

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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**RECORD PACKET COPY****W10a**

Filed: 10/6/03
49th Day: 11/24/03
180th Day: 4/3/04
Staff: MV-LEW
Staff Report: 1/29/04
Hearing Date: 2/18-20/04
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER: 5-03-298****APPLICANT: Three Arch Bay Community Services District****AGENT: Jene Lyle, Exponent
Boyle Engineering****PROJECT LOCATION: Vista del Sol, Laguna Beach, Orange County**

PROJECT DESCRIPTION: Expansion of an existing 0.08 acre flood control debris basin to 0.15 acre. Construction of a 3 to 9 foot compacted fill berm, construction of a new concrete spillway along the northerly top of the berm, grading to create new 2:1 cut slopes to increase the volume and area of the basin. The total amount of grading proposed is 280 cubic yards of cut and 250 cubic yards of fill.

LOCAL APPROVALS RECEIVED: Three Arch Bay Community Services District approval.

SUBSTANTIVE FILE DOCUMENTS: Mitigated Negative Declaration, 9/25/02; CDFG Streambed Alteration Agreement, Notification No. 5-2003-0146; City of Laguna Beach certified LCP (used as guidance only in this area of deferred certification).

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed project subject to four special conditions which require the presence of a biological monitor during construction activities; compliance with general construction responsibilities; compliance with a post-construction maintenance plan; and acknowledgement of limits of the scope of the project. These conditions are necessary to protect development adjacent to parks as required by Section 30240(b) of the Coastal Act and to protect water quality to promote the biological productivity of coastal waters as required by Coastal Act Section 30231.

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-03-298 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:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **SPECIAL CONDITIONS**

1. **Biological Monitor**

A qualified biologist shall monitor all construction activities for disturbance to sensitive species or habitat areas. The biological monitor shall have the authority to stop work if any adverse impacts to sensitive species at the project site and/or within the project vicinity could result from continuation of construction activities. If construction activities are stopped by the biological monitor, the Executive Director shall be notified as soon as possible. The Executive Director shall determine whether an amendment to this permit or a new coastal development permit is necessary before the work may continue.

Prior to commencement of construction, the applicant shall identify in writing the biological monitor and his/her qualifications for the review and approval of the Executive Director.

2. **General Construction Responsibilities**

A. The permittee shall comply with the following construction-related requirements:

1. To avoid adverse impacts on nesting/breeding birds construction shall not occur from February 15 to July 31 of any year. However, work may occur during this time if a qualified biologist conducts a minimum of three days of surveys for nesting birds within seven days prior to vegetation removal, and at least one survey must be within three days prior to vegetation removal, consistent with the requirements of Streambed Alteration Agreement Notification No. 5-2003-0146. These surveys shall be submitted for the review and approval of the Executive Director.
2. Prior to commencement of any work approved by this permit, a temporary barrier or work area demarcation (such as but not limited to flagging, staking or plastic mesh fencing) shall be placed between the construction areas and off-site habitat area. Barriers and other work area demarcations shall be inspected and approved by a qualified biologist. All temporary flagging, staking, fencing shall be removed upon completion of the development. No work shall occur beyond the limits of the project as identified on the project plans (Vista del Sol Debris Basin, Sheet 1 of 3, dated March 2003).
3. All areas disturbed and/or denuded by the project shall be re-vegetated with native vegetation for erosion control purposes or otherwise stabilized to prevent erosion. Furthermore, any inadvertent impacts to the adjacent park and habitat areas by the proposed development shall be reported to the Executive Director within 24 hours of occurrence and shall be mitigated. Such mitigation shall require an amendment to this permit or a new permit unless the Executive Director determines that no amendment or new permit is required.
4. No construction materials, debris, or waste shall be placed or stored where it may encroach upon adjacent park or habitat areas or enter any storm drain;
5. Construction materials, chemicals, debris and sediment shall be properly contained and secured on site or upon adjacent existing paved areas to

prevent the unintended transport of material, chemicals, debris, and sediment into habitat areas and coastal waters by wind, rain or tracking. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs selected shall be maintained in a functional condition throughout the duration of the project. A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines.

6. Disposal of debris and excess material. Debris and excess material shall be disposed or recycled at a legal disposal/recycling site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required. No debris or excess material shall be placed on or within adjacent park or habitat areas.
7. Debris and sediment shall be removed from the construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into habitat areas and coastal waters.
8. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a revised site access, staging, work area and equipment storage plan(s) which conforms with the requirements of subsection A.1 through A.8. of this special condition. The permittee shall undertake development in accordance with the approved final plan(s). Any proposed changes to the approved final plan(s) shall be reported to the Executive Director. No changes to the approved final plan(s) shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Post-Construction Maintenance Plan

- A. Annual sediment removal shall be allowed after July 31 and prior to February 15, once accumulated sediment reaches a depth of 4 to 6 feet within the basin. No work shall be conducted beyond the limits of the project as identified in the project plans (Vista del Sol Debris Basin, Sheet 1 of 3, dated 3/03).
- B. **Prior to issuance of the coastal development permit**, the applicant shall submit for the review and approval of the Executive Director, a Post-Construction Maintenance Plan. The Plan shall identify methods of compliance with the conditions of this permit identified above as well as a revegetation plan for the bed and banks of the debris basin. The revegetation portion of the plan shall include: 1) reseeding the bed of the debris basin with native grasses and forbes (e.g. Juncun, Scirpus, etc.), and, 2) planting of native herbaceous and woody riparian species along the banks of the debris basin after initial project construction and routine

sediment removal. Reseeding shall occur in the Fall after each routine maintenance sediment removal event. The Post-Construction Maintenance Plan shall be reviewed and approved in writing by the California Department of Fish & Game prior to submittal to the Executive Director.

- C. 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Limits of Scope of Project

By acceptance of this permit, the applicant acknowledges that the proposed debris basin project is separate from and not dependant upon any future Three Arch Bay storm drain project.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to expand an existing 0.08 acre flood control debris basin to approximately 0.15 acre. Also proposed is the construction of a 3 to 9 foot compacted fill berm, construction of a new concrete spillway along the northerly top of the berm, and grading to create new 2:1 cut slopes to increase the volume and area of the basin. The total amount of grading proposed is 280 cubic yards of cut and 250 cubic yards of fill.

