

CALIFORNIA COASTAL COMMISSION

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Staff: Fernie Sy-LB
Staff Report: September 28, 2006
Hearing Date: October 11-13, 2006
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-05-361

APPLICANT: Orange County Sanitation District, Attn: Mandy Taylor

PROJECT LOCATION: 5810 West Coast Highway, City of Newport Beach
(County of Orange)

PROJECT DESCRIPTION: Replacement of two (2) force main sewer lines and abandoning of a third: an existing 24-inch line will be replaced with a new, 6,580 linear foot, a 42-inch (36-inch internal diameter (ID)) High Density Polyethylene Force Main line; a 2,035 linear foot section of an existing 36-inch line will be replaced with a new 42-inch (36-inch ID) High Density Polyethylene Force Main line; and an existing 30-inch line will be entirely abandoned in place.

SUMMARY OF STAFF RECOMMENDATION:

Commission staff is recommending **APPROVAL** of the proposed project subject to **Seven (7) Special Conditions** requiring: **1)** a biological monitor; **2)** limiting work to take place only from September 1 through February 15; **3)** performance of a post construction survey of the subject site; **4)** submittal of site access, staging, work area and equipment storage plan(s); **5)** submittal of a tunneling and monitoring mitigation plan; **6)** geotechnical conformance; and **7)** assumption of risk. The major issues of this staff report concern the project's adherence to the habitat, marine resources, hazards, growth, and public access policies of the Coastal Act. Moreover, the staff report analyzes construction activity taking place within a narrow corridor that passes through a sensitive habitat area (Santa Ana River marsh); proposed directional drilling under the Santa Ana River (SAR) to connect the lines to the Orange County Sanitation District Treatment Plant No. 2 in the City of Huntington Beach and associated potential for "frac-out"; and the potential growth inducing effects of the project.

Section 30600(c) 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 City of Newport Beach only has a certified Land Use Plan and has not exercised the options listed in Section 30600(b) or 30600.5. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

LOCAL & OTHER AGENCY APPROVALS RECEIVED: City of Newport Beach Planning Department Approval-In-Concept (No. 1385-2005) dated June 22, 2005; Letter from the United States Army Corps of Engineers (USACOE) dated September 12, 2005.

SUBSTANTIVE FILE DOCUMENTS: *Geotechnical Report Newport Trunk Sewer and Force Mains Bitter Point Pump Station to Coast Trunk Sewer, Orange County Sanitation District, Project Number 5-58, Orange County, California* prepared by Furgo West, Inc. dated August 2004; *Newport Trunk Sewer and Force Mains Replacement Project, Environmental Impact Report* (SCH No. 2003051126) dated November 2004; *Response to Comments Newport Trunk Sewer and Force Mains Replacement Project, Final Environmental Impact Report* (SCH No. 2003051126) dated November 2004; *Geotechnical Baseline Report Newport Trunk Sewer and Force Mains Bitter Point Pump Station to Coast Trunk Sewer, Orange County Sanitation District, Project Number 5-58, Orange County, California* prepared by Furgo West, Inc. dated May 2005; Letter from Commission staff to OCSD dated October 13, 2005; Letter from OCSD to Commission staff dated November 3, 2005; and Letter from Commission staff to OCSD dated December 1, 2005; *Delineation and Avoidance Plan of Waters of the United States for the Newport Trunk Sewer and Force Main Replacement Project Within the Santa Ana River Marsh in Newport Beach, Orange County, California* prepared by ESA dated April 2006.

LIST OF EXHIBITS

1. Location Map
 2. Existing Site Plan
 3. Proposed Site Plan
 4. OCSD Letter Regarding Growth Inducing Impacts Received September 27, 2006
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I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-05-361 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

An appropriately trained biologist shall monitor construction activity for disturbance to wetlands. At minimum, monitoring shall occur once a week during any week in which construction occurs. Daily monitoring shall occur during construction activities that could significantly impact biological resources such as construction within 100-feet of wetlands and construction that could result in disturbances to *Belding's Savannah Sparrow* and *California Least Tern*. Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts that could occur to sensitive species or habitat areas. The applicant shall not undertake any activity that would disturb wetland area unless an amendment to this coastal development permit or a separate permit for such disturbance has been obtained from the Coastal Commission.

2. TIMING OF CONSTRUCTION

To avoid adverse impacts on *Belding's Savannah Sparrow* and *California Least Tern* construction shall only occur from September 1 through February 15.

3. CONSTRUCTION IMPACTS/RESTORATION

WITHIN 30 DAYS FOLLOWING COMPLETION OF THE PROJECT, the applicant shall submit for Executive Director review and written approval a post-construction survey required in subsection **#A.** below. Permanent impacts to wetlands are not proposed or approved in this permit. However, if temporary impacts to wetlands are identified, the post-construction survey shall also include a detailed revegetation plan indicating the type, size, and extent of all plant materials, any irrigation

system and other landscape features to revegetate inadvertent temporary wetland impacts. Implementation of the approved revegetation plan shall occur within 60 days of approval by the Executive Director or within such additional time as the Executive Director may grant for good cause. The revegetation plan shall be developed in consultation with the California Department of Fish & Game (CDFG) and at a minimum shall include:

