

CALIFORNIA COASTAL COMMISSION

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49th Day: March 10, 2005
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Staff: DL-SD
Staff Report: February 24, 2005
Hearing Date: March 16-18, 2005

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-05-7

Applicant: San Elijo Lagoon Conservancy & County of San Diego, Parks & Rec. Dept. **Agent:** Doug Gibson

Description: Multiple openings of the mouth of San Elijo Lagoon over a period of ten years with removal of sand and cobbles as necessary to maintain tidal flow and protect and enhance the biological productivity of the lagoon.

Site: Mouth of San Elijo Lagoon, west of Highway 101 at Cardiff State Beach, Encinitas, San Diego County.

Substantive File Documents: Certified County of San Diego Local Coastal Program (LCP); Certified City of Encinitas LCP, San Elijo Lagoon Enhancement Plan; CDP Nos. 6-87-624; 6-88-463, 6-89-109, 6-89-241, 6-90-128, 6-90-250, 6-91-3, 6-91-258, 6-93-12, 6-93-194, 6-94-15, 6-95-32; 6-96-120, 6-99-12.

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. **Term of Permit.** This permit is valid for a period of five years from the date of Commission action. Future lagoon mouth openings beyond this date will require a coastal development permit from the California Coastal Commission or its successor in interest.

2. **Timing of Work.** As proposed, lagoon openings shall only occur with the authorization of the State Department of Fish and Game that the dredging, on the date proposed, will not cause adverse impacts on sensitive or endangered species or the biological productivity of the area, and shall adhere to the following criteria:

- a. No maintenance dredging may occur 14 days before a holiday or scheduled beach event.
- b. No equipment shall be stored on the beach or in the public parking lot overnight, and all equipment must be removed from the beach by Friday.
- c. No work shall occur during the two-week period spanning Easter of any year.
- d. Commission staff shall be notified in prior to commencement of any dredging.

Openings during the summer months shall be avoided if possible; however, if openings are necessary during the summer, the following additional requirements will be met:

- e. No work shall occur on Fridays, weekends or holidays during the summer months of any year (Memorial Day weekend to Labor Day).

3. **Monitoring Report.** On an annual basis by April 1 of each year, the applicant shall submit for the review and written approval of the Executive Director, a monitoring report for the project. The report shall summarize the impacts of the multiple openings, including the project's impacts on public access and recreation, and the biological productivity of the lagoon, any changes in the tidal prism caused by external factors (such as upstream development impacts, extreme storm conditions, unusual tides, etc.) which may have contributed to the need for the lagoon mouth openings, and shall include recommendations for any necessary changes or modifications to the project. In addition, the annual report shall include the following information for each of the openings that occur over the subsequent years:

a. The date of the opening(s) which occurred, along with the date of each subsequent closure.

b. Any noted adverse impacts on lagoon resources or adjacent public beach or park and recreation areas resulting from each mouth opening, and recommendations to avoid or mitigate these impacts with future openings.

The report shall be submitted annually beginning the first year after Commission approval of the permit.

IV. Findings and Declarations.

The Commission finds and declares as follows:

A. Detailed Project Description/History. The proposed project involves multiple openings of the mouth of San Elijo Lagoon as needed to maintain a tidal flow to enhance the health and biological productivity of the lagoon. The project site is located at the mouth of San Elijo Lagoon, just west of Highway 101 at Cardiff State Beach in the City of Encinitas. All work would occur on the beach west of Highway 101, or on freshly drifted sand in the channel east of the bridge; no vegetated areas would be impacted. The County has indicated that their goal is to maintain the mouth of the lagoon open year-round; however, due to funding constraints, there may be times when dredging will not be able to take place and the lagoon mouth will close.

The amount of dredged material will vary, but most openings would involve the removal of approximately 8,000-12,000 cubic yards of sand and cobble material. The dredged material would be deposited on the adjacent public beach south of the State Park campground, in or within reach of the surf line for natural distribution into the littoral cell. However, in consultation with the California Department of Parks and Recreation, some sand could be placed on higher beach elevations for direct public recreational use.