The project site is located in gently rolling hills at an elevation of approximately 300 feet above sea level. Steep hills, approximately 500 – 600 feet above sea level, are located to the north and west of the project site. A paved residential road runs to the west of the site. Adjacent land usage includes a residential community, and undisturbed native habitat. Vegetation in the central portion of the existing basin consists primarily of non-native plant species such as tree tobacco, black mustard, and sweet fennel. The project area is located within an ephemeral drainage. The site is not a perennial stream course and does not appear as a blue line stream on the Commission's post-certification maps for the area.

The subject site is located primarily within the Three Arch Bay private community. However, a portion of the project will extend into Aliso and Woods Canyon Regional Park. The Regional Park is owned and operated by the Orange County Public Facilities and Resources Department, Harbors, Beaches and Parks (PFRD - HBP), and is designated by the County as a wildlife sanctuary. The portion of the project located within the park is within the boundary of the City of Dana Point (see exhibit C). The City of Dana Point has a

certified Local Coastal Program and has issued a local coastal development permit for the project (CDP02-14). Because the project site is located inland, and the drainage area that constitutes the subject site is not a stream or wetland, and the project does not meet the definition of major public works project, the local coastal development permit is not appealable to the Coastal Commission. Approval of the local coastal development permit included special conditions addressing the limits of approval, timing of construction, limiting construction related noise, confirmation of approval from the Coastal Commission, the County of Orange, and the California Department of Fish & Game.

Regarding the intent of the proposed project, the applicant has stated in a letter dated 10/1/03:

"The proposed expansion of the Vista del Sol Debris Basin is specifically intended as a flood control project. Vista del Sol Debris Basin currently occupies about 0.05 acres of land. It receives flows from the bluffs to the north, with a total drainage area of about 26-acres. Excess flows that cannot enter the existing storm drain have historically flowed over the embankment onto Vista del Sol as surface runoff. Flows that enter the storm drain system are conveyed via an underground storm drain to the northwest corner of Vista de la Luna and Vista del Sol. At that point flows are discharged onto the street surface. The basin has been in place for many years and has operated adequately for most storms. The existing basin has capacity to hold debris resulting from an approximately 5-year return frequency storm, and is undersized for storms with a greater return frequency debris load.

Upstream offsite development approved by the City of Laguna Niguel has occurred in recent years. As the project improvements moved through initial earthwork to installation of infrastructure and eventually to completed site development, the character of storm flows entering the Vista del Sol Debris Basin has changed. Flows from the hilltop development are now concentrated and discharged at several locations. These changes have placed greater demands on the basin. The increased capacity of the expanded Vista del Sol debris basin, the enlarged outlet and the emergency spillway would enable this facility to accommodate storm flows and debris loads generated by the now-complete hilltop development."

As stated in the applicant's letter, the proposed increase in capacity is necessary to serve existing development and is not intended to accommodate future development needs. The development within the City of Laguna Niguel referred to in the applicant's letter is located in a non-appealable area of the coastal zone. As proposed the debris basin expansion will allow the basin to accommodate 25 year return frequency storms. The project is proposed to prevent future flooding in the area and will also serve to allow debris carried in the storm water to settle out before entering the storm drain system which ultimately outlets into the ocean, approximately ½ mile downstream.

A Mitigated Negative Declaration (MND) was prepared by the Three Arch Bay Community Services District (applicant) in conjunction with the proposed project. The MND identified mitigation measures necessary to eliminate, avoid, or reduce potential adverse

environmental effects the project may have on the environment. The MND found that with the incorporation of the mitigation measures, the proposed project will not have a significant effect on the environment. The mitigation measures to be included as part of the proposed project, pursuant to the MND, include all: earthwork must conform to seismic hazard codes, comply with the recommendations of the geotechnical consultant, and the Uniform Building Code, and finished cut slopes must be revegetated as soon as practicable; the preparation of a Storm Water Pollution Prevention Plan, the presence of a biological monitor during vegetation removal, traffic control measures to be implemented if road closures are necessitated, implementation of air quality measures, and restrictions on construction noise.

The applicant has entered into a Streambed Alteration Agreement with the California Department of Fish and Game (CDFG) in conjunction with the proposed project (Notification No. 5-2003-0146, see exhibit F). As part of the Streambed Alteration Agreement the applicant has agreed to reseed the bed of the debris basin with native grasses and forbes after initial project construction and sediment removal and planting of native herbaceous and woody riparian species along the banks of the debris basin. The streambed Alteration Agreement also requires the applicant to prepare a mitigation plan, provide an annual monitoring report of the site, and describe a minimum success criteria for the mitigation planting. The mitigation plan and annual monitoring are subject to the review and approval of the CDFG. The Streambed Alteration Agreement allows routine maintenance of the debris basin to include removal of accumulated sediment, with a requirement for reseeded after each maintenance activity. The Streambed Alteration Agreement limits timing of the project so as to avoid impacts to breeding/nesting birds (from February 15 to July 31). Work may occur, pursuant to the Agreement, during this time period only if a biological survey for nesting birds is conducted and concurred to by the CDFG, and which documents no evidence of nesting birds in the project vicinity. The applicant is required to stabilize the site whenever any precipitation is forecast. Work is also prohibited in any areas containing flowing water until the flow has receded and soils have stabilized. Additionally, a qualified biological monitor is required to be present during all vegetation clearing activities and the perimeter of the work site must be flagged and no work may occur beyond the identified project limits. The Agreement also limits equipment access and project vehicle maintenance activities.

In the past the applicant has applied for a coastal development permit to replace/upgrade the existing Three Arch Bay storm drain system (5-00-011). That application raised issues with consistency of the project with the Coastal Act policies regarding environmentally sensitive habitat (rocky intertidal), water quality, and other Coastal Act policies. The potential impacts to rocky intertidal habitat were due to the location of the proposed ocean outfall for the proposed storm drain system. The previous application, 5-00-011, was withdrawn by the applicant prior to Commission action. The proposed debris basin project is located at the upstream end of the Three Arch Bay storm drain system. Although it is a part of the overall system, it will not increase the amount of runoff flowing into the existing storm drain system. In addition, it is not dependant upon or related to any future development involving the remainder of the storm drain system.

The proposed project has received conditional approval from the California Regional Water Quality Control Board (File No. 03C-053, see exhibit G). The applicant has applied to the County of Orange for an encroachment permit to conduct the work within the County owned Park. This portion of the project is located within the City of Dana Point. The County has requested evidence of approved coastal development permits prior to completing review of the encroachment permit application (see exhibit E).

