

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
 7575 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4421  
 (619) 767-2370



# Tue 19a

Filed: June 16, 2006  
 49th Day: August 4, 2006  
 180th Day: December 13, 2006  
 Date of  
 Extension Request: October 27, 2006  
 Length of Extension: 90 Days  
 Final Date for  
 Commission Action: March 13, 2007  
 Staff: Ellen Lirley-SD  
 Staff Report: November 21, 2006  
 Hearing Date: December 12-15, 2006

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-06-054

Applicant: 22<sup>nd</sup> District Agricultural  
 Association

Agent: Pacific Municipal  
 Consultants

Description: Removal of the top 7 inches of the existing dirt surface on the horse racing track and temporary storage of the material on the practice track infield; installation of a new drainage system, rock filtration system, permeable asphalt layers, and 7 inches of PolyTrack material; project includes widening of the track in the northeast and southeast curve area and removal and replacement of existing retaining wall, fence, and landscaping improvements.

Site: Del Mar Fairgrounds, 2260 Jimmy Durante Boulevard, Del Mar, San Diego County. APN 298-271-03

Substantive File Documents: 1985 Master Plan Update and draft 2000 Master Plan Update; Revised Del Mar Fairgrounds PolyTrack Project Mitigated Negative Declaration with appendices, dated 10/5/06; Del Mar Fairgrounds – Engineered Surface Project, by Fuscoe Engineering, dated 11/8/06

---

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed modifications to the existing racetrack at the Del Mar Fairgrounds. The primary issues raised by the project relate to potential adverse impacts on water quality, potential channelization of the floodplain, and the potential for an increase in the intensity of use of the site. A special condition is recommended advising the applicant that no

channelization or substantial alteration of a river or stream shall ever be allowed to protect the replacement racetrack surface in the event that it becomes threatened with damage or destruction from flooding or other natural hazards in the future. Other recommended conditions address construction in hazardous areas, implementation of a new drainage proposal, submittal of a final BMP program, and disposal of the dirt removed from the race track.

---

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-06--054 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. 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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

**1. No Future Flood Protection.** No berms, walls, or any other form of protection against flooding shall ever be constructed for the purpose of protecting the development approved pursuant to Coastal Development Permit No. 6-06-054 from flooding. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all

successors and assigns, any rights to construct such channelization or substantial alteration of a river or stream for the purpose of protecting the permitted development that may exist under Public Resources Code Section 30236.

## **2. Assumption of Risk, Waiver of Liability and Indemnity Agreement**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (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; and (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.
- B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant 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 "Standard and Special Conditions"); and (2) imposing all Standard and 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. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and 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.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

**3. Water Quality Management and Monitoring.** The permittee shall undertake development in accordance with the design, operation and monitoring specifications for the drainage system described in Technical Memorandum: Del Mar Fairgrounds - Engineered Surface Project Initial Study/Mitigated Negative Declaration Addendum Track Drainage Revision and Update (Track Drainage Plan) dated November 15, 2006. In particular, the specifications provide for all non-rainy season (May 1 - September 30) runoff and all rainy season (October 1 - April 30) "first flush" runoff from the track to be collected and pumped to the infield lakes for storage and infiltration/evaporation. In

addition, discharges beyond the “first flush” runoff that enter Stevens Creek will be monitored for a 5-year period to determine if this runoff meets water quality objectives.

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

**4. Best Management Practices (BMP) Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a final water quality BMP program for the racetrack improvements. The program shall include at a minimum:

1. Compliance with all provisions of the Fairgrounds SWPPP
2. Provisions for the removal of horse-related pollutants from the racetrack prior to the rainy season and at any other time this action is necessary.
3. For the temporary stockpile of removed horse racing track surface material on the practice track infield:
  - a. Maintain a minimum setback of 25 feet from Stevens Creek at all times
  - b. Cover stockpiles at all times
  - c. Use hay bales, silt fences, or similar devices around stockpiles to prevent the material from entering stormwater runoff

The permittee shall undertake development in accordance with the approved BMP plans. Any proposed changes to the approved BMP plans shall be reported to the Executive Director. No changes to the BMP 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.

**5. Disposal of Graded Spoils.** The material removed from the horse racing track may only be sold for use in the coastal zone if the buyer has a valid coastal development permit allowing for the import of soil or fill material.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to install a new surface on the existing racetrack at the Del Mar Fairgrounds to improve the safety of both horses and riders. The new material is being used at a number of other racetracks, both in the

United States and in other countries. Installation requires removal of the top 7 inches of the existing dirt racing track surface. The removed material will be temporarily stored on the practice track infield, until it can be sold and removed entirely from the site. The final disposal of this material is addressed in Special Condition #4 which advises that the material cannot be used elsewhere in the coastal zone without a valid coastal development permit. The proposed new improvements include installation of a new drainage system, a rock filtration system, permeable asphalt layers, and 7 inches of PolyTrack, a manmade material that consists of 80-90% silica sand, recycled carpet fiber, and a recycled rubberized product, all coated with micro-coated wax. The project also includes widening the racetrack in the northeastern and southeastern curve areas to accommodate changes in grade, and removal and replacement of an existing retaining wall, fence, and some landscaping improvements in the northeastern curve area.

The Del Mar Fairgrounds is a state-owned and operated facility originally built to support agricultural activities and horse racing. It hosts an annual fair and annual thoroughbred horse-racing meet, along with a variety of smaller events year round. The facility includes exhibit buildings, a grandstand, barns, stables, a show arena, a satellite wagering building, maintenance areas, parking lots and the horse racing track, which is located in the west-central area of the overall complex. The project site is geographically within the City of Del Mar, which has an effectively certified LCP and issues its own coastal development permits. However, the Fairgrounds represents an area of deferred certification. Moreover, it was principally built on filled tidelands. Thus, the vast majority, if not the entirety, of the site is within the Coastal Commission's area of original jurisdiction, with Chapter 3 of the Coastal Act being the legal standard of review for permits, and the Del Mar LCP being used for guidance.

2. Hydrology/Flood Hazards. The following Coastal Act policies are most applicable to the proposed development, and state in part:

### **Section 30236**

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development .....

### **Section 30253**

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. ...

The Del Mar Fairgrounds is located within the 100-year floodplain of the San Dieguito River, and is thus subject to flooding during storm events. However, a large number of permanent and temporary structures already exist on the site, many of them pre-dating the Coastal Act, including the main racetrack. In past actions, the Commission has found that the placement of fill or permanent structures in a floodplain significantly alters flood flows and therefore is inconsistent with Coastal Act section 30236. On the other hand, structures that can accommodate periodic inundation without being damaged do not cause flood waters to be redirected and therefore can be found consistent with 30236. The entire Fairgrounds complex is comprised of structures, which are, and will continue to be, able to withstand periodic inundation occasionally during severe rain events. This is certainly true of the racetrack facility.

