

CALIFORNIA COASTAL COMMISSION

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**Thu 8b**

Filed: October 7, 2002
49th Day: November 25, 2002
180th Day: April 5, 2003
Staff: EL-SD
Staff Report: December 12, 2002
Hearing Date: January 8-10, 2003

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-132

Applicant: City of San Diego,
Public Buildings and Parks

Agent: Nitsuh Aberra

Description: Restoration and enhancement of 1.76 acres of degraded wetlands within the western portion of the San Diego River valley. Activities include the removal of exotics, planting of wetland species and provision of an upland buffer. The project is proposed as mitigation for wetland impacts occurring outside the coastal zone.

Site: Within the Mission Valley Preserve, west of the San Diego Railroad/Coaster Line, and east of the I-5 connector, Mission Valley, San Diego, San Diego County.

Substantive File Documents: Conceptual Wetlands Mitigation Plan for the Old Mission Dam Maintenance Dredging Project, dated July, 2002, by Dudek & Associates, Inc.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval, with conditions, of a proposal to restore and enhance a 1.76 acre area in the San Diego River Valley to freshwater marsh, open water, and riparian habitats. The project represents mitigation for wetland impacts resulting from a project several miles upstream and outside the coastal zone. The mitigation is required by the Army Corps of Engineers (ACOE), California Department of Fish and Game (CDFG), Regional Water Quality Control Board (RWQCB), and the City of San Diego, who each have jurisdiction over portions of the overall project. The restoration site is within the Mission Valley Preserve, and will augment other enhancement and restoration projects undertaken by the City of San Diego over the last several years. No wetland or upland impacts are identified, as the project is designed to avoid what few stands of native vegetation remain within the overall project site. Thus, Special Condition #1 provides

that the Commission shall receive a final, revised plan, with three small modifications, and copies of the monitoring reports; Special Condition #2 requires submittal of copies of all monitoring reports.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-02-132 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. Revised Final Wetlands Mitigation Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final wetlands mitigation plan, that shall be in substantial conformance with the preliminary plan titled *Conceptual Wetlands Mitigation Plan for the Old Mission Dam Maintenance Dredging Project*, dated July, 2002, except for the following modifications:

- a. The plan shall be updated to reflect a current construction schedule.
- b. The exotic nettle *Urtica urens* shall be replaced with *Urtica dioica*, a native variety.
- c. The California Coastal Commission shall be added to the list of agencies to receive copies of all monitoring reports.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required. Copies of all monitoring reports shall be distributed to the Commission's San Diego office concurrently with distribution to other agencies.

2. Other Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of all permits approved by other state and federal resource agencies for the development herein approved. The applicant shall inform the Executive Director of any changes to the wetlands mitigation, required by any state or federal permits. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of San Diego is proposing to restore and enhance 1.76 acres of badly degraded riparian wetlands in the western portion of the San Diego River Valley (Mission Valley Preserve). The City is proposing this restoration/enhancement program as mitigation for significant wetland impacts resulting from repairs and dredging at the Old Mission Dam site, a cultural resource located outside the coastal zone but within the same watershed as the mitigation site. The dam repair and dredging project was subject to approval from the Army Corps of Engineers (ACOE), California Department of Fish and Game (CDFG), Regional Water Quality Control Board (RWQCB) and the City of San Diego. The various permits required a mitigation and monitoring component to address impacts to riparian, freshwater marsh and open water habitat. However, since the subject proposal is not associated with any coastal development permit, the Commission is reviewing it as an independent restoration project.

The chosen mitigation site is located within the Mission Valley Preserve, which runs east-west along the San Diego River corridor. The specific site is south of the river itself, between the existing railroad and I-5 bridges that run north-south and cross over the river and its floodplain and the Pacific Highway bridge which bisects the center of the site.

The floodplain opens up into an estuary a short distance west of the mitigation site, then eventually empties into the Pacific Ocean. At, and east of, the mitigation area, the uplands north and south of the river are developed with a variety of industrial, commercial, residential and municipal uses, but much of the floodplain itself has been restored. An existing 42-inch stormdrain located in the southeastern corner of the site has created a low-flow incised channel which flows west/northwest across the mitigation area until it reaches the river channel. An existing concrete access/maintenance path is located along the southern perimeter of the site from west of the I-5 bridge to Pacific Highway. The applicant proposes to extend this path as a compacted dirt trail across the remainder of the site to the railroad bridge.

