

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

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Filed: July 2, 2003
49th Day: August 19, 2003
180th Day: December 29, 2003
Staff: KA-SD
Staff Report: August 21, 2003
Hearing Date: September 9-12, 2003

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-03-067

Applicant: San Diego Gas and Electric

Agent: Donald E. Haines

Description: Straighten and stabilize a wooden utility pole adjacent to Soledad Creek in the Los Penasquitos Lagoon, by replacing existing anchor with two new anchors. The project involves approximately 340 sq.ft. of temporary impacts to coastal salt marsh.

Zoning	Open Space
Plan Designation	Open Space
Ht abv fin grade	60 feet (existing utility pole)

Site: Pole Number #Z90253 within the Torrey Pines State Reserve, approximately 1,000 ft. southeast of the intersection of Carmel Valley Road and Portofino Drive, 30 ft. north of Soledad Creek, Torrey Pines, San Diego, San Diego County. APN 301-150-04-00

Substantive File Documents: Certified City of San Diego Local Coastal Program;
Biological Survey Report (Essex Environmental)

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff recommends approval of this application to straighten and stabilize the above-described utility pole. The primary issue raised by the proposed repair project is impacts to wetlands. The project will temporarily impact approximately 340 sq.ft. of coastal salt marsh habitat. However, no permanent or direct impacts to wetlands are proposed. Impacts from wetlands will result from placement of plywood over existing salt marsh to allow a platform for workers. No removal of vegetation or excavation in the wetlands is proposed (other than to install the anchors). The applicant proposes mitigation for temporary salt marsh impacts by revegetating any impacted areas. Special Condition #1

addresses this requirement. Special Condition #2 requires submittal of copies of permits issued by other resource agencies.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-03-067 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. Wetland Mitigation. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a final wetland mitigation program for all wetland impacts associated with the proposed project. The program shall be developed in consultation with the California Department of Fish & Game and U.S. Fish & Wildlife Service and at a minimum shall include:

- a. Before/After Survey. The condition of the wetland vegetation in and around the pole shall be document prior to repair activities. The extent of impacts to the vegetation shall be assessed and documented after completion of the repairs. A detailed site plan of the wetland impact area that delineates all impact areas (e.g., on a map that shows elevations, surrounding landforms, etc.) and the exact acreage of each impact so identified.
- b. Temporary wetland impacts shall be revegetated at a 1:1 ratio. If the post construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts. Mitigation shall be provided for any identified permanent wetland impacts at a ratio of not less than 4:1.
- c. The following goals, objectives, and performance standards for the mitigation site:
 1. Provisions for the full restoration of all wetland impacts that are identified as temporary. Restoration of temporarily impacted areas shall include at a minimum, restoration of before-impact elevations, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland plant species.
 2. Success criteria and final performance monitoring shall provide at least a 90% coverage of areas disturbed by construction activities in 1 year.
 3. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards.
 4. Provisions for submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the restoration sites have been established in accordance with the approved design and construction methods.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final 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.

2. Final Monitoring Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director in consultation with the California Department of Fish and Game, a final detailed monitoring program designed by a qualified wetland biologist for

monitoring of the wetland restoration site. The monitoring program shall at a minimum include the following:

- a. The restorations shall be checked quarterly the first year and at least annually thereafter until performance standards have been met.
- b. No maintenance or remediation activities, other than weed control, for 3 years prior to final performance monitoring.
- c. Provisions to ensure that the mitigation site will be remediated within 90 days of a determination by the permittee or the Executive Director that monitoring results indicate that the site does not meet the goals, objectives, and performance standards identified in the approved mitigation program.
- d. Provisions for monitoring and remediation of the mitigation site in accordance with the approved final mitigation program for a period of 5 years.
- e. Provisions for submission of an annual report of monitoring results to the Executive Director for the duration of the required monitoring period. Each report shall evaluate the status of the wetland restoration project in relation to the performance standards.
- f. Provisions for submission of a final monitoring report to the Executive Director that has been prepared by a qualified wetlands biologist. The report must evaluate whether the restoration site conforms to the goals, objectives, and performance standards set forth in the approved final mitigation program.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final 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.

3. 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 project, including 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.

4. Construction Access/Staging Area. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans showing the locations, both on- and off-site, which will be used as staging and storage areas for

materials and equipment during the construction phase of this project. The staging/storage plan shall be subject to review and written approval of the Executive Director. Use of public parking areas, including on-street parking, for the interim storage of materials and equipment shall be avoided, and use of any sensitive habitat areas for such purposes is prohibited.