- A.** Post-Construction Survey. A survey and documentation of the existing condition of the wetland vegetation and substrate at the project site. The extent of impacts to the vegetation and substrate shall be assessed and documented after completion of the project to determine actual impacts. Any temporary wetland impacts shall be revegetated at a 1:1 ratio. If the post-construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts. Mitigation shall be provided for any identified permanent wetland impacts at a ratio of not less than 4:1.
- B.** Any temporary upland impacts to native or environmentally sensitive habitat shall be revegetated at a 1:1 ratio. Native plants, similar to those impacted, shall be utilized to re-establish the area consistent with historic conditions. (No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized).
- C.** The following goals, objectives, and performance standards for the restoration sites:

 - (1) Full restoration of all wetland impacts that are identified as temporary. Restoration of temporarily impacted areas shall include at a minimum, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland plant species;
 - (2) Success criteria shall include, and final performance monitoring shall assess whether the restoration has achieved, at least a 90% coverage of areas disturbed by construction activities within 1 year of completion of construction activities;
 - (3) The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards;
 - (4) Submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the revegetated areas have been established in accordance with the approved design and construction methods;
 - (5) A survey taken one year after revegetation identifying the quantity and quality of the restored plants. If the survey demonstrates the revegetation has been unsuccessful, in part or in whole, the survey shall include a plan for remediation and further surveys/reports until the sites are fully restored; and

- (6) All surveys, reports or other documentation of the revegetation effort shall be submitted to the Coastal Commission within 30 days of completion.

D. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a letter for Executive Director review and approval agreeing to comply with the terms of **Special Condition No. 2**.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. AVOIDANCE OF WETLANDS

A. The permittee shall comply with the following wetlands avoidance requirements:

- (1) The on-site wetlands shall not be impacted by the project. All plans and specifications for the project shall indicate that impacts to the wetlands shall be avoided and that no impact to the wetlands is authorized by the California Coastal Commission;
- (2) A buffer shall be established between all work approved by this permit and any wetlands. 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 construction areas and the buffer protecting wetlands. Barriers and other work area demarcations shall be inspected and approved by a qualified biologist as adequately protecting the wetlands from any impacts. All temporary barriers, staking, fencing and related materials shall be removed upon completion of the proposed development;
- (3) Any inadvertent impacts to the wetlands 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 enter areas containing wetlands;
- (5) No equipment shall be staged or stored within any habitat area or within 100-feet of any wetlands;
- (6) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;

- (7) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into the wetlands; and
- (8) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and located more than 100-feet away from the wetlands.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located more than 100-feet away from the wetlands;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into the wetlands. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 100-feet away from the wetlands; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

C. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the Executive Director's review and approval, two (2) copies of site access, staging, work area and equipment storage plan(s), which conforms with the requirements of subsection **#A.1** through **B.4.** 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 legally required.

5. TUNNELING AND MONITORING MITIGATION PLAN

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall submit for Executive Director review and approval two (2) copies of a project-specific horizontal directional drilling ("HDD") fluid monitoring and spill contingency plan that includes: (a) an estimate of a reasonable worst case release of drilling fluids into the Santa Ana River (SAR) caused by project operations; (b) a clear protocol for monitoring and minimizing the use of drilling fluids during HDD operations, including

criteria for identifying an unanticipated drilling fluid release and proposed fracture sealants; (c) a response and clean-up plan in the event of a spill or accidental discharge of drilling fluids; (d) a list of all clean-up equipment that will be maintained on-site; (e) the designation of the onsite person who will have responsibility for implementing the plan; (f) a telephone contact list of all regulatory and public trustee agencies having authority over the development and/or the project site and its resources to be notified in the event of a spill or material release; and (g) a list of all fluids, additives, and sealants that will be used or might be used, together with Material Safety Data Sheets for each of these materials.

- B.** In the event that a spill or accidental discharge of drilling fluids occurs during horizontal directional drilling operations, all construction shall cease and shall not recommence except as provided in subsection (C) below:
- C.** Following discovery of the spill or accidental discharge of drilling fluids, the applicant shall immediately implement the approved HDD fluid monitoring and spill contingency plan. No work shall continue until all spilled fluids have been contained and/or removed and measures taken to prevent a recurrence consistent with the approved contingency plan. If the spill or accidental discharge results in a change to the development or in the scope of the impacts to resources, the permittee shall submit to the Executive Director a revised project and restoration plan prepared by qualified professional(s) that provides for: (1) necessary revisions to the proposed project to avoid further spill or accidental discharge of drilling fluids; and (2) restoration of the area(s) affected by the spill or accidental discharge to pre-project conditions. The revised project and restoration plan shall be consistent with any applicable requirements of the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and/or Regional Water Quality Control Board (RWQCB). The revised project and restoration plan shall be processed as an amendment to the coastal development permit. Construction may not recommence until after an amendment to this permit is approved by the Commission, unless the Executive Director determines that no amendment is legally required.

6. CONFORMANCE WITH GEOTECHNICAL REPORT

- A.** All final design and construction plans and grading plans, shall be consistent with all recommendations contained in the following geotechnical reports: *Geotechnical Report Newport Trunk Sewer and Force Mains Bitter Point Pump Station to Coast Trunk Sewer, Orange County Sanitation District, Project Number 5-58, Orange County, California* prepared by Furgo West, Inc. dated August 2004 and *Geotechnical Baseline Report Newport Trunk Sewer and Force Mains Bitter Point Pump Station to Coast Trunk Sewer, Orange County Sanitation District, Project Number 5-58, Orange County, California* prepared by Furgo West, Inc. dated May 2005.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**,** the applicant shall submit, for the Executive Director's review and approval, two (2) copies of evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the

above-referenced geologic evaluation approved by the California Coastal Commission for the project site.