The project is located approximately 0.3 miles inland of South Coast Highway, within the private, locked gate community known as Three Arch Bay, in the City of Laguna Beach (except as noted above where a portion of the project extends into the City of Dana Point). The Three Arch Bay Community is located on either side of the first public road, which in this area is South Coast Highway. The subject site is located on the inland side of the private community, landward of Coast Highway. Thus, the proposed development will have no impact on existing public access in the vicinity. The nearest public access to the shore is at Thousand Steps County Beach approximately ½ mile upcoast and at Salt Creek Beach Park, approximately 1 ½ miles downcoast.

Three Arch Bay is one of the areas of deferred certification within the otherwise certified City of Laguna Beach. Three Arch Bay, along with three other private, locked gate communities between the sea and the first public road, were deferred certification due to the public access issue raised by their locked gate nature. Because of the deferral of certification, the City of Laguna Beach Local Coastal Program does not apply in this area, and the policies in Chapter 3 of the Coastal Act, Cal. Pub. Res. Code §§ 30200 *et seq.*, constitute the standards by which the permissibility of the proposed development is to be determined.

B. Development Adjacent to Sensitive Habitat & Parks

Section 30240 of the Coastal Act 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.*

1. Environmentally Sensitive Habitat Areas

The applicant has submitted a Biological Resources Assessment (Assessment), prepared by Michael Brandman Associates, dated April 2003. The Assessment indicates that "the project site contains primarily native species with a few nonnative species occurring in the drainage." The Assessment did not find any sensitive wildlife species or sensitive plant species within the limits of the proposed project. The Assessment identifies the plant

community at the project site as southern mixed chaparral, which is not considered to be a sensitive plant community.

The Biological Assessment did identify six sensitive plant species as having the potential to occur on site. Consequently, a Focused Sensitive Plant Survey Report was prepared by Michael Brandman Associates in April 2003 to determine the presence/absence of any special status plant species with the project area. The six sensitive species are: Crownbeard, Many-stemmed Dudleya, Laguna Beach Dudleya, Summer Holly, Nuttall's scrub oak, and Intermediate mariposa lily. The survey was conducted within the known flowering period of the special status species. The focused survey concluded: "Plant species observed during the focused surveys were considered to be common. There were no threatened, endangered, or otherwise sensitive plant species observed during the surveys. All plant species observed within the site are known to occur throughout the region."

Commission staff has visited the subject site and concurs with the applicant's biological consultant that the plant community within the project site does not constitute ESHA (see exhibit D).

2. Development Adjacent to Parks

Although no sensitive habitat exists within the subject site, the site is located adjacent to Aliso and Woods Canyon Regional Park. The County has designated this park a wildlife sanctuary. In this area, the park consists of undisturbed native habitat. Section 30240(b) of the Coastal Act requires that development adjacent to parks be sited and designed to prevent impacts which would significantly degrade those areas, and to be compatible with the continuance of those areas.

The Streambed Alteration Agreement approved by the California Department of Fish & Game (CDFG) imposes certain requirements to assure that the area adjacent to the project area is protected. The CDFG Streambed Alteration Agreement requirements include reseeding the disturbed area, restrictions on routine maintenance of the debris basin, restrictions on the timing of construction, the presence of a qualified biological monitor during all vegetation removal, identifying the limits of the project area, restrictions on use of equipment and equipment access, and prohibiting contaminants from entering the soil or water. In order to assure that the proposed project will not degrade the adjacent park area, the project must include the measures identified above. Therefore, only as conditioned to comply with the measures identified in the approved Streambed Alteration Agreement, can the proposed project be found to be consistent with Section 30240(b) of the Coastal Act which requires that development adjacent to parks will not cause the park area to be degraded and that development be compatible with the continuance of the park area.

As conditioned, the Commission finds the proposed project is consistent with Section 30240(b) regarding development adjacent to parks.

D. Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The debris basin expansion is proposed as a flood control project. It would have the additional benefit of filtering storm water before it enters the community storm drain system and ultimately the ocean. By collecting the storm water in the debris basin, rather than allowing it to flow directly into the storm drain system, sediment and particulates will be allowed to settle out as the water is absorbed into the ground. In addition, the project has been conditioned to prevent construction vehicle maintenance to occur within the project area, and for the removal of all construction debris at the end of the workday, thus minimizing construction related contaminants that may enter the storm water runoff. Further, the project has been conditioned to require routine maintenance, including annual removal of collected debris and sediment, and revegetation following each annual removal. The annual debris/sediment removal will allow continued effectiveness of the debris basin. The revegetation will minimize erosion of exposed soil once the debris has been removed. Therefore, the Commission finds that that proposed project, as conditioned is consistent with Section 30231 protecting and enhancing the quality of coastal waters.

