

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

(619) 767-2370



Mon 11f

RECORD PACKET COPY

Filed: May 23, 2001
 49th Day: July 11, 2001
 180th Day: November 19, 2001
 Staff: EL-SD
 Staff Report: July 18, 2001
 Hearing Date: August 6-10, 2001

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-066

Applicant: City of San Diego, Metropolitan
 Wastewater Department

Agent: Marco Gallegos
 Sonja Olsen

Description: Creation of 1.61 acres of riparian wetland habitat through removal of 12"-18" of sediment in an existing drainage channel and revegetation of the project site with riparian species. Project also includes removal of exotic vegetation and modifications to existing unpaved farm roads.

Zoning AG-1-1
 Plan Designation Agricultural

Site: Within the San Dieguito River Valley, south of Via de la Valle and the San Dieguito River, east of I-5 and west of El Camino Real, North City, San Diego, San Diego County. APNs 299-040-37; 299-040-47

Substantive File Documents: Certified City of San Diego Local Coastal Program; Draft San Dieguito Wetland Restoration Project Final Plan

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval, with conditions, of a proposal to restore a 1.61 acre area in the San Dieguito River Valley to riparian habitat. The project represents mitigation for various wetland impacts resulting from projects outside the coastal zone and is required by said projects' Army Corps of Engineers (ACOE) and California Department of Fish and Game (CDFG) permits. The restoration site is within the overall scope of the future San Dieguito wetland restoration plan, but will precede the larger plan by a few years. Thus, Special Condition #1 provides that the Commission shall receive copies of the monitoring reports required by the ACOE and CDFG, which could generate information beneficial to the larger plan as it moves forward.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-066 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Monitoring Reports. The applicant shall provide to the Executive Director copies of all monitoring reports generated during the required 5-year monitoring program, as required by ACOE Nationwide Permit #NW27 and CDFG Streambed Alteration Agreement #5-526-98.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of San Diego is proposing to create/restore a 1.61 acre site to riparian habitat, as mitigation for various small wetland impacts resulting from municipal projects outside the coastal zone. Those projects were subject to approval from the ACOE and CDFG, and their permits included a mitigation/monitoring requirement. Since the subject proposal is not associated with any coastal development permit, the Commission is reviewing it as an independent restoration project.

The City proposes to remove 12"-18" of accumulated sediments from an existing drainage course in the San Dieguito River Valley. It then proposes to revegetate the area with riparian species; there are currently no riparian plants in this area, although some riparian and freshwater marsh resources exist downstream. The drainage feature is fed by runoff from properties to the east of El Camino Real coming through a storm drain under the road, by runoff from the road itself and by runoff from adjacent agricultural fields, and drains towards the west into the existing cattail marsh. Although there are agricultural fields both north and south of the linear project area, the site itself is not part of the agricultural operation; thus, the proposed project will not convert any existing agricultural lands to other uses.

A number of unpaved private farm roads criss-cross much of the river valley, allowing growers to move from field to field without using the public street system. The proposed project includes the removal of one existing dirt farm road and the reconstruction of another. The private road to be removed runs parallel to El Camino Real, just west of the storm drain opening; this acts somewhat as a barrier to normal stormwater flow and, by detaining water just west of El Camino Real, has resulted in a large clump of exotic vegetation at the storm drain opening. The road and exotics will be removed with the sediments and will thus allow more freshwater inflow to the downstream resources. The second road crosses the center of the mitigation site at existing grade. It will be retained as it may become part of the public trail system in the larger SONGS mitigation project. Thus, the sediments will be removed, including those in the roadbed. Then the road itself will be reconstructed at pre-existing grade and pipes will be installed to allow the free flow of water under the road while keeping the road available for greater public use.

San Diego has a fully-certified LCP and issues its own coastal development permits in most areas. However, the subject site is located within Subarea II of the North City Future Urbanizing Area (NCFUA), where planning is not yet complete. Thus, this is an area of deferred certification where the Commission retains permit authority and Chapter 3 is the standard of review.

2. Environmentally Sensitive Habitats/Biological Resources. According to the applicant's submitted mitigation plan, the proposed restoration project will not result in impacts to wetland or upland habitats, because the work will occur within an existing, unvegetated drainage channel and there are existing agricultural fields to the north and south of the site. However, there is existing riparian and freshwater marsh habitat to the west, where the stormwater runoff tends to pond. The applicable Coastal Act policies are cited below, and state in part:

Section 30231.

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

Section 30240.