The Commission has a long history of permit review for work in San Elijo Lagoon that includes permits for one-time openings of the lagoon mouth and dredging of the lagoon's main tidal channel (ref. CDP Nos. 6-88-463, 6-89-109, 6-89-241, 6-90-128, 6-90-250, 6-91-3, 6-91-258, 6-93-12 and 6-93-194). These openings were proposed based on certain criteria being met related to salinity, dissolved oxygen and other water chemistry conditions as indicators for determining appropriate times to open the lagoon mouth. The Commission has also approved a number of permits and amendments for opening the lagoon mouth that were proposed as experiments to allow the lagoon mouth to remain open for a longer period of time, and involved the removal of a more substantial amount of material both in the lagoon mouth and in the inlet channel east of the Highway 101 bridge (ref. CDP Nos. 6-91-3-A, 6-94-15, 6-95-32, 6-95-142). In some instances the work was proposed to occur whether or not the previously proposed criteria were present. The openings conducted under these permits allowed the mouth to remain open for several months longer than the previous openings had accomplished.

In January 1997, the Commission approved a permit for multiple openings of the lagoon over a 2-year period (ref. CDP No. 6-96-120). The intent of the project was to keep the lagoon mouth open as long as possible—continuously, if possible under the applicant's funding constraints. As proposed, the same criteria regarding salinity, dissolved oxygen and water level as had been proposed in the past had to be met in order for the openings to occur. At that time, the County indicated that it would be reviewing the criteria in the future to set new standards to allow dredging to occur before the lagoon resources were imminently or actively distressed.

As result, in May 1999, the Commission approved a 5-year permit for multiple openings of the lagoon that did not require that specific biological criteria be reached prior to implementation of dredging (#6-99-12). Rather, the permit allowed opening of the lagoon mouth whenever it closed, in accordance with the following restrictions:

- No maintenance dredging may occur 14 days before a holiday or scheduled beach event.
- No equipment shall be stored on the beach or in the public parking lot overnight, and all equipment must be removed from the beach by Friday.
- No work shall occur during the two-week period spanning Easter of any year.
- Commission staff shall be notified in prior to commencement of any dredging.
- Openings during the summer months shall be avoided if possible; however, if openings are necessary during the summer, the following additional requirements will be met:
 - No work shall occur on Fridays, weekends or holidays during the summer months of any year (Memorial Day weekend to Labor Day).
- The U.S. Fish and Wildlife Service, the California Department of Fish and Game, the California State Parks and Recreation Department and the Commission must be notified prior to the commencement of dredging.

The subject project is identical to the previously approved permit; however, the requested time period proposed is 10 years, rather than 5 years. Annual reports submitted by the applicant indicate that the as-needed lagoon mouth openings have had a positive impact on the biological productivity of the lagoon, and no adverse impacts to access or recreation have been reported or observed. The Commission's staff ecologist has reviewed the project agrees that the openings have a positive impact on the lagoon. However, because a number of potential future projects in the vicinity of the lagoon that could impact the lagoon, such as the widening of Interstate 5 or double-tracking the railroad line, Special Condition #1 limits the term of the permit to 5 years, to allow the

Commission to reassess the need and limitations on opening the lagoon mouth. The applicants are in agreement with the conditions.

The proposed development is located within the City of Encinitas; however, it is located within the Commission's area of original jurisdiction and as such, the standard of review is Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

B. Biological Resources. Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized. Section 30233 limits development in open coastal waters, wetlands, estuaries, and lakes to specific permitted uses where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

The proposed development is a restoration project permitted under Section 30233. The project will not have an adverse impact on any sensitive habitat, and will not result in erosion or adverse impacts to water quality. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. Public Access/Parking. As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

D. Local Coastal Planning. The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. 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 City of Encinitas to implement its certified LCP.

