

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
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SAN DIEGO, CA 92108-4402  
767-2370

## RECORD PACKET COPY



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49th Day: February 17, 2003  
180th Day: June 28, 2003  
Staff: DL-SD  
Staff Report: February 13, 2003  
Hearing Date: March 4-7, 2003

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 6-02-177

**Applicant:** 22<sup>nd</sup> District Agricultural Assoc. **Agent:** Patricia Butler

**Description:** Excavate a 6-foot wide trench to open the mouth of the San Dieguito Lagoon, and place excavated materials (approximately 800 cu.yds.) along the sides of the trench as a follow-up to an emergency action.

**Site:** The mouth of San Dieguito Lagoon, from the shoreline, east to the Highway 101/Camino del Mar bridge, Del Mar, San Diego County

**Substantive File Documents:** Certified San Dieguito Lagoon Enhancement Plan; Certified City of Del Mar LCP Implementation Ordinances; CDPs #6-00-134; #6-02-042; #6-02-042-G.

### **I. STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

### **STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **II. Standard Conditions.**

See attached page.

### **III. Findings and Declarations.**

The Commission finds and declares as follows:

**A. Detailed Project Description/History.** On December 18 and 19, 2002, the applicant contacted Commission staff by phone to inform staff that the applicant experienced an immediate need to open the mouth of San Dieguito River to protect life and property at the Del Mar Fairgrounds and Racetrack. The applicant indicated that heavy rains on the weekend of December 14, 2002 exacerbated an imminent flooding situation.

Specifically, the on-site storm drain pipes at the Fairgrounds are gravity drain lines that were not designed or intended to carry pressure. The applicant indicated that because the river mouth was closed, river water had backed up to the grandstand, compromising the entire storm drain system of the property. As a result, the storm drain system was not functioning and there was standing water as deep as four feet on the property threatening several structures and creating an unhealthy situation for Fairgrounds visitors and employees.

In addition, the retaining walls at the west end of the property, adjacent to the river channel, were observed to be leaking. The large storm drain under Jimmy Durante Boulevard, between the South Overflow parking lot and the Main parking lot, was also submerged as result of this inundation.

To address the situation, the applicant excavated an approximately six foot wide channel from the shoreline to the Highway 101/Camino del Mar bridge, with the excavated sediments left alongside the trench. The emergency action resulted in the river surface elevation being reduced to normal levels, relieving the threat of significant flooding and allowing the storm drain system to function. The subject project is for after-the-fact authorization of that emergency action.

The action taken in December is identical to that taken in March 2002, when the applicant faced the same flooding situation. The San Diego district office was contacted by the applicant with a request for emergency authorization to open the mouth of San Dieguito Lagoon. This project was approved by the Commission in October 2002 (CDP #6-02-04) as a follow-up permit to the emergency permit issued in March. The Commission found at that time that the emergency circumstances were appropriate for opening the lagoon mouth, and determined that the lagoon mouth opening would have no impacts on coastal resources.

Artificial openings of the lagoon mouth have been undertaken for many years. The Commission has approved a permit for the City of Del Mar (Coastal Development Permit #6-00-134) authorizing as-needed mouth openings for biological reasons for a period of five years. The Commission has a long history of permitting the artificial opening of lagoons in San Diego County, including Los Peñasquitos, San Elijo and San Dieguito Lagoons. These openings were typically proposed based on certain criteria being met

related to salinity, dissolved oxygen and other water chemistry conditions as indicators of impending fish kills, alga blooms or similar unhealthy occurrences.

The subject applicant's situation is somewhat different, in that the Fairgrounds property lies completely within the 100-year floodplain of the San Dieguito River, and was constructed more than 30 years before passage of the Coastal Act. Besides being in the floodplain, portions of the property were built on tidelands, and some areas retain wetland vegetation to this day. The applicant's usual reason for opening the lagoon is the protection of the existing infrastructure, buildings, and safety of the people and livestock attending events at the Fairground. This has resulted in San Dieguito Lagoon being opened more for flood relief than for biological purposes, (although these openings were often conducted pursuant to CDP #6-83-148, an old permit that required annual openings for biological reasons).

Commission staff has advised the applicant that the City of Del Mar's permit for multiple, as-needed lagoon mouth openings could potentially be amended, adding the subject applicant as a co-applicant and authorizing as-needed lagoon openings for the purpose of preventing flooding on the fairgrounds. However, the applicant has not yet pursued this option with the City of Del Mar. Thus, this project is being reviewed as a one-time opening only, authorizing the previous emergency action taken in December.

Although the Executive Director has approved issuance of an emergency permit for opening the lagoon mouth under the same circumstances in the past, an emergency permit was not issued for this particular development because the applicant turned in a regular follow-up permit application to authorize the development within a very short time after the action was taken.

