

CALIFORNIA COASTAL COMMISSION

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Staff: DL-SD
Staff Report: November 18, 2004
Hearing Date: December 8-10, 2004

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-03-127-A2

Applicant: San Diego County Water Authority Agent: Ken Weinberg

Original

Description: Creation of 8.7 acres of riparian wetland habitat, with approximately 40,000 cubic yards of grading, installation of fencing and placement of gravel over existing utility easements, on a 145.37-acre site containing ruderal non-wetland vegetation, located south of the intersection of Manchester Avenue and El Camino Real in the City of Encinitas.

First

Amendment: Modify Special Condition #1 to extend the permissible grading period up to December 14.

Proposed

Amendment: Modify Special Condition #1 to extend the permissible grading period up to February 14.

Site: 8.7 acres located approximately 400 feet south of the intersection of Manchester Avenue and El Camino Real, adjacent to Lux Creek, Escondido Creek and San Elijo Lagoon, Encinitas, San Diego County. (APNs: 262-073-03, -17, -25)

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed amendment, subject to special conditions addressing additional stormwater control and erosion prevention measures. The additional requirements will ensure that the extended grading period in the wet season will not result in any off-site sedimentation impacts to sensitive habitat and wetland areas.

Substantive File Documents: CDP No. 6-03-127; Certified City of Encinitas Local Coastal Program; Revised Final Manchester Site Conceptual Wetland Creation, Mitigation and Monitoring Plan (July 2003); Draft Supplemental EIR (February 2003).

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-03-127-A2 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The amended permit is subject to the following conditions:

The following condition replaces Special Condition #1A of the original permit in its entirety.

1. **Final Plans.** **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval final grading and erosion control plan in substantial conformance with the preliminary grading plans dated October 16, 2003 and March 9, 2004 by Conway & Associates, Inc., that have been approved by the City of Encinitas. The final plans shall specifically include the following as notes on the plans:

A. All grading activities shall be prohibited within the period from February 15 to March 31st of each year. Prior to commencement of any grading activity, the permittee shall submit a grading schedule which indicates that grading will be completed within the permitted time frame designated in this condition and that any variation from the schedule shall be promptly reported to the Executive Director. The final plan shall include the following requirements:

(1) Any permanent post-construction runoff and/or erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

(2) All areas disturbed, but not completed, during the construction season, shall be stabilized in advance of the rainy season (prior to November 15 of any year). Grading shall not take place during rainfall periods.

(3) Only small incremental amounts of daily grading is permitted; the site shall be secured daily after grading with geotextiles, mats and fiber rolls. Concrete, solid waste, sanitary waste and hazardous waste management BMPs shall be used. In addition, demonstrate that all on-site temporary and permanent runoff and erosion control devices are installed and the City of Encinitas Engineer has determined that all measures are in place to minimize soil loss from the construction site.

(4) Silt fences and/or silt curtains shall be installed around the perimeter of the grading area, and on either side of Lux Canyon Creek. They should be inspected regularly and sediment removed when it reaches 1/3 fence height. An 18-inch high earthen berm shall be constructed along the southern perimeter of the site to prevent offsite erosion and sedimentation. The berm shall be installed during site preparation operations and shall be removed at the end of grading operations.

Additional use of temporary erosion control measures, such as geo-fabric blankets, spray tackifiers, silt fences, fiber rolls, straw mulch, hay bales, gravel bags, etc. shall be utilized during site preparation, grading and project construction to reduce erosion to the maximum extent feasible. The plans shall demonstrate that such erosion control measures will be in place at all times during site preparation, grading and construction.

(5) Existing onsite easements for public utilities and maintenance, and any proposed fence or barrier locations, shall be indicated on the final plans. Any surfacing used on said easements shall be of permeable materials (such as decomposed granite) and must be approved by the California Department of Fish and Game.

(6) Silt fences shall be installed along the northerly limits of the staging area (at project site Northerly property limits) with 3-foot wide gravel bag check dams installed at 75-foot centers along north side silt fence from Manchester Avenue to the west bank of Lux Canyon Creek to mitigate offsite storm water in-flow to the contractor's staging area.

