

CALIFORNIA COASTAL COMMISSION

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AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-90-219-A10

Applicant: California Department of Fish and Game Agent: Tim Dillingham

Original

Description: One-time restoration/enhancement of Batiquitos Lagoon to create tidal marine habitat, including the following specific actions: up to 3.7 million cubic yards of dredging to reconfigure the lagoon to restore tidal flows and aid in maintaining an open lagoon mouth; disposal of suitable dredged materials on Encinas Creek Beach; construction of new inlet jetties at the mouth of the lagoon to create a permanently open lagoon mouth; demolition and reconstruction of southbound lanes of Carlsbad Blvd.; erosion-protection improvements to the Carlsbad Blvd., AT & SF Railway and Interstate Highway 5 bridges; creation of up to five California least tern nesting sites.

Proposed

Amendment: Removal of approximately 65,000 cubic yards of lagoon bottom sand from lagoon to maintain tidal conditions as specified in the original permit. Sand will then be placed on beaches directly north and south of the lagoon opening as specified by the Department of Parks and Recreation and permitted by the City of Carlsbad.

Site: Batiquitos Lagoon between the ocean and El Camino Real, Carlsbad, San Diego County.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed amendment with conditions to allow dredging of up to 65,000 cubic yards of beach quality sand from the central and west basins of Batiquitos Lagoon and deposition of dredged materials on both North and South Ponto Beach.

In the original permit, the Commission approved the restoration of Batiquitos Lagoon, the basic program being the restoration of a marine habitat regime in the lagoon. In order to create and maintain this marine habitat type, a permanently open lagoon mouth was required. The creation of the open mouth restored continuous tidal action and the former marine ecosystem, without significant adverse impacts to established habitat values within the project limits. It was recognized within the original permit that periodic dredging would be required to maintain a health tidal prism. In addition, the permanently open lagoon mouth helps to control the sediment load remaining in the lagoon and aids in flood control.

The attached conditions of approval require final plans which indicate the lagoon has been dredged consistent with the “as built” plans that were approved in the Batiquitos Lagoon Enhancement Plan, that placement of sand on area beaches shall occur outside of the summer season (Memorial Day weekend through Labor Day), that dredging can only occur between September 15 and February 15 to avoid potential disturbance of California least tern and western snowy plover during their breeding periods. Conditions specify that while the maintenance of the lagoon requires repeated dredging this permit is only for the removal of 65,000 cubic yards, and any further dredging would require an additional permit. To prevent the spread of non-native invasive species, a *Caulerpa taxifolia* survey will be required to occur between 90 days prior to 30 days prior to dredging commencement. All remaining terms and conditions of the original approval of Coastal Development Permit #6-90-219 as amended and not specifically modified herein, shall remain in full force and effect. As conditioned, all potential adverse impacts on coastal resources are addressed to assure consistency of the development with Chapter 3 policies of the Coastal Act.

Substantive File Documents: City of Carlsbad Certified Local Coastal Program - East Batiquitos Lagoon/Hunt Properties segment; Batiquitos Lagoon Enhancement Project Final EIR/EIS (City of Carlsbad and U.S. Army Corps of Engineers); Batiquitos Lagoon Enhancement Project Draft Preliminary Design Report (February, 1988), Coastal Development Permit 6-90-219 and amendments, *Caulerpa taxifolia* survey, Merkel and Associates Grain size Analysis.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

- I. MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-90-219 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Timing of Dredging and Beach Deposition. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans which incorporate the following:

- a. Public Access/Timing. Placement of sand on Carlsbad State Beach shall occur outside of the summer season (Memorial Day weekend through Labor Day).
- b. Sensitive Species/Timing. To avoid potential impacts to the California least tern and western snowy plover breeding period, construction will not be permitted between the dates of February 15th and September 15th of any year.

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

2. Post-Dredging Plans. Within 60 days of the dredging of the lagoon, final dredging and deposition plans shall be submitted which indicate:

- a. The lagoon has been dredged consistent with the “as built” plans, dated 11/18/94 by the City of Carlsbad, that were approved in the Batiquitos Lagoon Enhancement Plan.
- b. Carlsbad State Beach has been nourished consistent with the preliminary beach profiles submitted with the application.

