

CALIFORNIA COASTAL COMMISSION

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Commission Action:



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STAFF REPORT: REGULAR CALENDAR**RECORD PACKET COPY****APPLICATION NUMBER:** 5-05-098**APPLICANT:** Hellman Properties LLC**AGENT:** Dave Bartlett Associates

PROJECT LOCATION: Within the oil production area in Hellman Ranch located south of Orange County line, east of the Pacific Coast Highway, north of Gum Grove Park, and west of Adolfo Lopez Drive, City of Seal Beach, Orange County

PROJECT DESCRIPTION: Archeological investigation including mechanical trenching, shovel test probes and 1 meter by 1 meter test excavation units.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommend that the Commission **APPROVE** a coastal development permit for the proposed development with special conditions. The proposed project is an archeological investigation within a project area known to contain wetlands and other biological resources including special-status plant species. The applicant is proposing to avoid all direct impacts and to maintain a buffer between proposed activities and wetlands and areas containing special-status plant species. Also, the proposed archeological investigation has been sent to several Native American individuals and groups with cultural ties to the area including representatives of the various Gabrielino/Tongva tribal councils and the Juaneno Band of Mission Indians tribal councils. Individuals who responded to the request for review did not object to the investigation plan. Furthermore, the investigation has been peer reviewed by the City of Seal Beach's Archeological Advisory Committee that includes at least one registered professional archeologist who found the research design to be adequate. Finally, the plan was sent to the State Historic Preservation Officer (SHPO) and the Native American Heritage Commission (NAHC); however, no comments have been supplied by those entities.

The initial proposal by the applicant included archeological work within the so-called "100-acre lowlands area" which was deed restricted under Coastal Development Permit 5-97-367, as amended, to be made available for sale for wetlands restoration and environmental education purposes. Commission staff raised questions about the consistency of the requested work with the deed restriction. The applicant has subsequently changed the proposal to avoid work within the deed restricted area. Commission staff recommend the Commission approve the project with special conditions which require: 1) that the applicant submit a revised final archeological investigation plan that is in substantial conformance with the proposed research design except that the scope of work shall not include work within the 100-acre lowlands area and that all activities be

monitored by archeologists and Native American monitors (with cultural ties to the area); 2) that the applicant avoid impacts to wetlands and other biological resources and that the applicant implement certain measures to avoid water quality impacts; 3) notification to the applicant regarding the limitations on this approval and 4) that the applicant comply with the permit, as conditioned.

LOCAL APPROVALS: City of Seal Beach Approval in Concept dated February 23, 2005.

SUBSTANTIVE FILE DOCUMENTS: *Research Design for Archeological Investigations in Support of the Hellman Tank Farm Replacement Project, Seal Beach, California* by EDAW, Inc. of San Diego, California dated January 2005 (Confidential – see Public Resources Code, Div. 5, Chap. 1.75, Sections 5097.9 - 5097.991 and Government Code Section 6254); *Jurisdictional Delineation for Proposed Tank Farm Relocation Project, Hellman Ranch, Seal Beach, Orange County, California* by Glenn Lukos Associates of Lake Forest, California dated August 5, 2004; *Biological Technical Report, Hellman Ranch Tank Farm Relocation Project, Orange County, California* by Glenn Lukos Associates dated August 2004; Memorandums by EDAW, Inc. dated May 24, 2005, July 8, 2005, and August 18, 2005.

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION:

"I move that the Commission approve with special conditions Coastal Development Permit 5-05-098 per the staff recommendation as set forth below."

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote which would result in approval of the permit as conditioned and adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

RESOLUTION TO APPROVE A 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. ARCHAEOLOGICAL INVESTIGATION

- A. The permittee shall undertake the proposed archaeological investigation in conformance with the proposed archaeological research design entitled *Research Design for Archeological Investigations in Support of the Hellman Tank Farm Replacement Project, Seal Beach, California* by EDAW, Inc. of San Diego, California dated January 2005. Archaeological monitors qualified by State Office of Historic Preservation (OHP) standards and Native American monitors appointed consistent with the standards of the Native American Heritage Commission (NAHC) shall be present on the site during the entire archeological investigation. The permittee shall provide sufficient archeological and Native American monitors to assure that all archeological work is monitored at all times. Upon completion of the archaeological investigation, the applicant shall submit, for the review and approval of the Executive Director, a written report summarizing the findings of the archaeological investigation. If cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts are uncovered during investigation, the archaeologist, in consultation with the Native American monitor, OHP and NAHC, shall evaluate the discoveries and, depending on the significance of the resources discovered, develop, where necessary, a plan for further investigation, and/or a monitoring plan, and/or a treatment plan for the review and approval of the Executive Director. Upon review of the summary report and any plan for further investigation, plan for monitoring and/or treatment plan, the Executive Director shall determine whether an amendment or new permit is required to implement additional investigation