Any additional fill or net increases in building footprints could result in changes in the hydrology of the adjacent San Dieguito River and Stevens Creek. Modifications to the current flooding patterns, in which a large portion of the 100-year flood waters are contained on the Fairgrounds property, could result in increased flood hazards to existing up- and downstream developments, which could, in turn, lead to proposals for further channelization of the river. In this particular case, the proposed improvements are not adding new structures to the floodplain; they are replacing one type of track surfacing with another. The new surfacing material, and replacement of the existing, non-functional track drainage system, however, requires some modifications in gradient, which will slightly expand portions of the existing track and raise the track elevation by roughly one foot overall. Thus, there will be a small increase in floodplain coverage and elevation, but still little potential for significant adverse affects to flood flows as the new track surface is still permeable, and, even with a small expansion of the track itself, the boundaries of the track complex as a whole are not changed.

The applicant is proposing, however, to import 11,600 cu.yds. of new material overall, including the rock filtration system, layers of permeable asphalt, and the PolyTrack itself. The material removed from the existing dirt track is approximately 1,200 cu.yds. in volume, and will be removed from the site as it is sold, leaving a net increase of 10,400 cu.yds. of material on the Fairgrounds. Historically, such "fill" has been allowed within the main, developed, partially paved area of the Fairgrounds west of Jimmy Durante Boulevard, as much of this development predates the Coastal Act, with the racetrack itself dating back to the 1930's. Most of the permits the Commission has acted on in the developed area of the Fairgrounds are for the replacement of various structures that do not meet today's building standards for earthquake safety and structural design, as well as not meeting human and animal health and safety needs. The subject replacement of racetrack surfacing material is intended to significantly increase the safety of both horses and riders.

In addition, the Fairgrounds is primarily an agricultural and equestrian facility, uses generally acceptable within floodplains as long as there are no permanent structures that

block flood flows. Although there are many permanent structures within this facility, they are designed to be compatible with periodic inundation and allow the passage of flood waters, such that there is no redirection of flood flows, nor damages to downstream lands. Because of their design and function, the structures at the Fairgrounds can sustain extended periods of time in a flooded state. Therefore, these structures, of which the racetrack is one, do not constitute a substantial alteration of a stream, such that Section 30236 of the Coastal Act does not apply, as long as the structures are allowed to flood, as designed. If steps were taken to prevent flooding, such as berms, walls, or other protective devices there would be alteration of the flood flows, which would be inconsistent with 30236.

Thus, an issue is raised over the potential that, in the future, the applicant might propose some form of channelization to protect the replacement racetrack surface from flooding. Of particular concern is the potential that such protection would take the form of further channelizing Stevens Creek or the San Dieguito River, both of which flood portions of the Fairgrounds during major storm events. Channelization can include a range of different actions, such as redirection of flow, realignment of channel banks, filling or dredging, hardening of channel banks and/or bottom with riprap or concrete, even planting or removal of vegetation in some circumstances. Special Condition #1 provides that the applicant waives any rights to construct some form of channelization or substantial alteration of a river or stream for the purpose of protecting the replacement racetrack surface that may exist under Public Resources Code Section 30236 upon acceptance of the permit. In addition, Special Condition #2 requires the applicant to accept full liability for the construction of development in a hazardous location.

In summary, the Commission finds that the replacement of the existing racetrack surface with a new, slightly wider racetrack overall will not result in any significant changes to current flood flows across the site. The amount of impermeable surfaces will not increase, as the PolyTrack material and asphalt base is fully permeable, and the racetrack, as always, will continue to allow the passage of flood-waters. Also, the new racetrack improvements are designed to improve drainage over what now exists by installing a new drainage system beneath the track. Special Conditions address the issues of future shoreline protective devices and the waiving of any liability on the part of the Commission for future damages. Therefore, the Commission finds the proposed development, as conditioned, consistent with the cited Coastal Act policies.

3. Water Quality. The following Coastal Act policy is most pertinent to this issue, and states:

**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.

Although the existing racetrack includes a drainage system, it is old and virtually inoperative, with the drainpipes being clogged with runoff debris. The proposed track surface replacement includes installing a new drainage system under the new surfacing layers. Runoff from the track will be filtered as it percolates through the layers of PolyTrack material and the rock aggregate, thus minimizing the introduction of pollutants into the storm drain system. The runoff will then flow through the subdrain system into a wet well. The “first flush” runoff from all storms (wet and dry season) will be pumped from this well into the infield lakes for infiltration and evaporation. Any flows beyond the “first flush” during wet season storms will be discharged into Stevens Creek. All of these discharges will be monitored for compliance with water quality objectives. Special Condition #3 requires compliance with the plan for the drainage system design and water quality monitoring.

The Commission’s staff engineer has determined that the filtration system is properly designed to function as proposed. According to studies by two environmental laboratories, the PolyTrack material is not toxic, and regular maintenance of the track will remove animal wastes. Track maintenance will require only one tenth of the water currently used, such that less runoff will be generated than at present during the racing season (mid-July through mid-September). The Commission’s Water Quality unit has reviewed the reports and specifications for the PolyTrack material and concurs the material is not toxic and does not pose a concern to downstream resources.

The combination of filtration through the PolyTrack material and infiltration at the infield lakes will provide adequate treatment for the “first flush” runoff. The amount of water that will be pumped and treated will be equivalent to or greater than the 85<sup>th</sup> percentile storm event, thus providing treatment for a majority of the storms at the time when the pollutant levels are expected to be the highest. This “first flush” runoff will not enter Stevens Creek as it will all be treated on-site in the infield lakes. The runoff that does bypass the pump system and discharges to Stevens Creek will be monitored to determine if water quality objectives are met. If the discharges do not meet these objectives, alternative measures for treatment will be applied prior to the runoff being discharged to Stevens Creek.

In addition, several other measures have been required that will help to protect water quality at the race track. First, horse-related pollutants, such as manure and organic matter, will be removed from the track prior to the rainy season, and at any other time this action is necessary. Also, the dirt removed from the existing track surface is proposed to be temporarily stockpiled on the infield of the practice track, which is located northwest of the main racetrack, and between the main racetrack and portions of Stevens Creek. The applicant proposes BMPs for the stockpile, which will include silt fencing, tarping or other physical covering of the soil, as well as maintaining a minimum setback of 25 feet from Stevens Creek, a portion of which actually flows under/through the



practice track. In addition, the applicant points out that the stockpile area, along with the rest of the project site, is subject to the requirements of the Fairground's SWPPP (Storm Water Pollution Prevention Plan). Special Condition #4 formalizes the BMP provisions for the project.

The entire project, including the drainage improvements and water quality monitoring requirements, has been reviewed by both the Commission's engineer and also its Water Quality Unit. Their review has determined that the project is appropriately designed and will not have adverse impacts on water quality in adjacent water bodies, including Stevens Creek and the San Dieguito River, into which the creek drains. Therefore, the Commission finds the proposal, as conditioned, consistent with the cited Coastal Act policy.

4. Public Access/Parking. The following Coastal Act policies are most pertinent to these issues, and state in part:

**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 30213**

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

**Section 30252**

The location and amount of new development should maintain and enhance public access to the coast by ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, ...

**Section 30604(c)**

(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 3 (commencing with Section 30200).