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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project consists of the straightening and stabilizing of an existing wooden utility pole adjacent to Soledad Creek in the Los Penasquitos Lagoon within Torrey Pines State Reserve. The pole is leaning approximately 8 degrees from vertical due to the rusted condition of the existing anchor, and is in danger of falling over and dragging the line down with it. The pole will be stabilized through installation of two new anchors that will replace the existing rusted anchor.

The applicant proposes to deliver by helicopter a temporary work surface of plywood or similar material, to accommodate necessary equipment and personnel and reduce temporary wetland impacts. After the work surface is in place, the helicopter will deliver the new anchor system and related materials and tools. Personnel will access the work area via a non-motorized boat that will be launched either from an unvegetated launching area located south of the eastbound lane of Carmel Valley Road, or from the Torrey Pines State Reserve Parking lot located off Carmel Valley Road on McGonigle Road. The boat will be carried by hand to the water. A biologist will accompany the work crew and will determine the best route to the pole and anchor site to avoid sensitive resources at the landing site. Impacts to sensitive wildlife, particularly Belding's savannah sparrow and the light-footed clapper rail, will be avoided by timing construction during the non-breeding season, September 1 through March 4. The work will take approximately one day to complete.

A similar project was approved by the Commission in November 2002 (CDP #6-02-118), involving the straightening and stabilizing of an existing wooden utility pole in a salt marsh area of San Dieguito Lagoon. This permit was similarly conditioned, and the Commission found that the temporary wetland impacts resulting from the construction would be adequately mitigated by onsite restoration at a 1:1 ratio. This project also involved permanent wetland impacts, which were mitigated through restoration of nearby degraded salt marsh at a 4:1 ratio.

2. Wetlands. The subject proposal involves the stabilization of an existing utility pole within the wetlands of the Torrey Pines State Reserve. Also proposed is mitigation for temporary impacts to approximately 340 sq.ft. of coastal salt marsh. The surrounding area consists of salt marsh vegetation, with some patches of open standing water. The following Coastal Act policy is most applicable to the proposed development, and states, in part:

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.

Biological assessments were performed at the subject site on July 7, 2002, and September 27, 2002. The survey determined that the site is southern coastal salt marsh dominated by pickleweed. Construction activities will result in temporary impacts to approximately 340 sq.ft. of salt marsh vegetation, resulting from the placement of wooden boards on top of vegetation adjacent to the pole, to serve as a work surface for the repair crew. Although the vegetation will not be removed, crushing will result from the weight of the boards, tools and human activities.

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.

In this particular case, the proposed development meets the above requirements. The project represents an incidental public service activity to stabilize a damaged power pole and maintain electrical service to the area. Such activities are allowed in wetlands under Section 30233(a)(5). Moreover, the methods employed assure that, although the project site is wetlands, temporary impacts to wetland vegetation have been minimized to the extent possible, and there will be no permanent wetland impacts. The applicant is currently processing permits or exemptions with the U.S. Army Corps of Engineers (ACOE), the Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Game (CDFG). Since utility poles and lines must be in perfect alignment to perform adequately, there is no less environmentally damaging alternative to straightening the subject pole.

There is no existing maintenance road to the subject pole, so the repair workers have to access the site through salt marsh vegetation. Plywood sheets will be placed on top of the wetland vegetation by helicopter to create a work platform. Machinery, in the form of a drill or jackhammer, along with an hydraulic compressor, will have to be brought into the wetlands; the drill is needed to attach the anchors into the ground, and the compressor provides power for the drill. The "Manta Ray" anchor system that will be used is a low-impact method using a toggle-bolt arrangement that is pushed into the soil by the jackhammer. The jackhammer will push the anchor bolt rods approximately five to seven feet deep for adequate pullout resistance. Two anchors approximately 40 feet and 50 feet from the west side of the pole will be installed. Three new anchor guy wires will be attached to the replacement anchors. The soil itself will not be excavated. This methodology will minimize salt marsh impacts to the greatest degree possible, and as conditioned will not result in any soil or vegetation removal, or permanent habitat impacts. Commission biological staff have reviewed the proposed activity, and concur

with this finding. The Commission finds that the proposed mitigation for temporary impacts is both appropriate and adequate.

