CALIFORNIA COASTAL COMMISSION

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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-02-385

APPLICANT: Los Angeles County Department of Beaches and Harbors

PROJECT LOCATION: Venice Beach, Dockweiler State Beach, and Hermosa Beach, Los Angeles County.

PROJECT DESCRIPTION: Construction of five seasonal sand berms, for winter storm wave protection, and measuring approximately 15 foot high and varying in length from approximately 235 feet to 1,343 feet.

LOCAL APPROVALS RECEIVED: Letters of approval from the City of Los Angeles and City of Hermosa Beach.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends **approval** of the proposed project with eleven special conditions regarding: (1) timing of operations; (2) operational responsibilities; (3) construction monitoring; (4) assumption of risk; and (5) permit expiration. As conditioned, the project can be found consistent with the Chapter three policies of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following:

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-02-385:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: ***I move that the Commission approve Coastal Development Permit #5-02-385 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 permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California 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 alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. 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 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. 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.

III. SPECIAL CONDITIONS

1. Timing of Construction

All project operations associated with berm construction, including construction, demolition, operation of equipment, sand removal and placement, or other construction, maintenance, material removal, or activities involving mechanized equipment shall be prohibited on any part of the beach in the project areas from Memorial Day in May to through Labor Day in September to avoid impact on public recreational use of the beach.

2. Operational Responsibilities

It shall be the applicant's responsibility to assure that the following occurs during project operations:

(a) The sand berm shall be constructed in accordance with project plans, subject to the timing restrictions specified in Special Condition No. 1 above.

(b) The sand berm shall be removed (lowered) prior to Memorial Day, subject to the timing restrictions specified in Special Condition No. 1 above. The sand berm shall be graded/lowered to pre-existing beach contours to restore the shoreline and to facilitate recreational use.

(c) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.

(d) Any and all debris resulting from construction activities shall be removed from the beach immediately.

(e) Equipment shall not be in contact with coastal waters at any time.

3. Sensitive Species Construction Monitoring

A. The applicant shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive

Director. The applicant shall provide the environmental monitor's qualifications for review by the Executive Director at least two (2) weeks prior to commencement of project activities. The environmental resource specialist shall conduct a visual survey of the project site, to determine presence and behavior of the Western snowy plover, prior to any excavation, construction, reconstruction, maintenance, or removal activities, associated with the sand berm. Prior to any project activities, the resource specialist shall examine the beach area to preclude impacts to the federally listed Western snowy plover. No excavation, construction, reconstruction, maintenance, or removal activities shall occur until any and all Western snowy plovers have left the project area or its vicinity. In the event that the Western snowy plover exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director.

B. By February 25 of each year, the applicant shall obtain the seasonally predicted run schedule for the California grunion, as identified by the California Department of Fish and Game. In the event that excavation, construction, reconstruction, maintenance or removal activities will occur during the seasonally predicted run period and egg incubation period for the California grunion, then the resource specialist shall document any grunion spawning activity, and if grunion are present in any lifestage, no excavation, construction, reconstruction, maintenance, or removal activities shall occur during the grunion spawning activity below the semilunar high tide mark.

C. The environmental specialist shall be present during the excavation, construction, reconstruction, maintenance, or removal activities, of the sand berms. The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The biological monitor(s) shall immediately notify the Executive Director if activities outside of the scope of Coastal Development Permit 5-02-385 occur or if habitat is removed or impacted beyond the scope of the work indicated in Coastal Development Permit 5-02-385. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

4. **Assumption of Risk, Waiver of Liability and Indemnity Agreement**

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or

damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. Prior to any conveyance of the property that is the subject of this coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

C. Prior to issuance of the coastal development permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

5. Permit Expiration

All sand berms approved and constructed pursuant to CDP No. 5-02-385 shall be removed prior to Memorial Day weekend of each year, unless further authorization has been granted under the Coastal Act. The approval of this project shall expire on Memorial Day 2004, with a provision for the expiration to be extended one additional year, to the Friday immediately preceding Memorial Day weekend, with the approval of an amendment to this permit. Any construction, excavation, or sediment transport activities after the expiration permit approved under this permit will require the issuance of a new coastal development permit or an amendment to this permit.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The County of Los Angeles Department of Beaches and Harbors proposes to construct five 15-foot high by 20-foot wide, with approximately 36 degree angle slopes, seasonal

winter sand berms at Venice Beach, Dockweiler Beach, and Hermosa beach. The proposed winter berms would be constructed approximately 4 to15 feet above mean high tide.
Two berms will be constructed on Venice Beach. The Venice Beach berms will be located seaward of the Washington Boulevard beach parking lot and the Venice Boulevard beach parking lot (see Exhibit No. 3). The berm located near Washington Boulevard will measure approximately 235 feet in length and will be situated approximately 4 feet above mean high tide. The Venice Boulevard berm will measure approximately 1,000 feet in length and will be situated approximately 10 to 12 feet above mean high tide.

Dockweiler State Beach will contain two berms (see Exhibit No. 4 & 5). One berm will be located near the terminus of Culver Boulevard and will measure approximately 1,161 feet in length. The Culver Boulevard berm will be situated approximately 10 to 12 feet above mean high tide. The second berm will be located just south of El Segundo Boulevard, and seaward of the Dockweiler Recreational Vehicle Park. The second berm will measure approximately 1,343 feet in length and will be situated approximately 15 feet above mean high tide.

