

The proposed mitigation itself will result in the permanent fill of 30.52 square feet of existing wetland due to the placement of rip rap. Using the 2:1 mitigation ratio established for the bulkhead repair projects, the required mitigation would be approximately 61 square feet of wetland restoration. Subtracting 61 square feet from the 2,197.2 square feet wetland mitigation, leaves approximately 2,136 square feet of "extra" mitigation banked for future bulkhead repair projects in Huntington Harbour.

There are approximately 1,500 bulkheaded properties in Huntington Harbour which may be subject to damage similar to the type experienced on Trinidad and Humboldt Islands. Since future bulkhead repairs may result in additional impacts upon wetlands, the applicant proposes to reserve the remaining 2,136 square feet of wetland mitigation as a 'mitigation bank' for future impacts to wetlands resulting from bulkhead repairs in Huntington Harbour.

### B. **Biological Resources**

#### 1. Habitat and Wildlife

The proposed project is occurring adjacent to and within wetlands that are a part of the Bolsa Chica Ecological Reserve. The applicant has prepared a wetlands delineation (*Wetlands Delineation for the Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve* by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001) and a biological assessment (*Biological Assessment for the Soft Bottom Mitigation Plan Wetland Improvement Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve* by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001) for the project site (Exhibit 3).

The wetlands delineation submitted by the applicant has determined that, using the single criterion method of identifying wetlands (Cowardin 1979), the entire 1.72 acre survey area is considered wetlands (Exhibit 3). These wetlands are tidally influenced salt marsh comprised of a mixture of mudflats, pickleweed, and saltgrass habitats. Plant species present in the area include Alkali heath (Frankenia salina), Annual beard grass (Polypogon monspeliensis), Bassia (Bassia hyssopifolia), Coyote bush (Baccharis pilularis), Crystalline or common iceplant (Mesembryanthemum crystallinuni), Gazania (Gazania linearis), Low barley (Hordeum depressum), Pickleweed (Salicornia europaea),Pickleweed (Salicornia subterminalis), Pickleweed (common)(Salicornia virginica), Goose grass (Galium aparine), Rip gut grass (brome)(Bromus diandrus), Saltgrass (Distichlis spicata), Salt wort (Batis maritima), Sea blite (Suaeda californica), Shore grass (Monanthochloe littoralis), Slender-leaved iceplant (Mesembryanthemum nodiflorum), Southern tarplant (Centromadia (or Hemizonia) parryi ssp. Australis),Vetch (Trifolium sp.), Western marsh rosemary (Limonium californicum), and Wild radish (Raphanus sativus). The conclusion of the wetlands delineation states, "...[t]he dominant types of plants present in the survey area are

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dependent to a degree on periodic inundation from the tide". However, in the area of the old foundation where the debris removal and grading would occur the wetlands delineation states that "...a larger percentage of non-native and noxious exotic plants characteristic of disturbed environments may be observed." Due to the presence of hydric soil characteristics, the soil under the old foundation could be considered wetlands. Once the foundation and associated debris are removed and tidal flushing is restored and improved, the area in anticipated to provide high quality habitat. Upon completion of the project, the restored area would be "southern coastal salt marsh".

The project area provides habitat for a variety of wildlife. According to the applicant's biological assessment the salt marshes can provide habitat for a variety of bird species including clapper rails (Rallus longirostris), Belding's savannah sparrow, California least tern, burrowing owl, plovers, marsh wren (Cistothorus palustris), American bittern (Botaurus lentiginosus), northern harrier (Circus cyaneus), great egret (Casmerodius albus), snowy egret (Egretta thula), great blue heron (Ardea herodias), green heron (Butorides striatus), black-crowned night heron (Nycticorax nycticorax), sandpipers (Calidris sp.), marsh sandpipers (Tringa sp.), spotted sandpiper (Actitis macularia), curlews (Numenius sp.), sandhill crane (Grus canadensis), American coot (Fulica americana), black-necked stilt (Himantopus mexicanus), gulls (Larus sp.), and willet (Catoptrophorus semipalmatus).

The subject site may also provide habitat for mammals including the San Diego pocket mouse (Perognathus fallax), Pacific kangaroo rat (Dipodomys agilis), western harvest mouse (Reithrodontomys megalotis), California vole (Microtus californicus), and the California ground squirrel (Spermophilus beecheyi).

While the project site may provide habitat for the species identified above, only American crow (Corvus brachyrhynchos), great egret, and great blue heron were present during a reconnaissance of the site. According to the biological report, no federal or state listed, proposed listed, or candidate plant or wildlife species were noted during the reconnaissance-level field survey. However, there are several individuals of southern tarplant, which is included on the California Native Plant Society (CNPS) List 1B, along the northern edge of the east cell of the wetlands. List 1B plants are those which have been identified by CNPS as "rare and endangered".

#### 2. Wetland Fill

One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological function. First and foremost, wetlands provide critical habitat, nesting sites, and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway a north-south flight corridor extending from Canada to Mexico used by migratory bird species. In addition, wetlands serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas.

Another critical reason for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of coastal wetlands have been lost.