3. Term of Permit/Amount of Dredging. This one-time only coastal development permit authorizes dredging and disposal of up to 65,000 cu. yds. of material as approved herein. Dredging may continue, outside the restricted breeding season, until this volume of material has been removed.

4. Prior Conditions of Approval. All other terms and conditions of the original approval of Coastal Development Permit #6-90-219, as amended, not specifically modified herein, including the required monitoring reports, shall remain in full force and effect.

5. Other Permits. **PRIOR TO THE COMMENCEMENT OF DREDGING**, the applicant shall submit copies of all other required state or federal discretionary permits for the proposed project. Any mitigation measures or other changes for the project required through said permits shall be reported to the Executive Director and shall become part of the project. No changes to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Invasive Species. **PRIOR TO THE COMMENCEMENT OF DREDGING**, the applicant shall provide evidence that dredging of Batiquitos Lagoon can occur without the risk of spreading the invasive green alga *Caulerpa taxifolia* as follows.

- a. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any dredging authorized under this coastal development permit, the applicant shall undertake a survey of the project area (includes and any other areas where the bottom could be disturbed by project activities) and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- b. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- c. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 1. For the review and written approval of the Executive Director; and
 2. To the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (DFG) (858-467-4218) or Robert Hoffman, National Marine Fisheries Service (NMFS) (562-980-4043).

3. If *Caulerpa* is found, then the NMFS and DFG contacts shall be notified within 24 hours of the discovery.
- d. If *Caulerpa* is found, the applicant shall, prior to the commencement of dredging, provide evidence to the Executive Director for review and written approval, either that the *Caulerpa* discovered within the project and/or buffer area has been eradicated or that the dredging project has been revised to avoid any contact with *Caulerpa*. No changes to the dredging project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The applicant proposes to dredge approximately 65,000 cubic yards of lagoon bottom (>90% sand) from the western and central basins of Batiquitos Lagoon and place approximately 15,000-20,000 cubic yards on North Ponto Beach, and approximately 47,000-50,000 cubic yards on South Ponto Beach, both located just outside the lagoon mouth in the respective directions. South and North Ponto Beaches are part of Carlsbad State Beach and are owned by the California Department of Parks and Recreation (“CDPR”). The sites chosen for sand replenishment are permitted and in fact recommended by the CDPR. A sand grain analysis was done by boring into both basins, as well as both beaches proposed for replenishment. The survey found that the sand grain composition for the basin was similar to the sand currently found on North and South Ponto Beach. The material tested was 90% sand, and was found to be suitable for beach placement as regulated by the Inland Testing Manual. Due to the high sand content of the samples from the lagoon basin, as determined by the EPA, FWS, and DFG; no chemical analysis was necessary. This is because fine grain size is required for the binding of organic carbon and other deleterious compounds. The sand replenishment locations have been permitted and even endorsed by both CDPR and the City of Carlsbad.

In the original permit, the Commission approved the restoration of Batiquitos Lagoon, the basic program being the restoration of a marine habitat regime in the lagoon. In order to create and maintain this marine habitat type, a permanently open lagoon mouth was required. The creation of the open mouth restored continuous tidal action and the former marine ecosystem, without significant adverse impacts to established habitat values within the project limits. In addition, the permanently open lagoon mouth helps to control the sediment load remaining in the lagoon and aids in flood control.

The purpose of the project is to maintain the tidal lagoon opening and restore the necessary tidal prism. It was anticipated in the original approval that maintenance dredging would be required to maintain lagoon health. Sediments are transferred into the lagoon from both upstream development sites and through tidal action, and continually accumulate in the lagoon. As a result of the reduced tidal prism, lagoon resources have

become stressed and the proposed dredging is required to assure the continued health of the lagoon. The applicant proposes to complete the project outside the California least tern/Western snowy plover nesting season as the dredging sites are located in close proximity to nesting sites for endangered/threatened avian species as well as other birds. Moreover, the entire lagoon area is used for foraging by these and other sensitive species throughout the nesting season. All staging areas are proposed within the perimeters of the project itself and the dredge methodology is the same as that approved in the last four dredge maintenance projects (CDP #6-90-219-A6, A7, A8 and A9).

The Department of Fish and Game feels that the lagoon should eventually be dredged to the designed depth of 8 to 10 feet depth in the central basin to provide for the complete and expected tidal prism within the lagoon. This would improve the habitat by allowing a more fully tidal lagoon for a longer period of time. Previous dredging permit conditions do not allow for the lagoon to reach design depths necessary to provide the best conditions for the lagoon. However, this request is outside the realm of the current permit application and is something the applicant will be developing for a subsequent amendment.