Hermosa Beach will have one berm located near the terminus of Pine Avenue, at the City's pier (see Exhibit No. 6). The berm will measure approximately 270 feet in length and will be situated approximately 12 feet above mean high tide.

Construction of each sand berm would require approximately 1,306 to 7,461 cubic yards cubic yards sand (see Exhibit No. 2), depending on the length of the berm. The sand used to construct the berms will be excavated from the dry beach areas surrounding each berm location. The berms would be constructed in early November to late December, depending on storm activity. After storm wave damage the berms would be reconstructed back to the design profile. The berms would be removed between mid-March and before Memorial Day weekend. The berms are intended to protect the County's beach facilities, such as restrooms, bike path, parking lots, and maintenance yards, from sever winter storm wave uprush.

Construction of the each berm will take approximately 2 to 3 days to complete. A front-end loader would grade and shape the berm in accordance with project plans. Construction equipment is stored in existing beach maintenance facilities, therefore, construction staging areas will not be necessary. Periodic reconstruction of a portion(s) of the berm requires pushing sand from the beach back onto the berm with excavators/bulldozers during the low tide periods following the erosion of the berm. Based on past berm construction experience, the County does not anticipate that sufficient damage will occur that would completely destroy the berms or necessitate complete reconstruction. Damage to the berm is caused by waves removing the sand from the berm and spreading it over the beach in front of the berm or washing it out to sea. Based on past berm construction, the applicant estimates that, on average, two reconstruction (maintenance) episodes would be required per winter season.

The five berms have currently been constructed for this winter season. According to the County, the County has been constructing berms for storm wave protection on these beaches since approximately the 1970's. This is the first application submitted by the County for berm construction.

The three beaches, where the five berms are to be constructed, are located in urbanized areas. Single and Multi-family and commercial development is located in the immediate area, just inland of the berm locations, along with public beach facilities, such as, beach parking lots, bicycle paths, and restrooms.

B. Hazards and Shoreline Processes

Section 30235 of the Coastal Act states:

> *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Section 30253 of the Coastal Act states, in part, that new development shall:

> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
>
> *(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. In addition, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property.

The proposed project is for the construction of five sand berms ranging from 235 to 1,343 feet long, and 15 feet high. The sand berms will be constructed 4 to 15 feet above mean high tide depending on the proposed beach. The berms will slope down to the existing beach at a constructed slope of approximately 1.5:1 (horizontal to vertical). The berms will be maintained as necessary after wave damage and will be removed (lowered) prior to Memorial Day weekend, following the winter storm season.

Each sand berm will require approximately 1,306 to 7,461 cubic yards of sand. Sand for the berms will be taken from the dry beach areas surrounding each berm. Because the beaches are broad, extending 200 to over 300 feet in width, sand can be taken from a

large area surrounding each berm, where there will be no appreciable sand elevation change from the excavated areas.

Impacts to the sand donor sites will be minimal, short-term, and imperceptible over time. Impacts will consist of a temporary lowering of the surface elevation of the areas by approximately one foot from the existing elevation. No long-term changes are expected because sand from upcoast will be delivered to the area over time and replace sand removed for the project. Also, the quantity of sand removed for the project is relatively small compared to the sand volumes being naturally transported through the area by longshore currents and the change in beach elevations will therefore not be significant or sufficiently long-term to cause discernible impacts.

To ensure that the proposed winter storm wave protection solution at the five sites are and will continue to be protective of coastal resources, Special Condition No. 5 provides for the expiration of the term of approval on Memorial Day 2004 with a provision for the expiration to be extended for one year, with the approval of an amendment to this permit.

In addition, based on the information submitted by County Department, the proposed development is located in an area of the Coastal Zone that has been identified as subject to potential hazards from wave action during the winter storm season. Although the proposed project will increase the stability of the developed portions of the subject site in relation to wave caused erosion, there remains some inherent risk to development on such sites. The Coastal Act recognizes that certain types of development, such as the proposed project to protect existing park facilities from storm waves, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the unforeseen possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant shall assume these risks as a condition of approval. Therefore, Special Condition No. 4 requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk will demonstrate that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development.

In addition, the proposed project will involve on average approximately 4,400 cubic yards of sand and the use of construction equipment on a sandy beach. As such, the proposed project has the potential to generate debris and/or presence of equipment and materials that could be subject to tidal action on the beach. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately or unsafely exposed on the project site. In addition, such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters.

Therefore, in order to ensure that adverse effects to the marine environment are minimized, Special Condition No. 2, requires the applicant to ensure that no stockpiling of sand or construction materials shall occur on the beach seaward of the proposed berm locations and that any and all debris resulting from the construction period shall be immediately removed from the sandy beach.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30235 and 30253.

C. Environmentally Sensitive Habitat and Marine Resources

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 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.*

Section 30240 of the Coastal Acts 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.*

Sections 30230 and 30231 of the Coastal Act mandate that marine resources and coastal water quality shall be maintained and where feasible restored, protection shall be given to areas and species of special significance, and that uses of the marine environment shall be carried out in a manner that will sustain biological productivity of coastal waters.

According to the Department of Fish and Game, species of potential concern in the areas of the berms include the federally threatened Western snowy plover (Charadrius alexandrinus nivosus), the state and federally endangered California least tern (Sterna antillarum brownii), and California grunion (Leuresthes tenuis). See Exhibit No. 7.