Special Condition #1 addresses temporary wetland impacts resulting from the installation process. No permanent wetland impacts are authorized. The applicant is required to provide a final wetland mitigation program to be developed in consultation with the California Department of Fish & Game and U.S. Fish & Wildlife Service. The program shall include a before/after survey and detailed site plan of the wetland impact area. Temporary wetland impacts shall be revegetated at a 1:1 ratio, before-impact elevations and hydrology shall be restored, and non-native plant species shall be removed. If the post construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts. Mitigation shall be provided for any identified permanent wetland impacts at a ratio of not less than 4:1. This program will ensure that temporary impacts are appropriately mitigated and will not result in permanent habitat disruption or loss of habitat value. If any permanent impacts are found to occur based on the required after-survey, a permit amendment will then be required.

Special Condition #2 requires the applicant to prepare a final detailed monitoring program for monitoring of the wetland restoration site. The restorations shall be checked quarterly the first year and at least annually thereafter until performance standards have been met. For final performance monitoring, no maintenance or remediation activities, other than weed control, shall occur for the previous three 3 years. An annual report and final report shall be submitted to the Executive Director. These requirements will ensure that mitigation for temporary wetland impacts is appropriately implemented and that long-term establishment and survival of replanted vegetation is required.

Special Condition #4 requires the applicant to identify any locations which will be used as staging and storage areas for materials and equipment during the construction phase of this project. Use of public parking areas, including on-street parking, for the interim storage of materials and equipment shall be avoided, and use of any sensitive habitat areas for such purposes is prohibited. This condition is intended to prevent any additional habitat impacts as a result of ancillary activities, and to ensure that public access and parking will not be affected.

In summary, the proposed repair and maintenance activities are a permitted use in wetlands under the Coastal Act and the project will avoid all permanent impacts. All temporary impacts will be mitigated. Under these parameters, the proposal is consistent with Section 30233 of the Act. Therefore, the Commission finds that, as proposed by the applicant and conditioned herein, the development is fully consistent with the cited resource protection policies of the Coastal Act.

3. Marine Resources/Water Quality. The following Coastal Act policy is most applicable to the proposed development and states:

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.

The proposed repair and maintenance activity is not anticipated to have any adverse impacts on the water quality of San Dieguito Lagoon. The proposal involves the straightening and stabilization of an existing utility pole through the installation of small anchors and cable. The repair efforts are minor in scope and will not affect drainage patterns in the area. Therefore, the Commission finds the proposed development, as conditioned to address other concerns, consistent with Section 30231 of the Act.

4. Visual Resources. The following policy of the Coastal Act addresses visual resources, and states:

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 project site is within a publicly-owned natural open space area, the Los Penasquitos Lagoon, which consists of a mixture of salt and freshwater marshes and associated upland areas. The subject site itself is within the Torrey Pines State Reserve, near Carmel Valley Road and Portofino Drive. The entire lagoon is visually appealing although there are a number of power poles throughout the lagoon system, some of which include anchor systems. The Manta Ray anchor system that will be used is a low-impact device using a toggle-bolt anchor approximately 21 pounds in weight and 6"x6" in size, that is pushed and locked into the soil by a jackhammer and supported by guy anchor wires attached to the utility pole. The repair efforts will not result in significant new structures that will impact public views or view corridors. Therefore, the Commission finds the proposal, as conditioned to address other concerns, consistent with Section 30251 of the Act.

5. 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, as proposed and conditioned, such a finding can be made.

The site is designated Open Space in the certified City of San Diego Land Use Plan. However, the project site is located in an area (Los Penasquitos Lagoon) where the Commission retains coastal development permit authority. The repair and maintenance activities did not require any discretionary approvals from the City of San Diego, but will require permits or exemptions from other state and federal resource agencies (CDFG, ACOE and RWQCB). Special Condition #3 requires that the applicant submit copies of all other permits or exemptions prior to commencing construction. If additional mitigation is required by any of those agencies, it must be incorporated into the required mitigation plan for temporary wetland impacts.

For the Commission, the standard of review is Chapter 3 of the Coastal Act, because the project area consists of tidelands which remain in Coastal Commission permit jurisdiction. As proposed and conditioned, the Commission finds the repair activities consistent with the applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned herein, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP.

6. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

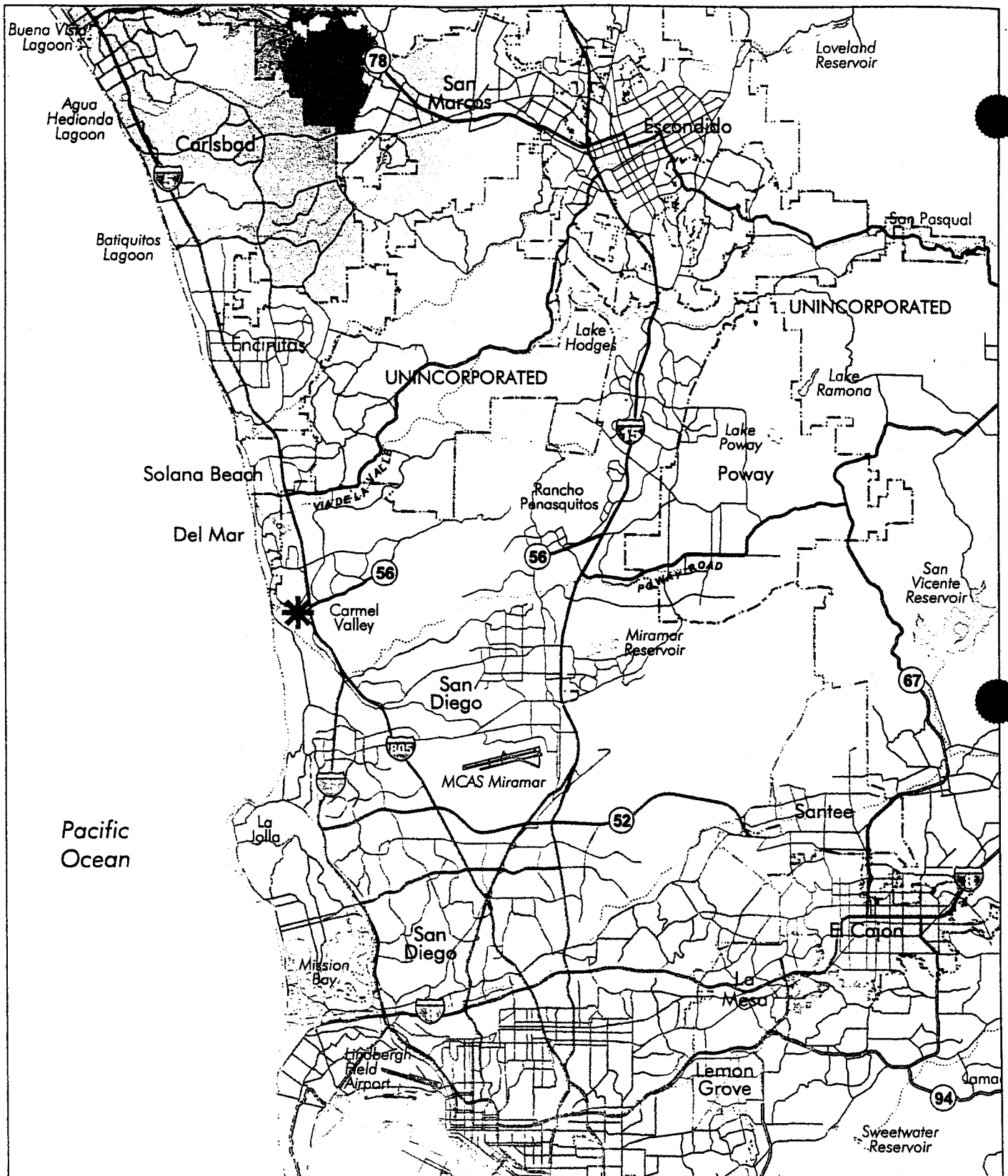
As discussed herein, the proposed development will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the water quality, biology and visual resource policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and 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.



