

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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 49th Day: February 5, 2004
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 Staff: KAW-SD
 Staff Report: January 28, 2004
 Hearing Date: February 18-20, 2004

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-03-127

Applicant: San Diego County Water Authority

Agent: Bobbette Bidulph
 EDAW, Inc.

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 nonwetland vegetation, located south of the intersection of Manchester Avenue and El Camino Real in the City of Encinitas.

Lot Area	145.37 acres
Zoning	Ecological Resource, Open Space, Parks
Plan Designation	Open Space

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, City of Encinitas, San Diego County. (APNs 262-073-03, -17, -25)

Substantive File Documents: 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)

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project with special conditions. The 8.7 acre wetlands creation project will mitigate for impacts to 6.0 acres of wetlands located outside of the coastal zone, resulting from the San Diego County Water Authority's

expansion of existing facilities for increased emergency water storage capacity. The project has been conditioned to ensure that no adverse impacts to water quality or habitat in adjacent riparian areas and San Elijo Lagoon will result from the wetland creation, and that the wetland area will be adequately monitored, maintained and preserved.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-03-127 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. Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, final site plans (including grading and planting plans) for the permitted development, that have been approved by the City of Encinitas. The final plans shall include the following:

A. A final grading and erosion control plan in substantial conformance with the preliminary grading plans dated October 16, 2003. All grading activities shall be prohibited within the period from November 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 postconstruction 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

The 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.

- (3) 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.

B. A final wetland vegetation planting plan in substantial conformance with the Revised Final Manchester Site Conceptual Wetland Creation, Mitigation and Monitoring Plan, dated July 2003 by EDAW. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director in consultation with the Department of Fish and Game to avoid species inherently noxious to the adjacent riparian and lagoon environments. The final plan shall include:

- (1) A detailed plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. The wetland restoration shall incorporate solely native plant materials appropriate to the local soils, hydrology and adjacent habitats. The type and location of any proposed barriers, signage or other materials or methods that will be utilized to separate human activities such as utility maintenance or public access from the wetlands mitigation sites shall be indicated.
- (2) A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of grading.

- (3) A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the approved final wetland vegetation planting plan.
- (4) Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a monitoring report, prepared by a qualified Resource Specialist, that certifies the wetlands mitigation plantings are in conformance with the final plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the wetland monitoring report indicates the created wetland habitat is not in conformance with or has failed to meet the performance standards specified in the final plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental wetland vegetation planting plan for the review and written approval of the Executive Director. The revised wetland plan must be prepared by a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Prohibition of Future Development. This permit is for the creation, maintenance and monitoring 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 the above-described site. The applicant shall not undertake any other future development or construction activities within the restoration area without first obtaining an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Storage and Staging Areas/Access Corridors. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- (a) No overnight storage of equipment or materials shall occur within existing wetland or riparian areas or within any other sensitive upland area.
- (b) Access corridors shall be located in a manner that has the least impact on existing wetland or riparian areas.

- (c) The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

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 required.

4. Other Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicant shall submit for review and written approval of the Executive Director, copies of all other required local, state or federal discretionary permits for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

5. Disposal of Graded Spoils. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project is 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. As the applicant has not identified the location where the export material will be deposited, Special Condition #5 requires that the site be identified prior to issuance of the permit. 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 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 will issue coastal development permits for the 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, as shown on Exhibit 5. The subject review 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.

2. Public Access and Recreation. The Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide low cost recreational facilities, particularly in new development projects. The following Coastal Act policies are applicable to the proposed development:

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with any development located between the first public roadway and the sea, indicating that the development is in conformity with the public access and public recreation policies of Chapter 3. In this case, such a finding can be made.

No adverse impacts to existing public access or recreational use are expected from the proposed project. Although the proposed wetland mitigation areas will not be available for public use, the proposal to restore 8.7 acres of wetlands adjacent to sensitive wetland, riparian and lagoon resources, and restore habitat connections between these areas, is consistent with this section's requirements to protect natural resources from overuse and protect fragile coastal resources. Public access locations and trails currently exist in other areas of the San Elijo Lagoon Ecological Reserve to provide opportunities for public recreational use and access to coastal resources. Therefore, the project is consistent with the public access policies of the Coastal Act.

3. Water Quality. The following Coastal Act policies addressing water quality are most applicable to the subject proposal, and state, in part:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored...Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters....