Although the City of Carlsbad has a certified local coastal program, the current maintenance dredging project is being processed as an amendment to the original, Commission-issued coastal development permit. In addition, the proposed project will occur within Batiquitos Lagoon, where the Commission retains jurisdiction. As such, the standard of review is Chapter 3 policies of the Coastal Act.

2. Marine Resources. Sections 30230, 30231, 30233, and 30235 of the Coastal Act apply to the proposal and state, in part:

Section 30230

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

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 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

As noted above, Sections 30230 and 30231 require that marine resources be maintained and restored where possible and promote the highest feasible level of biological productivity. The dredging as described by the applicant, will allow for the tidal flushing of the lagoon, a necessary action to maintain lagoon health and promote productivity. The current levels of sand in the lagoon basin are not allowing for a necessary amount of tidal influence, which can eventually lead to stagnation, associated fish kills, and the emigration of protected shorebirds. The dredging of the central and west basin will restore the core functioning of the lagoon, thus promoting a healthier ecosystem.

Because of the grave risk to native habitats, in 1999 *Caulerpa* was designated a prohibited species in the United States under the Federal Noxious Weed Act. AB 1334, enacted in 2001 and codified at California Fish and Game Code Section 2300, forbids possession of *Caulerpa*. In June 2000, *Caulerpa* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Other infestations are likely. Although a tropical species, *Caulerpa* has been shown to tolerate water temperatures down to at least 50° F. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *Caulerpa* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *Caulerpa* infestations in Southern California. The group consists of representatives from several state, federal, local and private entities. The goal of SCCAT is to completely eradicate all *Caulerpa* infestations. If *Caulerpa* were allowed to reproduce unchecked within area lagoons, sensitive eelgrass beds and the wildlife that depend upon them would be adversely impacted. Therefore, eradication of *Caulerpa* would be beneficial for native habitat and wildlife. To date, however, *Caulerpa* has not been found in Batiquitos Lagoon. In order to assure that the proposed project does not cause the dispersal of *Caulerpa*, the Commission requires Special Condition #6. Special Condition #6 requires the applicant, prior to dredging, to survey the project area (which includes the dredged area, anchoring areas, and any other areas where the bottom could be disturbed by project activities) for the presence of *Caulerpa*. If *Caulerpa* is found in the project area, then prior to commencement of any dredging, the applicant must provide evidence that the *Caulerpa* within the project site has been eradicated (the applicant could seek an emergency permit from the Executive Director to authorize the

eradication) or that the dredging project has been revised to avoid any disturbance of *Caulerpa*. If revisions to the project are proposed to avoid contact with *Caulerpa*, then the applicant shall consult with the local Coastal Commission office to determine if an amendment to this permit is required.

As noted, a number of endangered bird species reside and overwinter in the lagoon. According to the applicant, the majority of species which use the staging areas and discharge sites have immediately adjacent sites for loafing and feeding, and because of the timing of the project, no birds are expected to require the sites for nesting. Mammals are only found on site for foraging purposes and also have adjoining sites for that purpose. A portion of Special Condition #1 addresses the timing of construction to assure that impacts to avian species do not occur.

The dredging of the central and west basin does have the potential of disturbing / removing eel grass beds located within the lagoon basin. These eel grass beds were an experimental addition to the lagoon and were not present prior to restoration. The eel grass beds were planted with the understanding that the lagoon would require occasional dredging, and the specifications of the original permit regarding dredging specifically allow for occasional removal of eel grass beds. Furthermore, when the lagoon is fully functional, the sheer velocity of the current would not allow for growth of eel grass in the proposed dredging zone, thus even if the dredging was designed to avoid the eel grass beds, once dredged, the conditions would not allow for the persistence of the eel grass population in that area of the lagoon.