and/or treatment of the cultural deposits. If human remains are found, the Commission requires that the applicant carry out identification and avoidance, recovery or reburial consistent with State Law. The report summarizing the archeological investigation and any plan for further investigation, and/or monitoring plan, and/or treatment plan shall also be submitted to the OHP, NAHC and the appropriate Native American persons/groups with cultural affiliation with the area that are designated or deemed acceptable by the NAHC.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director a revised final plan, consistent with the applicant's modified proposal, which shall omit any work within the 100-acre lowlands area deed restricted pursuant to Special Condition 16 of Coastal Development Permit 5-97-367, as amended.
- 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.

2. GENERAL CONSTRUCTION RESPONSIBILITIES

The permittee shall comply with the following investigation-related requirements:

- 1. The on-site wetlands and special-status plant and animal species shall not be impacted by the project. All plans and specifications for the project shall indicate that impacts to the wetlands and special-status plant and animal species shall be avoided and that no impact to wetlands or special-status plant or animal species is authorized by the California Coastal Commission.
- 2. Except at those locations where all work will occur and be confined within the existing site access roads, a minimum 100 foot buffer shall be established between all work approved by this permit and any wetlands and areas containing special-status plant and animal species. Prior to commencement of any work approved by this permit, a temporary barrier or work area demarcation (such as but not limited to plastic mesh, solid wood or chain link fencing) shall be placed between the investigation areas and the buffer protecting the wetlands and areas containing special status plant and animal species. Barriers and other work area demarcations shall be inspected and approved by a qualified biologist. All temporary barriers, staking, fencing shall be removed upon completion of the archeological investigation.
- 3. All areas disturbed and/or denuded by the project shall be re-vegetated with non-invasive vegetation for erosion control purposes or otherwise stabilized to prevent erosion. Furthermore, any inadvertent impacts to wetlands or areas containing special-status plant or animal species 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 or archeological investigation-related equipment, materials, debris, or waste shall be placed or stored where it may enter areas containing special-status plant or animal species or wetlands, or any storm drain or be subject to tidal erosion and dispersion;
5. No equipment shall be staged or stored within any habitat area or within 100 feet of any wetlands or areas containing special-status plant or animal species;
6. Investigation materials, chemicals, debris and sediment shall be properly contained and secured on site to prevent the unintended transport of material, chemicals, debris, and sediment into wetlands, 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.
7. 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 100 feet of any wetlands or areas containing special-status plant or animal species.
8. Debris and sediment shall be removed from the investigation areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into habitat areas and coastal waters.
9. Any and all debris resulting from investigation activities shall be removed from the project site within 24 hours of completion of the archeological investigation.

3. DECLARATION OF PERMIT LIMITATIONS

The development authorized by this permit is limited to that work associated with the archeological investigation described in this approval. Coastal Development Permit 5-05-098 does not authorize, nor shall it be construed as any conceptual approval of, any portion of the oil tank farm or the siting of any of the facilities contemplated by the applicant. Furthermore, the Commission's authorization of this archeological work shall not prejudice the Commission's discretion with respect to any authorizations for future phases of archeological work or future elements of an oil tank farm proposal.

4. PERMIT COMPLIANCE

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth herein. Any deviation from the approved plans must be reviewed and approved by the Executive Director and may require Commission approval.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares:

A. Project Description

The proposed project is located within the low lying portion of the Hellman Ranch property that is immediately south of the Los Angeles County/Orange County line, east of Pacific Coast Highway, west of Seal Beach Boulevard, north of Gum Grove Park, and southwest of Adolfo Lopez Drive, City of Seal Beach, Orange County (Exhibit 1)¹. The proposed project is to conduct an archeological investigation to ascertain whether archeological resources are present within areas the applicant is considering for the construction of a new oil tank farm with associated pipelines. This application does not request approval of any development associated with oil tank farm contemplated by the applicant.