1. Western Snowy Plover

The Pacific Coast population of Western snowy plover (*Charadrius alexandrinus nivosus*) are small, sand colored shorebirds that uses sandy beaches for nesting and roosting from southern Washington to Baja California. The Snowy plover forages on invertebrates in the wet sand, amongst surf-cast kelp, on dry sandy areas above the high tide, on salt pans, on spoil sites, and along the edges of salt marshes, salt ponds, and lagoons (USFWS 20001). Snowy plovers breed primarily above the high tideline on coastal beaches, sand spits, dune-backed beaches, sparsely-vegetated dunes, beaches at creek and river mouths, and salt pans at lagoons and estuaries. They tend to be site faithful, with the majority of birds returning to the same nesting location in subsequent years (USFWS 2001 citing Warriner et al. 1986). The breeding season for Snowy plovers along the Pacific coast extends from early March to mid-September. The majority of California's wintering Snowy plovers roost and forage in loose flocks on sand spits and dune-backed beaches, with some occurring on urban and bluff-backed beaches, which are rarely used for nesting (USFWS 2001). Roosting Snowy plovers usually sit in small depressions in the sand, or in the lee of kelp, other debris, or small dunes (USFWS 2001 citing Page et al 1995).

The Snowy plover was listed by the U.S. Fish and Wildlife Service (USFWS) as a threatened species in March 1993. Subsequently USFWS designated 180 miles of coastline in California, Oregon, and Washington as critical habitat in 1999. Critical habitat is a specific designation that identifies areas that are essential to conservation of an endangered species. The USFWS has released a *Draft Recovery Plan for the Pacific Coast Population of Western Snowy Plover* (May 2001). Although the birds my forage in the area, the three Los Angeles County beach areas (Venice, Dockweiler, and Hermosa Beach) are not considered critical habitat areas. According to the Department of Fish and Game (DFG), Snowy plovers do not nest in the vicinities of the proposed berms, and the closest known wintering habitat is the Malibu Lagoon area. Furthermore, due to the high disturbance levels at these beach sites (e.g. people, pets) it is not likely that the birds will frequent the project areas. However, as a precaution, DFG suggests that a qualified monitor be present during construction and removal of the berms, to ensure that if the Snowy plover is present that all construction activity will be temporarily halted until it has been determined that the birds have moved from area.

The proposed temporary berm(s) are not expected to directly impact the Snowy plover once they are in place. However, project activities such as construction, reconstruction, maintenance, and removal of the berm have the potential to adversely impact Snowy plover. Construction of the berms would take approximately 2 to 3 days to complete.

The winter sand berm program includes the reconstruction of the sand berm(s) to the design profile, as necessary, after wave damage. Periodic reconstruction of a portion(s) of the berm requires pushing sand from the beach immediately seaward of the berm back onto the berm with excavators/bulldozers. The proposed winter sand berm(s) will be removed prior to Memorial Day after each winter storm season. Removal of the berm entails lowering the crest elevation of the berms to the same elevation as the surrounding beach elevations.

The project activities potentially impacting wintering Snowy plovers consist of the disturbances associated with construction, reconstruction, and removal of the sand berms, including any associated grading and grooming of the deposition sites to restore natural beach contours. However, sufficient additional resting and feeding areas are abundant in the vicinity and the potential for the project to impact plovers is minimal due to the temporary nature of project disturbance and the species' ability to tolerate 'occasional' human activities.

Potential impacts to wintering Snowy plovers as a result of construction-related project activities constitute a temporary disturbance to the birds. The level of physiological stress to the birds from the project activities is not expected to adversely impact reproduction or survivorship, as would be anticipated from repeated disturbances.

In order to ensure that excavation, construction, maintenance, or removal of the proposed sand berms does not adversely affect the Snowy plovers, Special Condition No. 3 requires a qualified resource specialist to examine the beach area immediately prior to excavation or berm construction, maintenance, and lowering activities, to identify the presence of these species in order to preclude potential adverse impacts to them. As a result, the resource specialist shall ensure that prior to any excavation, construction, maintenance, or removal activities, there are no Western snowy plovers in the project area or its vicinity. The monitor shall ensure that project activities do not commence until the Snowy plovers have left the project area or its vicinity.

Furthermore, the Commission finds it necessary to limit the project term under Special Condition No.6 to expire on Memorial Day 2004 with a provision for the expiration to be extended for one additional year to Memorial Day 2005, with the approval of an amendment to this permit. Furthermore, to ensure that the deposition of material does not create detrimental impacts to beach slope, or subsequently to natural processes of erosion, Special Condition No. 2 requires the applicant to regrade the deposition area to pre-existing beach contours prior to Memorial Day.

2. California least tern

The California least tern (Sterna antillarum brownii) nests at nearby Venice Beach. The Least tern is a migratory species usually arriving at southern California breeding sites in late March or early April and departing by mid-September. The closest breeding colony is at Venice Beach, just north of the Marina del Rey entrance channel. The breeding colony is located approximately 4,270 feet from the Washington Boulevard berm site and the

Dockweiler site is separated from the breeding colony area by the marina's entrance channel. According to DFG, due to the distance, disturbance from berm construction activities will not adversely impact the least terns. Furthermore, the least terns feed on small fish directly under the water surface and forage along the surf zone. Since the berm activities do not involve any activities in the surf zone, there should not be any turbidity impacts.