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

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

The proposed project raises some concerns under these Coastal Act policies. The project site is in a general area of historic agricultural uses. Although the property as a whole is still leased to growers, it is now owned by the San Dieguito River Park Joint Powers Authority (JPA). It was acquired as one of many park acquisitions, which together will form a linear, mountain to beach, public greenbelt in the future. With respect to Section 30231, project impacts are anticipated to be beneficial. Removal of the upper farm road, associated exotic vegetation and accumulated sediments will allow stormwater to flow more naturally and provide seasonal support for downstream resources.

With respect to Section 30240, the project will expand the amount of riparian habitat in this area; no existing sensitive habitats will be removed. However, the proposal does not include a buffer area separating the newly-restored wetlands from the adjacent agricultural fields. The first 100 feet upland from a wetland is generally reserved as a buffer to provide transitional habitat between the actual wetland and permitted development. Although the size of an individual buffer can vary depending on site-specific circumstances, 100 feet is generally accepted as a minimum. A buffer provides a distance barrier and a percolating medium, and reduces the chance that adverse impacts associated with development (i.e., runoff and siltation associated with fertilizers, pesticides, plowing and related farming activities, in this specific case) will find its way into the wetlands. In addition, buffers provide upland habitat for birds and other species that use the various wetlands throughout the river valley surrounding the lagoon.

In this case, there is concern that agricultural runoff may damage the riparian area or that agricultural crops (mainly tomatoes in this area) may prove invasive. In some instances where space does not allow provision of a 100-foot buffer, other features, such as elevational differences, fencing, etc. may help buffer a sensitive site from nearby activities; however, a spatial separation is always preferable. The applicant is proposing no buffer at all, with the restored wetlands immediately adjacent to current agricultural activities. There is a silt fence shown on some of the project plans; it is proposed as a temporary, erosion-control measure to be employed during construction and for the 5-year monitoring period.

In this particular case, and for the very specific, enumerated reasons below, the Commission is accepting the project, as proposed, with no buffer: 1) This is not a Commission-required mitigation project – it is intended to serve as mitigation for impacts occurring outside the coastal zone. From the Commission's perspective, it is simply a stand-alone restoration. Thus, although the chances of success may be reduced by not providing a buffer, the restoration activities do not themselves cause any adverse impacts, so there is no diminishment of coastal resources; 2) The City will still have to satisfy the conditions of its permits with ACOE and CDFG, which require specific success criteria to be met within a certain timeframe; 3) The current agricultural uses are considered to be interim uses, because the San Dieguito Wetland Restoration Project Final Plan designates all surrounding areas for future restoration as upland habitat, which will adequately buffer the new wetlands; 4) The City makes a reasonable argument that the constant discing of these fields from one agricultural season to another effectively prevents the establishment of the types of invasive exotic vegetation known to plague other wetlands; and 5) The City also voices an expectation, which is shared by the Commission, that the SONGS project will be built before the subject monitoring period ends.

In summary, implementation of the subject proposal will increase the amount and quality of wetland habitat in this portion of the San Dieguito River Valley. The project is conditioned that the Commission receive copies of all monitoring reports, which could be useful in the future review of the larger mitigation project. The Commission's acceptance of this restoration proposal without a buffer should in no way be considered precedential in its review of any projects that impact resources within the coastal zone. Therefore, the Commission finds the proposal, as conditioned, consistent with the cited Chapter 3 policies of the Coastal Act.

3. Water Quality. Section 30231 of the Coastal Act is applicable to the proposed development and was cited in the previous finding. The project site is located within the San Dieguito River Valley, east of I-5 and just west of El Camino Real. The proposed wetland restoration is not anticipated to have any adverse impacts on existing water quality, and should result in improvements over existing conditions. All surfaces will continue to be permeable, and the proposed pipe culverts in the retained dirt farm road should enhance the free flow of water through the site and aid in the establishment of wetland vegetation. The project will improve stormdrain capacity and function by removing accumulated sediments and exotic vegetation, and will more effectively filter

out contaminants by providing additional wetland area. The Commission finds the proposal, as conditioned to address other concerns, consistent with Section 30231 of the Act.