Section 30233 requires that dredging of open coastal waters shall only be permitted when there is no feasible less environmentally-damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effects, and where such dredging is one of the permitted uses cited. In the case of the subject amendment, the Commission has previously found that the Batiquitos Lagoon Enhancement Plan represented a restoration project for the lagoon and was consistent with Section 30233. Because the proposed maintenance dredging was anticipated to assure the continued success of the restoration of Batiquitos Lagoon, it can also be found a permitted use under Section 30233 and is proposed as the least environmentally damaging alternative. Special condition #4 requires the applicant adhere to all other conditions of approval outlined by the original permit #6-90-219. With respect to the proposed dredging of the lagoon in this amendment, no new impacts will occur to sensitive habitat areas covered by the restoration plan.

Both North and South Ponto beach are located within the Oceanside Littoral Cell. This cell experiences a net southerly transport of 250,000 cubic yards a year. The proposed project presents a valuable opportunity to provide additional sediment to the city beaches and the cell overall. In 2001, as part of SANDAG's Regional Beach Sand Project, 18,000 cubic yards of sand was placed on beaches where the dry sand is proper to be placed with no adverse effects on marine resources. A sieve analysis was conducted and found the grain size to be consistent between the lagoon basin and the associated beaches. Condition #2 requires that the applicant submit a report within 60 days of completion of

the dredging and beach disposal verifying Carlsbad State Beach has been nourished consistent with the preliminary beach profiles submitted with the application. As conditioned the proposed project will positively influence the shoreline and is thus found to be consistent with section 30235 of the Coastal Act.

In summary, the proposed amendment is necessary to restore tidal prism to Batiquitos Lagoon to assure continued success of previously approved restoration efforts. The proposed dredging is a permitted use under Section 30233 of the Coastal Act and as conditioned, no adverse impacts to sensitive coastal resources are anticipated. Therefore, the Commission finds the proposed amendment, as conditioned, is consistent with Sections 30230, 30231 and 30233 of the Coastal Act.

3. Public Access. Sections 30604(c) and 30211, 30220, 30221 of the Coastal Act apply to the proposal and state in part:

Section 30604(c)

Section 30604(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter.

Section 30210

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

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30233(b)

Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

Section 30604(c) of the Coastal Act requires a public access finding to be made for projects located between the sea and the first coastal road, in this case such a finding can be found for the proposed development, with the inclusion of the attached conditions. Special Condition #1 requires that the sand replenishment component of the permit be completed during the winter months, when the least number of visitors are present, to lessen the restraint on public access, as regulated by sections 30210, 30211, 30221, 30233(b).

The subject proposal involves dredging the western and central basins of Batiquitos lagoon, including placement of dredged spoils on the adjacent Carlsbad State Beach. There are several provisions of the Coastal Act, which are applicable to the proposed project, which encourage use of suitable material to supply the region's littoral zones with sand. Such deposition of beach quality material on the region's shoreline will create and protect coastal recreational areas for use by the general public, consistent with the cited Coastal Act policies. The above language in Section 30233 clearly suggests the benefit of restoring the region's beaches through use of material that would otherwise reach the shoreline, but for man's intervention by development and flood control projects. Therefore, the Commission finds when dredge material is compatible with and suitable for use as beach sand along the region's shoreline, it should be transported to the shoreline for such use, as is proposed by this amendment, and thus found to be consistent with the public access and recreation policies of the Act.

Section 30210 of the Coastal Act requires that access to the shoreline be provided consistent to public safety needs. The Department of Fish and Game proposes to implement a public safety and access program consisting of signs, flagging and sand bridges over discharge pipes in the project area to ensure that people walking, as well as beach maintenance and emergency vehicles have safe access to and along the beach during replenishment operations. At no point is closure of the entire beach anticipated, however, public access will be restricted to portions of the beach throughout the dredging and sand replenishment process.

Section 30211 requires that development not interfere with the public's access to coastal resources including the use of dry sand. While the sand replenishment on North and South Ponto Beach will restrict the public's access to the immediate coastal resources temporarily, it benefits the public's access in the long term. The beaches both north and south of the lagoon mouth are eroding beaches. Sand replenishment will increase both the depth and breadth of the shoreline on North and South Ponto Beach, thus providing for more satisfactory public access. Therefore it is consistent with the section 30211 of the Coastal Act.

Section 30221 protects shoreline suitable for recreational use. The projected area is within a State Park Region, frequented by numerous visitors. There is a sand volley ball court located within the region of sand replenishment. The volleyball court will be removed temporarily; however, without the additional sand, the beach would be comprised of cobble stone and rock, not conducive for sand volleyball. While the sand placement will temporarily stop the recreational use, it will add to the court's longevity. The main users of the sand court are aware of the outcome and are in favor of the sand replenishment. It is thus promoting recreational use and public access, and is therefore consistent with the Chapter 3 policies of the Coastal Act.