3. California Grunion

The California grunion is a small fish in the silversides family and is extremely unusual among fish in its spawning behavior. The grunion spawn on the sandy beaches in the project vicinity immediately following high tides from March to August. The eggs are incubated in the sand until the following series of high tide conditions, approximately 10 to 15 days, when the eggs hatch and are washed into the sea. California grunion is a species of concern due to its unique spawning behavior. They are carefully managed as a game species. Project activities within the intertidal zone may disturb adult grunion during the run period and/or may bury incubating grunion eggs.

According to DFG all gently sloping sandy beaches are potential grunion spawning habitat. Berm construction and activity could adversely impact grunion spawning. Relocating sand within the intertidal zone during the spawning season could impact the grunion spawning success by burying any deposited eggs. Therefore, DFG has indicated that ideally berms be removed prior to the start of the grunion spawning season (March). However, DFG in consultation with the Department of Beaches and Harbors, understands that removing the berms too early in the potential storm season will eliminate the protection the berms need to provide. Therefore, to mitigate any potential adverse impact to the grunion and allow the berms to remain for storm protection, DFG recommends that sand removed from the berms be relocated to dry sandy areas above the semilunar high tide mark during the gurion spawning season, and that heavy equipment be prohibited from operating below the high tide mark, including staging and traveling from one location to anther.

Excavation for initial construction would not occur during the grunion spawning season; however, it is possible that storms may occur in late March, requiring berm maintenance or re-construction during grunion spawning season; and the berm would be lowered in approximately April or May, during the grunion spawning season. Therefore, the proposed operations have the potential to significantly impact California grunion by excavating or depositing sediment within the intertidal zone during the seasonally predicted protected grunion run period and egg incubation period of April through August.

In order to ensure that excavation, construction, maintenance, or removal of the proposed sand berm does not adversely affect grunion spawning events, Special Condition No. 3 provides that project activities shall not be allowed on any part of the beach below the semilunar high tide mark when California grunion are present during any run periods and corresponding egg incubation periods. To ascertain the presence of California grunion, Special Condition No. 3 requires that in the event that excavation, construction, maintenance or removal activities will occur during the seasonally predicted run period and

egg incubation period for the California grunion (*Leuresthes tenius*), as identified by the California Department of Fish and Game, then the resource specialist shall document any grunion spawning activity and if grunion are present, no excavation, construction, maintenance, or removal activities shall occur below the semilunar high tide mark.

For the aforementioned reasons, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. Public Access and Visual Resources

Coastal Act Section 30210 states:

> *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.*

Coastal Act Section 30211 states:

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

In addition, Section 30251 of the Coastal Act states:

> *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 designed to protect views to and along the ocean and scenic coastal areas, to 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.*

Coastal Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The five project sites are located within three separate City and State beaches. Public access is available along all five beach areas. The proposed project involves the construction of approximately 15-foot high sand berms within areas that have high

recreational use during the summer periods. The elevation of the areas surrounding the five berm locations is approximately 12 to 15 feet above mean sea level. Because of the height of the proposed berms, the berms will obstruct public views of the beach and ocean from areas directly inland of the berms. However, the impact will not be significant since access and viewing will be afforded atop and in front of the berms, the beaches are long and broad providing viewing opportunities up and down coast of the berms, the berms are temporary and will be in place only during the winter months when visitor use is low.

To ensure that maximum access is maintained for the public in the project area, Special Condition No. 1 requires that all project operations involving mechanized equipment be prohibited on any part of the beach in the project areas from Memorial Day in May through Labor Day in September to avoid impact on public recreational use of the beach. In this way, scheduling operations outside of peak recreational seasons will serve to minimize potential impacts on public access. In addition, to ensure that the berms are removed prior to the peak recreational season, Special Condition No. 2 requires the applicant to ensure that the beach is graded and groomed to pre-existing beach contours to facilitate recreational use, prior to Memorial Day.

The Commission finds that the proposed project, as conditioned, will not significantly impact recreational opportunities and public access at the project site, and therefore the project is consistent with Sections 30210, 30211, and 30251 of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

> *Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

The proposed project site is located in three separate planning areas within two local government jurisdictions (City of Los Angeles, and City of Hermosa Beach. Of the two separate beach areas proposed for development by this permit the areas with a certified Land Use Plan or Local Coastal Plan is Venice Beach, and Hermosa Beach. Both have certified Land Use Plans.

As conditioned, the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the proposed project, as conditioned, will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the Cities to prepare Local Coastal Programs consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

F. Unpermitted Development

The five berms have currently been constructed for this winter season. According to the County, the County has been constructing berms for storm wave protection on these beaches since approximately the 1970's. This is the first application submitted by the County for berm construction. Although unpermitted development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

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 Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.


SYLMAR
SAN FERNANDO
CHATSWORTH
GRANADA HILLS
MISSION HILLS
PACOIMA
NORTHRIDGE
CANOGA PARK
PANORAMA CITY
SUN VALLEY
RESEDA
VAN NUYS
NORTH HOLLYWOOD
BURBANK
GLENDALE
PASADENA
WOODLAND HILLS
TARZANA
ENCINO
CALABASAS
SHERMAN OAKS
STUDIO CITY
HOLLYWOOD
BEVERLY HILLS
WEST HOLLYWOOD
ALHAMBRA
SOUTH PASADENA
LOS ANGELES
MONTEREY PARK
EAST LOS ANGELES
SANTA MONICA
CULVER CITY
VENICE
PICO RIVERA
INGLEWOOD
SOUTH GATE
DOWNEY
HAWTHORNE
LAWNDALE
COMPTON
MANHATTAN BEACH
GARDENA
BELLFLOWER
CARSON
REDONDO BEACH
TORRANCE
LAKEWOOD
PALOS VERDES ESTATES
LOMITA
HARBOR CITY
WILMINGTON
RANCHO PALOS VERDES
SAN PEDRO
LONG BEACH
SEAL BEACH
Santa Monica Bay
San Pedro Bay
PACIFIC OCEAN
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MILES
EXHIBIT NO. 1
Application Number
5-02-385
Vicinity Map
California Coastal Commission