The proposed wetlands restoration project includes placing 30.52 square feet of rip rap around the ends of the proposed replacement pipes and grading around the old building foundation in areas documented to be wetlands. The placement of rip rap is fill as defined by Section 30108.2 of the Coastal Act. In addition, the proposed grading which will involve the removal of soil would be

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considered dredging. Section 30233 of the Coastal Act only allows the dredging or filling of coastal waters or wetlands for eight specified uses and only where feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30233(a) of the Coastal Act states:

(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) 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 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.

In this case, the proposed dredging and fill would be for the purpose of restoring wetland habitat. These proposed activities are an allowable use pursuant to Section 30233(a)(7) of the Coastal Act.

Section 30233 of the Coastal Act also requires that the proposed fill and dredging be the least environmentally damaging feasible alternative including the use of feasible mitigation measures to reduce adverse environmental effects. The applicant has proposed measures to ensure that the proposed project is the least environmentally damaging feasible alternative and has included

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mitigation measures to avoid adverse effects on the marine environment.

Three alternatives to the proposed fill of wetlands were considered. The first alternative would be to replace the pipes without using rip rap at the ends of the pipes for erosion control. Under this alternative, no fill of wetlands would occur. However, without the rip rap the area around the ends of the pipes would erode. This erosion would cause increased sedimentation within the wetlands, reducing water quality within the wetlands and the overall quality of the wetland habitat. This sedimentation impact would effect the entire wetland (1.72 acres), while the fill from use of rip rap would only effect 30.52 square feet of wetlands. Since the proposed project would minimize or avoid the impact from erosion and have less impact on wetlands than the alternative, the first alternative was rejected.

The second alternative would be to reduce the overall length of the replacement pipes in order that the pipe ends and needed rip rap would be located outside of the wetland boundary. Implementation of this alternative would not be feasible for the pipe located between the East Cell and West Cell because the existing and proposed pipe would pass under a roadway used to access the interpretive center and parking lot. The existing and proposed pipe are as short as feasible in order to pass completely under the road. In addition, reducing the length of the pipe between the East Cell and the Bolsa Chica Channel wouldn't reduce impacts upon wetland because wetland habitat completely surrounds the existing and proposed pipe alignment. There is no pipe configuration or alternative which would avoid wetlands impacts at this location.

The third alternative would be the "no action" alternative. Under this alternative the existing pipes which connect the East and West Cell wetlands to the Bolsa Chica Channel would not be replaced. If the pipes were not replaced they would continue to corrode and collapse, further restricting and ultimately cutting off tidal circulation within the East and West Cell wetlands. Implementation of this alternative would have more impact upon wetlands than the proposed project.

The proposed project would have 30.52 square feet of fill impact due to the placement of rip rap for erosion control. The applicant has minimized the amount of rip rap necessary to provide erosion control at each pipe end. The proposed design would minimize the amount of fill and avoid sedimentation impacts upon the wetlands. Therefore, the proposed project is the least environmentally damaging feasible alternative. In addition, the proposed project would restore 5,358 square feet of wetlands. A portion, 3,160.8 square feet, would be mitigation for impacts to soft bottom wetland habitat caused by bulkhead reinforcement projects at Trinidad and Humboldt Islands. Some of the remaining 2,197.2 square feet of wetlands would provide feasible mitigation for the 30.52 square feet of fill caused by this restoration project. Using the 2:1 mitigation ratio established for the bulkhead repair projects, the required mitigation for the impact of 30.52 square feet of wetlands would be approximately 61 square feet of wetland restoration. The proposed project would include 61 square feet of wetland mitigation for the 30.52 square feet of wetland mitigation for the 30.52 square feet of wetland mitigation for the 30.52 square feet of wetland mitigation. The proposed project would be approximately 61 square feet of wetland restoration. The proposed project would include 61 square feet of wetland mitigation for the 30.52 square feet of wetland mitigation. The proposed project would include 61 square feet of wetland mitigation for the 30.52 square feet of wetland impact. Therefore, the proposed project provides feasible mitigation measures.

3. Other Impacts

Section 30230 of the Coastal Act requires that marine resources shall be maintained, enhanced, and where feasible, restored. Section 30230 of the Coastal Act states:

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 30230 of the Coastal Act requires that marine resources be protected and that the use of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters. The proposed deposition of material above and below the mean high tide line may impact marine resources. Therefore, mitigation measures are necessary to protect the biological productivity of coastal waters.

In addition, Section 30240 of the Coastal Act requires avoidance of impacts to environmentally sensitive habitat areas. Section 30240 of the Coastal Act states:

(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.

Section 30107.5 defines environmentally sensitive habitat area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Due to their rarity and special role within coastal ecosystems, wetlands can be considered environmentally sensitive areas. Accordingly, any development within wetlands, including wetlands restoration, must be carried out in a manner which would a) protect the area against any significant disruption of habitat values, b) be a use dependent on the resource within the area, c) be sited and designed to prevent impacts that would significantly degrade those areas, and d) be a use that is compatible with the continuance of the habitat. In this case, the wetland restoration project would have a direct wetland fill impact and would result in grading/dredging within existing wetlands. As noted above, the dredging and fill is allowable under Section 30233(a)(7) of the Coastal Act. In addition, the dredging impact would occur to lower the ground surface elevation within the wetland in order to allow more continuous inundation by tidal flows. Meanwhile, the fill impact would occur as a part of the installation of the new pipes which would improve tidal circulation and the function of the wetland habitat. Accordingly, the dredging and fill would occur to significantly improve, rather than degrade, the wetland habitat. Thus, requirements "a" and "c" outlined above are satisfied. Also, the proposed project would occur within degraded and former wetland habitat area. Restoration of degraded or former wetland increases the chance of success compared with the creation of wetlands from upland areas which have never been wetlands. Therefore, the restoration project is a use that is dependent upon the presence of the degraded or former wetland habitat that exists in the project area. Accordingly, requirement "b" of Section 30240 of the Coastal Act is satisfied. Finally, item "d' above is satisfied because the proposed project would maintain and improve tidal flushing of the area which will contribute to the continuance of the habitat. Therefore, the wetland dredging and fill would be consistent with Section 30240 of the Coastal Act.