E. Local Coastal Program

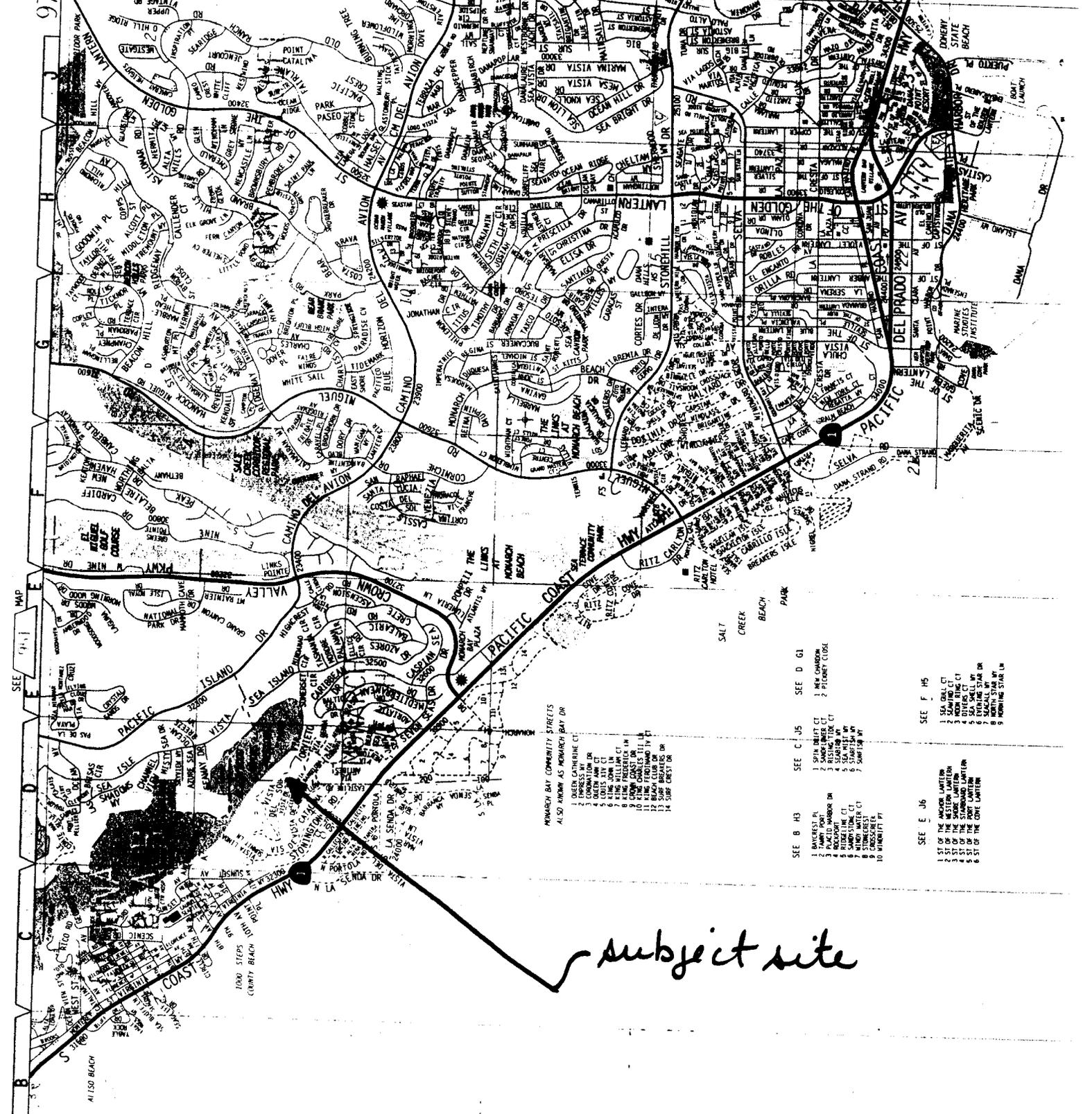
The LCP for City of Laguna Beach was effectively certified in February 1993. However, the proposed development is occurring within an area of deferred certification. Consequently, the standard of review is the Coastal Act and the City's LCP is used as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program for this area that is in conformity with the provisions of Chapter 3.

F. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would

substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, 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, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



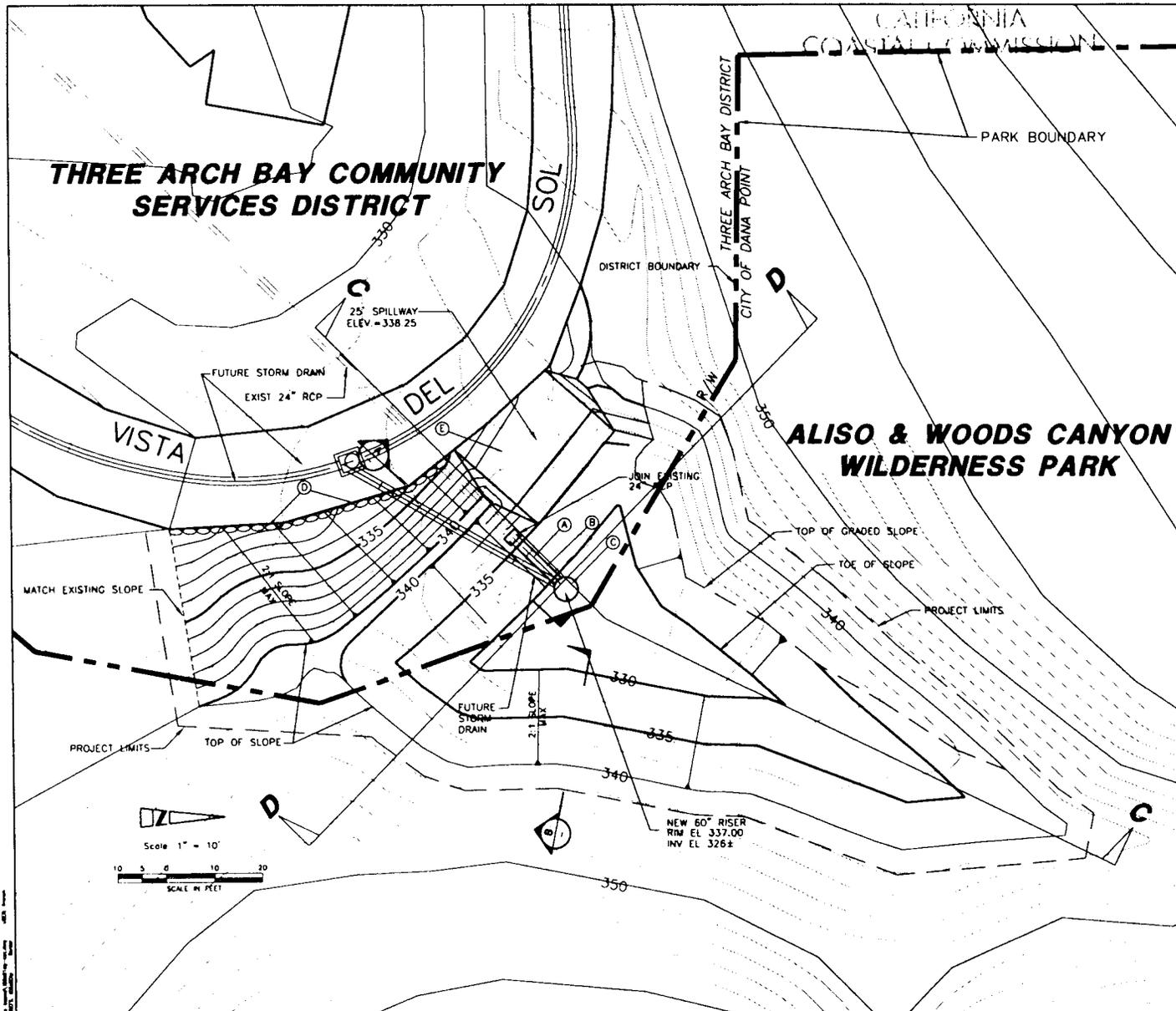
subject site

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 EXHIBIT # A
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VICINITY MAP

DEC 6 2003

EXHIBIT B



GENERAL NOTES:

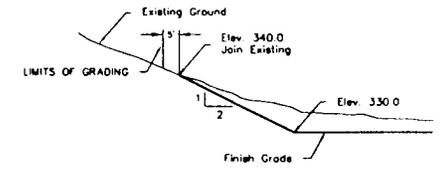
- Contractor shall remove all trash and debris from within the project area prior to start of construction.
- Contractor shall contact the City of Laguna Beach and offer materials excavated from the project site for beach replenishment.