SECTION II (2) – Project Description: Berms at Venice, Dockweiler, and Hermosa Beach

We annually build what are essentially temporary walls of sand – commonly known as "berms" – to protect some of our public beach facilities from winter storm high tides and wave activity. The Los Angeles County Department of Beaches and Harbors is applying for a Coastal Development Permit (CDP) for the construction of a total of five (5) of these protective beach sand berms along Venice Beach (2), Dockweiler State Beach (2), and Hermosa Beach (1).

These berms are typically fifteen feet high, twenty feet wide, and can be from 100 to 2,000 feet long (see below). They are located between our facilities and the shoreline, in the upper intertidal area to the upper dry beach, and are created from sand found in this immediate area. We generally build the berms between early November to late December, and remove them between mid-March through Memorial Day. However, we may need to extend both the length and duration of the berms to other public and private facilities, as well as perform periodic reconstructive maintenance on the berms, depending upon the extent of beach erosion that occurs. While building them, we constantly monitor for biota to ensure that no sensitive habitat will be affected.

As in past years, we have again contracted with the Los Angeles County Fire Department, in the minimum amount of $40,000, for the provision of supplemental service. The Fire Department's assistance is particularly critical to our equipment and operators, since it provides larger equipment that can move far greater amounts of sand.

Berm Dimensions (all berms are fifteen (15) feet high by twenty (20) feet wide):

Beach	Length (approx.)		Cubic Yards of Sand (approx.)
Venice (2)	235		1,306
	1,000		5,556
Dockweiler (2)	1,161		6,450
	1,343		7,461
Hermosa (1)	270		1,500
		TOTAL	22,273

Venice Beach, Venice Lot Area and Washington Lot Area

EXHIBIT NO. 3
Application Number
5-02-385
Venice

Dockweiler State Beach, RV Lot

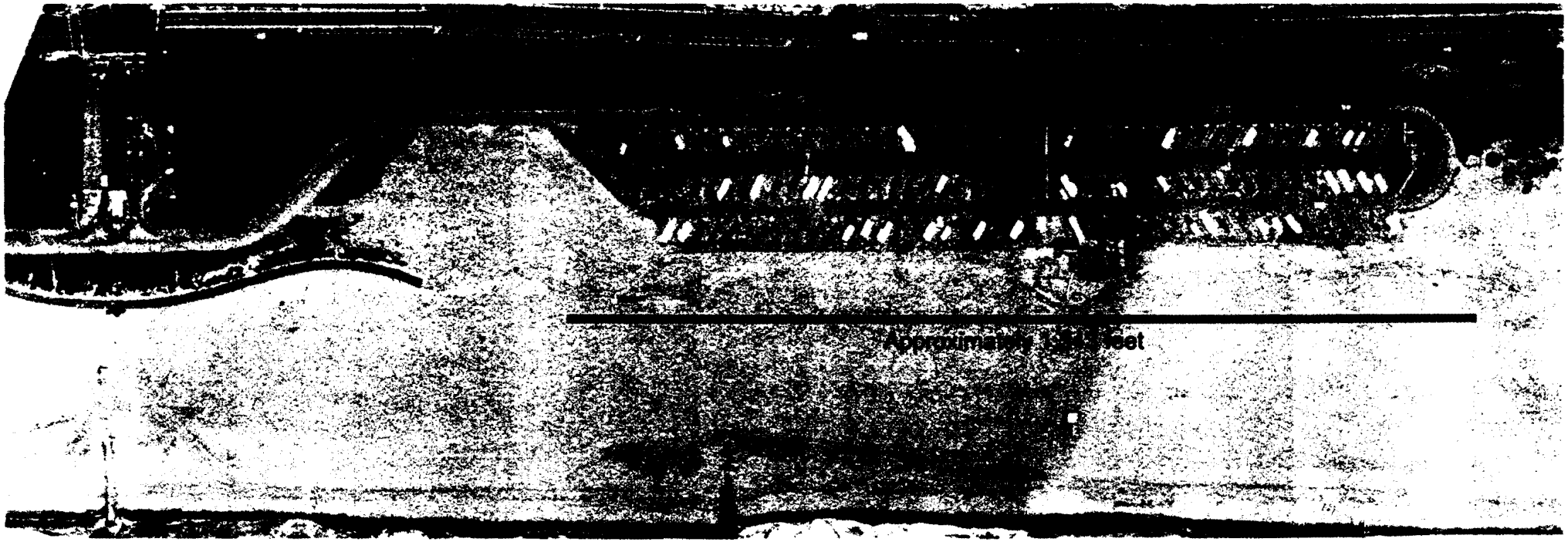
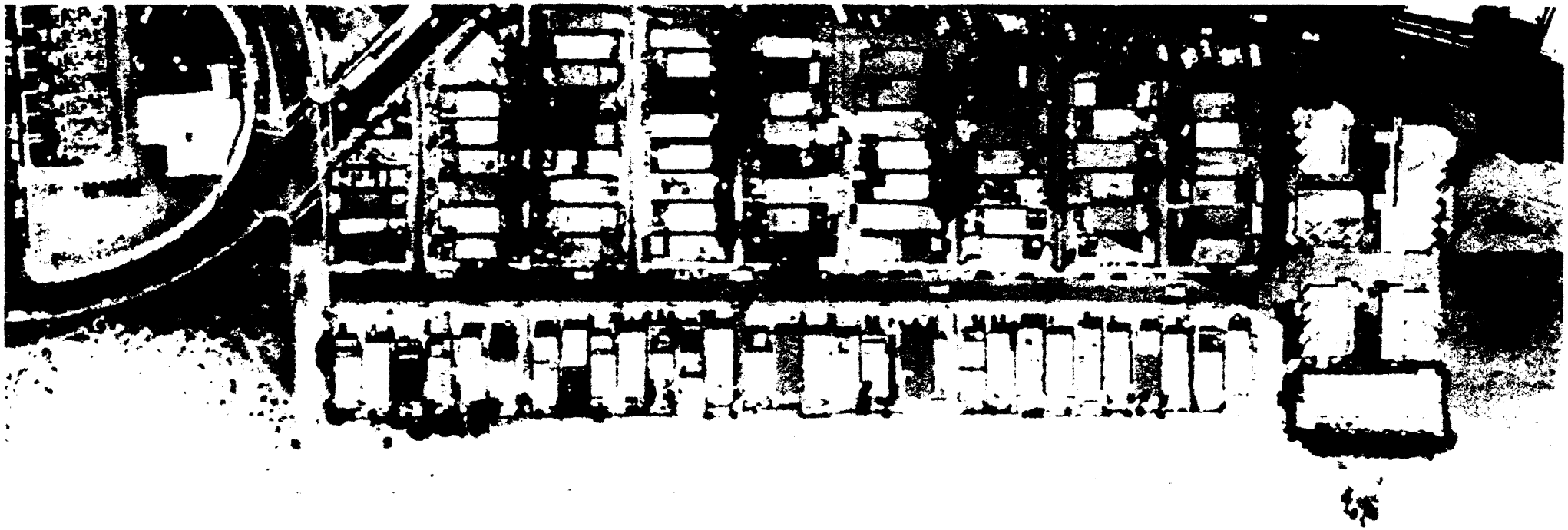