Historically, the subject property contained expansive areas of marshes. However, the applicant indicates that much of the site was overlain by an unknown quantity of fill material placed there during construction of the adjacent Boeing facility and the Los Alamitos Retarding Basin (LARB) in the 1960's. Nevertheless, the project site presently contains several acres of wetlands. In addition, several special-status plant and animal species are present on the site. The site also contains ruderal and disturbed areas associated with existing oil production facilities on the site.

The proposed archeological investigation is described in the document titled *Research Design for Archeological Investigations in Support of the Hellman Tank Farm Replacement Project, Seal Beach, California* by EDAW, Inc. of San Diego, California dated January 2005. A survey of the site has identified six potential prehistoric archeological sites. These are in addition to the significant cultural resources that were found upon the 'Landing Hill' area of the Hellman Ranch site. The proposed archeological investigation would test areas within the six sites and surrounding area in the lowlands that are within the footprint of the contemplated oil tank farm and pipelines. Testing will involve surface examination and mapping, mechanical trenching, shovel test pits, test excavation units, collection of special samples, and subsequent analysis. Proposed trenches will be excavated by backhoe and will be approximately one meter wide, 10 meters long and 1.2 meters deep. Trenches would be dug at approximately 100 meter intervals along the pipeline corridor, but every 25 meters where the pipeline corridor crosses a shell scatter or recorded archeological site. Within the footprint of the contemplated tank farm, approximately 10 to 15 trenches would be dug up to 1.8 meters deep.

Based on the results of the trenching, Test Excavation Units (TEU) would be used to sample the content and establish the depth of any cultural deposits discovered. TEUs would measure 1 meter by 1 meter.

No part of the proposed investigation would occur within any wetlands or areas containing special-status plant or animal species. Typically, the trenches and TEUs will be greater than 100 feet from wetlands. However, one of the contemplated pipelines would be placed within an existing site access road that passes narrowly through existing wetlands. Trenching and pits to test for

¹ A more specific site plan is not provided of the location of potential archeological artifacts due to confidentiality requirements - see Public Resources Code, Div. 5, Chap. 1.75, Sections 5097.9 - 5097.991 and Government Code Section 6254

archeological resources within this area would be confined to the existing road, which passes within 5 to 10 feet of existing wetlands.

B. PREVIOUS RECENT COMMISSION ACTIONS

1. Coastal Development Permit 5-97-367

On September 9, 1998, the Commission approved CDP 5-97-367 for subdivision of the 196 acre Hellman Ranch into several parcels including a 70-home subdivision, and construction of an 18-hole golf course, construction of 39.1 acres of wetlands, dedication of a public park (Gum Grove Park), visitor serving amenities including trails and reservation of 13.2 acres of existing mineral production area for future wetlands restoration. The Commission imposed 14 special conditions, one of which reserved the lowlands portion of the property for acquisition for wetlands restoration (where the subject archeological investigation is located).

2. Coastal Development Permit Amendment 5-97-367-A1

The project approved under CDP 5-97-367 resulted in the fill of wetlands for the construction of a golf course. That approval was challenged in a lawsuit filed by the League for Coastal Protection, California Earth Corps and the Wetlands Action Network. In response to the lawsuit, a settlement agreement was reached by the parties involved to remand the subject project to the Coastal Commission for consideration of a modified project that would eliminate development within and impacts to wetlands that would have been caused by the golf course portion of the project while allowing the 70-home residential subdivision component of the project to proceed upon the 'uplands' portion of the site (known sometimes as 'Landing Hill'). The Commission approved the modified project in October 2000. Among the special conditions imposed was a requirement that the applicant make 100 acres of lowlands available for sale for "...wetlands restoration, open space and environmental education purposes" (area known as the "100-acre lowlands"). The conditions also implemented the applicant's proposal to make the approximately 50 acres of land presently used for mineral production available for sale for wetlands restoration when oil production ceases on that land (area known as the "Oil Production Area"). In addition, the applicant was required to undertake an archeological investigation and monitor for archeological resources.

The initial proposal by the applicant for the subject archeological work included work within the 100-acre lowlands area. As noted above, this area was deed restricted under Coastal Development Permit 5-97-367, as amended, to be made available for sale for wetlands restoration, open space and environmental education purposes. Commission staff raised questions about the consistency of the requested work with the deed restriction. The applicant subsequently changed the proposal to avoid work within this deed restricted area. Special Condition 1 requires the applicant to submit a revised final plan reflecting the revised proposal.