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Other impacts to wetland habitat and species are possible. For instance, the proposed project will require the use of construction equipment and will require staging areas to place construction materials and equipment. If these construction corridors and staging areas are not carefully located, impacts upon sensitive species such as the Southern tarplant and sensitive wetland impacts could occur. In addition, construction activity could disturb foraging and nesting activities of sensitive bird species such as the California least tern and western snowy plover. Suitable habitat for these sensitive birds species exist at the project site, however, no individuals were found in the immediate project area during reconnaissance surveys of the site by the applicant.

The applicant is proposing measures to avoid these impacts. In order to avoid construction corridor and staging impacts, the applicant is proposing to only stage construction equipment on asphalt areas of Pacific Coast Highway, Warner Avenue, and the access road for the interpretive center. The applicant is also proposing to have a qualified biologist present during construction to monitor construction activity and to provide recommendations regarding avoidance of impacts to sensitive species and habitats. The applicant is also proposing to avoid construction during the nesting and breeding season of the least tern and snowy plover. Finally, since some grading of the area around the old foundation may have impacts upon existing native vegetation, the applicant is proposing to salvage and replant this vegetation as part of the restoration. The Commission finds that these proposed measures are necessary to ensure the consistency of the proposed project with Section 30230 and 30240 of the Coastal Act. Therefore, the Commission imposes Special Condition 2 and Special Condition 4.

The applicant has designed the proposed development to minimize impacts upon wetlands and sensitive habitat and species in the project area. The proposed design is depicted upon plans submitted by the applicant. In order to assure that the project is constructed as proposed and that any changes receive review and approval by the Executive Director and/or the Commission, as necessary, the Commission imposes Special Condition 1. Special Condition 1 requires the applicant to conform with plans submitted and to report any changes to the plans to the Executive Director. Any changes to the plans may require an amendment or new permit unless the Executive Director determines that no amendment or new permit is required.

The proposed project involves the removal of building debris and non-native and dead vegetation. The applicant has not identified a debris disposal site. This debris must be disposed in a location which will not have any adverse impact upon coastal resources. In order to assure that debris generated by the project is property disposed, the Commission imposes Special Condition 3.

The proposed project is mitigation for impacts to wetlands caused by bulkhead reinforcements at Trinidad and Humboldt Islands in Huntington Harbor. In order to assure that the proposed mitigation is undertaken in accordance with the applicant's proposal, the Commission imposes Special Condition 6. Special Condition 6 requires the applicant to carry out the mitigation prior to or concurrent with the commencement of any development authorized under coastal development permits 5-98-179, 5-98-201, 5-98-443, 5-98-444, 5-99-031, 5-99-032, 5-99-108, 5-99-473, 5-00-389, or 5-00-390. Special Condition 6 also requires the applicant to carry out the proposed mitigation in accordance with the mitigation plan and supporting technical documentation. Special Condition 6 also outlines monitoring and reporting requirements and requires the applicant to monitor the proposed mitigation for at least 5 years and to provide monitoring reports to the Executive Director each year during the monitoring period. At the end of the monitoring period, Special Condition 6 requires the applicant to submit a final comprehensive report accompanied by written evidence of review and comment by the California Department of

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Fish and Game (CDFG). Written comments from CDFG should address whether the mitigation has been successful. If, at the end of the five-year monitoring period the mitigation program is wholly or partially unsuccessful, Special Condition 6 requires the applicant to submit a follow-up mitigation program in order to correct deficiencies of the mitigation program or to provide an alternative mitigation program. Implementation of a follow up program requires an amendment to this permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required. Finally, Special Condition requires that any changes to the approved mitigation plan, including but not limited to changes to the monitoring program to ensure success of the mitigation site, requires an amendment to this permit from the Coastal Commission or concurrence from the Executive Director that the changes do not require a permit amendment.

As conditioned, the Commission finds the proposed project consistent with Sections 30230 and 30240 of the Coastal Act.

4. Mitigation Bank

The proposed project would result in the restoration of 5,358 square feet of wetland habitat. The applicant is proposing the subject wetlands restoration project as mitigation for impacts to wetlands caused by bulkhead repair projects in Huntington Harbour. In addition, the wetlands restoration project itself causes an impact to wetlands which must be mitigated. In total, the Commission is requiring the restoration of 3,221.8 square feet of wetlands for 1,610.9 square feet of wetland impact. Therefore, there would be some restored wetland habitat (2,136 square feet) that is not yet dedicated as mitigation for an impact. The applicant is proposing to reserve this "excess" mitigation as a bank for future wetland impacts caused by bulkhead repairs in Huntington Harbour.