The fairgrounds is located near the mouth of the San Dieguito River and Lagoon, west of I-5, but east of Camino del Mar (Old Highway 101) and the railroad tracks. It is between

the river and Via de la Valle, which is the first public east-west road north of the river; I-5 is currently the first north-south public road east of the site. Thus, the entire fairgrounds complex is located between the sea and first public roadway, where maintaining shoreline public access to the river/lagoon and west to the municipal beaches is of greatest concern. As the property owner is another state agency, the property is in public ownership, and, for the most part, the public can freely access various portions of the grounds, including the riverfront, particularly when no formal events are taking place. In addition, plans are under review for portions of the Coast to Crest Trail to be sited on Fairgrounds property, and this amenity will further enhance public access in this area.

Thoroughbred racing in Del Mar was initiated in the 1930's, with the annual race meet now running for 43 days every summer. It begins mid-July, approximately two weeks after the close of the annual fair, and ends in mid-September. The number of attendees varies from day to day, with only a handful of special races drawing huge crowds. Racing attendance, even on peak days, never approaches the number of people attending the annual fair on a daily basis. However, less parking is available during the racing season, as the practice track and backstretch areas, which are used for parking during the fair, are not available for parking during race season. The draft Master Plan Update identifies 11,250 on-site parking spaces available during the race meet, which is more than adequate the majority of the time.

The identified parking facilities include use of the South and East Overflow parking lots (SOL and EOL, respectively) during much of the racing season. Historically, the SOL and EOL have been used by the applicant as a public parking reservoir during the annual fair and thoroughbred race meet. Because use of the lots for parking for these two main yearly events predated the Coastal Act, the Commission has not challenged the continued use of this area for overflow parking during these events, even though major portions of these areas are wetlands. However, the Commission has been reluctant to approve any new development that might increase use of these areas during the fair and races, or require their use at other times of the year. Since the resurfacing project does not alter the actual race meet in any way, the number of attendees is not expected to increase over current levels. Thus, installation of the PolyTrack will not result in increased usage of the EOL and SOL beyond what is currently occurring during the race meet.

Finally, the thoroughbred horse races, like most other fairgrounds events, provide a comparatively inexpensive recreational experience, as addressed in Section 30213 of the Coastal Act, cited above. Thus, in addition to accommodating public access to nearby parks and beaches, the fairgrounds is itself a public recreational destination.

In summary, the Commission finds the proposed track resurfacing will not result in adverse impacts to coastal access. Parking remains adequate for the annual race meet, and the public can access the shoreline of both the San Dieguito River and Pacific Ocean through various areas of the fairgrounds. Access along the riverfront is soon to be enhanced through provision of a public trail and boardwalk at the southern perimeter of the EOL and SOL. A day at the races remains a relatively lower cost recreational experience. Therefore, the Commission finds that all access and resource concerns

associated solely with the development approved herein are adequately addressed, and that the proposed development, as conditioned, is consistent with the cited policies of the Coastal Act.

5. Local Coastal Planning. Although the site is in an area of original jurisdiction and thus not subject to the policies and regulations of Del Mar's certified LCP, it is nonetheless consistent with the Fairgrounds/Racetrack land use designation and zone of that plan. The District is currently working on a complete update of its 1985 Master Plan, but the new document has not undergone full review as yet. The continuation of the annual race meet is a major objective of the updated plan, and safety improvements will help insure that continuation. Moreover, the proposed enhancement of horse and rider safety is a requirement of the state racing board, and the safer track surface must be installed at California tracks before the end of 2007. The preceding findings have demonstrated that the proposal, as conditioned, is fully consistent with all applicable Chapter 3 policies of the Coastal Act.

The District is reminded that this entire facility is located in a hazardous area, where many types of development are not typically allowed. Nonetheless, the basic agricultural and equestrian activities that caused this facility to be constructed more than seventy years ago are generally consistent uses for floodplains. Therefore, the Commission finds that approval of the proposed improvements, designed exclusively to carry on the equestrian function, with the attached special conditions addressing future channelization and flood hazards, will not prejudice the planning abilities of the involved local jurisdictions (Cities of Del Mar, San Diego and Solana Beach, and the River Park Joint Powers Authority), nor of the District itself.

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

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing flood protection and liability, will minimize 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 project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

6-06-054

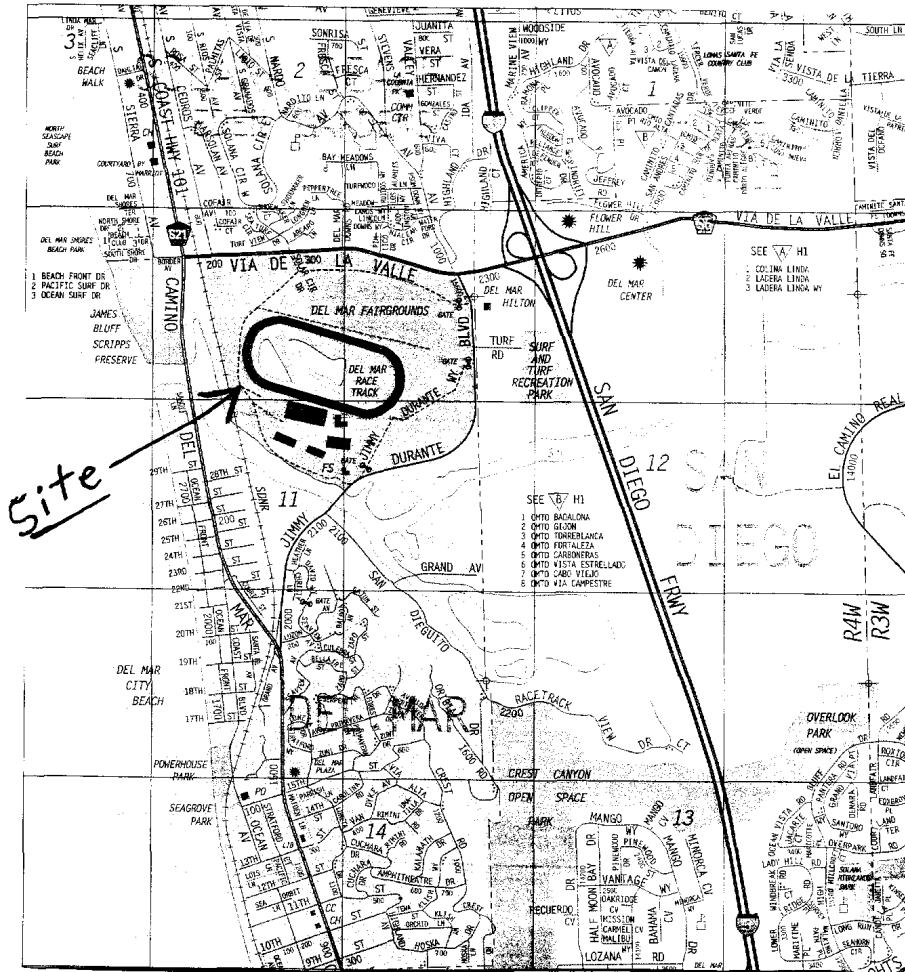
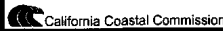