The permittee shall undertake development in accordance with the approved grading plans. Any proposed changes to the approved grading plans shall be reported to the Executive Director. No changes to the grading 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. Prior Conditions of Approval. All other terms and conditions of the previously approved Coastal Development Permit #6-03-127 not specifically modified herein, shall remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Original Development and First Amendment Description and History. The project involves the creation of an 8.7-acre wetland area on a portion of a 145.37-acre site owned by the County of San Diego in the City of Encinitas. The site is located approximately 400 feet south of the intersection of Manchester Avenue and El Camino Real, adjacent to Lux Creek, Escondido Creek and San Elijo Lagoon. The wetlands creation is intended to mitigate for anticipated impacts to 6 acres of wetlands located outside the coastal zone, resulting from the Authority's raising of the existing dam at the San Vicente Reservoir and the connection of Lake Hodges (both located in east San Diego County) to the Authority's distribution system, to provide increased reservoir capacity for emergencies.

The 8.7-acre wetland mitigation area is part of a 145.37-acre site that was approved by the City of Encinitas for a sports complex in 1998. However, the sports park was not constructed, and ownership of the property was subsequently transferred from the City of Encinitas to the County of San Diego. The San Diego County Water Authority has obtained mitigation rights from the County for this project, and has entered into an agreement with the California Department of Fish and Game for the proposed mitigation. The project area currently contains non-wetland ruderal vegetation, although historically it contained wetland habitat, and the soils and hydrology are suitable for riparian wetland creation/restoration. Lux Canyon Creek runs down the middle of the site and drains into San Elijo Lagoon. There is approximately one acre of wetland habitat on either side of Lux Creek. The southern portion of the mitigation site lies within the San Elijo Lagoon Ecological Reserve. The Mira Costa College San Elijo Campus and the Greek Orthodox Church are located across the Manchester Avenue right-of-way adjacent to the west of the site, and the proposed Encinitas Country Day School site is adjacent to the north.

Wetland creation will be accomplished by grading the site, planting and seeding native wetland species, promoting volunteer colonization by native species, and performing maintenance (e.g., irrigation, weeding) and monitoring. Grading will involve approximately 40,000 cubic yards of cut, 500 cubic yards of fill, and 39,500 cubic yards of soil export. Various utilities and easements located within the mitigation area include an existing San Dieguito Water District 30-inch underground water main and associated 20-foot easement, an existing City of Encinitas 10-inch sewer line and 10-foot easement, and a proposed Cardiff Sanitation District 8-inch sewer line and existing 15-foot easement. Seeding within the easements (0.33 acre) will occur but will not be applied to the final mitigation acres and credit. Plants within easements will be limited to shallow rooted shrubs and grasses. Limited easement surfacing for access and maintenance purposes will contain decomposed gravel.

The existing site will generally be excavated down to the same elevation as the adjacent wetlands, or to within one foot of the groundwater and/or current creekbed elevation, whichever is higher. The graded slopes will be contoured with mildly sloping transitions. The majority of excavated soil will be exported from the project site and the grading completed prior to initiation of the planting plan. No grading will take place within the designated Lux Creek streambed or any other existing native habitat areas on the 145 acre site. Split rail fencing will be placed along Manchester Avenue after grading activities are completed, to secure and delineate the wetland mitigation site along the western property line.

The wetland vegetation communities will consist of 4.8 acres of riparian scrub (willow and mulefat) and herbaceous wetland habitat, with 1.2 acres of riparian transitional wetland habitat. Existing individual willows, patches of southern willow scrub and *Isocoma* scrub (0.248 acre) will not be impacted. The plant and seed mixes will include sandbar willow (*Salix exigua*), mulefat (*Baccharis salicifolia*), yerba mansa (*Anemopsis californica*), coastal goldenbush (*Isocoma menziesii*), sycamore (*Platanus racemosa*) and elderberry (*Sambucus mexicanus*). Plantings will be placed within the mitigation areas along hydrological gradients that are appropriate to each species and its requirements. A qualified restoration ecologist will supervise all phases of mitigation implementation, including the protection of adjacent biological resources, removal of exotics, erosion control, soil preparation, seeding, planting, maintenance, monitoring and reporting. Once the installation work is complete, a five-year maintenance and monitoring program will commence.

The Commission approved the wetland creation project on February 19, 2004. Approved special conditions required protective stormwater and erosion control measures, a final wetland vegetation planting plan and monitoring reports, prohibited any other type of development on the site, and specified storage and staging access locations.

The first amendment was for a one-month extension to the permissible grading period, from November 14 to December 14. The original permit, as approved by the Commission, included a special condition that prohibited any grading of the site during the winter rainy season from November 15 to March 31 of any year. In order to protect sensitive wildlife species in the area, the US Fish and Wildlife Service (USFWS) has required that the project avoid grading during the period of February 15 to September 15. This, coupled with the Commission's grading restrictions, left only a 2 month window in which to complete grading for the project. As such, the applicant requested that the grading season restriction be extended up to December 14 would allow enough time to accomplish the necessary grading.