EXHIBIT NO. 4
Application Number
5-02-385
Dockweiler
RV Lot
California Coastal Comm

Dockweiler State Beach, Culver Blvd Area



Approximately 1,161 feet

EXHIBIT NO. 5
Application Number
5-02-385
Dockweiler
Culver Blvd.

Hermosa Beach Lifeguard Headquarters

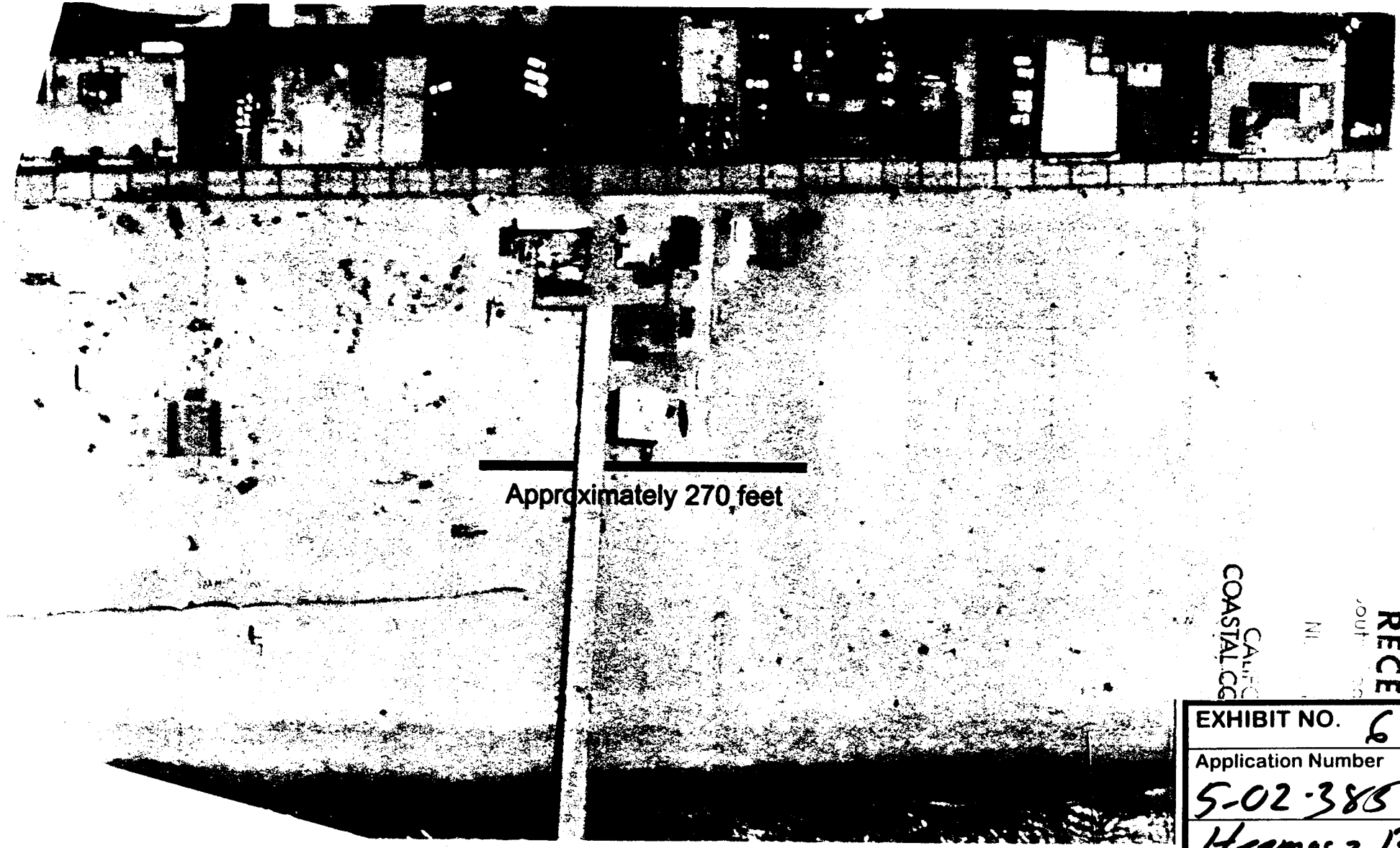


EXHIBIT NO. 6
Application Number
5-02-385
Hermosa Bch

Post-it® Fax Note 7671 | Date 12/10 | # of pages ▶ 3
To Chris Sellers | From M Fluharty
Co./Dept. | Co.
Phone # | Phone #
Fax # 310 821-7856 | Fax #

State of California

Memorandum

To: Al Padilla, Coastal Program Analy
California Coastal Commission
South Coast Area Office
200 Oceangate, Ste 1000
Long Beach, CA 90802

EXHIBIT NO. 7
APPLICATION NO. 5-02-385
Letter from DFG
California Coastal Commission

Date: November 25, 2002

From: Eric J. Larson, Northern California Manager/Bays and Estuaries Ecosystem Coordinator
Department of Fish and Game, Marine Region

Subject: LOS ANGELES COUNTY COASTAL DEVELOPMENT PERMIT APPLICATION NO. 5-02-385

This letter is in response to a request from Mr. Joseph Chesler, Los Angeles County Department of Beaches and Harbors (County) for the construction and removal of 11 temporary protective beach berms located at Zuma, Venice, Dockweiler, and Hermosa beaches, Los Angeles County. The County plans to create six berms at Zuma Beach (ranging in length from 200 to 375 feet), two berms at Venice Beach (235 and 1,000 feet), two berms at Dockweiler Beach (1,161 and 1,343 feet), and one berm at Hermosa Beach (270 feet). The berms are necessary to protect public beach facilities from winter storm inundation. Based on our understanding, the temporary sand berms will be erected annually, between early November to late December, and removed from mid-March through Memorial Day. The berms are typically 15 feet-high and 20 feet-wide and range from 100 to 2,000 feet-long. They are erected in the upper intertidal area to the upper dry beach and are created from sand in the immediate vicinity. When the berms are removed the sand is spread above the high tide line and is not distributed in the surf zone. Equipment includes bulldozers and front-end loaders. Department of Fish and Game (Department) staff have reviewed the project description and provide the following comments:

Species of potential concern in the project areas include the federally threatened Western snowy plover (*Charadrius alexandrinus nivosus*), the state and federally endangered California brown pelican (*Pelecanus occidentalis californicus*), the state and federally endangered California least tern (*Sterna antillarum brownii*), and California grunion (*Leuresthes tenuis*).