The Commission anticipates the submittal of more applications for bulkhead repairs in Huntington Harbour which may have wetland impacts. The wetland losses at individual sites are typically low. For instance, based on those applications which the Commission has approved to date, wetland impacts range from as little as 3 square feet up to 120 square feet of impact per residential lot. Due to the small impact quantities involved, it may not be practical, feasible or biologically prudent to undertake separate individual wetland restoration projects for the impacts associated with each individual lot. In this case, the likelihood of a successful restoration increases if the wetland mitigation requirements are undertaken together, as proposed, as a single larger wetland restoration project. Also, given that additional bulkhead repair projects are anticipated which may result in wetland impacts, it is prudent to maximize the quantity of habitat restored so that such habitat may be used to offset future impacts. The creation of "excess" mitigation habitat prior to commencement of an impact would also be beneficial as it would reduce or avoid the temporary loss of habitat that could occur between the time that the impact occurs and the time that the mitigation habitat is functional. In addition, since construction of the mitigation project itself has the potential to disturb adjacent habitat areas, it is preferable to minimize the number of construction events necessary to create the mitigation by consolidating construction into a single event, as proposed.

In reviewing the bulkhead repair applications and the subject wetland mitigation application, the Commission has determined that the proposed project provides rational and proportional mitigation for the wetland impacts to occur as a result of the bulkhead repairs which have already been approved. However, the Commission must clearly establish that the proposed mitigation is only intended to mitigate for impacts upon wetlands caused by the types of bulkhead repair projects which were previously reviewed. The "excess" mitigation may not be used to mitigate some other wetland impact for which it was not originally intended without subsequent Commission review.

The suitability of use of the "excess" mitigation area as mitigation for any future wetland impacts must be determined on a case by case basis in accordance with any coastal development permit that is issued for as-yet-to-be identified future impacts. In order to clarify that the proposed mitigation can only be used as outlined above, the Commission imposes Special Condition 8 which identifies the purpose of the proposed mitigation.

Also, as noted above, the Commission will determine on a case by case basis whether any portion of the "excess" mitigation area provides rational and proportional mitigation for any future wetland impacts that may be identified. The presence of an existing mitigation area does not suggest that the Commission is pre-disposed to authorize future wetland impacts. The consistency of such impacts with applicable Chapter 3 Coastal Act policies shall be determined at the time the Commission reviews and takes action on any future applications. In order to clarify this fact, the Commission imposes Special Condition 9 which states that the approval of Coastal Development Permit 5-01-020 and the presence of available mitigation does not pre-dispose the Commission to authorizing future wetland impacts.

Furthermore, during the case by case analysis of future wetland impacts associated with bulkhead repairs, the Commission will determine the appropriate mitigation ratio. The fact that the Commission has required a 2:1 mitigation to impact ratio for previous bulkhead repair projects does not imply that future wetland impact requirements will be the same. Factors specific to each individual case will be used to determine the appropriate ratio. To clarify this fact, the Commission imposes Special Condition 11.

Finally, in order to track the use and availability of any excess mitigation area to mitigate future impacts, the Commission must establish an accounting mechanism. Therefore, the Commission imposes Special Condition 10, which requires the Executive Director to maintain a record of the quantity of the 5,358 square feet of mitigation that is already dedicated as mitigation for an impact and the quantity that is available to be used as mitigation for impacts to wetlands caused by future bulkhead repair projects in Huntington Harbor. The account ledger to be maintained in the file shall be updated by the Executive Director, as needed, to reflect the quantity of wetland area which is available to be used as mitigation for updates.

Special Condition 10 also authorizes the applicant to submit written requests, subject to the review and approval of the Executive Director, to dedicate any previously uncommitted restored wetland as mitigation for wetland fill impacts caused by bulkhead repair project(s) in Huntington Harbor. The Executive Director shall review such requests and determine whether the request is consistent with the mitigation requirements established by the coastal development permit which authorizes the bulkhead repair and wetland impact. If the request is consistent with the coastal development permit granted by the Commission, the Executive Director may authorize use of the 'credit(s)'.

Also, Tetra Tech, Inc. is funding and managing the construction of the wetland mitigation. It would be inappropriate to grant use of any 'credit' to any person or entity which has not contributed a proportionately fair share of the cost of undertaking the restoration. As with any applicant, Tetra Tech, Inc. is responsible for managing the cost of the project and collecting funds from any entity wishing to benefit from construction of the project (i.e. use part of the wetland mitigation project as mitigation for wetland impacts caused by their project). The term 'applicant' used in Special Condition 10 could be construed as applying to Tetra Tech, Inc. or more broadly as applying to any other applicant for a coastal development permit. It would not be appropriate for the Executive Director to accept a letter requesting to utilize a credit from any entity which has not participated in the cost of undertaking the restoration. Therefore, in this case, the term 'applicant' as it is used in

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Special Condition 10 of Coastal Development Permit 5-01-020, is limited to Tetra Tech, Inc., Tetra Tech, Inc.'s authorized designee, and/or any entity to which Coastal Development Permit 5-01-020 is assigned in accordance with the procedures outlined in Section 13170 of the California Code of Regulations.

As conditioned, the Commission finds the development consistent with Sections 30230, 30233 and 30240 of the Coastal Act.