- 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.

7. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNIFICATION AGREEMENT

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from liquefaction; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any lease, assignment or other conveyance of its easement over the subject property requiring the lessee, assignee, or other conveyee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit (1) a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition and (2) a written agreement by the landowner that prior to any conveyance of the property that is the subject of this coastal development permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Special Conditions"); and (2) imposing all Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. The latter agreement shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The project site is located at 5810 West Coast Highway. The lot size is approximately 3.3 acres and is currently referred to as the Banning Ranch, which is a Deferred Certification Area (DCA) within the City of Newport Beach Land Use Plan. Nearly all of Banning Ranch is located within the City's sphere of influence in unincorporated Orange County. Oil and gas operations are conducted throughout the County portion of the property. The property contains a number of sensitive habitat types and also steep coastal bluffs. The project begins at the Bitter Point Pump Station (BPPS), located at the entrance of the West Newport Oilfield on Pacific Coast Highway (PCH), through the Santa Ana River (SAR) marsh (within an existing service/utility road) which is adjacent to the Santa Ana River, underneath the SAR itself and ends at the Orange County Sanitation District (OCSD) Treatment Plant No. 2 located in the City of Huntington Beach (Exhibit #1). Wastewater from the City of Newport Beach and surrounding areas in Northern and Central Orange County is conveyed to Treatment Plant No. 2, through a network of gravity sewers, pump station, force mains, and the District's Newport Trunk Sewer. The BPPS is the last of four principal pump stations in Newport Beach that operate in parallel to one another.

The OCSD currently has **three (3)** existing Force Mains (**A**: existing 30-inch diameter, **B**: existing 36-inch diameter, and **C**: existing 24-inch diameter) that transport sewage from the City of Newport Beach to OCSD's Plant No. 2 in Huntington Beach (Exhibit #2). These Force Mains extend from the Bitter Point Pump Station (BPPS) to the Santa Ana River (SAR). At the SAR, the Force Mains discharge into a junction structure that feeds the Newport Trunk Sewer (a gravity sewer), crosses beneath the SAR in dual barreled gravity sewers, and enters Treatment Plant No. 2. The existing Force Mains are composed of ductile iron and have experienced failures in recent years due to corrosion. The portion of the Force Mains covered by this project lie within an easement in a private service/utility road on property owned by the Armstrong Oil Company. The easement runs in a northwesterly direction from the BPPS to the SAR.

The New Force Mains would begin at the BPPS and then follow the existing alignment along the existing private service/utility road (already in a disturbed area) within the OCSD easement from the BPPS to near the existing junction structure on the east bank of the SAR (entrance to the existing gravity siphons) (Exhibit #3). The new Force Mains would then be installed underneath the SAR in a northwest direction to a junction structure within Treatment Plant No. 2 on the west side of the SAR (within the City Huntington Beach). The proposed project will fully replace existing line **C** with a new 42-inch (36-inch internal diameter (ID)) High Density Polyethylene (HDPE) Force Main line from the Bitter Point Pump Station to Treatment Plant No. 2 (a length of approximately 6,580 linear feet). The existing line **B** will be partially replaced with a 42-inch (36-inch ID) HDPE Force Main line from the east side of the SAR to Treatment Plant No. 2 (a length of approximately 2,035 linear feet). The remainder of line **B** will be left in place. The existing line **A** will be abandoned in place and filled with cement slurry for its entire length. The two (2) proposed Force Mains (lines **B** & **C**) will provide one (1) active line and one (1) standby line. Open trench construction would be used to install the Force Mains within the existing private service/utility road bordering the SAR marsh and through the oil field. The portion of the Force Mains under the SAR are to be constructed by microtunneling or Horizontal Directional Drilling (HDD) installing a 96-inch steel case casing with the two 36-inch ID Force Mains and two (2) 3-inch PVC conduits for fiber

optics. Microtunneling or Horizontal Directional Drilling (HDD) equipment will be staged at the treatment plant, to the west of the SAR, with the exit bore arriving in the widened disturbed area at the west end of the service/utility road (City of Newport Beach utility parcel). The project also includes the abandonment in place of two (2) existing 42-inch gravity siphons beneath SAR. In addition, an existing 12-inch waste oil gravity line associated with the West Newport Oilfield will be rerouted to the BPPS located in the same trench as the new Force Mains. Construction is anticipated to take approximately eleven (11) months to complete.

Besides improving the flow, the proposed project also has additional benefits: 1) improvements to water quality; 2) achieve the District's policy of full redundancy in Force Mains, allowing for standby capacity during peak flows and during periods when one pipeline is shut down due to failure or planned maintenance; 3) eliminate the existing system flow limitations at the junction structure where the Force Mains discharge to the gravity siphons beneath the SAR; and 4) eliminate the current situation whereby the gravity siphons underneath the SAR are not equipped with relief vents that lead to the treatment plant and are buried at a relatively shallow depth, creating a potential for the siphons to be damaged during routine dredging operations by the United States Army Corps of Engineers (the new Force Mains would be buried approximately 6-feet deep).

B. BIOLOGICAL RESOURCES AND 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.

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.