4. Land Resources. Section 30240 requires that

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

While the dredging itself does not pose major issues to any land based environmentally sensitive habitat, the set up/break down of dredging equipment and sand replenishment has potential concerns. As documented in the project description the loading and launching of the dredge will be from two separate shorebird nesting islands. The least terns that utilize these islands require them to be free of vegetation; thus the stewards of the lagoon often remove any vegetation from these islands to allow for nesting. As a result, the placement of equipment will not disturb vegetation required for nesting. Further, as required by Special Condition #1, dredging will start and finish outside the breeding season, hence the nesting islands will not be in active use. Thus, no environmentally sensitive habitats will be negatively impacted during set up or break down of the dredging equipment.

The sand will be dredged from the basin and will then be transported through High Density Polyethylene (HDPE) piping and placed directly on the designated beaches. No transportation of the sand over sensitive habitat is necessary. There is an environmentally sensitive habitat located just east of the replenishment area on South Ponto beach. This region is separated by a barrier and design plans stay a safe distance from this area. No further negative impacts to the surrounding sensitive habitats are envisioned.

As stated above, in 2001, as part of SANDAG's Regional Beach Sand Project, 18,000 cubic yards of sand were placed on proposed site with no adverse effects to marine resources and a sieve analysis was conducted and found the grain size to be consistent between the lagoon basin and the associated beaches. The project has been designed to

minimize negative impacts and the grain size is well suited for the replenishment site. The proposed permit is thus found to be in compliance with the Chapter 3 policies of the Coastal Act, as conditioned by this document.

The Commission approved CDP #6-90-219 for enhancement of Batiquitos Lagoon. A critical key to success of the approved enhancement plan is to maintain an open lagoon mouth and specified tidal prism. Beach sands and sediments have accumulated within the west and central basins which now threaten the enhancement efforts due to the reduction in the tidal prism. Approval of the proposed project to remove these sediments/sands is consistent with previous Commission action on the original project. Therefore, approval of the proposed amendment, as conditioned, is consistent with Chapter 3 policies of the Coastal Act.

In summary, the Commission finds the dredging is necessary for the continued success of the lagoon restoration project. The above conditions are proposed to insure that the subject amendment will be consistent with the amended restoration plan and the Coastal Act. Conditions address the timing of construction, both to maximize public access to area beaches and recreational sites and to protect sensitive species nesting. The deposition of dredged materials on nearby beaches will enhance the public's recreational experience and is consistent with Coastal Act and Carlsbad LCP mandates. Special Condition #1 also requires that to avoid potential impacts to the California least tern and western snowy plover breeding period, dredging can only occur up to February 15. Special Condition #2 requires that within 60 days of the dredging of the lagoon, final dredging plans shall be submitted which indicate the lagoon has been dredged consistent with the "as built" plans that were approved in the Batiquitos Lagoon Enhancement Plan. In this way the Commission can be assured that the proposed dredging will not occur in areas where wetland restoration or endangered species protection is occurring. Additionally, final beach sand deposition plans shall be submitted which indicate Carlsbad State Beach has been nourished consistent with the preliminary beach profiles submitted with the application. In this way the Commission can be assured that the proposed beach nourishment will occur where it will have the greatest recreational benefit to the public. Therefore, the Commission finds that the subject amendment, as conditioned, is consistent with the cited policies of the Coastal Act.

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

As conditioned, the proposed amendment is consistent with the resource protection provisions of the Coastal Act. Mitigation measures, in the form of seasonal restrictions, sand grain analysis, and a requirement to survey for *caulerpa taxifolia* prior to dredging,

will avoid all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed amendment, 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.

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VICINITY MAP

State of California
The Naturalist Agency
Department of Fish and Game
Engineering Section

Bataquitos Lagoon Ecological Reserve
South Ponto Beach Plan
South Coast Region
San Diego County

<p>EXHIBIT NO. 1 APPLICATION NO. 6-90-219-A-10 Location Map</p>

Batiquitos Maintenance Dredging
Fall 2006



EXHIBIT NO. 2
APPLICATION NO.
6-90-219-A-10
Site Plan

California Coastal Commission