## C. Water Quality

Section 30231 of the Coastal Act states:

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 development will occur within and adjacent to coastal waters. Construction will require the use of heavy machinery and require the stockpiling of construction materials. Construction phase impacts include improper storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or in a manner which allows such materials to be discharged into wetlands and coastal waters via rain or runoff. These actions would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering wetlands or coastal waters may cover and displace soft bottom habitat. Sediment discharged to wetlands or coastal waters may cause turbidity which can shade and reduce the productivity of marine vegetation and foraging avian and marine species' ability to see food in the water column.

In order to protect the marine environment from degradation, Special Condition 2 requires that construction materials, debris, or waste be placed or stored where it will not enter storm drains or be subject to tidal erosion and dispersion; removal of debris within 24 hours of completion of construction; implementation of Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed such that construction debris and sediment are properly contained and secured on site and to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Therefore, as the conditioned, the Commission finds the proposed development is consistent with Section 30231 of the Coastal Act.

## D. Public Access

Section 30210 of the Coastal Act requires that maximum public access and recreation opportunities be provided. Section 30210 states as follows:

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 of the Coastal Act states, in relevant part:

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

(2) adequate access exists nearby.

The subject site is located within the Bolsa Chica Ecological Reserve. The reserve is a popular passive recreation area due to the availability of trails and wildlife viewing opportunities. The development will involve staging and use of equipment on the roadway and parking lot used to access the interpretive center and the reserve. In addition, the proposed development will require the staging of equipment on Pacific Coast Highway and Warner Avenue, which are major coastal access thoroughfares. These elements would result in adverse impacts upon public access to the coast and to the ecological reserve. However, upon completion of the project, existing access would be restored to pre-project conditions. Furthermore, the enhancement of the wetland in the project area would allow greater wildlife viewing opportunities. Also, the close proximity of the wetland restoration to the interpretive center, which is often visited by schools and other educational groups, will provide excellent educational benefits.

The heaviest public access use period occurs between Memorial Day and Labor Day weekends (i.e. between late May and early September). Accordingly, access impacts would be minimized by implementing the project outside the heaviest use period. Therefore, the Commission imposes 'Special Condition 5 which prohibits construction between Memorial Day and Labor Day inclusive. As conditioned, the Commission finds that no public access is necessary with the proposed development and that the proposed project is consistent with section 30212 of the Coastal Act.

## E. Legal Ability to Undertake Development

Section 30601.5 of the Coastal Act requires states in part,

...prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

The proposed project would occur in the Bolsa Chica Ecological Reserve. The reserve is owned by the California State Lands Commission whom leases the site to the California Department of Fish and Game. The CSLC has reviewed the project and stated that no additional authorization is required from CSLC and any further approvals must come from the CDFG (Exhibit 5). Meanwhile, the California Department of Fish and Game has approved the proposed mitigation. However, CDFG has not yet formally granted access to the site to the applicant. In order to assure compliance with Section 30601.5 of the Coastal Act, the Commission imposes Special Condition 7 which requires the applicant to submit evidence that they have been granted access to the site and have the legal ability to undertake the mitigation at the subject site.

As conditioned the Commission finds the proposed project is consistent with Section 30601.5 of the Coastal Act.

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## F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the permitted development will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter Three policies of the Coastal Act.

The proposed project is within the Bolsa Chica area, an unincorporated portion of Orange County that does not have a certified local coastal program. Though the Commission approved the Bolsa Chica Local Coastal Program in November 2000; the County of Orange, on May 8, 2001, voted to decline accepting the Commission's suggested modifications. Furthermore, the Commission's certification lapsed on May 16, 2001, pursuant to Section 13537 of the California Code of Regulations. Consequently the Bolsa Chica Local Coastal Program is not certified.

Since the County of Orange does not have a certified Local Coastal Program, the Commission has authority to issue the coastal development permit for all of the proposed project. The standard of review are the Chapter 3 policies of the Coastal Act. The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the County of Orange to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

## G. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an open space area which contains sensitive habitat and species. The proposed project would improve wildlife habitat. In addition, the proposed development has been conditioned to assure the proposed project is consistent with the resource protection policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. The conditions are: 1) compliance with plans submitted by the applicant; 2) conformance with specific construction responsibilities to avoid impacts upon wetland habitat and water quality; 3) identification of a debris disposal site; 4) conformance with construction timing requirements designed to protect the California least tern and Western snowy plover; 5) conformance with construction timing requirements to protect public access; 6) conformance with the proposed soft bottom mitigation plan; 7) a requirement the applicant demonstrates their legal ability to carry out the proposed project and all conditions of approval; 8) notification which specifies the purpose of the proposed mitigation project; 9) notification that the presence of mitigation credits does not imply pre-authorization for future wetland impacts in the coastal zone; 10) establishment of a mitigation credit record keeping system; and 11) notification that future wetland mitigation ratios will be determined on a case by case basis. There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of CEQA.