The vast majority of archeological work proposed by the applicant will occur within the Oil Production area. However, unlike the deed restriction for the 100-acre lowlands, which imposed use restrictions and sale requirements immediately, the use restrictions and requirements of the deed restriction within the 50-acre Oil Production Area don't become active until oil production ceases on that area of land.

3. Coastal Development Permit 5-01-288

On November 13, 2001, the Commission approved Coastal Development Permit 5-01-288 for development of seventy (70) single family residences; streets; curbs; walls; landscaping, hardscaping, utilities, entry features and other appurtenances within the subdivision previously approved under Coastal Development Permit 5-97-367 as amended by Coastal Development Permit Amendment 5-97-367-A1. That approval was subject to several conditions regarding public access, landscaping, lighting, among other issues.

4. Coastal Development Permit Amendment 5-97-367-A2

Upon commencement of grading, significant archeological/cultural resources were found in the Landing Hill area. Following a cease and desist order in December 2002, a condition compliance hearing held in August 2003, and an immaterial amendment issued in March 2004, the landowner implemented a cultural resources mitigation plan which included foregoing development of 6 residential lots (reducing the development from 70 to 64 houses) and placing those lots into open space to preserve cultural resources, as well as creation of a cultural education facility and the construction of two public access trails to access the education facility and cultural resources preserve.

B. Archaeological Resources

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources have been found at the Hellman Ranch site most of which are concentrated upon Landing Hill, which is now a 64-home residential subdivision that is known as Heron Pointe. There are also recorded archeological sites as well as scattered evidence of other potential archeological resources in the lowlands. The oil tank farm and pipelines contemplated by the applicant would be located in this lowlands area. The proposed project would investigate the portions of these recorded and potential resource areas that are within the contemplated oil tank farm and pipelines to determine their extent and significance.

The proposed archeological investigation research design was submitted for review to four Native American groups and individuals having potential cultural ties to the area including representatives of the Gabrielino/Tongva and the Juaneno Band of Mission Indians/Acjachemen Nation. One individual responded to the request, Mr. Anthony Morales with the Gabrielino/Tongva (who was deemed by NAHC to be the 'Most Likely Descendent' of the buried ancestors found at Landing Hill. Mr. Morales' comments were generally supportive of the research plan and expressed his desire to participate in the project.

Furthermore, the research design was submitted for peer review to the City of Seal Beach's Archeological Advisory Committee, which includes at least one professional archeologist. The advisory committee found the research design to be satisfactory. Finally, the proposed investigation was submitted to the State Office of Historic Preservation and to the Native American

Heritage Commission in March 2005, for their review and comment. As of the date of this staff report, neither agency has provided comments on the document to Commission staff.

In order to assure that development is undertaken consistent with Section 30244 of the Coastal Act, the Commission finds that the permittee shall undertake the proposed archaeological investigation in conformance with the proposed archaeological research design entitled *Research Design for Archeological Investigations in Support of the Hellman Tank Farm Replacement Project, Seal Beach, California* by EDAW, Inc. of San Diego, California dated January 2005. Archaeological monitors qualified by State Office of Historic Preservation (OHP) standards and Native American monitors appointed consistent with the standards of the Native American Heritage Commission (NAHC) shall be present on the site during the entire archeological investigation. The permittee shall provide sufficient archeological and Native American monitors to assure that all archeological work is monitored at all times. Upon completion of the archaeological investigation, the applicant shall submit, for the review and approval of the Executive Director, a written report summarizing the findings of the archaeological investigation. If cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts are uncovered during investigation, the archaeologist, in consultation with the Native American monitor, OHP and NAHC, shall evaluate the discoveries and develop a treatment plan for the review and approval of the Executive Director. Upon review of the summary report and any treatment plan, the Executive Director shall determine whether an amendment or new permit is required to implement additional investigation and/or treatment of the cultural deposits. If human remains are found, the Commission requires that the applicant carry out identification and avoidance, recovery or reburial consistent with State Law. The report summarizing the archeological investigation and any treatment plan shall also be submitted to the OHP, NAHC and the appropriate Native American persons/groups with cultural affiliation with the area that are designated or deemed acceptable by the NAHC. Therefore, the Commission imposes Special Condition 1 and finds that, as conditioned, the project is consistent with Section 30244 of the Coastal Act.