* Project location,
Sempra Pole # Z90253

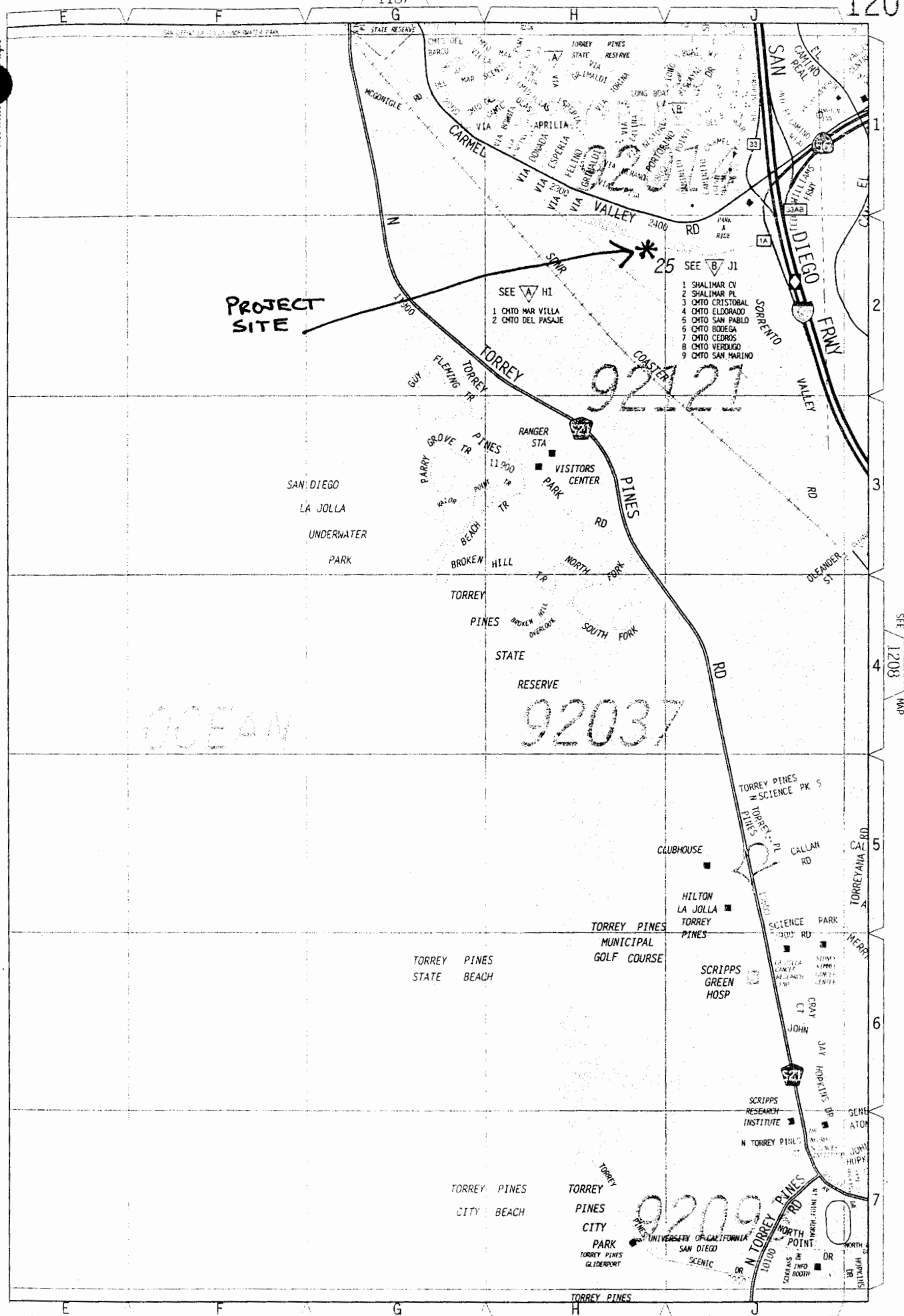
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FIGURE 1
Regional Location

6-03-067



1"PLYWOOD OR
EQUAL MATTING

PLAN VIEW

SCALE: NONE

2-GUYS & ANC-S
2-³/₄" GUY-S (T)
2-MANTA RAY ANC. MR-SR STK#108224 ()
2-TRIPLEYE NUT TE-IT STK#504016 ()
AS REQD-1"x7" ANC. ROD SAR-10A STK#601792 ()
AS REQD-HEX COUPLING STK#279272 ()

Z90253

TOP OF POLE

APPROPRIATE/APPROVED
REMENTS.

89kv

"Z" POLE TOP

6'-0"
TYP

GUY ATTACHMENT
At All Levels of 89kv

EXISTING CONCRETE
FOUNDATION

SOLEDAD CREEK-2 SIDES
ACCESS W/NON MOTORIZED CRAFT
CARMEL VLY RD & VIA GRIMALDI

NEW ³/₄"ANC. GUY WIRE

COMMUNICATION
ATTACHMENT

±52.50
MA

STACK 3 SHEETS OF 1" PLYWOOD
OR EQUAL MATTING WITH HOLE
AT ANCHOR POINT FOR DISTRIBUTING
JACKING LOADS-TYP 2 PLACES

NATIVE VEGETATION FOR
CREW & EQUIPEMENT
ACCESS

MANTA RAY ANCHOR TO BE
INSTALLED PER MANUFACTURERS
RECOMMENDATIONS-TYP 2 PLACES

1"PLYWOOD-
OR EQUAL
MATTING

75'-CLASS 1
POWER POLE#
Z90253

±10.00'

±40.00'
TYP

SECTION VIEW-CONCEPTUAL FINAL CONDITION

LOOKING NORTHWEST-WITH NEW GUYS & ANCHORS AS INSTALLED

SCALE: 1:10

6-03-067