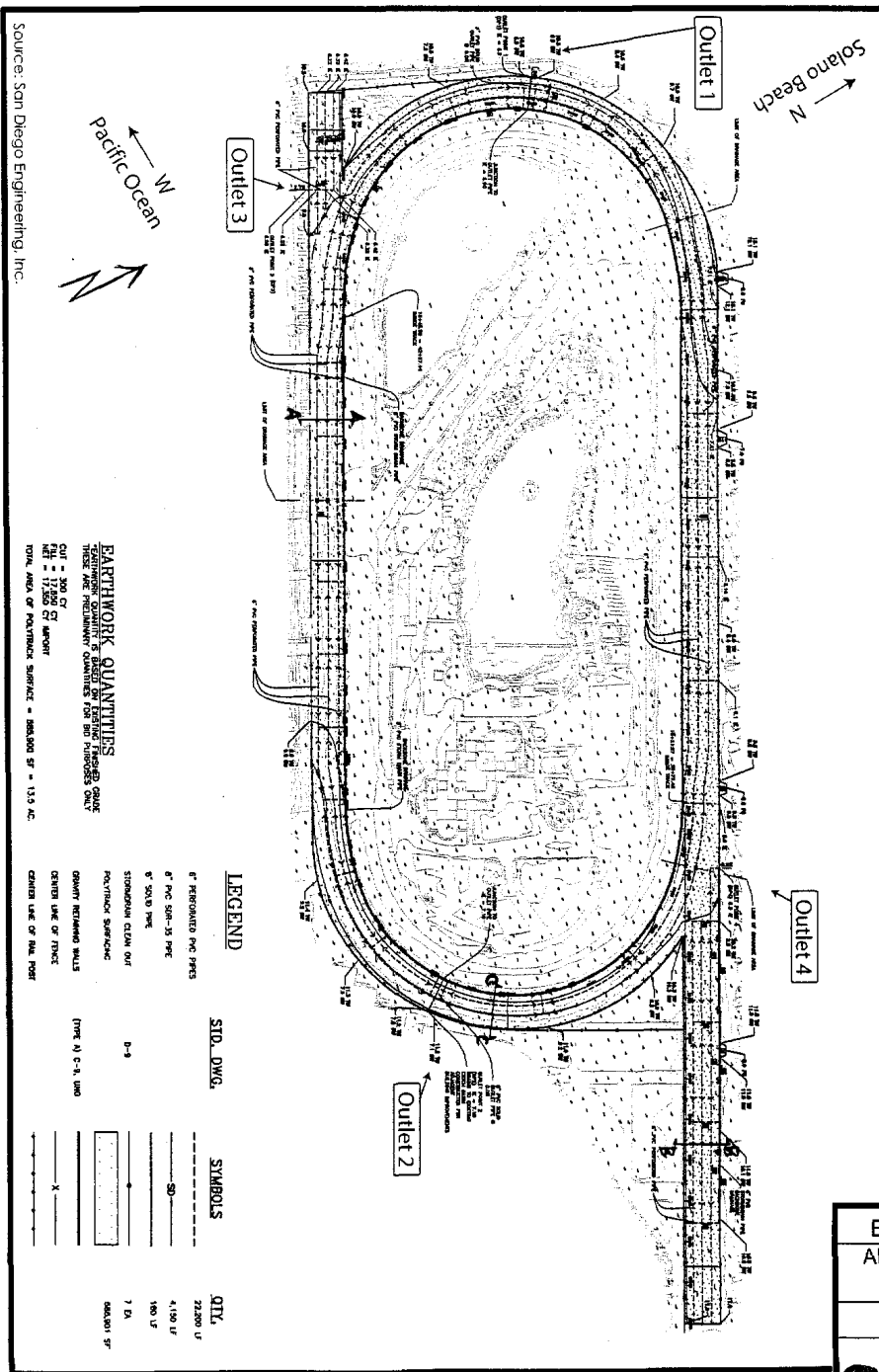
EXHIBIT NO. 1
APPLICATION NO.
<b>6-06-054</b>
Location Map
 California Coastal Commission

6-06-054



EXHIBIT NO. 2
APPLICATION NO.
<b>6-06-054</b>
Aerial Photo
 California Coastal Commission

6-06-054



Source: San Diego Engineering, Inc.

← W  
Pacific Ocean  
N

Solano Beach  
N

Outlet 3

Outlet 1

Outlet 4

Outlet 2

6-06-054

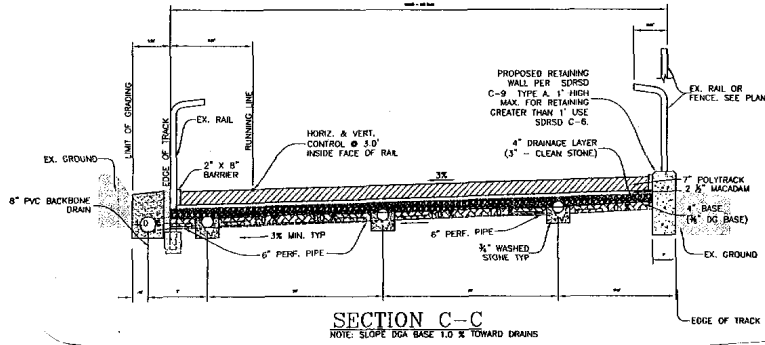
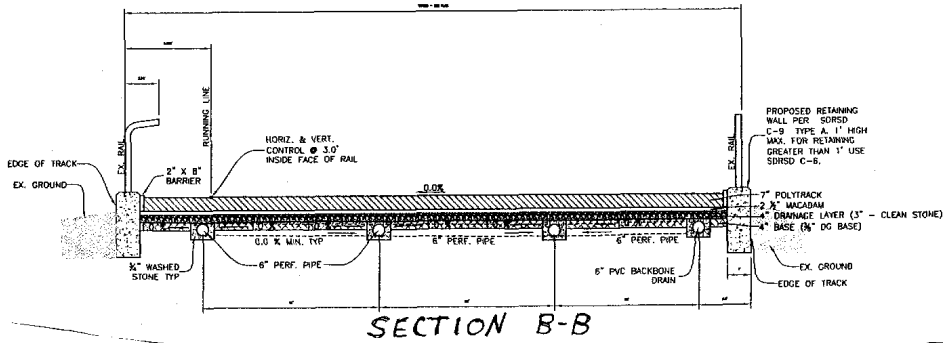
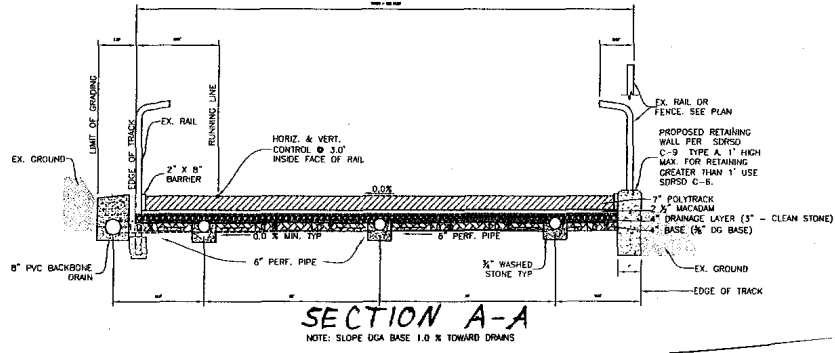