GENERAL CONSTRUCTION NOTES:

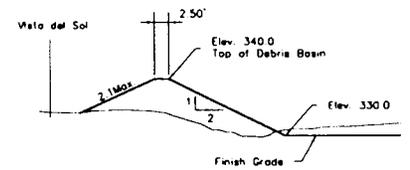
- Compact Fill Slopes to 95% relative compaction in 12 inch lifts.

CONSTRUCTION NOTES:

- (A) Remove existing riser.
- (B) Construct 24" RCP (D-2000). Join existing w/concrete collar per Orange County PF&RD Std. Plan 1317
- (C) Install 60" riser per Orange County PF&RD Std. Plan 1327. Rim elevation=337.00, Invert elevation=326±. Provide slotted perforations as specified
- (D) Install gravel erosion control bag (to remain until slope is stabilized)
- (E) Construct concrete spillway per Orange County PF&RD Std. Plan 1327.



SECTION B
SCALE: 1"=10'



SECTION A
SCALE: 1"=10'

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Site Plan & Boundaries Map

REVISIONS

| NO. | DATE | DESCRIPTION | APPROVED BY | DATE |
|-----|------|-------------|-------------|------|
| | | | | |
| | | | | |
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REFERENCES

| NO. | DESCRIPTION |
|-----|-------------|
| | |
| | |
| | |

SEVALA ENGINEERING CORPORATION
CONSULTING ENGINEERS / ARCHITECTS
1801 East Street, P.O. Box 2000
Laguna Beach, California 92653-2000
949 / 766-3300

DRAWN BY: UJ DATE: 3/03
CHECKED BY: UJ JOB NO:
FOR APPROVAL SEC SHEET NO. 1

SCALE: HORIZ. 1"= 10' VERT. 1"= N/A

CROSS-SECTION LOCATION EXHIBIT
VISTA DEL SOL DEBRIS BASIN

THREE ARCH BAY

SHEET 1 OF 3
PLAN NUMBER

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



MEMORANDUM

FROM: John Dixon, Ph.D.
Ecologist / Wetland Coordinator

TO: Meg Vaughn

SUBJECT: Vista del Sol Debris Basin

DATE: January 22, 2004

Document reviewed:

Michael Brandman, Assoc. May 2003. Regulatory compliance notification, Vista Del Sol debris basin expansion project, City of Dana Point, California. A report to the Three Arch Bay Community Services District that includes a wetland delineation and biological resources assessment.

We visited this site on January 16, 2004. The debris basin itself is sparsely vegetated with exotic species, particularly tree tobacco. The adjacent hillside to the south is dominated by lemonade berry. The hillside to the north is dominated by lemonade berry, laurel sumac, redberry and black sage with an admixture of typical coastal sage scrub species such as buckwheat and California sagebrush. This vegetation is appropriately characterized as southern mixed chaparral in the biological resources assessment. No rare species were found. This vegetation type does not constitute a Environmentally Sensitive Habitat Area at this site. Most of the vegetation that will be impacted by the proposed debris basin expansion is made up of lemonade berry and laurel sumac, both common species. The debris basin is constructed within an ephemeral drainage that does not have wetland characteristics. No wetland, as defined under the Coastal Act or the Commission's Regulations, will be affected by the expansion.

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COUNTY OF ORANGE
PUBLIC FACILITIES & RESOURCES DEPARTMENT

Vicki L. Wilson, Director
County Property Permits
300 N. Flower Street
Santa Ana, CA
92703
Telephone: (714) 834-5216
Fax: (714) 835-7425

May 18, 2001

Greg Crews
Boyle Engineering Corporation
1501 Quail Street
Newport Beach, CA 92660-2726

Subject: Proposed expansion of Vista del Sol Debris Basin into Aliso & Wood Canyons
Wilderness Park Encroachment Permit Application Number 2001-00076.

Dear Mr. Crews:

Your request to submit engineering plans to expand the existing Vista del Sol Debris Basin into Aliso & Wood Canyons Wilderness Park has been received by this agency's County Property Permits Section.

Your plans were submitted for review to the appropriate divisions who offer the following comments. **Provide the following documentation:**

1. Page 1, B, Maintenance Agreement:

Submit a draft of the required maintenance agreement.

2. Page 1, C Coastal Development Permit (s) (CDP):

Submit approved CDP(s) or letters from the Cities of Laguna Beach and Dana Point indicating that CDP(s) are not required.

3. Page 2, G Coastal Sage Scrub (CSS) Mitigation Fee:

Submit written evidence that the required CSS mitigation fee has been paid for the removal of .05 acres of CSS.

4. Page 2, I, Requirement for Biologist:

Obtain a biologist or arrange for a County Biological Resources Monitor to be present during any grading or removal of any vegetation.

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Boyle Engineering
March 18, 2001
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5. Page 2, E, Archeo/Paleo Survey:

Submit archeo/paleo survey if work extends beyond the boundaries delineated on the grading plan.

6. Page 2, F, Biological Survey:

Submit biological survey if:

- a. Permittee's work exceeds the area delineated on the grading plan.
- b. Permittee has not marked the limits of work in the field to the satisfaction of the County Biological Resources Monitor (CBRM).
- c. The CBRM is not on site during vegetation removal.
- d. Permittee requests to work on site during the California gnatcatcher nesting and breeding season (February 15 through August 30).

7. Prior to issuance of encroachment permit:

- a. Permittee must either obtain a California Department of Fish and Game (CDFG) Streambed Alteration Agreement or provide evidence from CDFG that this project is exempted. It is recommended that permittee contact Warren Wong, CDFG at (858) 467-4249 to discuss whether a Streambed Alteration Agreement is needed.
- b. Submit a Geotechnical Report.