The City of Del Mar has a fully certified LCP and issues its own coastal development permits for most of its coastal areas. However, the lagoon, river mouth and beach areas that are the subject of this permit are all tidelands, such that the Commission will retain permit jurisdiction over this particular site in perpetuity. Therefore, the Chapter 3 policies of the Coastal Act are, and will continue to be, the standard of review, with the City's certified LCP used as guidance.

**B. Biological Resources.** Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized. Section 30233 limits development in open coastal waters, wetlands, estuaries, and lakes to specific permitted uses where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

The proposed development is an incidental public service project permitted under Section 30233. The project will not have an adverse impact on any sensitive habitat, and will not result in erosion or adverse impacts to water quality. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

**C. Public Access/Parking.** The proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

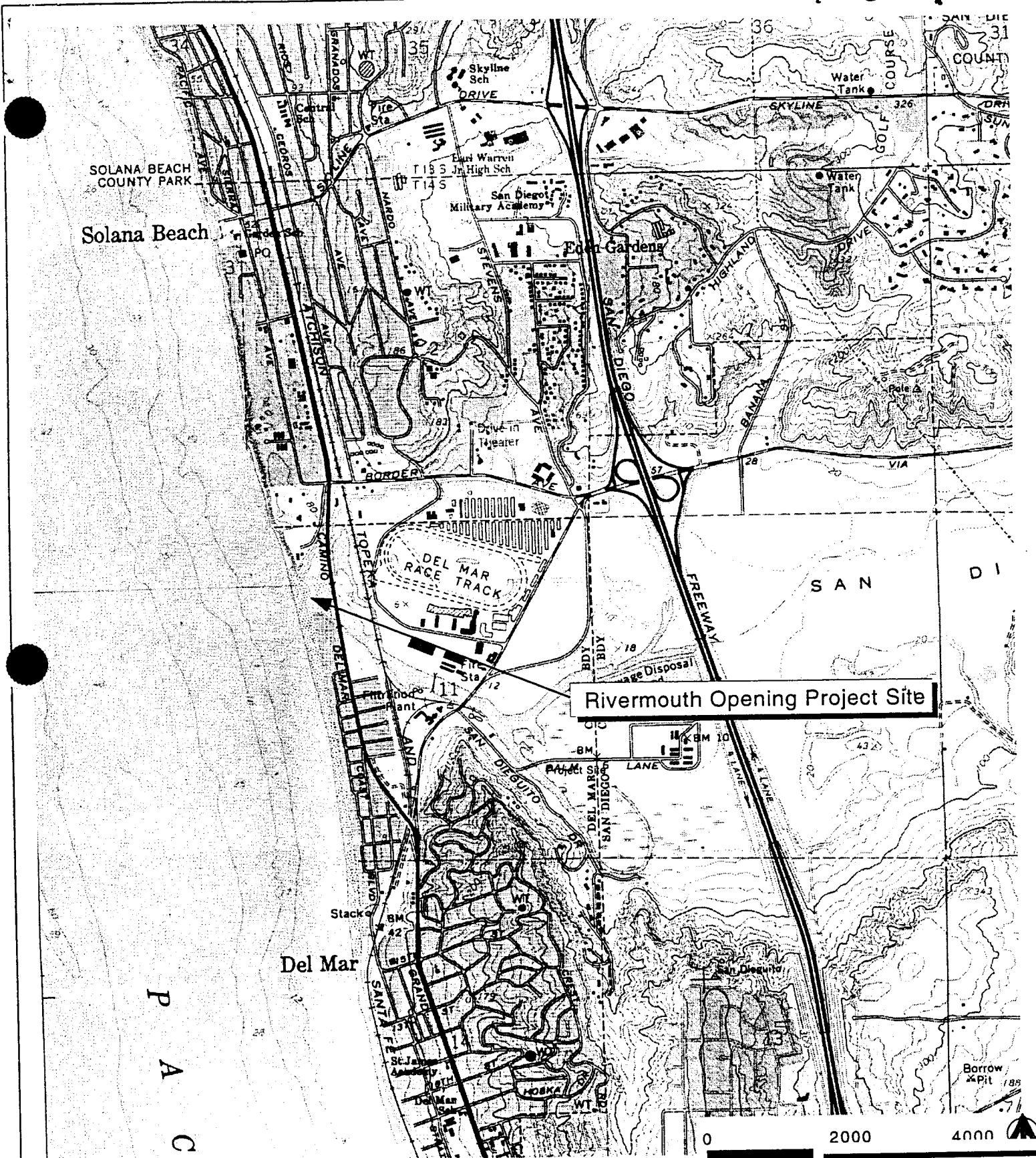
**D. Local Coastal Planning.** The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of Del Mar to implement its certified LCP.

**E. California Environmental Quality Act.** There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect 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.

100244



SOURCE: USGS 7.5 Minute Topographic Survey, Del Mar Quadrangle

Del Mar Fairgrounds



<b>EXHIBIT NO. 1</b>
<b>APPLICATION NO.</b>
<b>6-02-177</b>
<b>Location Map</b>
California Coastal Commission