EXHIBIT NO. 4
APPLICATION NO.
<b>6-06-054</b>
Cross-Sections
California Coastal Commission



11/20/06 12:04 FAX 8587552794

CITY OF DEL MAR

6-06-054

002



# City of Del Mar

1050 Camino Del Mar • Del Mar, California 92014-2698

Where the Turf meets the Surf

November 20, 2006

**RECEIVED**

NOV 20 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Via Facsimile & U.S. Mail

Ms. Meg Caldwell, Chair  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Subject:** City of Del Mar Support for the 22<sup>nd</sup> District Agricultural Association's Addendum to Mitigated Negative Declaration for Polytrack Project

Dear Chairman Caldwell and Members of the Commission:

I am writing on behalf of the Del Mar City Council to express our support for the above project, submitted by the 22<sup>nd</sup> District Agricultural Association. The City of Del Mar has been working with the 22<sup>nd</sup> District Agricultural Association (DAA) and the Del Mar Thoroughbred Club over the past four months to come to a resolution to the design of the storm water system of the new Polytrack surface. We believe they have developed a design that not only protects the horses with the new race surface but also the San Dieguito Lagoon and the City of Del Mar's sewer system.

The new approach to storm water management that is outlined in the Addendum to the Mitigated Negative Declaration (MND), represents, in our opinion, an appropriate integrated approach to storm water management. Given the limited contaminants that should be present on the Polytrack, the 22<sup>nd</sup> DAA's plan for managing its own storm water detention on site is superior to diverting it off site for treatment by others. The outlined testing and monitoring program will allow the 22<sup>nd</sup> DAA to take appropriate action as needed to protect the Lagoon from receiving contaminated storm flows before the flows enter Steven's Creek and ultimately the Lagoon. The City does want to receive copies of the monitoring results so that we can be aware of how the drainage system in the track is performing and so that we can be assured the Lagoon is being protected. The Lagoon is a vital resource to the public.

We believe the new design is a superior alternative to any that has been developed previously. We are very encouraged by the 22<sup>nd</sup> DAA's recognition that storm water management is a critical environmental issue.

Telephone: (858) 755-9313 • Fax: (858) 755-7304

EXHIBIT NO. 5
APPLICATION NO.
<b>6-06-054</b>
Letter of Support
2 pages
California Coastal Commission

11/20/06 12:55 PM 8587552784

CITY OF DEL MAR

003

Ms. Meg Caldwell  
California Coastal Commission  
November 20, 2006  
Page 2

Given the new design approach, the City of Del Mar is pleased to support the Polytrack project and urge the Commission to give its approval as well. We hope that construction can begin in time to be completed by the 2007 race season.

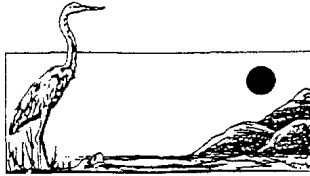
Sincerely,



Crystal Crawford  
Mayor

Cc: Ms. Ellen Lirley  
Mr. Lee McEachern  
Del Mar City Councilmembers  
Mr. Russ Penniman, 22<sup>nd</sup> DAA

157



Friends of the  
San Dieguito River Valley

P. O. Box 973 Del Mar CA 92014

Ms Deborah Lee, Deputy Director or  
Sherilyn Sarb, District Manager  
San Diego Coast District Office  
7575 Metropolitan Drive Ste 103  
San Diego CA 92108 4402

June 23, 2006

Dear Madam,

Re : Del Mar Fairgrounds Polytrack Project  
Draft Initial Study/ Mitigated Negative Declaration

The Friends of the San Dieguito River Valley is a grassroot group involved since 1986 with efforts to preserve the San Dieguito River Valley.

Over the years I have communicated to the Coastal Commission concerns with the use that the 22d District Agricultural Association (22d DAA) is making of delineated wetlands, south of the Fairgrounds near the San Dieguito River. There is a now a proposal called Del Mar Fairgrounds Polytrack Project for which a Draft Initial Study Mitigated Negative Declaration has been issued by the 22d DAA. I am sending you a copy of the letter that my organization has prepared in response to the Initial Study where I spell out new findings about storm water discharges in the wetlands.

I hope the Coastal Commission will respond to the Mitigated Negative Declaration. Becky Bartling, Fairgrounds Deputy General manager indicated that she was expecting the comments by July 7<sup>th</sup> 2006.

Also enclosed is a copy for still another project for the wetlands: Miniature Golf Course which is being discussed outside of the Master Plan. I hope the Coastal Commission will demand of the Fairboard that it considers all these projects in the context of the Master Plan for which and EIR is being prepared. Only then can cumulative impacts be fully addressed.

Sincerely yours.

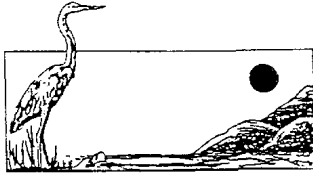
Jacqueline Winterer  
President, Friends of the San Dieguito River Val

EXHIBIT NO. 6
APPLICATION NO.
<b>6-06-054</b>
Letters of Concern
<b>31</b> pages
California Coastal Commission

RECEIVED

JUN 26 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



Friends of the  
San Dieguito River Valley

P. O. Box 973 Del Mar CA 92014

RECEIVED

JUN 26 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**From:** Jacqueline Winterer, President  
Friends of the San Dieguito River Valley.  
**To :** Russ Penniman, President  
22d District Agricultural Board of Directors  
2260 Jimmy Durante Boulevard, Del Mar CA 92014  
**Subject:** Del Mar Fairgrounds Polytrack project  
Draft Initial Study. Mitigated Negative Declaration (MND)  
**Date:** June 30 2006

Dear Mr Penniman,

*The Friends of the San Dieguito River valley are concerned that the Del Mar Fairground Polytrack Project drainage plan will have a significant impact on the wetlands at the southern edge of the Fairgrounds that cannot be mitigated.*

*This project should be included as a part of the Environmental Impact Report being presently prepared for the Fairgrounds Master Plan to consider the drainage cumulative impacts, not as a separate stand-alone project.*

The comments follow the order of Mitigated N.D. Initial Study and are presented in 3 parts.

**PART 1**

**Project Location ( MND Page 2.0-1 & 2.2)**

This paragraph needs to be updated: there is no agricultural land near the Fairgrounds any more. The land on the west, the river on the south, and the land east of the Fairgrounds are under the jurisdiction of the San Dieguito River Valley Joint Powers Authority. The San Dieguito River Park, which now surrounds the Fairgrounds on 3 sides, represents a major public and private investment that contributes significantly to the Fairgrounds incomparable setting. To ignore it is dismissive.