A portion of the proposed development is occurring within an existing 2,060-foot long, 30-foot wide road that passes through the Santa Ana River (SAR) marsh, adjacent to the Santa Ana River, which contains wetland areas. The proposed development does not include any fill of these adjacent wetlands. However, approximately 0.08 acres of wetland and 0.01 acres of tidal channel occur within 10-feet of the alignment edge. One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological function. First and foremost, wetlands provide critical habitat, nesting sites, and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway, a north-south flight corridor extending from Canada to Mexico, used by migratory bird species. In addition, wetlands serve as natural filtering mechanisms to help remove pollutants from storm run-off before the run-off enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas.

Moreover, preserving, expanding, and enhancing Southern California's remaining wetlands is particularly critical because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of coastal wetlands have been lost.

Development, including grading and the construction of structures, could cause impacts upon adjacent wetlands by discharging silt to the wetlands.

Section 30240(b) of the Coastal Act requires that development in areas adjacent to environmentally sensitive habitat areas, such as wetlands, must be sited and designed to prevent impacts, which would significantly degrade those areas. In addition, Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters and wetlands be maintained.

In order to determine the potential impacts of the project on biological resources located in the Santa Ana River marsh, Commission staff requested that an analysis be done. In response, the applicant submitted the following: *Delineation and Avoidance Plan of Waters of the United States for the Newport Trunk Sewer and Force Main Replacement Project Within the Santa Ana River Marsh in Newport Beach, Orange County, California* prepared by ESA dated April 2006. The analysis states that it did the following: "... summarizes the extent and functional capacity of wetlands and water associated habitats of the Santa Ana River (SAR) marsh in the vicinity of proposed project activities that are subject to review by the CCC [California Coastal Commission]. In addition, it provides an analysis of potential project impacts to wetlands and plans for avoidance of potential impacts."

The project site is within a road passing through the SAR marsh, which is a 92-acre salt marsh wetland within Orange County restored by the U.S. Army Corps of Engineers (USACOE) as part of their Lower Santa Ana River project. For purposes of the review, the analysis defined the project site as an approximately 2,060-foot long, 30-foot wide alignment that occupies approximately 1.44 acres. This is the length of the OCSD easement that occurs within the SAR marsh and slightly beyond it to the east of the site. The area that was evaluated was a 300-foot wide corridor centered on the alignment. The analysis determined that the service/utility road and City of Newport Beach utility parcel currently are made up of fill material and do not contain any wetland hydrology indicators. Furthermore, the analysis discovered that the study area consisted of three (3) plant communities (*Southern Coastal Salt Marsh*, *Mixed Scrub*, and *Chenopod Scrub*) and that *Belding's Savannah Sparrows* were observed on site. *California Least Terns* were previously observed on site and the latest recorded observation of them in the SAR marsh was in 2003. An important nesting colony occurs nearby on Huntington State Beach. The analysis concludes that there were no wetlands subject to CCC review within the 30-foot wide construction corridor alignment through the SAR marsh and the City of Newport Beach utility parcel, thus no impacts to wetlands are anticipated. However, alignment boundaries occur in close proximity, approximately 10-feet of the alignment edge, to wetland areas and to a small amount of tidal channel area. In addition, the analysis states construction within the utility corridor could also potentially result in indirect impacts such as harassment of nesting or foraging *Belding Savannah Sparrow* and foraging *California Least Tern* due to noise, proximity of human activity, and vibration.

During construction there is a possibility that inadvertent adverse impacts to the existing habitat may occur if construction crews are not adequately informed of the presence and location of sensitive habitat. To remedy this concern, a biological monitor should be present on site to assist construction crews in identifying sensitive habitats and methods for avoiding impacts to those

habitats. Therefore, in order to minimize potential impacts during construction, the Commission imposes **Special Condition No. 1**, which requires that an appropriately trained biologist shall monitor construction activity and to implement methods to avoid disturbance to sensitive species or habitat area.

As stated previously, the proposed project may impact the *Belding Savannah Sparrow* and *California Least Tern*. The *Belding Savannah Sparrow* nests from April through July and the *California Least Tern* feed their young from April through August. Therefore, any construction activity within the SAR marsh should be limited to September 1 through February 15. Thus, the Commission imposes **Special Condition No. 2**, which limits work to take place only from September 1 through February 15.

While the applicant states that the proposed project will not impact wetland area, alignment boundaries occur in close proximity, approximately 10-feet of the alignment edge, to wetland areas and to a small amount of tidal channel area and so potential biological impacts are possible. Therefore, the Commission imposes, **Special Condition No. 3**, which requires the applicant to perform a post construction survey of the subject site and if any temporary wetland impacts have occurred, the area shall be restored pursuant to an approved restoration plan developed in consultation with CDFG. The restoration plan must be submitted for Executive Director approval and must incorporate specific performance standards, goals and objectives. If permanent impacts to wetlands occur, the condition requires the applicant to submit an amendment to the subject coastal development permit.

Due to the location of the wetlands to the proposed project, construction of the proposed project could adversely impact the adjacent wetlands. For instance, soil stockpiles could erode causing sedimentation of wetlands. In addition, if not sited appropriately, construction equipment and activity could cause trampling of the wetlands. Thus, site access, staging, work area and equipment storage plan(s) are necessary in order to demonstrate that construction equipment or activity shall not occur outside the staging area and identified construction corridor and that construction equipment and activity shall not be placed in any location, which would result in impacts to wetlands. Thus, the Commission imposes **Special Condition No. 4**, which requires the applicant to implement appropriate BMPs via site access, staging, work area and equipment storage plan(s).