The proposed archeological investigation would be undertaken by the applicant in order to ascertain whether there are any archeological resource constraints within the area they are contemplating to construct an oil tank farm and to install new oil pipelines. However, it should be noted that the Commission has not reviewed the proposed oil tank farm and pipelines for consistency with Chapter 3 policies of the Coastal Act. The Commission imposes Special Condition 3 to ensure the applicant is notified that the Commission's approval of this archeological investigation does not authorize, nor shall it be construed as any conceptual approval of, any portion of the oil tank farm or the siting of any of the facilities contemplated by the applicant. Furthermore, the Commission's authorization of this archeological work shall not prejudice the Commission's discretion with respect to any authorizations for future phases of archeological work or future elements of an oil tank farm proposal.

Furthermore, since review of the oil tank farm proposal against Chapter 3 policies has not yet occurred, it remains that the oil tank farm and pipelines may need to be located in an area different from the area presently contemplated by the applicant in order to protect coastal resources. Consequently, the research design would need to be changed or expanded to investigate areas other than those presently targeted for investigation. The applicant has acknowledged this potential circumstance and has indicated their willingness to make adjustments, as necessary.

The Commission also clarifies that this approval is only for the archeological work specifically identified in the January 2005 plan (as modified to reflect the omission of the 100-acre lowlands

area from the proposed work area). All development must occur in strict compliance with the proposal, subject to any special conditions set forth herein. Any deviation from the approved plans, including but not limited to additional test pits or trenching and/or the excavation and removal of anything other than samples of cultural deposits as described in the 2004 plan, must be reviewed and approved by the Executive Director and may require Commission approval. Therefore, the Commission imposes Special Condition 4, and finds that, as conditioned, the project is consistent with Section 30244 of the Coastal Act.

C. Biological Resources and Water Quality

The lowlands area of Hellman Ranch contains a variety of sensitive plant and animal species and sensitive habitat areas including wetlands. A variety of avian species, including Belding's Savannah Sparrow, American Kestrel, Loggerhead Shrike and Red-tailed Hawk are known to be present on the site. The site also contains special-status plant species including the southern tarplant (*Centromedia parryi* ssp. *Australis*). The southern tarplant is a California Native Plant Society (CNPS) List 1B species².

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.

Section 30240(b) of the Coastal Act states:

(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.

Buffer areas are undeveloped lands surrounding wetlands and sensitive habitat. Buffer areas serve to protect wetlands and sensitive habitat from the direct effects of nearby disturbance. In

² Plants considered by CNPS to be rare, threatened, or endangered in California and elsewhere

addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in wetlands such as amphibians, reptiles, birds, and mammals. Buffer areas provide obstructions which help minimize the entry of domestic animals and humans to wetlands and sensitive habitat. Buffers also provide visual screening between wetland and other sensitive species that are sensitive to human impacts, such as lighting. Buffers can also reduce noise disturbances to wetland and sensitive species from human development.

The proposed project would involve using heavy equipment and hand tools to dig trenches and pits for the archeological investigation. These activities have the potential to disturb sensitive or potentially sensitive habitat on the project site. Most of the work, including the core investigation area within the footprint of the contemplated oil tank farm is located at least 100 feet from wetlands. However, there are areas proposed to be tested within the contemplated alignment of the new pipelines that are within 10 feet of existing wetlands.

It should be noted that the Commission commonly requires a minimum 100-foot wide buffer between development activity and sensitive resources on the site. In this case, there are four test locations that are between 10 and 30 feet of wetlands, and one additional site is approximately 80 feet from wetlands, which is less than the minimum 100-foot buffer normally required by the Commission to protect sensitive resources. Four of these locations are within existing site access roads and all of the activity would remain confined within the roadway. The other location is within ruderal area surrounding existing oil wells. The remainder of the test sites will have a minimum 100 foot buffer between proposed archeological activity and the wetlands and areas containing special-status plant and animal species.