The City proposes to remove all non-native vegetation, recontour portions of the site to appropriate elevations for the habitat proposed, and replant the area with native vegetation. An upland buffer of coastal sage scrub will be placed over an existing riprap berm along the southern boundary of the project, and a maintenance/monitoring program, including weed eradication, will be undertaken. The total area within the project site is 2.25 acres of land within the coastal zone and under the Coastal Commission's permit jurisdiction; this includes the 1.76 acres needed to achieve full mitigation for off-site impacts, retention of 0.12 acres of existing native vegetation (mostly freshwater marsh) and 0.37 acres for bridge fire buffers. The proposed total acreage allows the City to work around what little native vegetation remains and still achieve its mitigation needs. Proposed accessory improvements include installation of a public access/maintenance trail and permanent log fencing with signage.

This site has been degraded over many years by human intrusion, primarily in the form of severe soil compaction from trampling associated with a series of homeless encampments. These encampments have also left behind trash and debris, along with domestic and feral animals that, left on their own, prey upon native fauna. The site includes large bare patches of dirt interspersed with dense clusters of non-native species including, among others, palm trees, giant reed, tree tobacco and pampas grass. The constant disturbance and soil compaction have removed any habitat value for larger mammals, reptiles and invertebrates, although a number of avian species make minimal use of the subject site while occupying nearby areas of native vegetation.

San Diego has a fully-certified LCP and issues its own coastal development permits in most areas. However, the subject site is located within the Mission Valley Community Plan area, which is not part of the certified LCP. Thus, this is an area of deferred certification where the Commission retains coastal development permit authority and Chapter 3 of the Coastal Act is the standard of review, with the City's implementing ordinances used as guidance.

2. Environmentally Sensitive Habitats/Biological Resources. According to the applicant's submitted mitigation plan, and due to the badly disturbed nature of the site, the proposed restoration project will not result in any direct impacts to existing wetland or upland habitats. The work will occur entirely within the disturbed areas, and remaining patches of freshwater marsh, and other native vegetation, will be avoided

completely. However, the entire site is historic wetlands, although it no longer functions as such. The most applicable Coastal Act policies are cited below, and state in part:

Section 30231.

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

Section 30233.

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

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

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

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

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 several concerns under these Coastal Act policies. The project site is located in the San Diego River floodplain, and historically consisted of riparian wetlands. With respect to Section 30231, project impacts are anticipated to be beneficial, since the object of the project is to restore the natural regime. Removal of the dense and invasive exotic vegetation, and recontouring the incised channel created below the existing stormdrain, will allow stormwater to spread out and flow more naturally. This will also assure a constant source of water to support the restored wetlands and downstream resources.

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

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

The subject project is a restoration project, one of the allowed uses in wetlands. It will not adversely impact any existing wetland resources, since the site stopped functioning as a wetland decades ago due to intense human disturbances. Rather than filling wetlands, the project will recontour the site to appropriate elevations to support the three types of habitat being created (riparian wetlands, freshwater marsh and open water) with riparian wetlands being the predominant habitat. The proposed low-tech project provides for most work to be done by hand and avoids any existing areas of native vegetation. The Commission's staff ecologist has reviewed the proposed restoration/mitigation plan and recommended replacement of one proposed exotic plant species with another native

plant; this is addressed as part of Special Condition #1. With this one minor change, the proposed project is the least environmentally-damaging method of restoration, and will not adversely impact any existing wetland habitat.

With respect to Section 30240, the project will expand the amount of riparian habitat in this area; although there are existing, functioning wetlands immediately upstream, downstream and on the north; none of these existing sensitive habitats will be harmed or removed. In most cases, 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 that acts as a refuge area for birds and other species that use the various wetlands throughout the river valley.

The proposal does not include a full, 100-foot buffer area separating the newly-restored wetlands from all surrounding areas. However, except to the south, the restored area will be contiguous with existing viable habitat in all directions. To address the project's southern side, the City proposes to place all excess dirt from the recontouring operation over an existing riprap berm on the south side of the project which represents the southern edge of the floodplain. The distance from the restoration area and the top of the berm appears to be less than 100 feet wide in places, but this feature provides an vertical separation as well as a horizontal one. The City also proposes to fence the area to protect it from human intrusion and allow the plants time to establish. The Commission's staff ecologist has concurred that the proposed plan is appropriate, with the exception of the one plant species identified previously. Thus, in this particular case, the Commission is accepting the project, as proposed, with a less-than-100-foot buffer in places.