Please submit the above documentation to me at 300 North Flower, Room 122, Station number 6. If you have any questions, my phone number is (714) 834-5716.

Sincerely,



George Rakas
Supervising Engineering Technician
County Property Permits

Cc: Eric Jessen, PFRD/HBP/Program Management & Coordination-Fac. Dev.

GR/H/comment letters/2001-00076

D2

CALIFORNIA DEPARTMENT OF FISH AND GAME
4949 Viewridge Avenue
San Diego, California 92123

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AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the **Department**, and Mr. ^{Calvin L. Nelson C.M.} ~~Drew Harper~~ of Three Arch Bay Community Services District, 5 Bay Drive, Laguna Beach, California 92651-9870, Phone (949) 499-4567, Fax (949) 499-2352, hereinafter called the **Operator**, is as follows:

WHEREAS, pursuant to Section 1603 of California Fish and Game Code, the Operator, on the 16th day of May, 2003, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed(s) of, the following water(s): Unnamed drainage, tributary to Pacific Ocean, Orange County, California, Section 8, Township 8S, Range 8W; USGS Map Laguna Beach 7.5; and

WHEREAS, the Department has determined that such operations may substantially adversely affect those existing fish and wildlife resources within Unnamed drainage, tributary to Pacific Ocean, specifically identified as follows: Amphibians: Pacific treefrog (*Hyla regilla*), and western toad (*Bufo boreas*); Reptiles: side-blotched lizard (*Uta stansburiana*), western fence lizard (*Sceloporus occidentalis*), southern alligator lizard (*Gerrhonotus multicarinatus*), gopher snake (*Pituophis melanoleucus*); Birds: coastal California gnatcatcher (*Polioptila californica californica*), red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), bushtit (*Psaltriparus minimus*), wrentit (*Chamaea fasciata*), Anna's hummingbird (*Calypte anna*), California thrasher (*Toxostoma redivivum*), towhees (*Pipilo* spp.), house finch (*Carpodacus mexicanus*), mourning dove (*Zenaida macroura*), house wren (*Troglodytes aedon*), western scrub-jay (*Aphelocoma coerulescens*), American crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), and song sparrow (*Melospiza melodia*); Mammals: California ground squirrel (*Spermophilus beecheyi*), rabbit (*Sylvilagus* spp.), dusky-footed woodrat (*Neotoma fuscipes*), striped skunk (*Mephitis mephitis*), and coyote (*Canis latrans*); riparian vegetation which provides habitat for those species; and all other aquatic and wildlife resources in the area.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife resources during the Operator's work. The Operator hereby agrees to accept the following measures/conditions as part of the proposed work.

If the Operator's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this Agreement and with other pertinent code sections, including but not limited to Fish and Game Code Sections 5650, 5652, 5937, and 5948, may result in prosecution.

Nothing in this Agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute Department of Fish and Game endorsement of the proposed operation, or assure the Department's concurrence with permits required from other agencies.

This Agreement becomes effective the date of Department's signature and terminates December 31, 2007 for project construction only. This Agreement shall remain in effect for that time necessary to satisfy the terms/conditions of this Agreement.

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STREAMBED ALTERATION CONDITIONS FOR NOTIFICATION NUMBER: 5-2003-0146

1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Operator is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement shall be subject to separate notification pursuant to Fish and Game Code Sections 1600 *et seq.*

Project Description:

2. The Operator proposes to alter the streambed and bank by expanding the Vista del Sol Debris Basin located at the northern tip of Vista del Sol. The proposed project consists of the expansion of the existing 0.08-acre debris basin to an area of approximately 0.15-acre (double the current size) and deepening it to an average depth of approximately 9 feet. The enlargement would include 1) grading a 3-9 foot compacted fill berm on the northeasterly side of Vista del Sol, 2) construction of a new concrete spillway along the northerly area of the berm, and 3) grading new 2:1 cut slopes into the drainage side slopes to increase the volume and area of the berm. Most of the increased area will be gained on the southeast boundary of the basin, with smaller encroachments to the north (into the drainage area) and west. The increased capacity of the Vista del Sol Debris Basin would enable this facility to accommodate storm flows and debris loads resulting from 25-year return frequency storm under the changed flow regime. Maintenance of the basin will be conducted annually or as needed to ensure that the project area will not accumulate more than ⁴ to ⁶ feet of sediment. Native grasses and forbes will be reseeded within the debris basin bed in the fall after each sediment removal event. Planting of native herbaceous and woody vegetation along the banks will be maintained at a "not-to exceed" 2 inches in diameter at breast height. G.M.

3. The agreed work includes activities associated with No. 2 above. The project area is located in the **Unnamed drainage, tributary to Pacific Ocean, Orange County**. Specific work areas and mitigation measures are described on/in the plans and documents submitted by the Operator (1603 Streambed Alteration Notification Application, and Draft Mitigated Neg. Dec. dated August 1, 2002), and shall be implemented as proposed unless directed differently by this agreement.

Impacts:

4. The Operator shall not impact more than 0.15 acre of stream channel and associated riparian habitat. Approximately 0.012 acre are permanent impacts associated with the overall sediment excavation and bank recontouring project.

Mitigation:

5. The Operator shall mitigate for 0.15 acre of permanent and temporary impacts to riparian/wetland habitat at a compensation to impact ratio of 1:1, **for a total mitigation obligation of 0.15 acre**; and shall consist of on-site creation, restoration and enhancement within the debris basin.

6. Mitigation shall consist of the following:

a. Reseeding the bed of the debris basin with native grasses and forbes (e.g. *Juncus*, *Scirpus*, etc.) after initial project construction and routine sediment removal.

b. Planting of native herbaceous and woody riparian species along the banks of the debris basin.

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7. Prior to the initiation of any project activities and no later than 90 days of signing this Agreement, the Operator shall submit to the Department for review and written approval, a mitigation plan designed to meet the identified objectives described in Condition No. 5 of this Agreement. Plans for restoration should be prepared by persons with expertise in southern California ecosystems and native plant re-vegetation techniques. The plan should include at minimum; (a) the location of the mitigation site; (b) the plant species to be used; (c) a schematic depicting the mitigation area; (d) time of year that the planting will occur; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met.