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum population 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...

The proposed wetland creation will not impact water quality, and will increase the overall amount of onsite native habitat that can function as natural stormwater filtration for downstream sensitive resources. Special Condition 1.A.(3) requires that onsite easements utilize permeable surfacing materials such as decomposed gravel, minimizing surface water runoff into sensitive areas. Additionally, Special Condition 1.A. provides protective requirements to control erosion and prevent impacts to the adjacent wetlands and creek areas. As conditioned, the proposed project is consistent with the resource protection policies of the Coastal Act.

4. Visual Impacts. Section 30251 of the Coastal Act addresses visual resources, and states, in part:

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....

The proposed development will not affect the visual character of the surrounding environment or interfere with existing public views of San Elijo Lagoon. The visual quality of the subject site will be improved by removing existing non-native vegetation and graded landforms, and replacing them with natural contours and native wetland vegetation appropriate to the site and consistent with adjacent habitat. Therefore, as proposed, the development will be consistent with the visual resource policies of Section 30251 of the Coastal Act.

5. Sensitive Species Protection. Section 30240 of the Coastal Act addresses sensitive species and their habitats, and states in part:

Section 30240.

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The wetland creation will convert disturbed, nonwetland, ruderal habitat to native, functional wetland and riparian habitat with connections to existing native habitat and wetlands offsite. No wetlands will be impacted by the proposed development. The created wetland and riparian habitat are anticipated to provide improved water quality and wildlife habitat functions in comparison to the current site conditions. A net increase in functioning wildlife habitat will result from the wetland creation and expansion of the riparian corridor along Lux Creek, which will likely increase foraging habitat and cover for native wildlife species. Lux Creek will also benefit from increased connectivity with the mature vegetation of Escondido Creek downstream of and adjacent to the mitigation site. Special Condition #1 includes protective measures to prevent stormwater runoff and control potential erosion into sensitive wetland/creek areas, and requires that wetland creation activities not impact existing sensitive habitat. Special Condition #2 prohibits the subject site for being used for development other than the permitted wetland creation activities. Special Condition #3 prohibits sensitive areas from being used for storage of construction materials and equipment. Special Condition #4 requires the applicant to submit all other permits received for the proposed activity, including any other mitigation requirements, which will be added to the scope of the approved project and become part of the permit.

Implementation of the above-described conditions will enhance the habitat value of the subject site and the Lux Creek area, increase connectivity between existing areas of riparian and wetland habitat, and improve water quality. Therefore, as proposed, the development will be consistent with the sensitive species and habitat protection policies of Section 30240 of the Coastal Act.

6. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The City of Encinitas has a certified LCP. The subject restoration project falls within both the City's and the Coastal Commission's coastal development permit jurisdiction. The City has already approved the permit for that portion within their jurisdiction as an appealable development, and no appeal was filed. The subject of this review is only that portion of the development within the Coastal Commission's original jurisdiction.

As discussed above, the proposed project is consistent with the public access, water quality, visual resource and sensitive species protection policies of the Coastal Act. As conditioned, no impacts to coastal resources will result from the proposed project. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of Encinitas to continue implementing its certified Local Coastal Program for the area.