4. Public Access. Many policies of the Coastal Act address the provision, protection and enhancement of public access opportunities, particularly access to and along the shoreline and access to public open space areas. In the subject inland area, the following policies are most applicable, and state, in part:

Section 30210

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

Section 30213

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

There are a number of unimproved road/trails running through the river valley, primarily associated with the historic agricultural uses; two such roads are within the project site. These roads were all on private land at some point, but many of the properties have been acquired by public agencies over the past few years to build a linear park. The subject mitigation site is currently owned by the JPA and is intended for wetland restoration. Plans for the park in this portion of the river valley include conceptual public trails to move from more inland areas to the coast, and to observe the river/lagoon resources. The dirt road being retained in this approval is located such that it can become a component of one observation trail. Public access to this area will not be available until the larger SONGS restoration project is built, both to give the wetland vegetation a chance to grow and because the site is surrounded by ongoing agricultural uses. The Commission finds that the finished project will increase coastal resources and public access, thus providing additional habitat for wildlife and a more enjoyable recreational experience for the public. Therefore, the Commission finds the proposed development, as conditioned to address other concerns, consistent with the cited public access and recreation policies of the Act.

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 subject site is located in an area of the North City portion of the City of San Diego which is undeveloped except for agricultural uses. The San Dieguito River Valley/Lagoon provides open space within an otherwise heavily developed residential area. As seen from the surrounding public roads (I-5, Via de la Valle and El Camino Real), the project will not significantly alter the existing viewshed. The immediate restoration area is already vegetated with some riparian and freshwater species; this area will be expanded with the subject proposal, but the small mitigation site is some distance from any major road, so the changes in the viewshed will be very subtle. The surrounding agricultural fields will continue to operate for the present. However, these areas are identified for potential restoration in the future. Thus, the general "openness" of the area will not change, and the Commission finds that the proposed development is consistent with Section 30251 of the Act.

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

The San Dieguito River Valley is primarily a publicly-owned, open space area, although some private land holdings remain. The valley represents Subarea II of the NCFUA, which is an area of deferred certification. Although the JPA, and more recently Southern California Edison, has prepared a restoration plan for the river valley/lagoon, this has not been submitted to the Coastal Commission for review and approval. However, it is expected that this plan will be a component of the required subarea plans identified in the NCFUA Framework Plan. For now, permit authority rests with the Commission and Chapter 3 of the Coastal Act remains as the legal standard of review. The proposed restoration plan is fully consistent with the JPA's earlier draft land use plan for this area, as well as with the San Dieguito Wetland Restoration Project Final Plan. As discussed in previous findings, the proposal, as conditioned, is also fully consistent with Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, with the attached condition, should not prejudice the ability of the local government to complete a certifiable plan for the area.

7. 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, as conditioned, has been found consistent with the biological and marine resources, water quality, visual resource and public access policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