A portion of the proposed project requires microtunneling or Horizontal Directional Drilling (HDD) to install a 96-inch steel case casing with the two 36-inch ID Force Mains and two (2) 3-inch PVC conduits for fiber optics under the SAR. A primary risk from drilling is the possibility of "frac-out". A "frac-out" is when the drilling fluids migrate through the substrate during boring, and are released at the surface and could adversely impact habitat. Thus, in order to further protect biological resources, the Commission imposes **Special Condition No. 5**, which requires the applicant to submit a tunneling and monitoring mitigation plan. The plan shall include: (a) an estimate of a reasonable worst case release of drilling fluids into the Santa Ana River (SAR) caused by project operations; (b) a clear protocol for monitoring and minimizing the use of drilling fluids during HDD operations, including criteria for identifying an unanticipated drilling fluid release and proposed fracture sealants; (c) a response and clean-up plan in the event of a spill or accidental discharge of drilling fluids; (d) a list of all clean-up equipment that will be maintained on-site; (e) the designation of the onsite person who will have responsibility for implementing the plan; (f) a telephone contact list of all regulatory and public trustee agencies having authority over the development and/or the project site and its resources to be notified in the event of a spill or material release; and (g) a list of all fluids, additives, and sealants that will be used or might be used, together with Material

Safety Data Sheets for each of these materials. Following discovery of the spill or accidental discharge of drilling fluids, the applicant shall immediately implement the approved HDD fluid monitoring and spill contingency plan. No work shall continue until all spilled fluids have been contained and/or removed and measures taken to prevent a recurrence consistent with the approved contingency plan. If the spill or accidental discharge results in a change to the development or in the scope of the impacts to resources, the permittee shall submit to the Executive Director a revised project and restoration plan prepared by qualified professional(s).

In order to assure that no impacts to biological resources or water quality occur with the proposed project, the Commission has imposed **five (5) Special Conditions**. **Special Condition No. 1** requires that an appropriately trained biologist shall monitor construction activity and to implement methods to avoid disturbance to sensitive species or habitat area. **Special Condition No. 2** limits work to take place only from September 1 through February 15. **Special Condition No. 3** requires the applicant to perform a post construction survey of the subject site. **Special Condition No. 4** requires the applicant to implement appropriate BMPs via site access, staging, work area and equipment storage plan(s). **Special Condition No. 5** requires the applicant to submit a tunneling and monitoring mitigation plan. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30231 and 30240(b) of the Coastal Act.

C. HAZARDS

Section 30253 of the Coastal Act states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

To assess the feasibility of the project, the applicant submitted the following *Geotechnical Report Newport Trunk Sewer and Force Mains Bitter Point Pump Station to Coast Trunk Sewer, Orange County Sanitation District, Project Number 5-58, Orange County, California* prepared by Furgo West, Inc. dated August 2004 and *Geotechnical Baseline Report Newport Trunk Sewer and Force Mains Bitter Point Pump Station to Coast Trunk Sewer, Orange County Sanitation District, Project Number 5-58, Orange County, California* prepared by Furgo West, Inc. dated May 2005. These reports evaluated the geotechnical conditions using subsurface exploration and developed conclusions and recommendations for design and construction of the sewer lines. The geotechnical reports anticipated geotechnical issues that could affect the proposed project such as the presence of soft clayey alluvial/lagoonal soils in the upper 10 to 15-feet; potential liquefaction and fault rupture. However, the reports conclude that the project is feasible from the engineering perspective provided the applicant complies with the recommendations contained in the reports.

In order to assure that risks are minimized, the geotechnical consultant's recommendations must be incorporated into the design of the project. Thus, the Commission imposes **Special Condition No. 6**, which requires the applicant to submit evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the geotechnical reports.

Although the proposed project will be constructed with geotechnical approval, risk from development on these liquefiable soils is not eliminated entirely. Therefore, the standard waiver of liability condition has been attached through **Special Condition No. 7**. By this means, the applicant is notified that the project is being built in an area that is potentially subject to geologic instability and liquefaction that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development and is required to indemnify the Commission in the event of a lawsuit against it. Finally, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability.

In order to assure that geologic risks are minimized and that geologic stability is assured, the Commission has imposed **two (2) Special Conditions**. **Special Condition No. 6** requires that applicant to submit evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the geotechnical reports. **Special Condition No. 7** requires the applicant to accept an assumption of risk. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act

D. GROWTH INDUCING DEVELOPMENT

Section 30254 of the Coastal Act states:

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

There is concern that the replacement of the two existing force mains, 24-inch and 36-inch diameter, with two 36-inch (internal) diameter force mains, is growth inducing, and therefore inconsistent with section 30254 of the Coastal Act. However, a third line is being abandoned in conjunction with the replacement of the other two. Thus, the project is actually the replacement of a 24-inch, a 30-inch, and a 36-inch diameter force mains with two 36-inch diameter force mains. As a result, OCSD has presented information concerning the existing Newport Trunk Sewer and Force Main pipe system that indicates that the proposed project as a whole will not increase the capacity beyond its current 40 mgd. The system currently has capacity to convey the 40 mgd projected flows from the City of Newport Beach in accordance with the Strategic Plan, according to OCSD (Exhibit #4).