#### Appendix A Substantive File Documents Page 21 of 21

#### **Biological Surveys and Mitigation Plans**

- Soft Bottom Mitigation Plan, Humboldt Island and Trinidad Island Bulkhead Repair Project, Huntington Beach, California dated April 2000 prepared by Tetra Tech, Inc. of Pasadena, California
- Wetlands Delineation for the Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001
- Biological Assessment for the Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve by Tetra Tech, Inc. of Pasadena, California dated August 24, 2001
- Tidal Analysis for Soft Bottom Mitigation Plan Wetland Improvement Project in Bolsa Chica Ecological Reserve dated June 2001 by Tetra Tech, Inc. of Pasadena, California

#### Local Government Approvals

 Negative Declaration No. 00-05 for the Humboldt Island and Trinidad Island Seawall (Bulkhead) Repairs prepared by the City of Huntington Beach and Tetra Tech, Inc. of Pasadena, California

#### California Department of Fish and Game Letters and Approvals

- Memorandum from California Department of Fish and Game to the California Coastal Commission titled Humboldt Island Homeowners Association Bulkhead Repair dated July 6, 1999
- Letter from California Department of Fish and Game to City of Huntington Beach dated August 31, 2000 approving the Soft Bottom Mitigation Plan and Eelgrass Mitigation and Eelgrass Transplant Report cited above
- Memorandum from the California Department of Fish and Game to the California Coastal Commission titled Coastal permit application 5-01-020 concerning implementation of the soft-bottom mitigation for bulkhead repairs at Humboldt and Trinidad Islands dated July 18, 2001.

#### Other Agency Approvals and Correspondence

- Letter from the California State Lands Commission to Tetra Tech, Inc. dated May 23, 2000, titled Soft Bottom Mitigation Plan for Humboldt Island and Trinidad Island Bulkhead Repair Projects, Huntington Harbor, Orange County.
- Letter from the California State Lands Commission to Tetra Tech, Inc. dated March 28, 2001, titled Soft Bottom Mitigation Project Land Ownership Determination, Bolsa Chica, Orange County.
- Letter from the National Marine Fisheries Service to Tetra Tech, Inc. dated May 8, 2000, approving the Soft Bottom Mitigation Plan cited above.

#### **Coastal Development Permits**

- Emergency Coastal Development Permit 5-00-403-G
- Humboldt Island Bulkhead Reinforcements: 5-97-223 (Shea/Albert);5-98-179 (Kompaniez), 5-98-201 (Anderson), 5-98-443 (Whyte), 5-98-444 (Barrad), 5-99-005 (Dea), 5-99-006 (Fernbach & Holland), 5-99-007 (Aranda et al.), 5-99-008 (Yacoel et. al.), 5-99-030 (Johnson), 5-99-031 (Lady, Jr./Zlatko/Woods), 5-99-032 (Yacoel et al), 5-99-108 (Pineda), 5-98-471 (Maginot), 5-99-472 (Bjork), 5-99-473 (Gelbard)
- Trinidad Island: 5-00-389 (Ashby et. al.); 5-00-390 (Burggraf et. al.); 5-00-401 (Baghdassarian et. al.); 5-00-402 (Buettner et. al.)



















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DEPARTMENT OF FISH AND GAME Marine Region 4949 Viewridge Avenue San Diego, CA 92123 (858) 467-4231

> Ms. Sarah McFadden **Environmental Scientist**

Dear Ms. McFadden:

670 North Rosemead Blvd.

Pasadena, California 91107

Tetra Tech, Inc.

Post-It <sup>a</sup> Fax Note	7671	Date	5	23	pages	2
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JAN 1 8 2001

May 16, 2000

#### CALIFORNIA COASTAL COMMISSION

Department of Fish and Game (Department) personnel have reviewed the Soft Bottom Mitigation Plan for the Humboldt Island and Trinidad Island Bulkhead Repair Project, Huntington Beach, California, prepared by Tetra Tech, Inc.. The proposed miligation plan has been developed to offset the unavoidable loss of 1,584 square feet of soft-bottom marine habitat from bulkhead repair projects at 39 residences in Huntington Harbor.

The mitigation plan is designed to restore and create tidal influence to existing wetland areas located in the Bolsa Chica Ecological Reserve, managed by the Department, in an area bordered by Pacific Coast Highway and Warner Avenue. The mitigation site is 0.5- to 1.2miles southwest of the bulkhead projects. There are several elements of the mitigation plan. First, Tetra Tech will replace a corroded 12-inch conduit (the conduit connects the channel to a wetland area) with an 18-Inch conduit, install rip-rap to protect it, and restore the eroded embankment to previous dimensions. The enlarged, restored conduit will inundate the adjacent wetland. Second, approximately 60 to 90 cubic yards of concrete and associated debris will be removed (offsite) from an area west of the condult and the area will be regraded to match elemations of the functioning wetland to the north. Pickleweed plants within the project area will be salvaged and transplanted when possible and any impacted pickleweed will be replaced with either adjacent pickleweed or with pickleweed purchased from a nursery.

Mitigation tasks will consist of: 1) obtaining required permits for the proposed work; 2) completing a contract with the Department to work on State managed land; 3) conducting the mitigation project; 4) conducting monitoring surveys to evaluate success; and 5) conducting remedial work if the project does not meet success criteria. The Department will be notified prior to any on-site work. Field survey reports will be submitted to the Department and other relevant agencies within 30 days of the surveys.

The Department believes that the proposed mitigation plan will adequately offset impacts to soft-bottom marine habitat from the bulkhead repair projects. If you have any questions please call either myself at (858) 467-4231, or Mr. Erick Burres, Associate Wildlife Biologist, Bolsa Chica Ecological Reserve Manager, at (714) 377-0684.