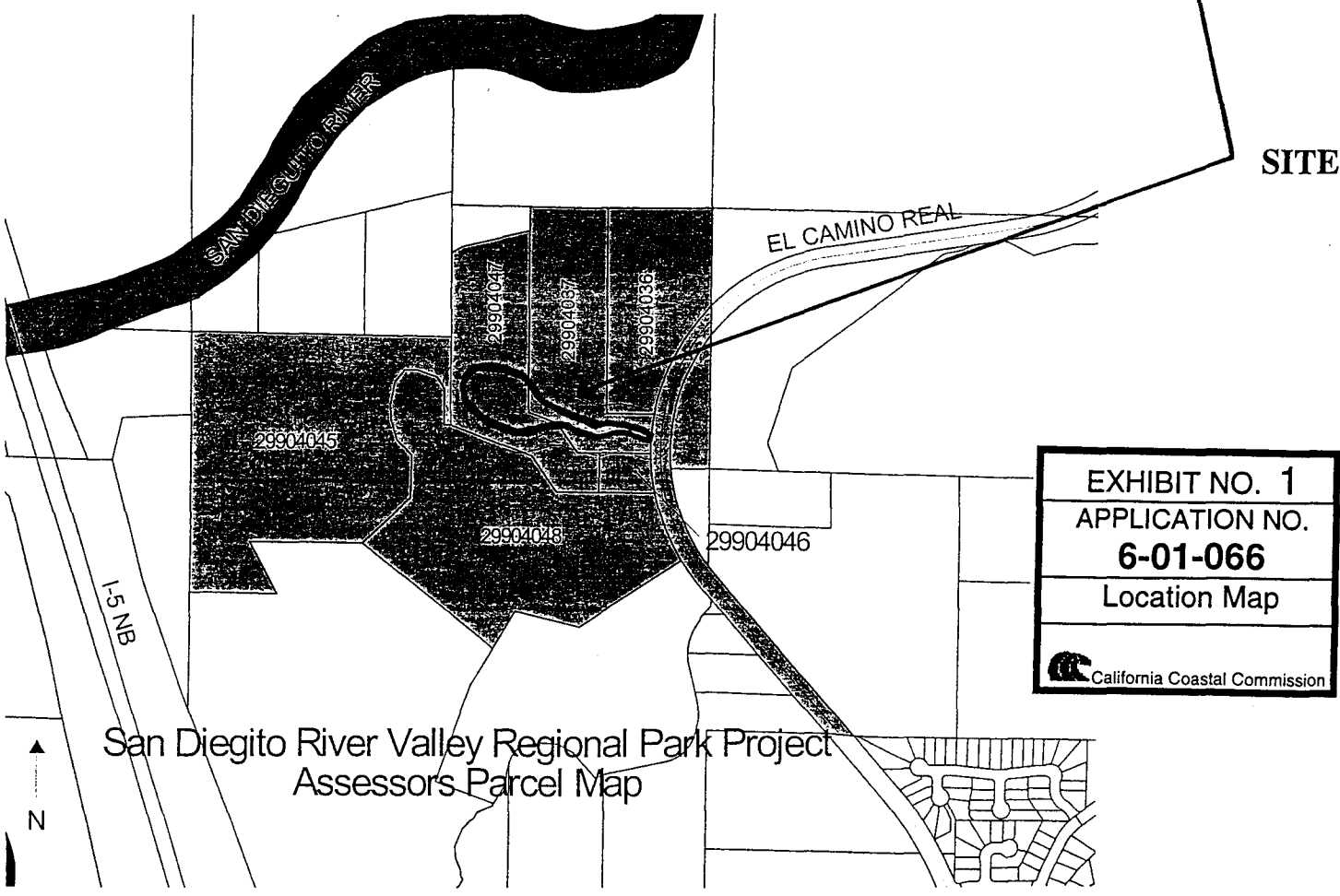
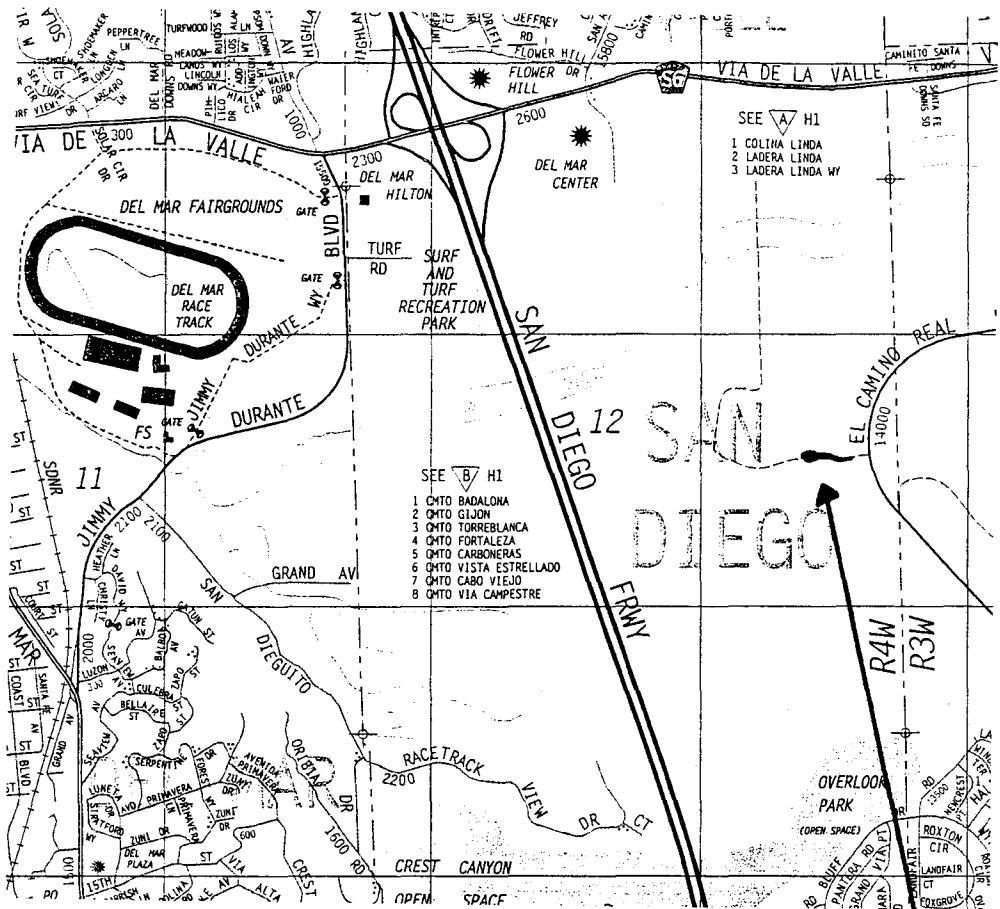