2. Proposed Amendment. The proposed amendment is for an extension of the grading season from December 14 to February 14. The applicant has indicated that because of recent rainstorms and anticipated future rain delays, the Water Authority would like to have the ability to continue the grading if it cannot be completed by the previous deadline of December 14. Grading will be finished as originally scheduled if possible.

To augment the previously approved erosion control the applicant is proposing to add an additional erosion control measure as follows:

Silt fences shall be installed along the northerly limits of the staging area (at project site Northerly property limits) with 3-foot wide gravel bag check dams installed at 75-foot centers along north side silt fence from Manchester Avenue to the west bank of Lux Canyon Creek to mitigate offsite storm water in-flow to the contractor's staging area.

3. Resource Management/Sensitive Habitat. The following Coastal Act policies which address protection of environmentally sensitive habitat areas are relevant to the proposed amendment, and include:

Section 30230

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.

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.

In addition, Section 30240 of the Coastal Act is applicable, and 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.

The applicant has received a permit from USFWS indicating that due to the proximity of sensitive species in neighboring habitat areas, including the California gnatcatcher, least Bell's vireo, and light-footed clapper rail, project grading may not occur during the

breeding and nesting season between February 15 and September 15 of any year. In conjunction with the wet season grading limitation included in the coastal development permit, grading on the site is therefore reduced the window between September 15 and December 14. Because of recent rains, the work has fallen behind schedule, and the applicant is concerned that the grading may not be able to be completed in the remaining time frame. The requested two-month extension to the allowable grading period is expected to be sufficient to complete the grading and stabilize the project area after initial plantings are completed.

In San Diego County the Commission has typically restricted grading, particularly large scale grading projects, to that time of year when erosion and transport of sediment to lagoons or other sensitive resource areas is least likely to occur. That is, the Commission has restricted grading during the winter months. Historically, the Commission has allowed some exceptions to the winter grading restriction.

In this case, while the site drains directly to Escondido Creek, both permanent and temporary erosion control measures have been applied. Erosion control required by the City consists of placement of a silt fence around the project anywhere there is the potential for runoff. Check dams, sand bags, straw bales and gravel bags shall be installed as required in the County's grading ordinance. Hydroseeding, energy dissipation and a stabilized construction entrance shall be implemented; all disturbed areas shall be revegetated after grading. Small incremental amounts of daily grading are required; the site shall be secured daily after grading with geotextiles, mats and fiber rolls. Concrete, solid waste, sanitary waste and hazardous waste management BMPs shall be used.

The erosion control plans and BMPs included in the approved permit conditions were adequate to prevent any adverse impacts from the amount of runoff and sedimentation that would be anticipated during dry-season grading. To address the potential for increased impacts during wet-season activity, the applicant has provided updated and expanded erosion control measures and BMPs that will accommodate any increased runoff or sedimentation that may occur based on wet-season calculations, and will prevent off-site discharge into sensitive areas. To support the requested amendment, the applicant is proposing additional silt fencing to ensure erosion is adequately controlled. Staff has reviewed the measures and has found that, as required, sedimentation impacts off-site will be minimized.

The additional measures, in combination with the previously approved erosion control measures, will compensate for potentially higher volume and flow rate of runoff and additional sediment load, and minimize onsite erosion. Special Condition #1 requires the submittal of final grading and erosion control plans documenting that these measures have been and will be carried out.

The Commission finds that in this particular case, allowing grading to occur during an additional eight-week period, in the wet season, will not adversely impact environmentally sensitive habitat areas since detailed erosion control measures will be implemented that assure downstream resources will be protected. Therefore, the

Commission finds that the subject permit amendment, as conditioned, is consistent with the resource protection policies of the Coastal Act.

4. Local Coastal Planning. The City of Encinitas has a certified LCP and the project site is located entirely within the City of Encinitas. However, a portion of the project site falls within the Commission's area of original jurisdiction. As such, both the City and the Coastal Commission issued coastal development permits for the original development. The southern portion of the proposed wetlands creation area is located below the mean high tide line and/or where the public trust may exist, and the northern portion is located in the Commission's appeal jurisdiction between the first public road (Manchester Avenue) and San Elijo Lagoon. The subject amendment request only pertains to that portion of the development located within the Coastal Commission's area of original jurisdiction, with Chapter 3 policies of the Coastal Act utilized as the standard of review and the City's LCP used as guidance.