The proposed development includes trenching and test pits for an archeological investigation. These archeological activities are exploratory in nature, involve temporary impacts and are low in intensity. Once the archeological investigation is concluded, the disturbed areas would be restored to their pre-project condition. Accordingly, the development is temporary and involves no permanent development (e.g. new buildings, new on-going use, etc.). The absence of a new on-going use or intensification of use of the site minimizes any risk to the wetlands or areas containing special-status plant or animal species from the types of impacts that buffers normally provide protection from such as noise, light, and domestic animal intrusions. Due to the temporary nature and low intensity of the proposed development, the Commission finds that, with the implementation of the restrictions outlined further below, the proposed buffers are adequate to protect the wetlands and areas containing special-status plant and animal species from the types of disturbance that would be associated with the proposed archeological investigation.

Although the applicant is proposing a buffer between investigation activities and the wetlands and areas containing special-status plant and animal species, there is potential for resources to be impacted. For instance, the plan submitted indicates that site access and work areas may encroach as close as 10 feet of the wetlands and areas containing special-status plant and animal species. In addition, the persons undertaking the archeological investigation will need to take special precaution to avoid disturbing resources. For example, a person whom does not have training in the identification of wetlands and special-status plant and animal species may not recognize the location of those resources. In order to assure that adverse impacts do not occur, the Commission imposes Special Condition 2. Special Condition 2 requires that the applicant avoid impacts to the wetlands and areas containing special status plant and animal species, to establish a minimum 100 foot wide buffer between wetlands, and areas containing special status plant and species (except at the five specific locations described above where the applicant has identified a minimum 10 to 80 foot buffer). Furthermore, prior to commencement of the work

approved by this permit, the applicant shall install a temporary barrier or work area demarcation (such as but not limited to plastic mesh, solid wood or chain link fencing) between the investigation areas and the buffer protecting the wetlands and areas containing special-status plant and animal species. Barriers and other work area demarcations shall be inspected and approved by a qualified biologist. All temporary barriers, staking, fencing shall be removed upon completion of the archeological investigation. Also, no equipment shall be stored within any wetland or area containing special-status plant or animal species or within 100 feet of those areas.

The proposed trenching and test pits would disturb soil and generate soil stockpiles. If these soils are not properly contained they could be discharged into wetlands and coastal waters causing sedimentation and turbidity impacts. Therefore, Special Condition 2 requires that all areas disturbed and/or denuded by the project shall be re-vegetated with non-invasive plant species or otherwise stabilized to prevent erosion. In addition, Special Condition 2 requires that no construction materials, debris, or waste shall be placed or stored where it may enter wetlands or areas containing special-status plant or animal species, or any storm drain or be subject to tidal erosion and dispersion; and that investigation materials, chemicals, debris and sediment shall be properly contained and secured on site to prevent the unintended transport of material, chemicals, debris, and sediment into wetlands, 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. Also, Special Condition 2 requires that 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 in or within 100 feet of the wetlands or areas containing special-status plant or animal species. Finally, debris and sediment shall be removed from the investigation areas as necessary to prevent the accumulation of sediment and other debris that may be discharged into coastal waters and any and all debris resulting from investigation activities shall be removed from the project site within 24 hours of completion of the archeological investigation.

Also, the proposed project is occurring within 10 to 100 feet of the wetlands and areas containing special status plant and animal species. A buffer, including work area demarcations and barriers, is required to be established between the proposed project and these sensitive or potentially sensitive areas to prevent impacts. Nevertheless, impacts to such areas could occur inadvertently. Under such circumstances, the applicant would be required to mitigate for the impacts. Thus, Special Condition 2 informs the applicant that they must notify the Executive Director of any inadvertent impacts within 24 hours of the impact and that mitigation for any inadvertent impacts is required and would require an amendment to this permit or a new permit unless the Executive Director determined that no amendment or new permit is required.

Also, the Commission imposes Special Condition 4. Special Condition 4 requires the applicant to comply with their proposal to avoid impacts to the wetlands and areas containing special status plant and animal species. The applicant must comply with proposed setbacks because they are necessary to protect biological resources. If any changes to the setbacks occur, the applicant must notify the Executive Director and such changes may require an amendment to this permit.

As conditioned, the Commission finds the proposed development consistent with Sections 30230, 30231 and 30240(b) of the Coastal Act.