The proposed project is being carried out to correct problems with the pipeline system, including several failures due to corrosion and structural deficiencies that have rendered the pipelines unreliable and in need of partial or full replacement (or abandonment in the case of Line **C**). The Corps has also complained that the line that crosses the Santa Ana River impedes dredging operations and needs to be replaced at a greater depth. The proposed project is also being

proposed in conjunction with future proposed changes to the adjacent Bitter Point Pump Station (BPPS) to achieve better hydraulic performance and reliability of the overall wastewater system. If the existing Line A is not upgraded it will not be able to handle the higher pressures of the flows from the upgraded BPPS.

The proposed force main improvements project does not include provisions for new development of Banning Ranch. The only service provision for Banning Ranch is the existing 12-inch waste oil gravity line that will be rerouted to the BPPS located in the same trench as the new Force Mains.

Based on the foregoing the Commission finds that the proposed project, as conditioned to deal with habitat, marine resources, hazards and public access issues as detailed above, is consistent with section 30254 of the Coastal Act.

E. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

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

The project site is located near and adjacent to the Santa Ana River (SAR). An existing bike path along the SAR leads to the beach approximately ½ a mile west of the portion of the project site located at adjacent to the SAR. The proposed project will not result in closure of the existing bike path. Therefore, as conditioned, the Commission finds adequate access is available nearby, and the proposed development is consistent with Section 30210 of the Coastal Act.

F. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

A portion of the project is located within the City of Newport Beach that is covered by a Land Use Plan (LUP). The LUP for the City of Newport Beach was effectively certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

Also, a portion of the project is located within unincorporated Orange County that does not have an LUP. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

In addition, if a permit is necessary for the portion of the project that is taking place within the City of Huntington Beach, the City of Huntington Beach will issue that permit since the project site is located within the City of Huntington Beach certified LCP jurisdiction area.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of Title 14 of the California Code of 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 further 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. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the habitat, marine resources, hazards, growth, and public access policies of Chapter 3 of the Coastal Act. Mitigation measures include: **1)** a biological monitor; **2)** limiting work to take place only from September 1 through February 15; **3)** performance of a post construction survey of the subject site; **4)** submittal of site access, staging, work area and equipment storage plan(s); **5)** submittal of a tunneling and monitoring mitigation plan; **6)** geotechnical conformance; and **7)** assumption of risk.

As conditioned, there are no feasible alternatives or additional 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.



- SEE A E2
- 1 SPUNKERS RUN
 - 2 BRADSHIRE LN
 - 3 CAYMANA CT
 - 5 SEARITA LN
- SEE A E2
- 1 AZALEA LN
 - 2 BROADWAY CIR
 - 3 CANTON LN
 - 4 CORAL COVE CIR
 - 5 SEARITA CIR

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646
MARTIN LUTHER KING JR. PARK