**Project Purpose** (MND Page 2.0-1 & 2.3)Positive impacts.

- The project will have a positive impact on the safety of race horses and the equestrians riding them.
- The 90 % reduction in water usage will be significant at a time when water conservation is a State mandate. This project will also be reducing the flow of water in the sewer system during the dry weather season.

Negative impacts.

- The new pipe system will produce additional flow in the sewer system during storm events,
- Most of the negative impacts derive from the increased runoff from the new impermeable track to the storm drain system. The storm drain system in turn, discharges water into bordering wetlands and the San Dieguito River.

Incomplete documentation ( MND Page 2.0-3, paragraph 4 4)

The report states that tests are being conducted regularly to ensure that polluted waters are directed to the sewer system for treatment, but so that only clean water flows in Stevens Creek and the East and South wetlands bordering the Fairgrounds. A summary report of these tests should be added to the MND with the location and dates of the sampling sites. Water sampling should coincide with storm events. Only then can the presence/absence of pollutants be documented.

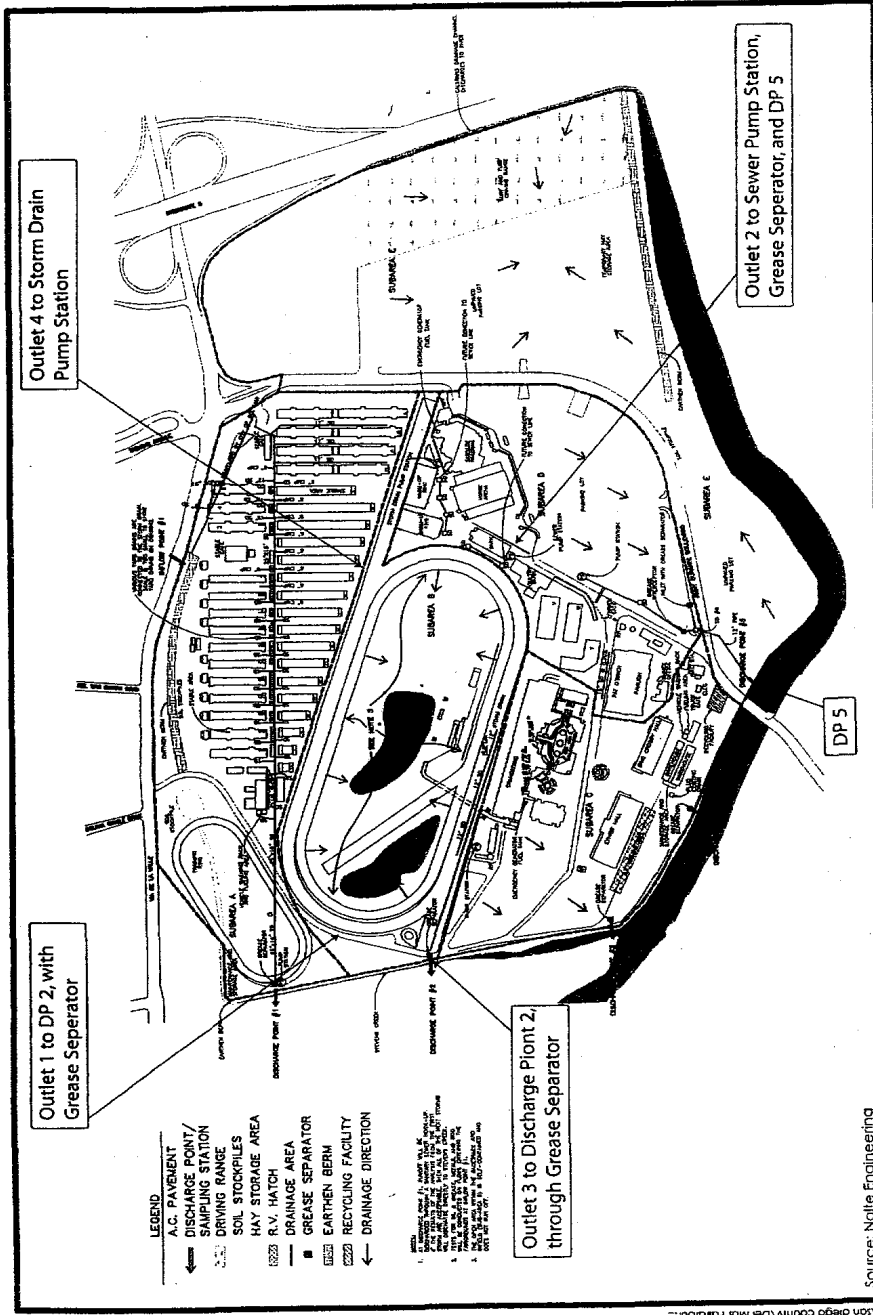
The Fairboard claims that a permit exists predating the Coastal Act which authorizes it to use the use of wetlands bordering the Fairgrounds property during the Fair and the Racing season. Yet the Fairboard has never been willing to provide copies of this permit: it should do so.

**PART 2.**

Part 2 provides specific facts and evidence which questions the accuracy of Figure 2-11(A) in the Mitigated Negative Declaration Study. The Project Description states that currently, runoff drains to the east and south dirt lots and percolates into the ground.

Figure B provides side by side sketches of the Mitigated ND water flows for the Fairgrounds Main and South Parking lots, on the left, and on the right, the water flows observed during several small storm events in early 2006.

Following is a series of photographs of the whole South Lot and of sites D to J located on Figure B. These photographs and their captions draw an entirely different picture of what happens to water runoff discharged into the South Lot during storm events.



**FIGURE 2-11**  
**SWPPP SITE PLAN**  
**PMC**

Figure A is a reproduction of Figure 2-11 of the Polytrack Project MND. The arrows indicate that water percolates into the dirt lots and no water flows toward the river.