D. Local Coastal Program

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

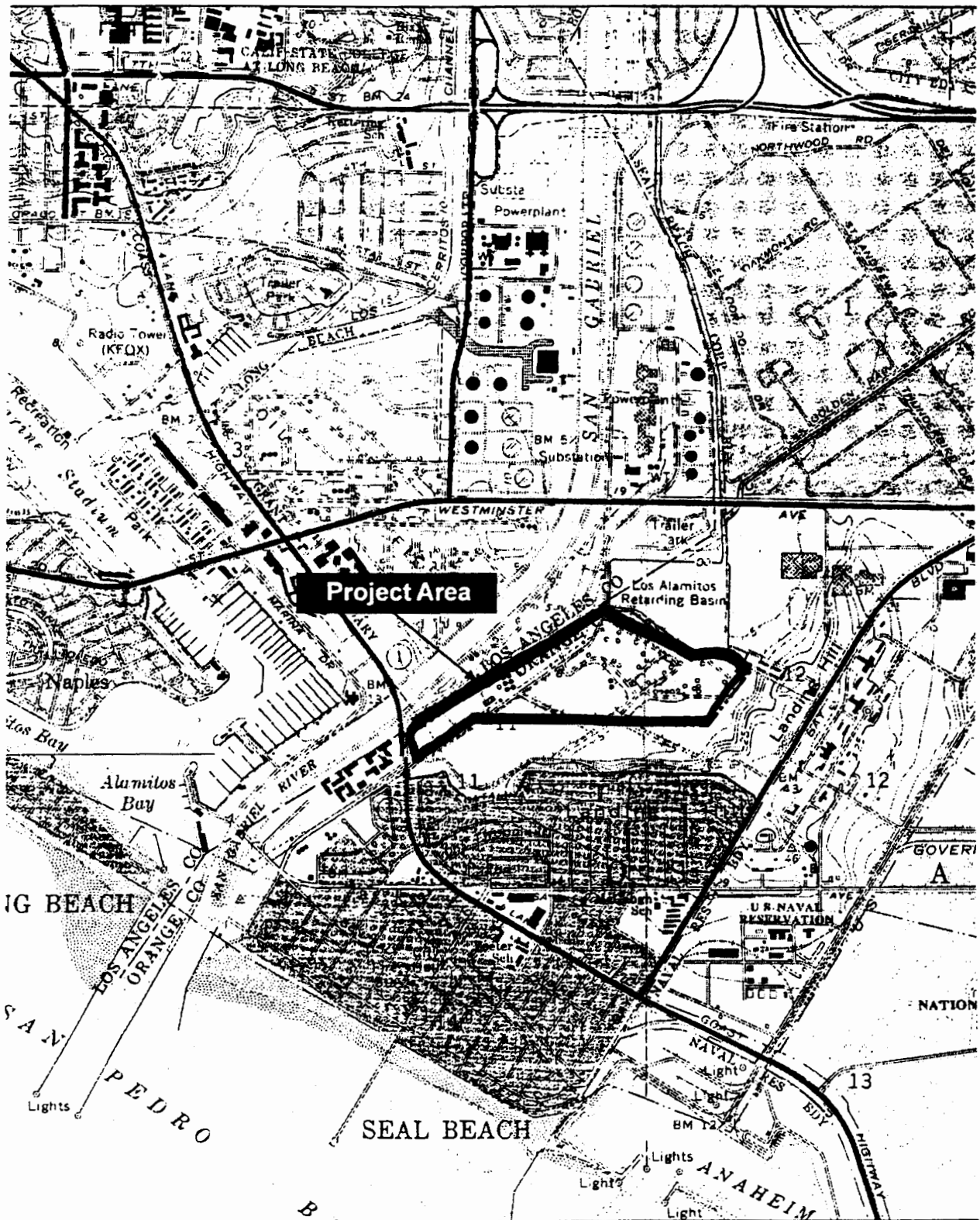
The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter Three policies of the Coastal Act.

E. 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.

The proposed project is located in an urban area. The Commission has imposed special conditions to assure that development is undertaken in accordance with the plans as submitted as well as undertaken in a manner which avoid impacts to on-site wetlands and areas containing special-status plant and animal species. The proposed project has been found consistent with the archeological and biological resource protection policies of Chapter Three of the Coastal Act.

As conditioned, no feasible alternatives or feasible mitigation measures are known which would substantially lessen any identified significant effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.



Source: USGS Seal Beach and Los Alamitos, CA Quadrangles Photorevised 1981



0 2000 Feet

Figure 1
Project Area

COASTAL COMMISSION
5-05-098

Hellman Properties Tank Farm Replacement Research Design
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EXHIBIT # 1
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