The western snowy plover is a small shorebird that forages on kelp wrack and wet sand within the intertidal zone. Snowy plovers do not nest in the vicinities of the proposed berms, and the closest known wintering habitat is the Malibu Lagoon area. Due to the high disturbance levels at the beaches (e.g. people, pets) it is not likely that snowy plovers will frequent the project areas. However, as a precaution, the County could direct a qualified monitor to examine the beach area prior to any excavation or berm maintenance activities (construction or removal of berms). If no snowy plovers are detected, no further measures will be taken. However, if the birds are present, any excavation, construction, or lowering activities will need to be temporarily halted until the monitor determines that the birds have moved away from the construction area.

The California brown pelican is a year-round coastal inhabitant and although they can be found in the project areas year-round, they are more common in the fall and winter following the breeding season (March-August) on Anacapa and Santa Barbara Islands. The Marina del Rey (MdR) and King Harbor breakwaters provide important day and night roost sites for brown pelicans. The Venice Beach berm site located off Washington Boulevard, is approximately 5,500 feet from the MdR breakwater, while the Hermosa berm site is approximately 4,500 feet from the King harbor breakwater, thus disturbance from beach berm activities is not likely to impact pelicans. Additionally, pelicans are fairly tolerant of human activities in the daytime and berm building or removal will not take place at night. Brown pelicans forage in the nearshore coastal waters of the project sites. Since berm building or removal does not involve any activities in the surf zone, there should not be any turbidity issues, thus, the project should not interfere with the pelicans' ability to forage.

The California least tern is a migratory species usually arriving at southern California breeding sites in late March or early April and departing by the mid-September. There is a fenced breeding colony of least terns at Venice Beach, just north of the MdR entrance channel. The closest berm sites to the least tern colony are the Venice Beach berm site off Washington Boulevard and the Dockweiler Beach site off Culver Boulevard. The Venice berm site is approximately 4,270 feet from the colony while the Dockweiler site is on the other side of the MdR entrance channel. Thus, disturbance from beach berm activities is not likely to negatively impact the least terns. Additionally, according to the County facilities and maintenance staff, berm removal is likely to take only three to four days. Least terns forage in nearshore coastal waters with most foraging taking place within two miles of the breeding colony. Since berm activities do not involve any activities in the surf zone, there should not be any turbidity issues, thus, the project should not interfere with the least terns' ability to forage. Disturbance or turbidity is not an issue with least terns at the other 9-berm sites.