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

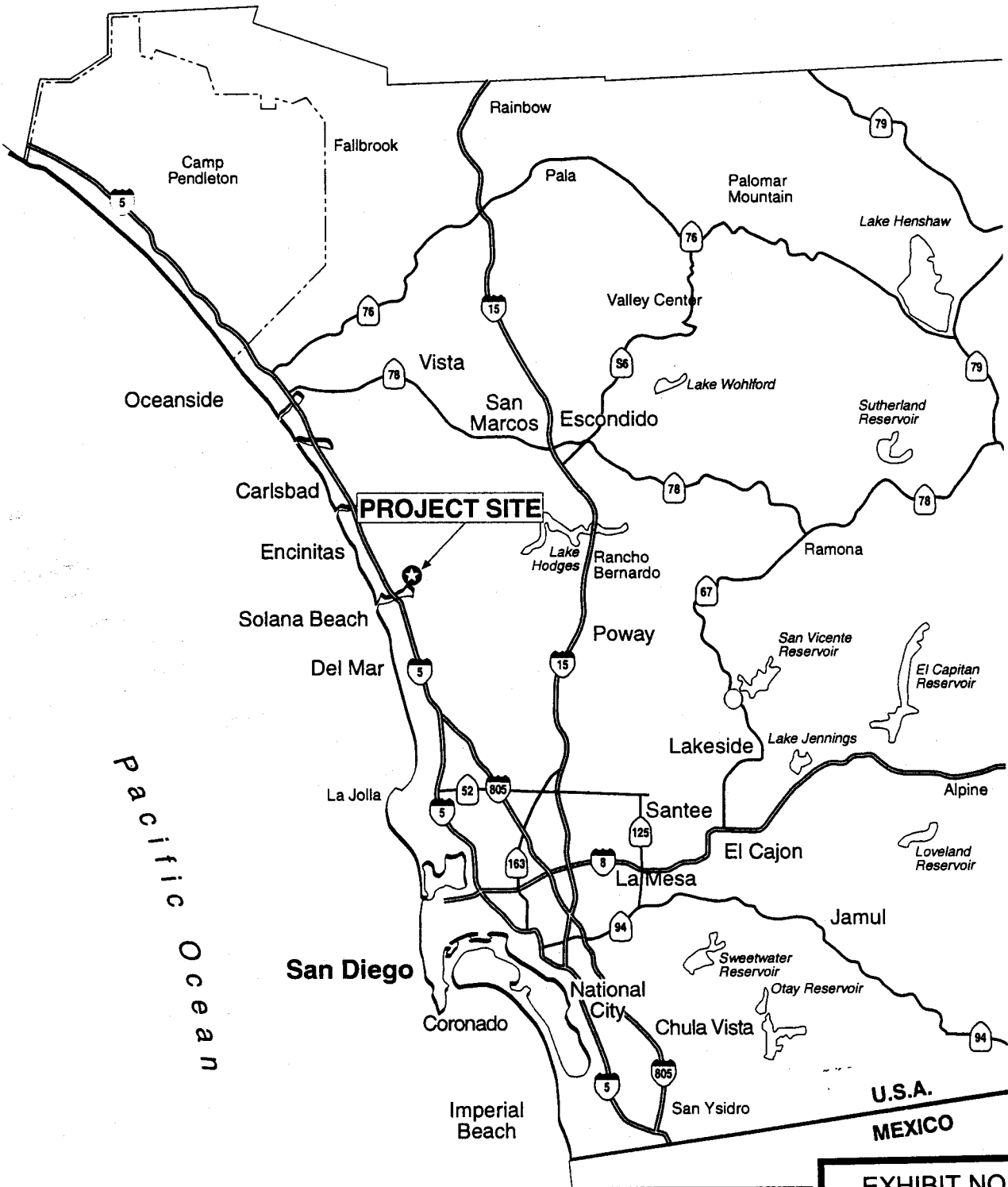
The proposed project has been conditioned in order to be found consistent with the public access and water quality protection policies of the Coastal Act. Mitigation measures, including implementation of a Best Management Program will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.