The regulatory agencies that are requiring this project as mitigation have also found the proposed development suitable, but the Commission does not have copies of their final permits as yet. Special Condition #2 requires that, prior to project construction, copies of all other required permits will be submitted for the file. The condition also advises that any project changes identified in those permits may require the applicant to apply for an amendment to the subject permit.

In summary, implementation of the subject proposal will increase the amount and quality of wetland habitat in this portion of the western San Diego River Valley. The project is conditioned to require that the Commission receive copies of all monitoring reports, and copies of the permits from other agencies which required mitigation. Because the restoration site is surrounded on three sides with existing wetland habitats, its chances of success are high. 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 Diego River Valley, east of I-5 and just west of the railroad line. 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 recontouring of the existing excised drainage ditch should enhance the free flow of water through the site and aid in the establishment of wetland vegetation. The project will more effectively filter out contaminants by providing additional wetland area with native wetland species, which are designed to accomplish this task. 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. The subject site is some distance inland from the actual shoreline, but is within the San Diego River floodplain, adjacent to areas that have been restored, and where riverside pedestrian paths are, or will be, provided. For this 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.

Section 30214

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter. . . .

There are a number of unimproved trails running through this portion of the river valley, primarily associated with the many homeless encampments that have dotted the site over the past several years. These trails are on publicly-owned land, and many of them are within the area proposed for restoration. The trails will be removed as part of project implementation, and this will diminish current public access to the overall area. However, there is an existing concrete path/road between I-5 and Pacific Highway that will remain, and it will be extended across the remainder of the site to the railroad bridge. This path is on top of the riprap berm that marks the southern edge of the floodplain. It will provide alternative access along the perimeter of the site, and will eventually connect to a complete riverside trail system throughout Mission Valley.

The greatest threat to success of the restoration efforts is ongoing human intrusion into the site. For this reason, the City proposes to install permanent, peeled-log fencing both north and south of the restoration area, and has included native nettles and poison oak in the proposed plant palette. Moreover, existing non-native tree canopy will be removed, and the ground elevations lowered to create the areas of freshwater marsh and open water, such that the area will be significantly more open and wetter than it is now. These changes will make the site far less inviting for camping purposes, and are hoped to be enough to discourage human intrusion. In addition, signage identifying this as a restoration site will be provided along the proposed fence separating the habitat and the upland trail. Section 30214 of the Coastal Act authorizes regulation of the time, place, and manner of public access depending upon such factors as topographic characteristics and the capacity of the site to sustain public use. Because of the sensitivity of the restored habitat to human intrusion, restricting public access in the manner proposed by the applicant is consistent with the Coastal Act. The Commission finds that the finished project will increase coastal resources and maintain reasonable 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 within one of only a few remaining greenbelts in the developed core of the City of San Diego. The San Diego River Valley provides an open space corridor within an otherwise intensely developed commercial, residential and industrial area. As seen from the surrounding public transportation network (I-5, Pacific Highway, and the railroad tracks), the project will significantly alter the existing viewshed. The immediate restoration area is partly vegetated, partly bare, and littered with trash. Removal of existing mature non-native trees, and planting of the site with riparian, freshwater marsh and coastal sage vegetation will create a more open look to the site for the first several years, until the riparian tree species mature. Over time, the site will appear similar to what is seen at present, with fewer bare spots and no trash. Throughout the years, it will remain visually compatible with the overall river valley. Thus, the Commission finds that the proposed development, as conditioned to address other issues, 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, such a finding can be made.

The site is a portion of the San Diego River floodplain, and is located in the Mission Valley Community Plan area. Since such a small part of the Mission Valley Community Plan area is within the coastal zone, the City did not make this planning area part of its LCP. Thus, the area remains uncertified and in the Commission's permit jurisdiction. The floodplain in this area is publicly-owned open space, and the proposed project will be totally consistent with that designation, as it will enhance the habitat function of the site and provide an appropriate level of public access. Prior findings have demonstrated that the project, as conditioned, is also consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of this proposal, as conditioned, will not prejudice the ability of the City to continue implementation of its certified LCP.