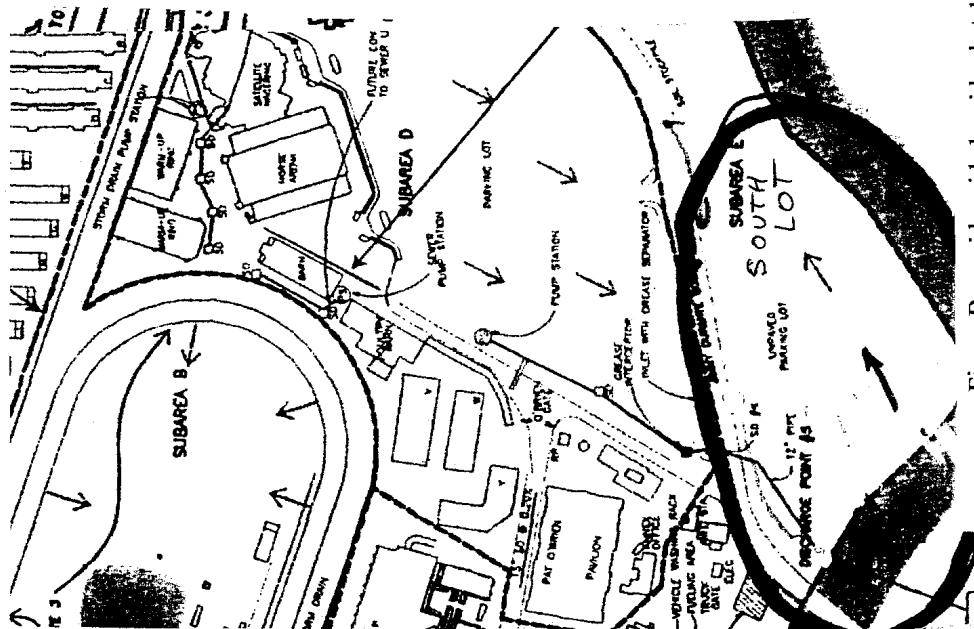
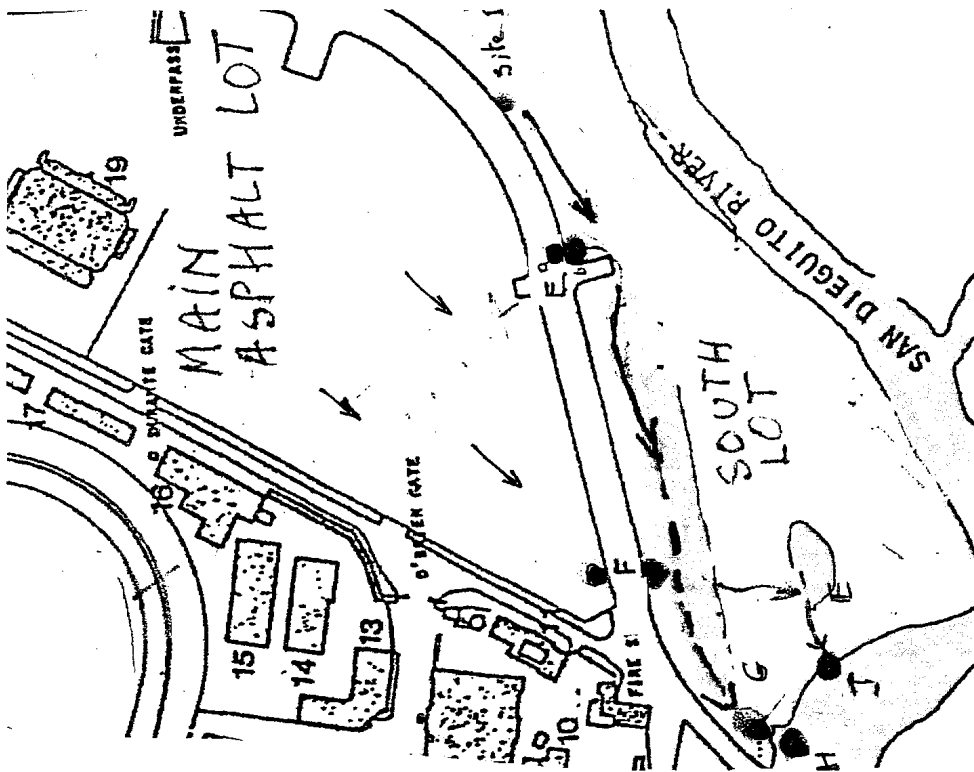


Figure B provides side by side sketches of the Mitigated Negative Declaration water flows for the Fairgrounds Main and South Lots, on the left, and on the right, the water flows observed during several small storm events in early 2006.



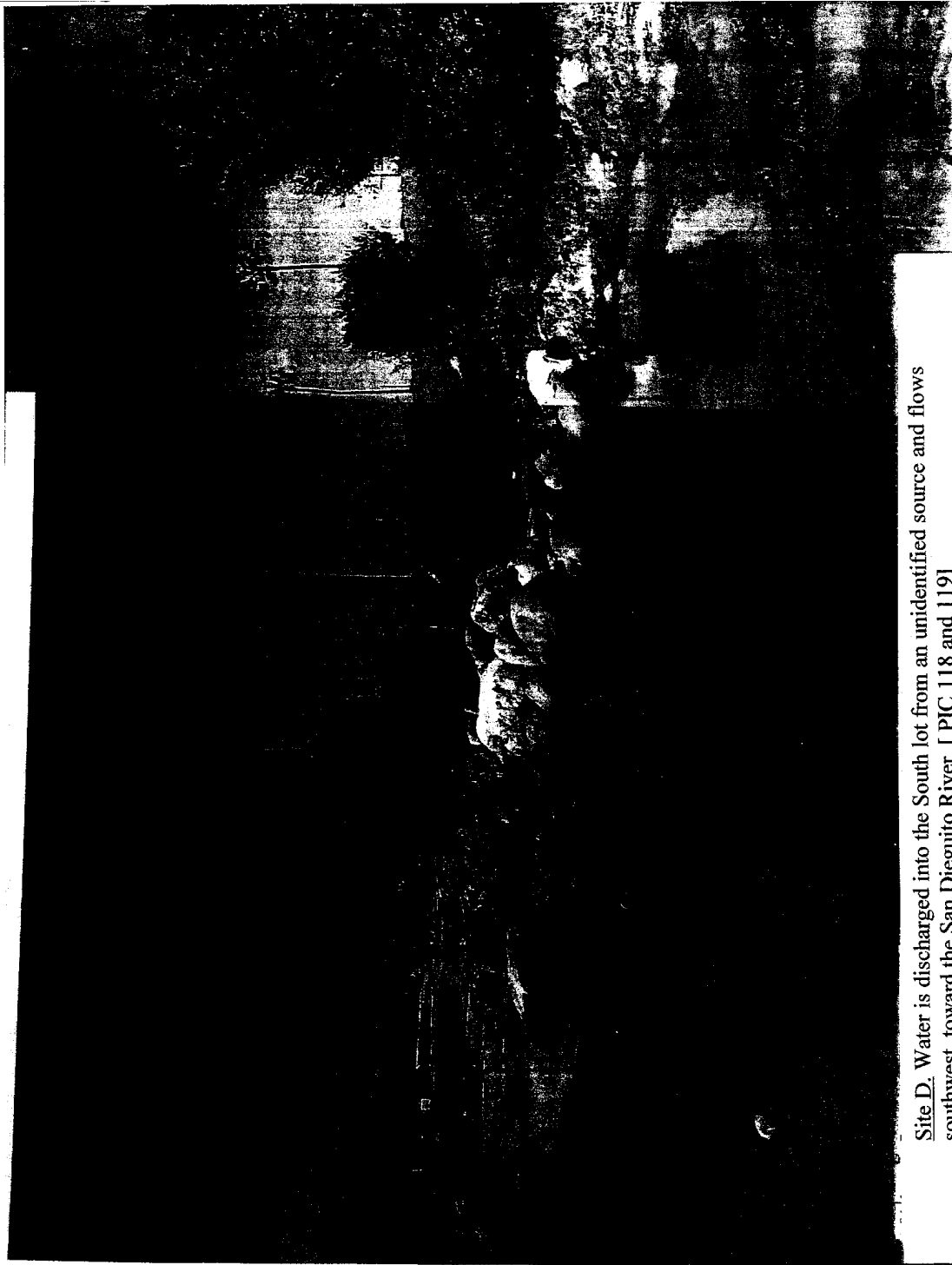
[PIC 9] FEB 27 06

Figure C. These 2 pictures of the South Lot are views taken 24 hours apart, from Gatun Street #2061. The top picture taken after 2 months of dry weather was used to locate the So Lot ponds of Fig.B. It shows a larger pond along J Durante Blvd and a smaller one to the S. The bottom picture is taken from the same location a day later, after an overnight .63 inch rain. The So Lot is flooded and the 2 ponds have merged in a single large one.