The Commission has previously allowed limited grading to occur during winter months, if the protection of coastal resources is assured. In addition, the City's certified LCP has provisions that allow for grading in the winter months with implementation of substantial erosion control measures and BMPs. The special conditions proposed above would provide the type of additional protection the Commission has previously required of winter grading proposals and is consistent with the requirements of Chapter 3. Therefore, the Commission finds that the proposed amendment request will not prejudice the ability of the City of Encinitas to continue to implement its certified LCP.

5. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit, as conditioned, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect, which the activity may have on the environment.

The proposed project has been conditioned to be consistent with the resource protection policies of the Coastal Act. The attached mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

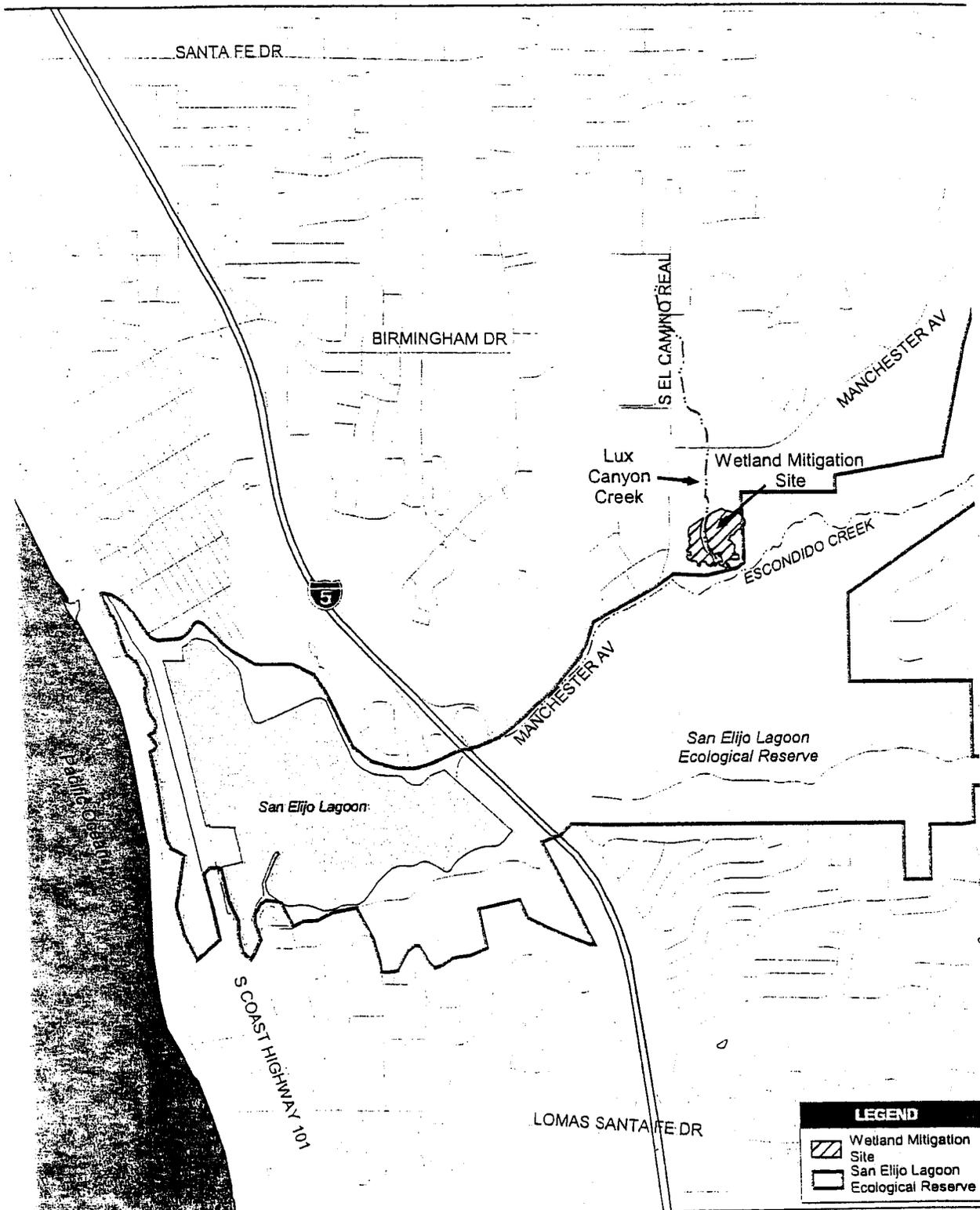
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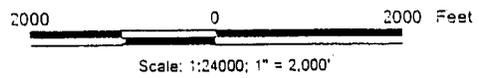
No Scale