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, as conditioned, 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 proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing monitoring reports, selected species and permits from other agencies will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is 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.

6-02-132

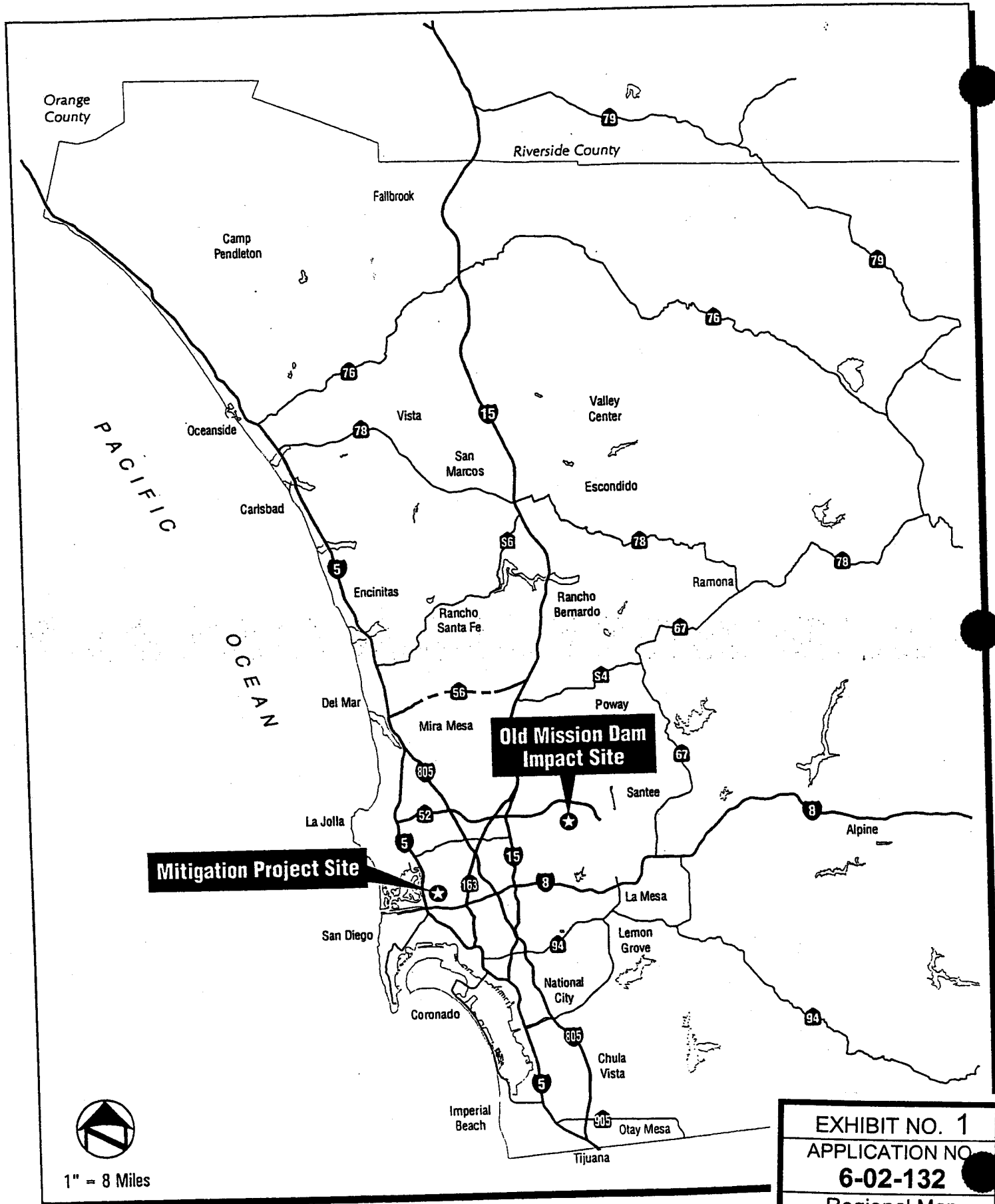


EXHIBIT NO. 1
APPLICATION NO.
6-02-132
Regional Map
California Coastal Commission