E. California Environmental Quality Act. 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 is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

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

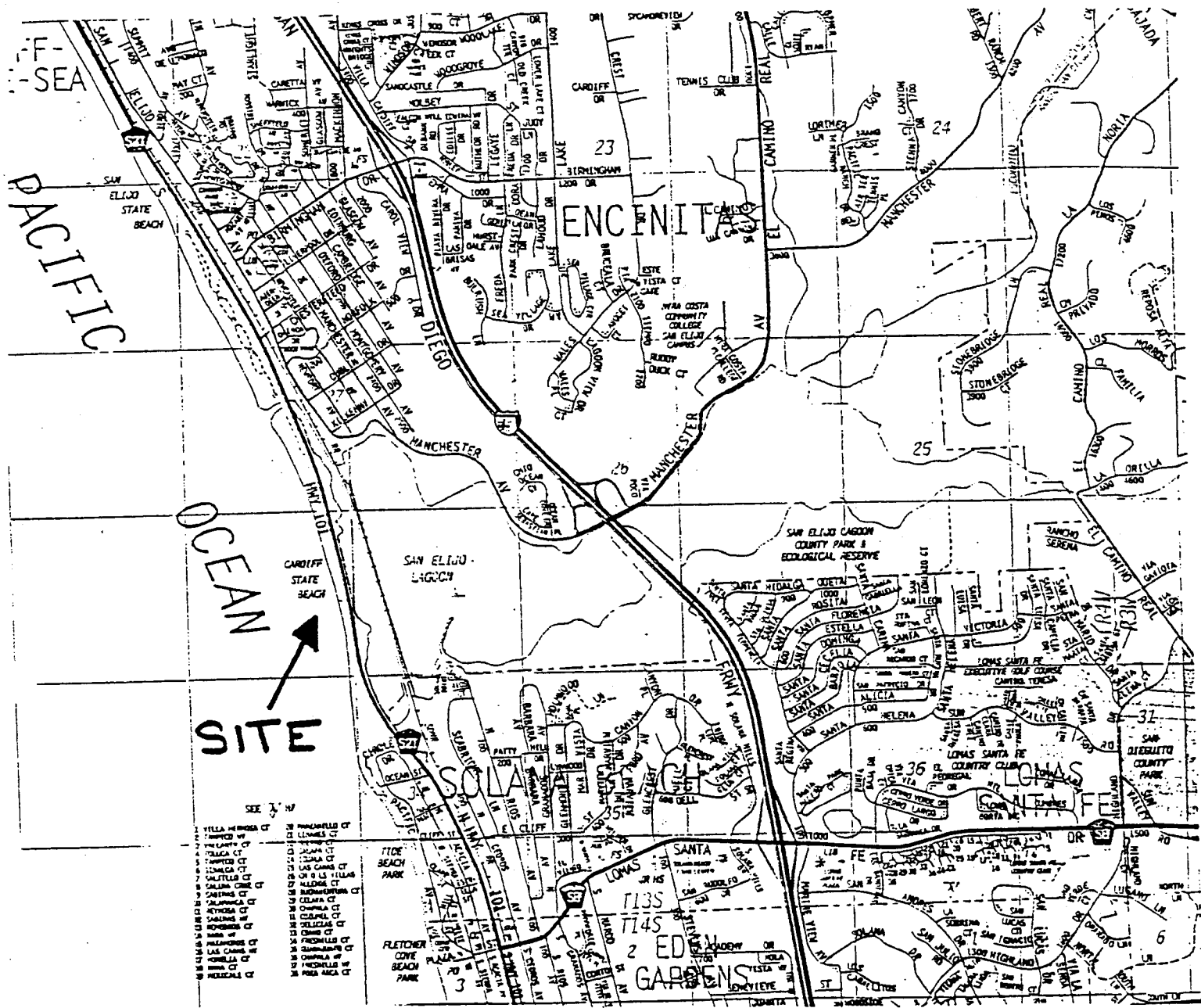