Sincerely. Manbyr J Huharty

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Marilyn J. Fluharty California Coastal Commission Environmental Specialist South Coast District Office Marine Region

APPROVED Permit No	
By:	
EFFECTIVE	
Date:	

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#### Page, 1 of 2

GRAY DAVIS, Governor

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STATE OF CALIFORNIA-THE RESOURCES AGE

DEPARTMENT OF FISH AND GAME MARINE REGION 411 BURGESS DRIVE MENLO PARK, CA 94025 (650) 688-6340

August 31, 2000

(here)

5-01-020

EXHIBIT #\_\_\_\_4

PAGE 2

GRAY DAVIS, Governor



## REGEIVED

SEP 0 5 2000

Department of Planning

Ms. Mary Beth Broeren Senior Planner City of Huntington Beach 2000 Main Street Huntington Beach, California 92648

Dear Ms. Broeren:

Department of Fish and Game (Department) personnel have reviewed the Draft Negative Declaration/ Environmental Assessment No. 00-05 for the Humboldt Island and Trinidad Island Seawall Repairs (No. 00-05). The proposed project will repair and renovate existing bulkheads at 40 properties on Humboldt Island and 64 properties on Trinidad Island, Huntington Harbor, Huntington Beach, Orange County, California. It is anticipated that 24 properties will require removal and/or repair of damaged piles. At 44 properties, vinyl sheet-pile will be installed 1-foot, 7-inches seaward of the bulkheads. At all properties, a protective rip-rap footing comprised of quarry waste material, ranging from sand to 8-inch fragments, will be placed at the bulkheads. The footing will extend a maximum of 11 feet from the bulkheads. Sheet-pile installation will eliminate soft bottom habitat while slope protection will impact eelgrass (*Zostera marina*) habitat.

Tetra Tech, Inc., the property owners' authorized agents, have prepared two separate mitigation plans to compensate for loss of soft bottom habitat and impacts to eelgrass. The "Soft Bottom Mitigation Plan," describes procedures to restore and create tidal influence to existing wetland areas located in the Bolsa Chica Ecological Reserve, managed by the Department, in an area bordered by Pacific Coast Highway and Warner Avenue, approximately 0.5- to 1.2-miles southwest of the bulkhead projects. The "Eelgrass Mitigation and Eelgrass Transplant Report," describes procedures for eelgrass transplant at a site delineated for eelgrass mitigation by Orange County, approximately 1 mile northwest of the impact area. Tetra Tech, Inc., transplanted 3,600 square feet of eelgrass in June 2000.

The Department has reviewed the mitigation plans and finds them adequate compensation for project induced losses. Thus, we conclude that the project, as currently proposed, would not have a significant adverse impact upon the existing marine environment provided the described mitigation plans are carried set in friend MMISSION

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As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion, please contact Ms. Marilyn Fluharty, Environmental Specialist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (858) 467-4231.

Sincerely,

Robert N. Tasto, Supervisor Project Review and Water Quality Program Marine Region

Ms. Marilyn Fluharty Department of Fish and Game San Diego, CA



State of California

#### Memorandum

 To : Mr. Karl Schwing California Coastal Commission 200 Oceangate Ave., Suite 1000 Long Beach, California 90802

JUL 2 3 2001 STAL COMMISSION

Date: July 18, 2001

#### From : Department of Fish and Game

subject: Coastal permit Application 5-01-020 concerning implementation of the softbottom mitigation for bulkhead repairs at Humboldt and Trinidad Islands

This memo is in response to a request by Ms. Sarah McFadden, representing Tetra Tech, Inc. (Tetra Tech), concerning your letter dated February 16, 2001. The subject of this memo concerns item number 5. The mitigation program for the loss of soft bottom habitat is to be conducted at the corner of Warner Avenue and Pacific Coast Highway in the Bolsa Chica Ecological Reserve, managed by the Department of Fish and Game (Department). As part of the mitigation program, Tetra Tech is responsible for obtaining any required permits for the proposed work. The Department has notified Tetra Tech that we did not wish to be a co-applicant on the required coastal commission permit for this endeavor. This memo supports that Tetra Tech has fulfilled their obligation to invite the Department to participate as a co-applicant for coastal permit no. 5-01-020.

If you have any further questions please call me at telephone (858) 467-4231.

Sincerely,

· Marin Flucharty

Marilyn J. Fluharty Environmental Specialist Marine Region

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cc: Ms. Sarah McFadden

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FAX NO. 916 574 1925

GRAY DAVIS. Governor

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CALIFORNIA STATE LANDS COMMISSION

Sacramento, CA 95825-8202

100 Howe Avenue, Suite 100-South

STATE OF CALIFORNIA

PAUL D. THAYER, Executive Officer (916) 574-1800 FAX (916) 574-1810 Reactive Feel service from TDD Phone 1-800-735-2922 Outh Coast Region JAN 1 8 200 Contact Phone: (916) 574-1892 CALIFCRNIA COASTAL COMMISSION

May 23, 2000

File Ref: PRC 4734

Sarah E. McFadden Totra Tech, Inc. 670 North Rosemead Blvd. Pasadena, CA 91107

Dear Ms. McFadden:

SUBJECT: Soft Bottom Mitigation Plan for Humboldt Island and Trinidad Island Bulkhead Repair Projects, Huntington Harbour, Orange County

Staff of the California State Lands Commission (CSLC) has reviewed the subject plan. The plan was prepared at the request of the State Department of Fish and Game (DFG) to compensate for the loss of soft bottom habitat in Huntington Harbour. As we understand it, the State Department of Fish and Game (DFG) has identified an existing wetland area adjacent to the southeast corner of Pacific Coast Highway and Warner Avenue within the Bolsa Chica Ecological Reserve as a proposed mitigation site. As you are aware, we are processing numerous applications for those bulkhead repair projects that will involve sovereign lands under the jurisdiction of the CSLC.