6-02-132

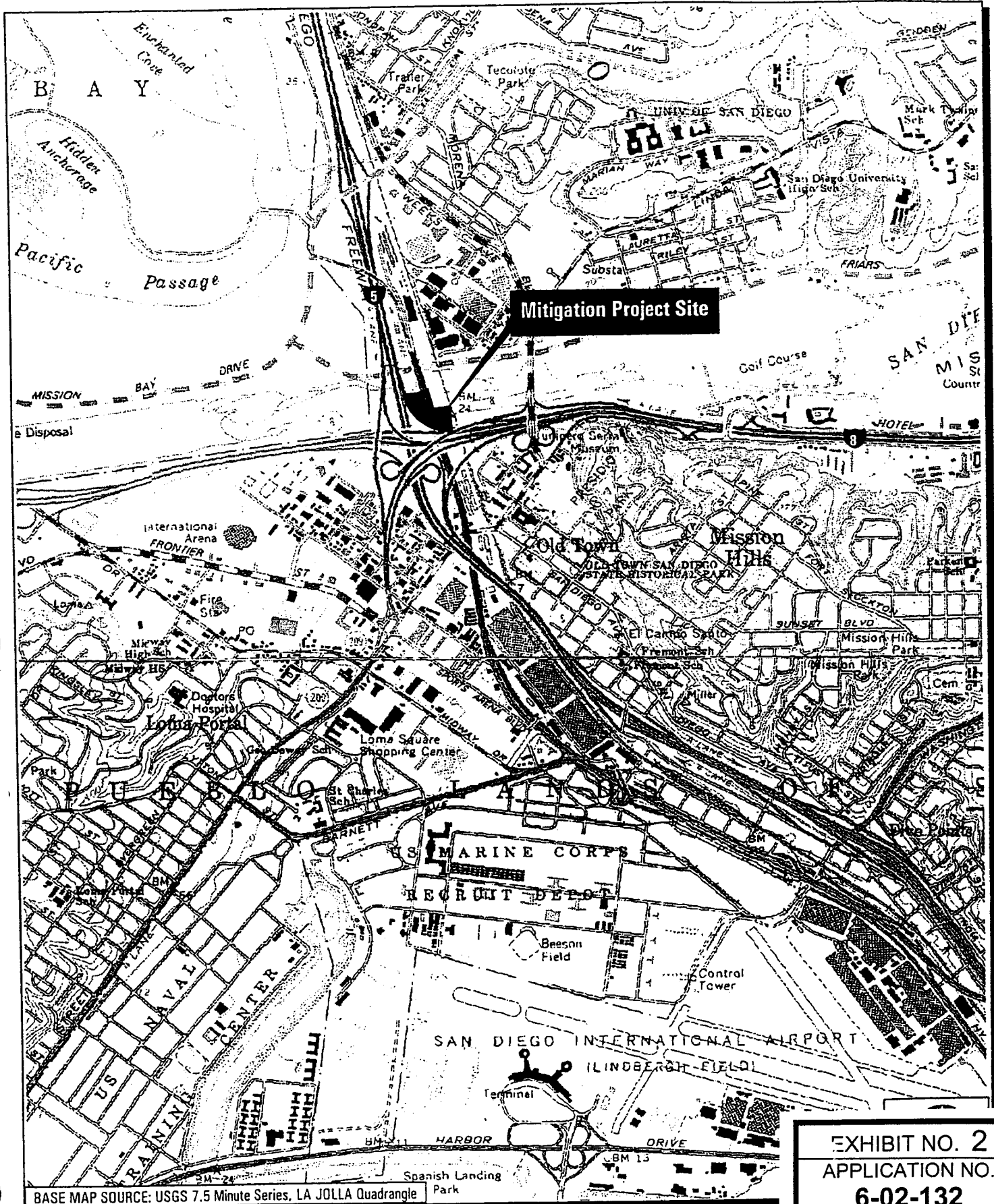


EXHIBIT NO. 2