EXHIBIT NO. 1
APPLICATION NO.
6-01-066
Location Map
 California Coastal Commission

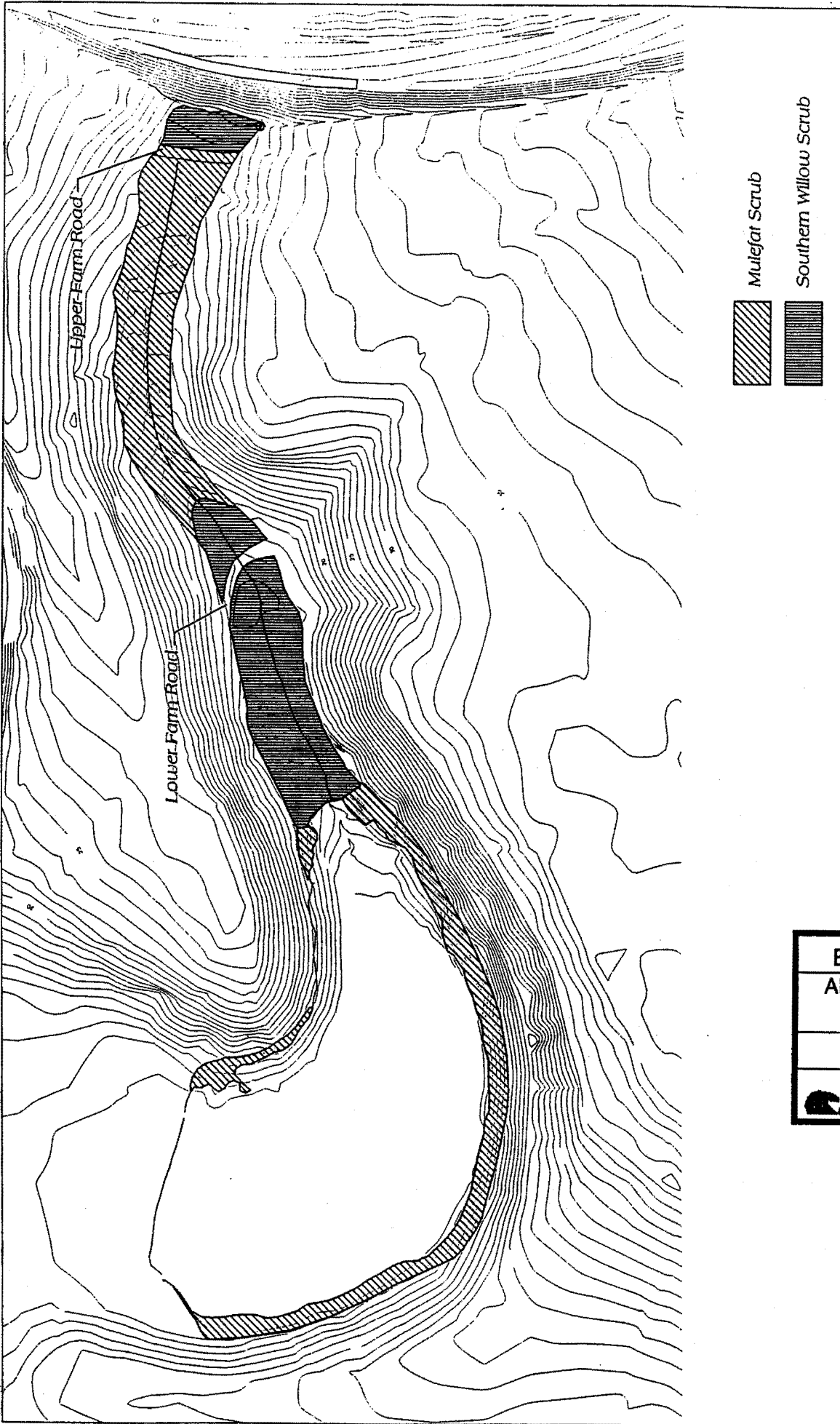


Figure 5
Planting Plan

Mulefat Scrub
Southern Willow Scrub

EXHIBIT NO. 2
APPLICATION NO.
6-01-066
Site Plan
 California Coastal Commission



TIERRA
ENVIRONMENTAL SERVICES