SDCWA ESP Wetland Creation Mitigation
9K013 ESP Wetland Crea

EXHIBIT NO. 1
APPLICATION NO.
6-03-127-A1
Regional Map
 California Coastal Commission



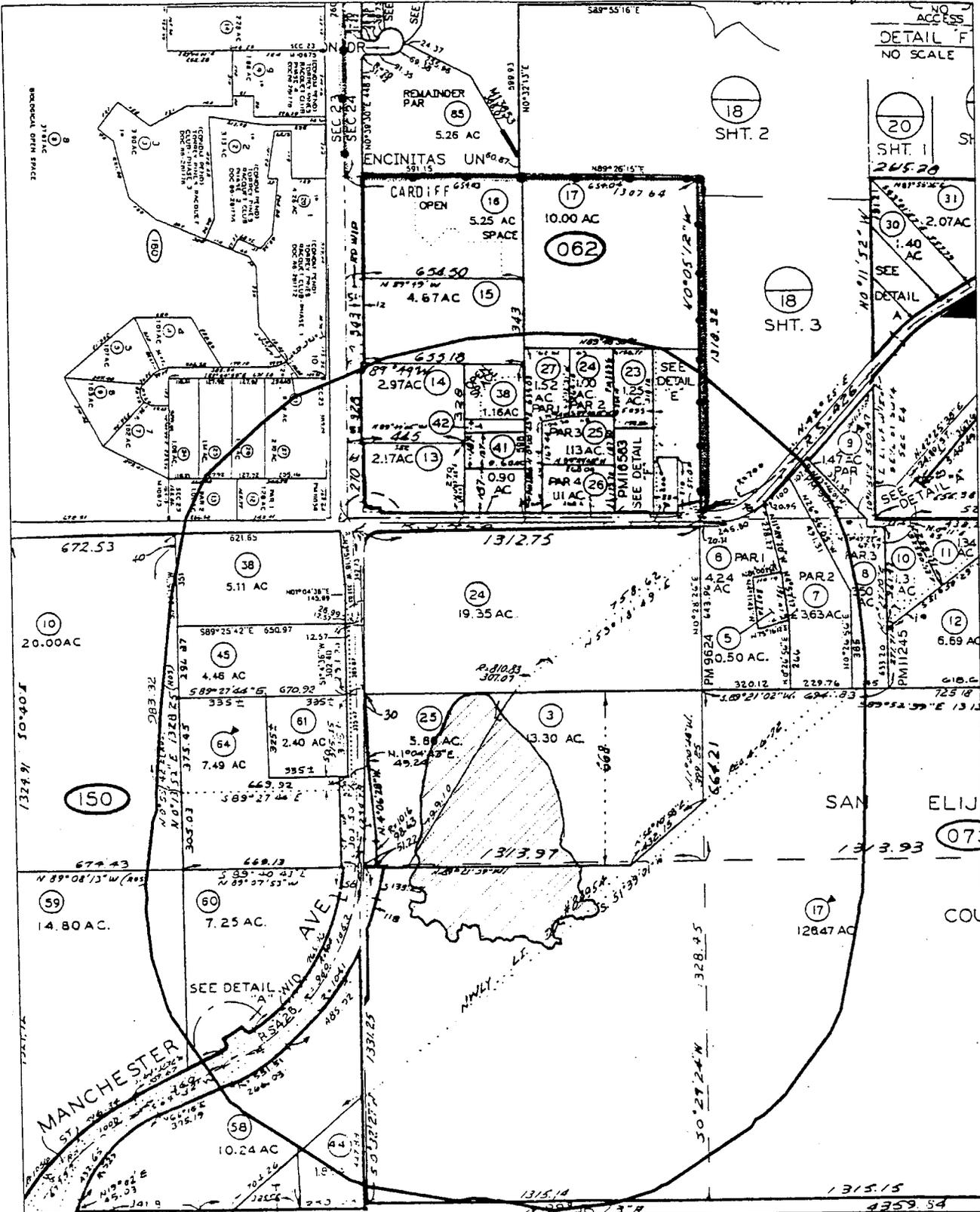
Sources: SanGIS, SANDAG



ESP Manchester Avenue Mitigation Site Biological Assessment
 (1/15/90) Wetland Mitigation APRs B.4.1 (revision: apr - SP83/F6) (T. Jester) 3/09/03

EXHIBIT NO. 2
APPLICATION NO.
6-03-127-A1
Vicinity Map

6-03-127



PROJECT BOUNDARY WITH BUFFER

EXHIBIT NO. 3
APPLICATION NO.
6-03-127-A1
Project Boundary
Map