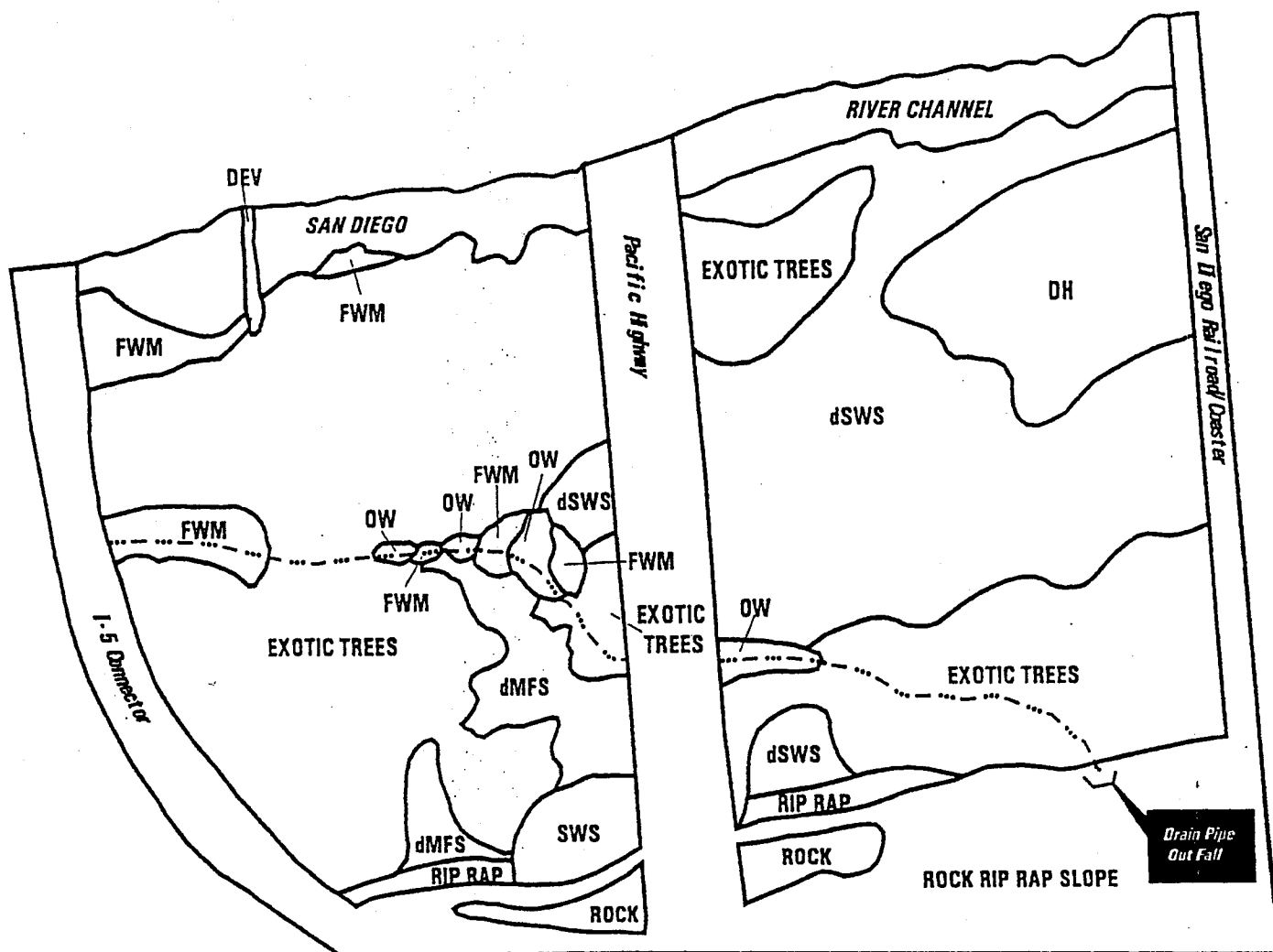
APPLICATION NO.