8. An annual report shall be submitted to the Department by Jan. 1 of each year after planting and annual maintenance activities. This report shall include the survival, % cover, and height of both tree and shrub species. The number by species of plants replaced, an overview of the revegetation effort, and the method used to assess these parameters shall also be included. Photos from designated photo stations shall be included.

9. All planting along the 2:1 bank slope shall have a minimum of 80% survival the first year and 100% survival thereafter and/or shall attain 75% cover of native woody species for the life of the project. Nonnative species shall comprise less than 5% of the cover; and invasive species shall comprise 0% of the cover at the end of the 5-year monitoring period. If the survival and cover requirements have not been met, the Operator is responsible for replacement planting to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for 5 years after planting. Irrigation shall be stopped two years prior to achieving the success criteria.

10. If after 3 years of monitoring the mitigation meets the 5-year success criteria, AND the Department reviews and approves the mitigation status in writing, the Operator may consider the sites have been successful and cease monitoring.

Routine Maintenance Activities:

11. Annual sediment removal shall be allowed once accumulated sediment reaches a depth of 4 to 6 feet within the basin.

12. Native grasses and forbes shall be reseeded in the Fall after each sediment removal event on an ongoing basis.

13. Native vegetation shall be allowed to be maintained along the 2:1 bank slopes as "to not exceed" 2-inch DBH.

Biological Surveys and Time Restrictions:

14. The Operator shall not remove or otherwise disturb vegetation or conduct any other project activities (including maintenance activities) on the project site from February 15th to July 31st to avoid impacts to breeding/nesting birds. However, work may occur during this time if a qualified biologist conducts a minimum of three days of surveys for nesting birds within seven days prior to the vegetation removal, and at least one survey must be within three days prior to the vegetation removal, to ensure no nesting birds shall be impacted by the project. These surveys shall include the areas within 200 feet of the edge of the proposed impact

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areas, if possible (as adjacent property access allows). Documentation of findings, including a negative finding must be submitted to the Department for review and concurrence. If no breeding/nesting birds are observed and concurrence has been received from the Department, site preparation and construction activities may begin. If breeding activities and/or an active bird nest is located and concurrence has been received from the Department, the breeding habitat/nest site shall be fenced a minimum of 300 feet (500 feet for raptors) in all directions, and this area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project.

15. If work is performed within the stream channel during the winter storm period the Operator shall monitor the five (5) day weather forecast. If it is forecasted for any precipitation, work activities shall involve the securing of the site, so as no materials may enter or be washed into the stream. The site shall be completely secured one (1) day prior to precipitation, unless prior written approval has been provided by the Department. During period of precipitation, no construction activities may occur; activities involving the preventing of materials from entering the stream or being washed downstream may be conducted.

16. No work shall occur on site in areas containing flowing water until the flows have receded and the moisture content of the soils have stabilized.

Vegetation Removal and Habitat Protection:

17. Disturbance, removal or trimming of vegetation for equipment access and construction shall not exceed the limits approved by the Department.

18. Due to the presence of native riparian vegetation, all vegetation clearing shall be conducted under the supervision of a qualified biological monitor, and the perimeter of the work site shall be adequately flagged to prevent damage to adjacent riparian habitat, and to ensure that direct and indirect impacts to fish or wildlife, in particular birds and pond turtles, are avoided.

19. The work area shall be identified to all workers, as represented in plans. Native vegetation shall not be removed or intentionally damaged or beyond the designated work area.

20. Except where provided for within this agreement, the removal of soil and native vegetation from the streambed or streambanks is prohibited without prior written approval from the Department.

21. **No direct or indirect impacts shall occur to any threatened or endangered species, including least Bell's vireo or Willow flycatcher, as a result of implementing the project or the project's mitigation activities.** If any threatened or endangered species could be impacted by the work proposed, U.S. Fish and Wildlife Service (USFWS) protocol surveys shall be conducted prior to implementing the project, or the project's mitigation activities. If necessary, the Operator shall obtain the required state and federal threatened and endangered species permits. If there is no USFWS survey protocol for a particular listed species, the Department shall be consulted to determine appropriate survey procedures. The Department shall be provided copies of survey reports prior to project implementation, and prior to the implementation of mitigation activities. This agreement does **not** authorize the take of any federal or state threatened or endangered species.

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22. Any herbicide used where there is the possibility that the herbicide could come into direct contact with water shall be approved for use in an aquatic environment (e.g. Rodeo). Great care shall be taken to avoid contact with any native vegetation, and it shall only be applied on calm days to prevent airborne transfer of the herbicide.

Equipment and Access:

23. No equipment shall be operated in ponded or flowing areas. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around the work area by a barrier, temporary culvert, new channel, or other means approved by the Department. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock rip-rap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and removal shall normally proceed from downstream in an upstream direction.

24. Staging/storage areas for equipment and materials shall be located outside of the stream.

25. Access to the work site shall be via existing roads and access ramps.

26. No equipment maintenance shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas under any flow.

27. Vehicles shall not be driven or equipment operated in water covered portions of a stream or lake, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed.

Pollution, Sedimentation and Litter:

28. Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. These materials, placed within or where they may enter a stream/lake, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.

29. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

30. The Operator shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the operator to ensure compliance.

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Other:

31. The Operator shall request an extension of this agreement prior to its termination. Extensions may be granted for up to 12 months from the date of termination of the agreement and are subject to Departmental approval. The extension request and fees shall be submitted to the Department's Region 5 Office Streambed Team at 4949 Viewridge Avenue, San Diego, California 92123. If the Operator fails to request the extension prior to the agreement's termination then the Operator shall submit a new notification with fees and required information to the Department. Any activities conducted under an expired agreement is a violation of Fish and Game Code Section 1600 *et seq.*

32. The Operator shall provide a copy of this Agreement to all contractors, subcontractors, and the Operator's project supervisors. Copies of the Agreement shall be readily available at work sites at all times during periods of active work and must be presented to any Department personnel, or personnel from another agency upon demand.

33. The Department reserves the right to enter the project site at any time to ensure compliance with terms/conditions of this Agreement.

34. All provisions of this Agreement remain in force throughout the term of the Agreement. Any provisions of the Agreement may be amended or the Agreement may be terminated at any time provided such amendment and/or termination is agreed to in writing by both parties. Mutually approved amendments become part of the original Agreement and are subject to all previously negotiated provisions.