The proposed mitigation project will involve conduit restoration to create a tidal influence in the existing and proposed wetland area, concrete debris removal, and regrading of the mitigation area to elevations matching the functioning wetland area immediately to the north. The mitigation site is within the area leased by the CSLC to DFG for management of the ecological reserve. Therefore, no further authorization from the CSLC is required. We would, however, appreciate receiving copies of the field survey reports when they become available.

Sincerely,

Jare E. meth

Jane E. Smith Public Land Management Specialist Southem California Region





STATE OF CALIFORNIA

#### GRAY DAVIS, Governor

CALIFORNIA STATE LANDS COMMISSION 100 Howe Avenue, Suite 100-South Sacramento, CA 95825-8202





PAUL D. THAYER, Executive Officer (916) 574-1800 FAX (916) 574-1810 California Relay Service From TDD Phone 1-800-735-2922 from Voice Phone 1-800-735-2929

> Contact Phone: (916) 574-1892 Contact FAX: (916) 574-1925

CALING HERA COASTAL COMMISSION

March 28, 2001

File Ref: PRC 4733

Ms. Sarah McFadden Tetra Tech, Inc. 670 North Rosemead Blvd. Pasadena, CA 91107

Dear Ms. McFadden:

SUBJECT: Soft Bottom Mitigation Project Land Ownership Determination, Bolsa Chica, Orange County

This is in response to your request for a determination of ownership over two parcels located at the corner of Warner Avenue and Pacific Coast Highway. Those parcels are more specifically identified as APNs 110-017-01 (5.87± acres) and 110-017-02 (0.25 acres). The parcels are the subject of a wetland restoration project required and approved by the Department of Fish and Game (DFG), to mitigate for soft bottom impacts from various bulkhead repair projects in Huntington Harbour.

Based on our review, it appears that the parcels are in fact owned by the State of California, pursuant to the following:

- A deed between the Bolsa Land Company and the Los Angeles Inter-Urban Railway Company was recorded on September 10, 1904, in Book 108, Pages 200-201, Orange County Records. That deed included a statement that in the event the land was no longer used for railroad purposes, the title reverted to Bolsa Land Company, its successors or assigns.
- A Boundary Settlement and Land Exchange Agreement was entered into between the State of California and Gulf Oil Corporation, recorded on June 18, 1973 in Book 10755, pgs. 535, et seq. That agreement provided, in part, that Gulf acquire and convey to the State an approximately 6.11-acre area located between Warner Avenue and Pacific Coast Highway in Bolsa Chica. Quitclaim deeds to the State were recorded by both Gulf Oil and Signal Bolsa Corporation on August 17, 1973, (Book 10855, pgs. 524-529; pgs. 531-537). The California State Lands Commission (CSLC) issued two 66-year leases (PECAS BAIC COMMISSION subject 6.11± acres and PRC 4734 for the remaining 300± acres) 5 - 01 - 020

EXHIBIT # 5 PAGE \_ J OF 3

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effective August 17, 1973, to the DFG for management of the Bolsa Chica Ecological Reserve.

Therefore, it is the position of CSLC staff that the mitigation project will be undertaken on lands owned by the CSLC and leased to the DFG pursuant to Lease PRC 4733. As such, no further authorization from the CSLC is required.

If you have any questions, please feel free to call me at (916) 574-1892.

Sincerely,

ane E

Jane E. Smith Public Land Management Specialist Southern California Region

cc: Karl Schwing, CCC/LB Terri Stewart, DFG Marilyn Fluharty, DFG



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UNITED STATES DEPARTMENT OF COMMERCE National Cosenio and Atmospheric Administration NATIONAL MARINE FISHERIES BERVICE

Southwest Region 501 West Ocean Boulevard, Suite 4200 Long Beach, California 90802-4213

MAY ~ 8 2000

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JAN 1 8 2001

CALIFORNIA COASTAL COMMISSION

Ms. Sarah McFadden Environmental Scientist Tetra Tech, Inc. 670 North Rosemead Blvd. Pasadena, California 91107

Dear Ms. McFadden:

I have reviewed the Soft Bottom Mitigation Plan for Bulkhead Repair Projects in Huntington Harbour. The National Marine Fisheries Service (NMFS) believes the proposed mitigation program is satisfactory provided:

1) Any concrete or other regraded material is removed and disposed of off site.

2) NMFS will be provided copies of the annual mitigation monitoring reports.

Should you have any questions, please contact me at 562-980-4043.

Sincerely,

st J. Hoffman

Robert S. Hoffman Southern California Environmental Coordinator

cc:

CDFG - San Diego (Marilyn Fluharty)