6-02-132

Location Map



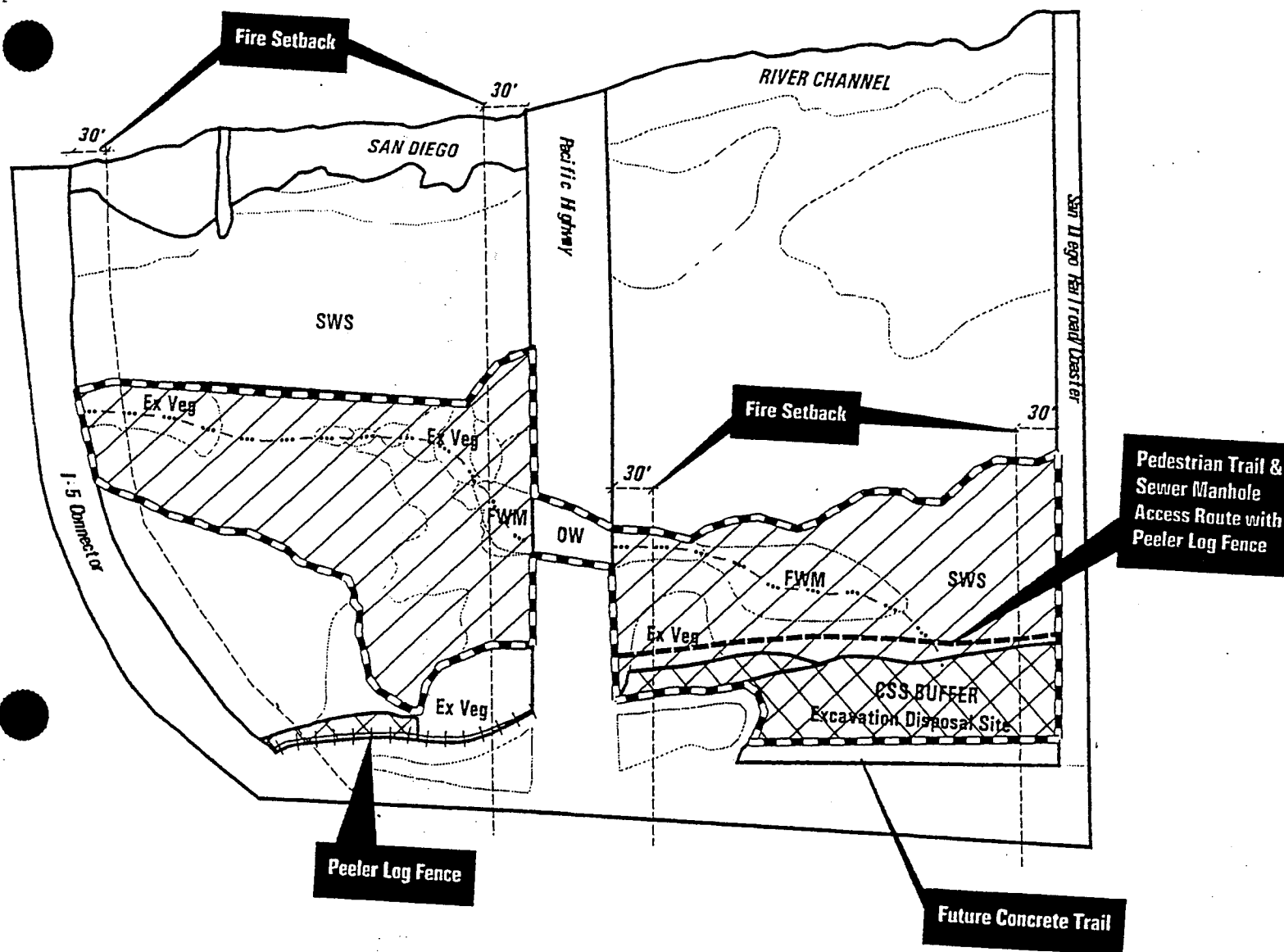
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VEGETATION TYPES/LANDCOVERS:

DEV	Developed Land
OH	Disturbed Habitat
FWM	Freshwater Marsh
OW	Open Water
ROCK	Rock
SWS	Southern Willow Scrub
dMFS	disturbed Mule Fat Scrub
dSWS	disturbed Southern Willow Scrub
---	Approximate Flow Channel

EXHIBIT NO. 3
APPLICATION NO.
6-02-132
Existing Conditions
California Coastal Commission



VEGETATION TYPES/LANDOVERS:

- Ex Veg Existing Vegetation
- FWM Freshwater Marsh
- OW Open Water
- CSS BUFFER CSS Buffer - Excavation Disposal Site
- SWS Southern Willow Scrub
- Limit of Mitigation Area
- Low Flow Channel

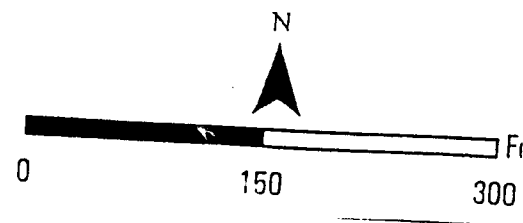


EXHIBIT NO. 4
APPLICATION NO.
6-02-132
Proposed
Restoration Plan