35. If the Operator or any of the individuals mentioned above, violate any of the terms or conditions of this agreement, all work shall terminate immediately and shall not proceed until the Department has taken all of its legal actions.

36. The Operator shall notify the Department, **In writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities.** Notification shall be sent to the Department at 4949 Viewridge Avenue, San Diego, CA 92123, Attn: Donna Cobb, ES. **SAA No. 5-2003-0146.**

37. It is understood the Department has entered into this Streambed Alteration Agreement for purposes of establishing protective features for fish and wildlife. The decision to proceed with the project is the sole responsibility of the Operator, and is not required by this agreement. **It is further agreed all liability and/or incurred cost related to or arising out of the Operator's project and the fish and wildlife protective conditions of this agreement, remain the sole responsibility of the Operator.** The Operator agrees to hold harmless the State of California and the Department of Fish and Game against any related claim made by any party or parties for personal injury or any other damages.

38. The Department reserves the right to suspend or cancel this Agreement for other reasons, including but not limited to the following:

a. The Department determines that the information provided by the Operator in support of the Notification/Agreement is incomplete or inaccurate;

b. The Department obtains new information that was not known to it in preparing the terms and conditions of the Agreement;

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- c. The project or project activities as described in the Notification/Agreement have changed;
- d. The conditions affecting fish and wildlife resources change or the Department determines that project activities will result in a substantial adverse effect on the environment.

39. Before any suspension or cancellation of the Agreement, the Department will notify the Operator in writing of the circumstances which the Department believes warrant suspension or cancellation. The Operator will have seven (7) working days from the date of receipt of this notification to respond in writing to the circumstances described in the Department's notification. During the seven (7) day response period, the Operator shall immediately cease any project activities which the Department specified in its notification. The Operator shall not continue the specified activities until that time when the Department notifies the Operator in writing that adequate methods and/or measures have been identified and agreed upon to mitigate or eliminate the significant adverse effect.

CONCURRENCE

(Operator's name)

CALIFORNIA DEPT. OF FISH AND GAME

Calvin L. Nelson 8/20/03
 (signature) (date)

 (signature) (date)

CALVIN L. NELSON, PRESIDENT @ CSD
 (Type or print name and title)

C.F. RAYSBROOK, Regional Manager



California Regional Water Quality Control Board

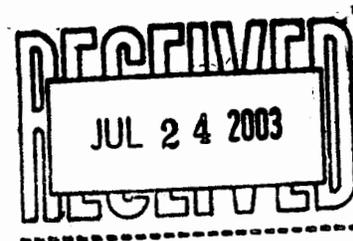
San Diego Region



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>
9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972



Action on Request for
Clean Water Act section 401 Water Quality Certification
and Application/Report of Waste Discharge
for Discharge of Dredged and/or Fill Materials

PROJECT: Vista Del Sol Debris Basin Improvement Project
(File No. 03C-053)

APPLICANTS: Calvin Nelson
President of the Board of Directors
Three Arch Bay Community Services District
5 Bay Drive
Laguna Beach, CA 92651

In reply refer to:
WPN:18-2003053.02:haasj

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

I. STANDARD CONDITIONS:

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

California Environmental Protection Agency

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COASTAL COMMISSION

5-03-298

EXHIBIT # F

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II. ADDITIONAL CONDITIONS:**A. PROJECT CONDITIONS**

1. The Three Arch Bay Community Services District (hereinafter applicant) shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with this application for 401 Water Quality Certification and all subsequent submittals required as part of this certification.
2. This Certification is not transferable to any person except after notice to the Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board). The applicant shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new owner containing a specific date for the transfer of this Certification's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing owner is liable for violations up to the transfer date and that the new owner is liable from the transfer date on.
3. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
4. In response to a suspected violation of any condition of this certification, the Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the RWQCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
5. In response to any violation of the conditions of this certification, the RWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.
6. An erosion control and materials management plan shall be prepared prior to construction, and kept on-site during construction, that shall identify Best Management Practices to be implemented throughout the construction period. At a minimum, the plan shall include:
 - a) Construction vehicles operating within the banks of the channel will be inspected daily to ensure there are no leaking fluids. Leaking vehicles shall be serviced outside of the channel banks.

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- b) Temporary erosion control on exposed slopes, unless revegetated per the restoration plan within 30 days of grading.
 - c) Construction within the basin shall be conducted prior to October 15 or after April 15.
 - d) No waste material from construction activities shall be discharged to waters of the State or to the municipal separate storm sewer system (MS4).
7. Sediment removal from the revised basin shall not occur until accumulated sediment reaches a depth of 4 feet within the basin.
- a) If sediment is removed prior to an accumulated depth of 4 feet, the applicant shall notify the Regional Board and propose compensatory mitigation measures.
 - b) Following sediment removal, all disturbed areas within the basin shall be reseeded with native vegetation prior to December of that year.

B. MITIGATION

- 1. The applicant shall implement mitigation measures as specified in the application for 401 water quality certification and all subsequent submittals required as part of this certification.
 - a) On-site habitat mitigation shall consist of no less than 0.15 acre of on-site restoration and enhancement within the project area, using native grasses, forbes, herbaceous, and woody riparian species.
- 2. The applicant shall provide a copy of the final Restoration/revegetation Plan to the Regional Board prior to project implementation.
- 3. Changes to the Restoration Plan made following project construction shall be submitted for review to the Regional Board no less than 30 days prior to planned implementation.
- 4. Documentation of successful revegetation shall be provided to the Regional Board in the Fall following construction activities.
- 5. If at any time impacts from the project are determined by the Regional Board to be substantial and not proportional to the mitigation measures, the Regional Board may consider requiring require additional mitigation measures.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to: " In order to assist us in the processing of your correspondence please include this number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

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PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On May 19, 2003 receipt of the project application was posted on the SDRWQCB web site to serve as appropriate notification to the public.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jeremy Haas
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-467-2735

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Vista del Sol Debris Basin Project (File No. 03C-053) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. The proposed project as conditioned is consistent with conditions specified in the Water Quality Control Plan for the San Diego Basin (9) (Basin Plan) for a waiver of waste discharge requirements. Although the adoption of waste discharge requirements is being waived at this time, we may issue waste discharge requirements should new information come to our attention that indicates a water quality problem.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

7/23/2003
Date

Attachment 1: Project Information
Attachment 2: Distribution List

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