Removal of berms past March could potentially impact California grunion (*Leuresthes tenuis*). California grunion is a recreationally and ecologically important nearshore species and, although they currently appear to be maintaining their population numbers at a near constant level, they are not considered abundant. Grunion spawn on the beach, from March to August, during the highest tides of the month. In the project areas, spawning peaks during April and May. All gently sloping sandy beaches are potential grunion spawning habitat. Eggs deposited in the sand are incubated and kept moist until they hatch during the next high tide series, usually 10 to 15 days. Relocating sand within the intertidal zone during the spawning season could impact the grunion spawning success by burying any deposited eggs. Ideally, to preclude impacts to grunion we would recommend the berms be removed before the start of the grunion-spawning season (March). However, we understand that this may be infeasible. In such cases, we recommend sand removed from the berms be relocated to dry sandy areas above the semilunar high tide mark during the grunion spawning season, and that heavy equipment be prohibited from operating below the high tide mark, including staging and traveling from one location to another. Alternatively, if berm sand must be transported or spread throughout the intertidal zone, then the County would need to develop a monitoring program to limit removal activities to a time period that will avoid impacts to spawning, incubation, and hatching, based on the Department's predicted grunion spawning run schedule (see http://www.dfg.ca.gov/mrd/grnindx3.html). This would involve the County directing a qualified biological monitor to be present at the project sites during predicted grunion spawning runs (from one night before until one night after the 4-day run). If no grunion are present berm removal activities could

continue until the next predicted run. If grunion are present at the project site, activities must be suspended until after the next predicted run in which no grunion are observed. This measure ensures incubating grunion have an opportunity to hatch.

There is the potential to impact water quality from the construction equipment. The Department recommends daily checks of equipment and vehicles for oil and fuel leaks.

The Department believes the activities associated with the proposed project would not have a significant adverse effect on existing marine resources and habitats within the area, provided our above comments are taken into consideration. The Department reserves the right to modify or change the above determination based on additional findings or other pertinent information concerning the above-mentioned project.

We thank you for the opportunity to express our concerns. 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.

cc: Ms. Marilyn Fluharty
Department of Fish and Game
Marine Region, San Diego CA

Mr. Brad Henderson
Department of Fish and Game
Region 5, San Diego CA

Mr. Joseph Chesler
County of Los Angeles
Department of Beaches and Harbors
13837 Fiji Way
Marina Del Rey, CA 90292

bcc: Deborah Johnston
DFG
Monterey, CA

Al Padilla

From: Chris Sellers [ChrisS@dbh.co.la.ca.us]
Sent: Monday, February 10, 2003 2:47 PM
To: 'Al Padilla'
Cc: Joe Chesler; Wayne Schumaker; Ken Foreman
Subject: RE: Berms LA county

Al,

You are correct in your knowledge that the berms are constructed above the intertidal zone. In the event that the berm requires maintenance, sand will be pushed from the shore side of the beach for this purpose. Deconstruction of the berms starts in mid-March. Since the grunion run from March through about August, habitat disruption is virtually a non-issue. In any event, staff will monitor the area during any berm maintenance/deconstruction.

For berm construction, sand is pulled evenly from a large surrounding area, so there will be no noticeable difference in the beach after the berm is erected.

At this time, all five berms are in place (two at Venice Beach, two at Dockweiler State Beach, and one at Hermosa Beach).

Commencement of berm construction is based upon the anticipated storm season, projected from multi-year observations.

Please do not hesitate to contact me if you have any more questions.

Chris Sellers
Planning Division
Los Angeles County
Dept of Beaches and Harbors
310-578-6448

-----Original Message-----
From: Al Padilla [mailto:apadilla@coastal.ca.gov]
Sent: Thursday, February 06, 2003 4:26 PM
To: Joe Chesler (E-mail); 'Chris Sellers'
Subject: berms LA county

Joe or Chris, a couple of questions on the sand berms: DFG letter expresses concern with grunion. Berm construction will not take place in the intertidal area, correct? In the event it is grunion season, and there has been storm damage to the berms, tide is high and near base of front portion of the berm, how will this situation be handled, in terms maintenance/repair of berm?

Sand is being taken from surrounding dry beach area, correct? Will there be any noticeable difference between where sand is taken from and the surrounding area?

At this time is there any berms constructed? (I'm sure you told me, but I don't have it down)

What will trigger the construction of the berms if they have not yet been constructed? Predicted storms with wave uprush of a certain elevation?

Al

Al Padilla

From: Pam Emerson
Sent: Monday, February 10, 2003 6:54 PM
To: Al Padilla
Subject: 5-02-385

This is a good report. I think you need to work to clarify the conditions relating to grunions. The way it reads now you could read it to forbid all work if grunion are present, or work "until none are observed" or work seaward of the semi lunar mean high tide line I suggest you think about it a little. I prefer the stricter rule: no work ever below the semi lunar MHT (is that feasible?); ; if grunion are observe no more work until 10 days after a predicted run has no grunion (r on the at part of the beach) ; no heavy equipment on the wet sand, If possible. s it possible to move the berms landward?

by the way the herons are back at the marina in the same place call me when you get in

Pam