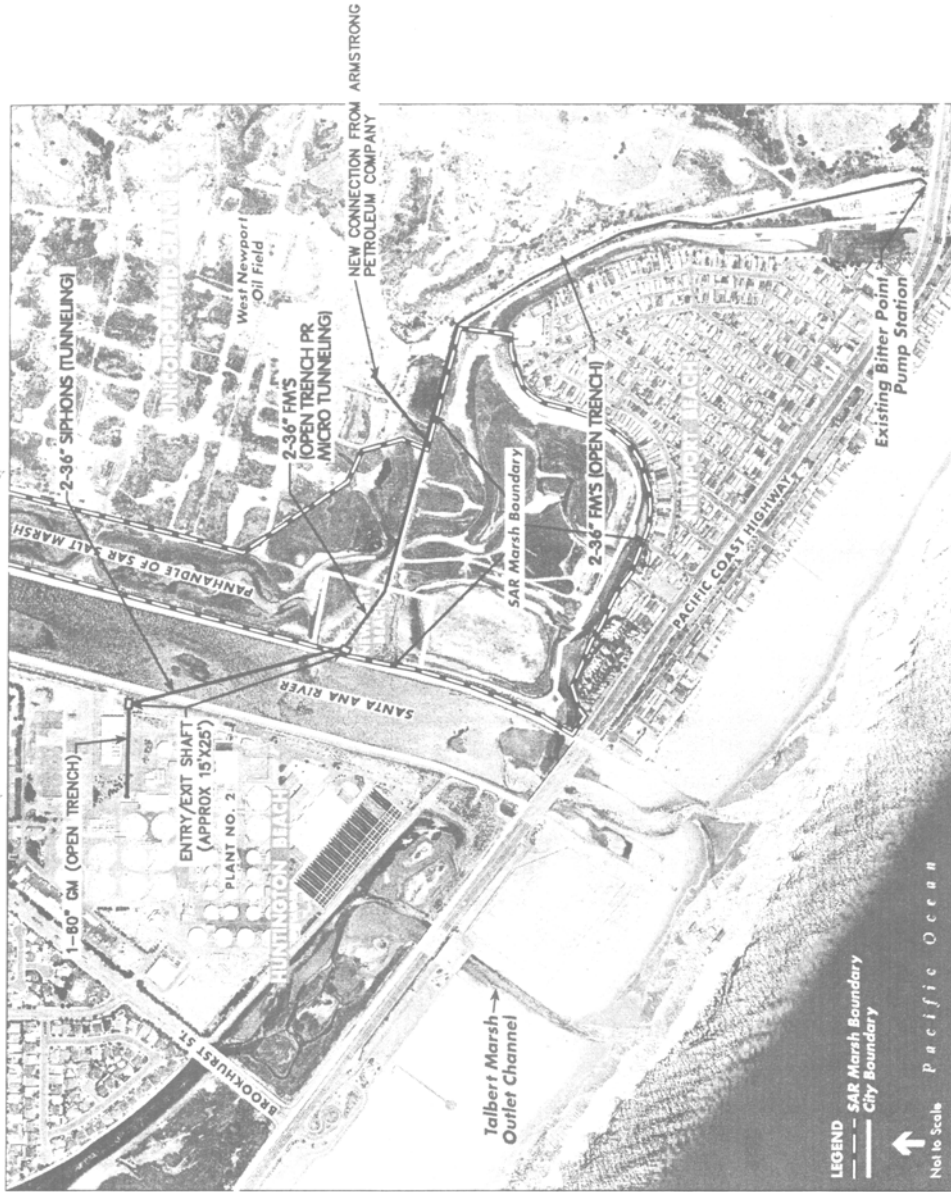


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Newport Force-Main SEIR/201/68
Figure 1-3
Existing Newport Trunk Sewer Force-Main

SOURCE: Orange County Sanitation District, May 2003, USACE, 1987a

EXISTING



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Newport Force-Main SEIR / 201168

SOURCE: Orange County Sanitation District, May, 2003

Figure 2-7
 Newport Trunk Sewer Force-Main Alignment 2C

PROPOSED

OCSD LETTER RE: GROWTH INDUCING IMPACTS
RECEIVED 9/27/06

Wastewater Flow: The Newport Trunk Sewer and Force Mains transport sewage from the City of Newport Beach into the Orange County Sanitation District's (District) Plant 2. There are currently three existing force mains in the Newport Trunk and Force Main system. These three lines are named Lines "B", "A", and "C", at 36, 30 and 24 inches in diameter, respectively. These force mains have experienced several failures in recent years due to corrosion, and portions have been repaired. Line C is no longer in use due to structural deficiencies. Because of their corroded condition, the pipelines are no longer reliable and require replacement. Recently a portion of Line B was repaired by relining with a high density polyethylene (HDPE) liner pipe, rendering a pipeline that is sufficient structurally for use in the new pipeline system.

The District's 1999 Strategic Plan identified Year 2020 future flows in order to determine maintenance and construction projects that would be required to accommodate those flows. The flow projections were based on the planning projections of the cities within the District's jurisdiction. The Strategic Plan's projected Year 2020 flow for the City of Newport Beach's service area is 42.08 million gallons per day (MGD). However, a subsequent study revised the Year 2020 flows to 40 MGD. The existing Newport piping system has the capacity to convey the 40.0 MGD projected flows from the City of Newport Beach in accordance with the Strategic Plan. During design of the proposed modified piping system, a hydraulic evaluation confirmed the capacity of the existing piping system finding a need to raise the walls of the existing junction structure to prevent spillage. Also, the USACOE expressed continuously a concern with the depth of the siphon below the Santa Ana River bed, during river dredging operations. Therefore, the proposed facilities will address this by installing the new pipes at a greater depth.

As part of a separate project, the Bitter Point Pump Station's capacity will be increased from the current 8 MGD to 40 MGD. This increase is not due to an increase in population projections, but rather to a reconfiguration of the upstream wastewater pumping and force main system. That existing force main system is composed of several interconnected force mains that run along PCH, into which the Bitter Point, Lido, Rocky Point, and Bay Bridge Pump Stations discharge. All four existing pump stations pump directly into this common force main system at different locations. This type of pumping system is called a "parallel" pumping system (**See Figure provided by Alberto Acevedo**). That "parallel" configuration is scheduled to be revised based on a hydraulic study performed in 2003 that indicated that a modified "series" configuration would provide better hydraulic performance and reliability. This series configuration provides for the three upstream pump stations (Lido, Rocky Point, and Bay Bridge) to transport flow through the existing PCH force main system to a manhole just upstream of the Bitter Point Pump Station. From that manhole, the wastewater will flow by gravity into the proposed Bitter Point Pump Station wet well. From that wet well the entire wastewater flow from the City of Newport Beach will be pumped through the force mains proposed as part of this project the entire distance

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across the oil field and under the Santa Ana River into Plant 2. The existing force main pipeline "A" is not suitable for the higher discharge pressures associated with the proposed Bitter Point Pump Station.

In summary, the existing configuration provides for Bitter Point P.S. to pump flow from its own service area into a force main system already transporting wastewater from the three upstream pump stations. The pressure pipeline crosses the Banning Ranch oilfield and empties into a junction box on the southern side of the Santa Ana River, from which it flows by gravity through an inverted siphon into Plant 2. Under the future configuration, all flow from the three upstream pump stations will flow into the proposed Bitter Point Pump Station; the Bitter Point Pump Station will pump the entire flow the entire distance into Plant 2.