6-03-086
127

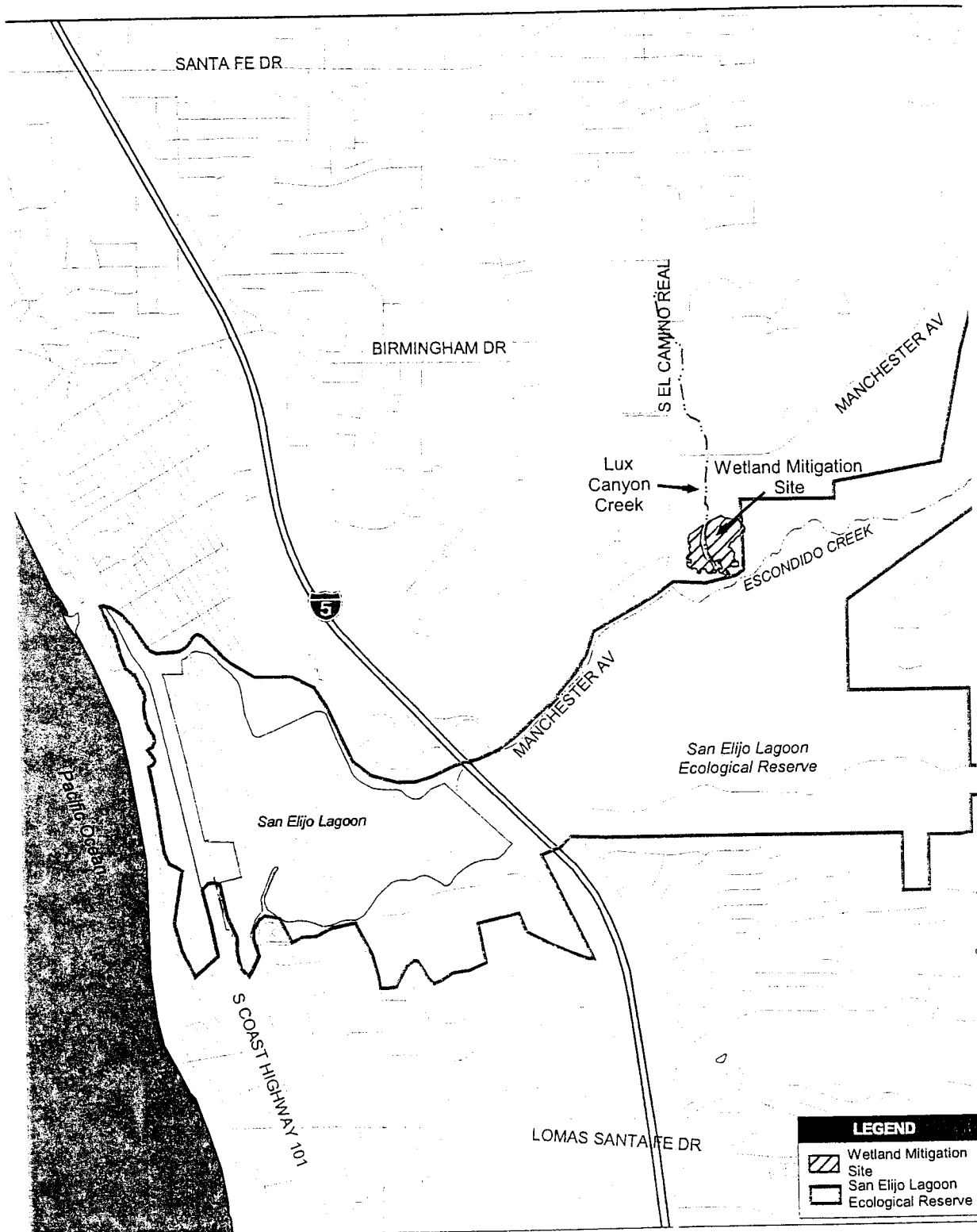


No Scale

SDCWA ESP Wetland Creation Mitigation
9K013 ESP Wetland Crea

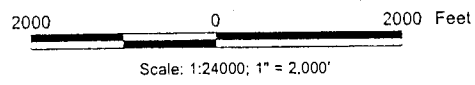
EXHIBIT NO. 1
APPLICATION NO.
6-03-127
Regional Map