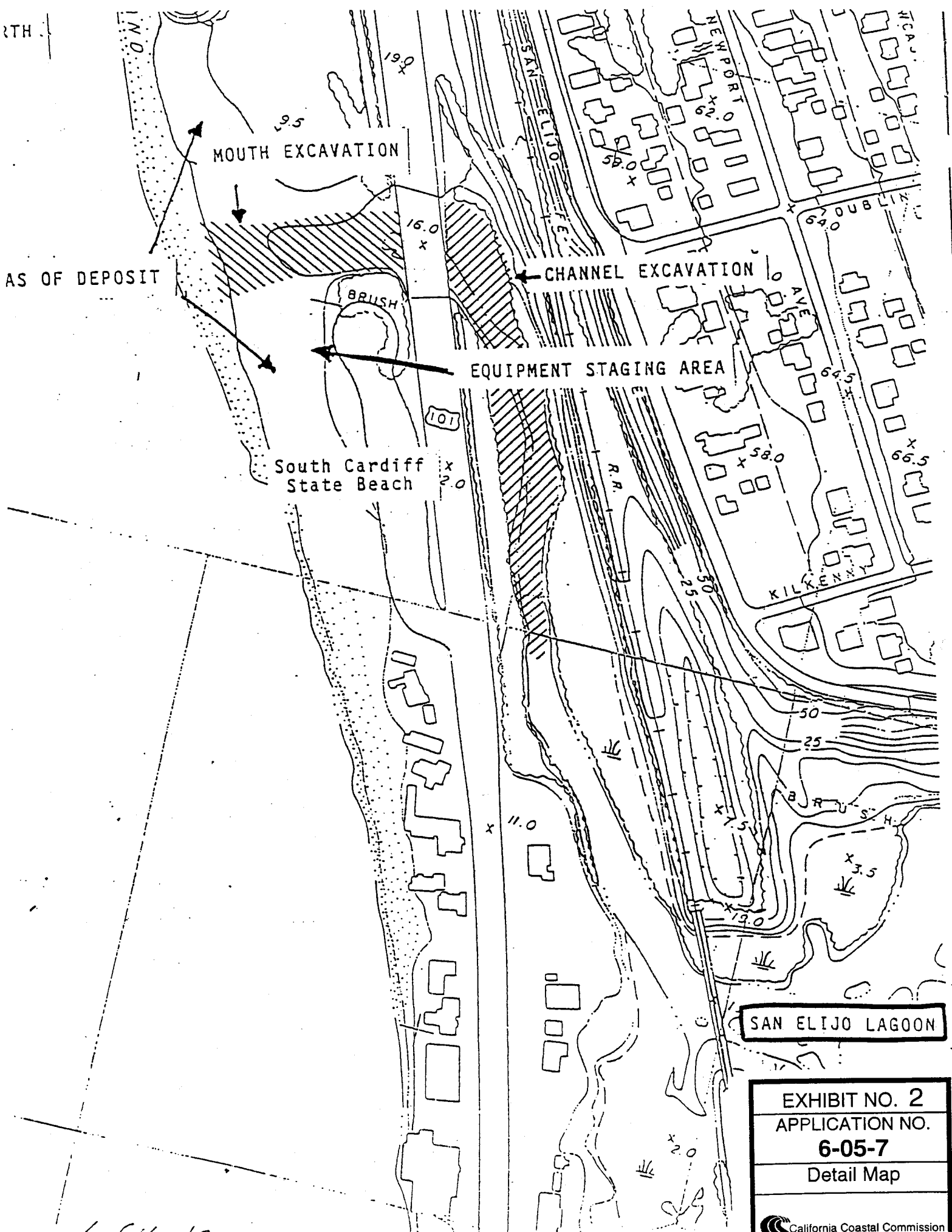


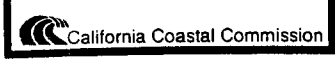
EXHIBIT NO. 1
APPLICATION NO.
6-05-7
Location Map
 California Coastal Commission

RTH



SAN ELIJO LAGOON

EXHIBIT NO. 2
 APPLICATION NO.
6-05-7
 Detail Map



6-9/6-120