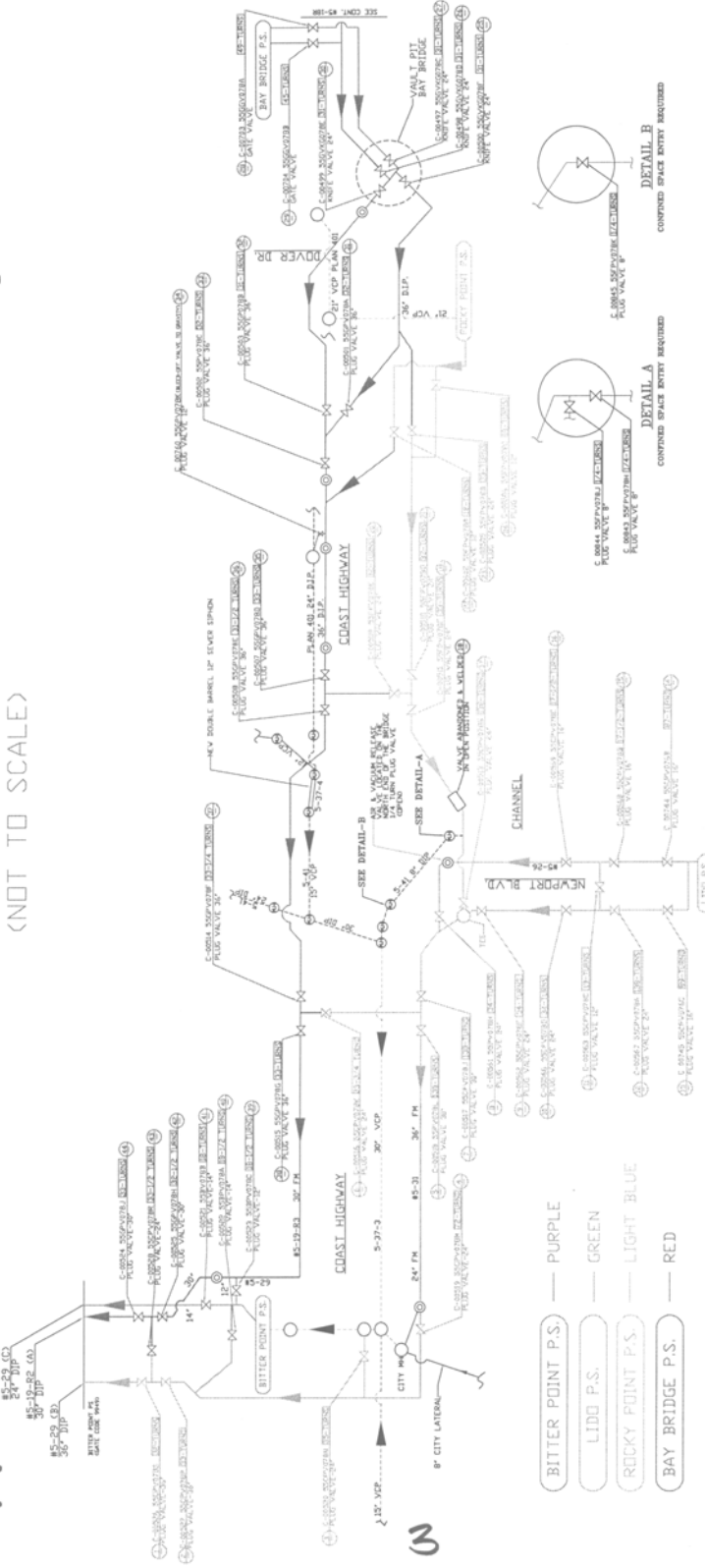
The flow capacity through the Newport Trunk Sewer and Force Mains will not change as a result of this project. The existing three pipelines (36, 30 and 24 inches diameter) will be replaced by two 36-inch diameter pipelines. Force main pipelines are operated under pressure supplied by pumps. In the case of the Newport Trunk Force Mains, pumping is provided by the Bitter Point Pump Station. District force mains are also typically sized to provide a wastewater velocity range of 7 to 8 feet per second at peak flow. Velocities lower than this range may result in solids deposition in the pipe; higher velocities can cause "scouring" of the pipeline that leads to early pipe deterioration. The flow rate through a pipe is dependent on the area of the pipe and the velocity of the fluid ($\text{Flow} = \text{Velocity} \times \text{Area}$). For a constant flow rate and velocity, the pipe area determines the flow quantity. The three existing Newport Force Mains provide a total flow area of 15.12 ft². The two new proposed force mains provide a flow area of 14.14 ft², a very slight reduction in area compared to the existing force mains, resulting in a very slightly reduced but comparable capacity.

Banning Ranch: The proposed force main project does not include provisions for new developments that are not already planned by the neighboring jurisdictions, including the Banning Ranch. The proposed project will replace the existing 12-inch Banning Ranch oil waste line due to the fact that the new sewer will be a force main running under pressure the entire distance into OCSD's Plant 2, which the oil field gravity sewer will not be able to tie into. The oilfield line will be routed to the wet well at the new Bitter Point Pump Station, to be pumped through the new force mains into Plant 2. (*Newport Trunk Sewer and Force Mains Replacement Project, Final Environmental Impact Report SCH#: 2003051126, Comment 17-6, page 68*).

VALVE SETTING DATE: _____
 RED DOT - CLOSED VALVES
 GREEN DOT - OPEN VALVES
 BLUE DOT - BROKEN VALVES
 BLACK - AIR VALVES

**PCH FORCE MAIN
 VALVE SCHEMATIC**
 (NOT TO SCALE)

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DRAWING BY: D. RODRIGUEZ
 DATE: 1/04
 REVISION NO. 111111