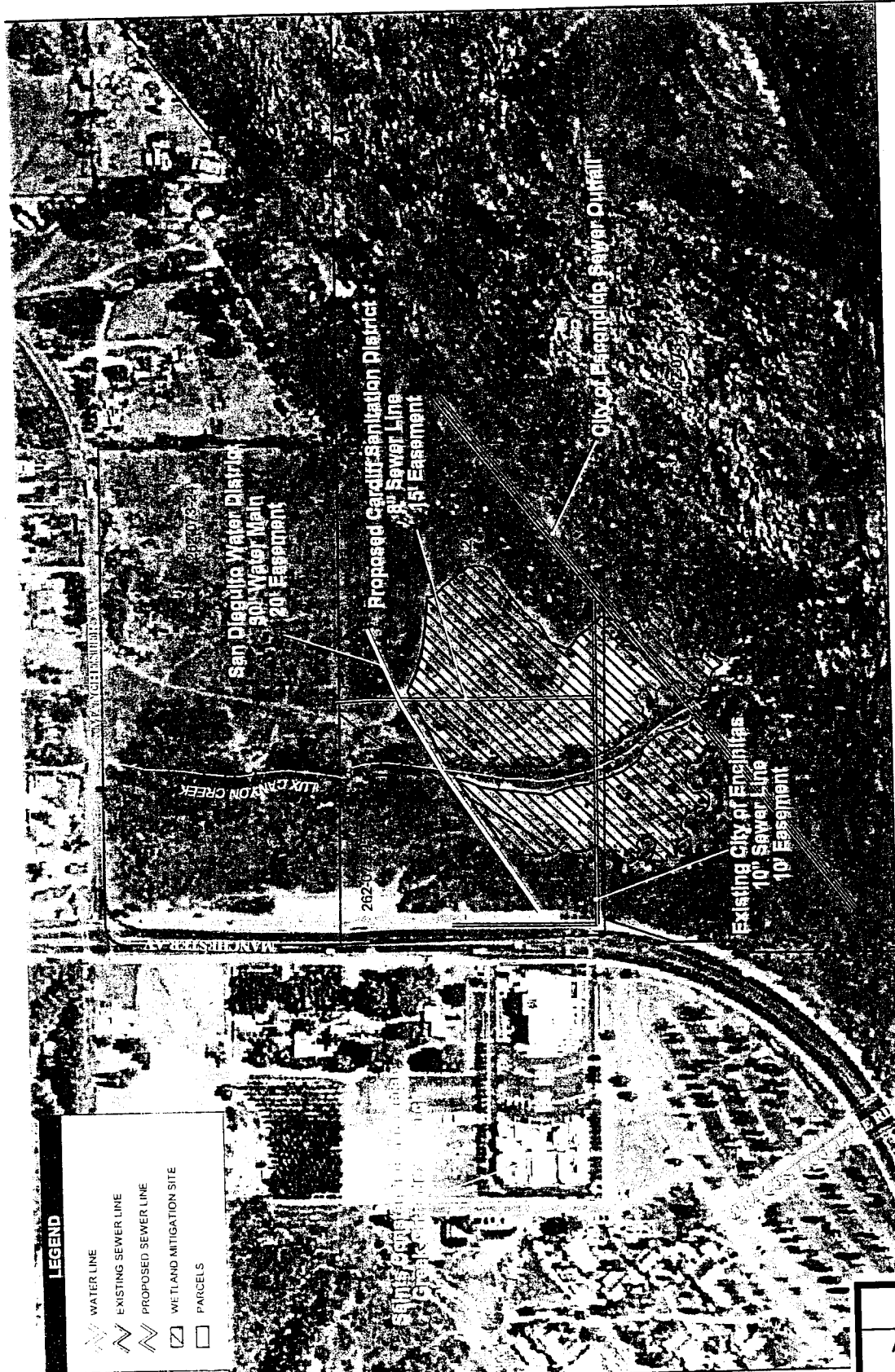
LEGEND	
	Wetland Mitigation Site
	San Elijo Lagoon Ecological Reserve

Sources: SanGIS, SANDAG



ESP Manchester Avenue Mitigation Site Biological Assessment
 GIS:99013 Wetland Mitigation APRs:BA_vicinity.apr (SP83/F6) (T.Jester) 3-09-03

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

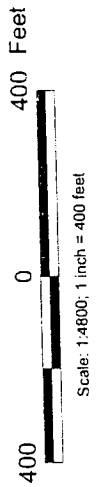


LEGEND

- WATER LINE
- EXISTING SEWER LINE
- PROPOSED SEWER LINE
- WETLAND MITIGATION SITE
- PARCELS

Figure 3
Utility Lines and
Parcel Lines

31S, SANDAG, AirphotoUSA, 1m True color, 2001



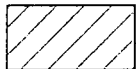
ESP Manchester Avenue Mitigation Site Biological Assessment
GIS 09013 Wetland Mitigation APRs:BA utility_11_02 apr (SP83CF6) (T. Huntley) 5/19/03

EXHIBIT NO. 4
APPLICATION NO.
6-03-127
Utility Lines and
Parcels

Post-LCP Certification Permit and Appeal Jurisdiction City of Encinitas

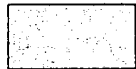
—— Coastal Zone Boundary

- - - - City Boundary



Permit Jurisdiction

This area includes only lands below the mean high tide line and lands where the public trust may exist.



Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. Sec. 30519(b), and Sec. 30603(a)1 and (a)(2). In addition, developments may also be appealable pursuant to P.R.C. Sec. 30603(a)(3), (a)(4) and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plot may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.



California Coastal Commission
Technical Services Unit

EXHIBIT NO. 5

APPLICATION NO.

6-02-100

Jurisdictional Map

(Legend)

Page 2 of 2