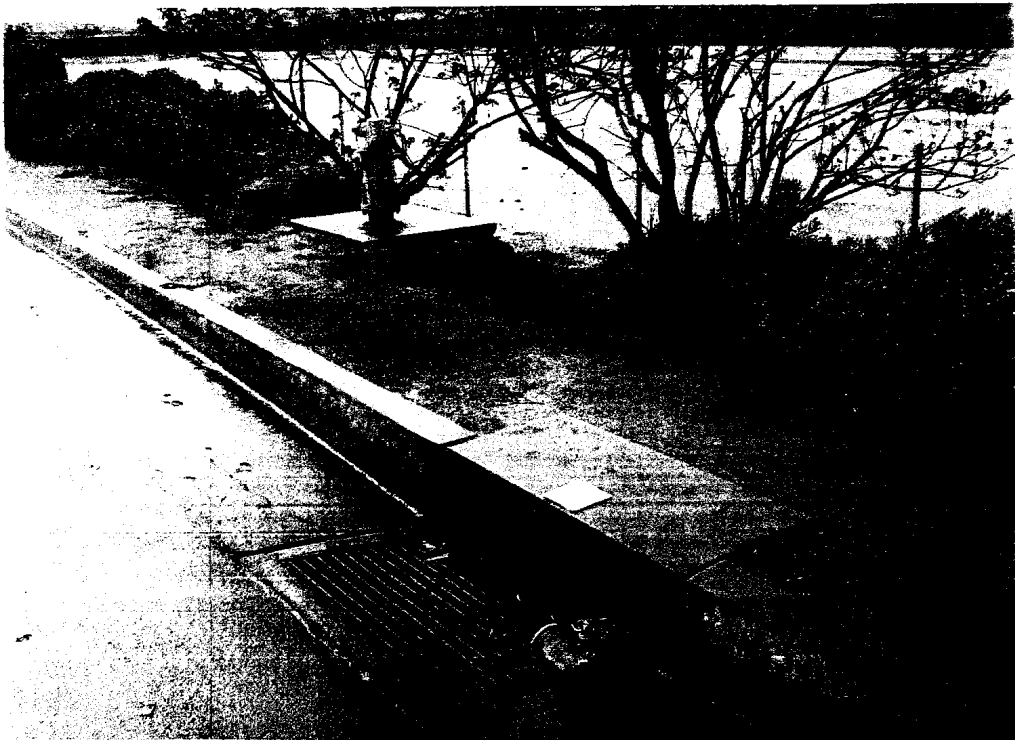
[PIC 10] FEB 28 06

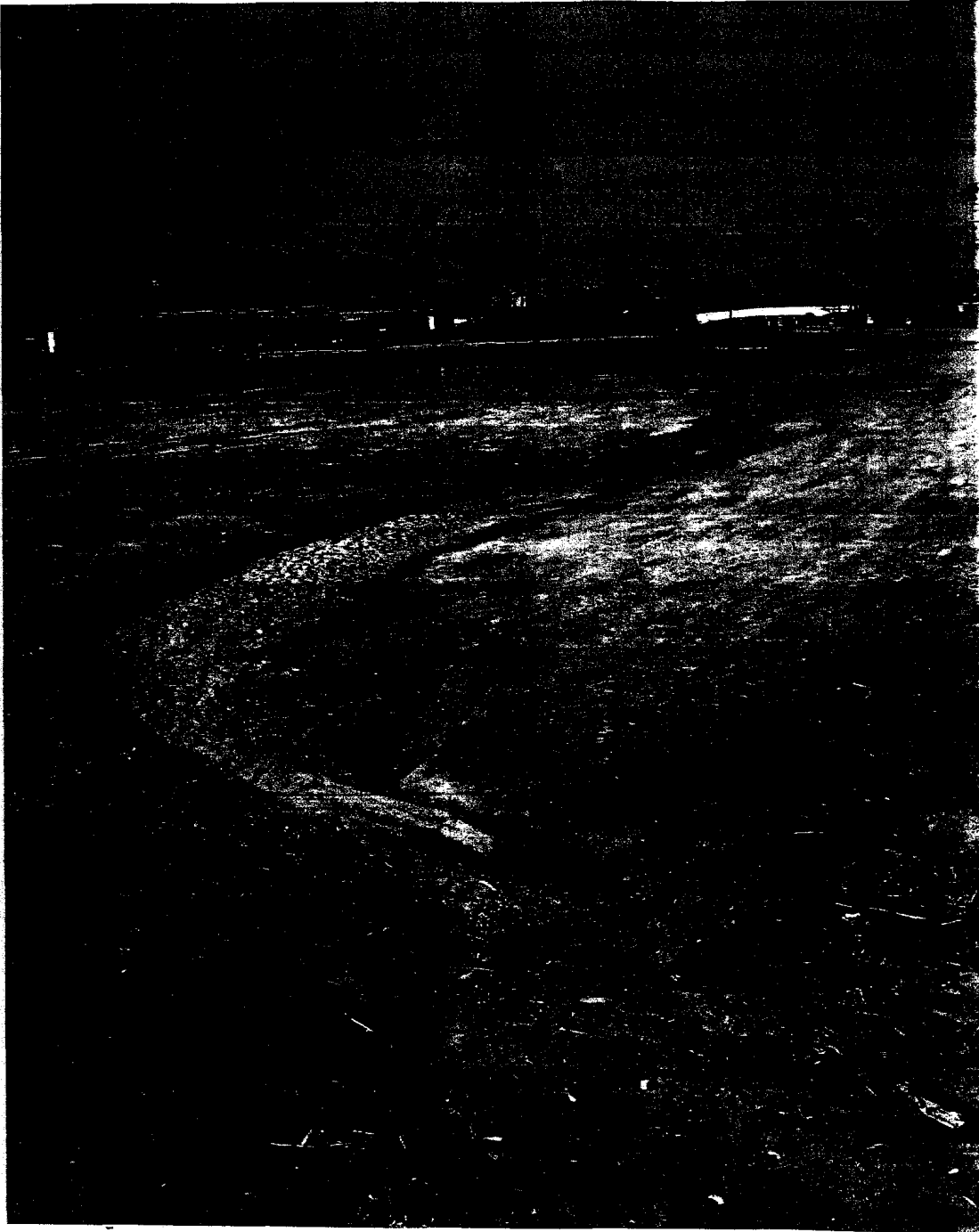




Site D. Water is discharged into the South lot from an unidentified source and flows southwest toward the San Dieguito River. [ PIC 118 and 119]

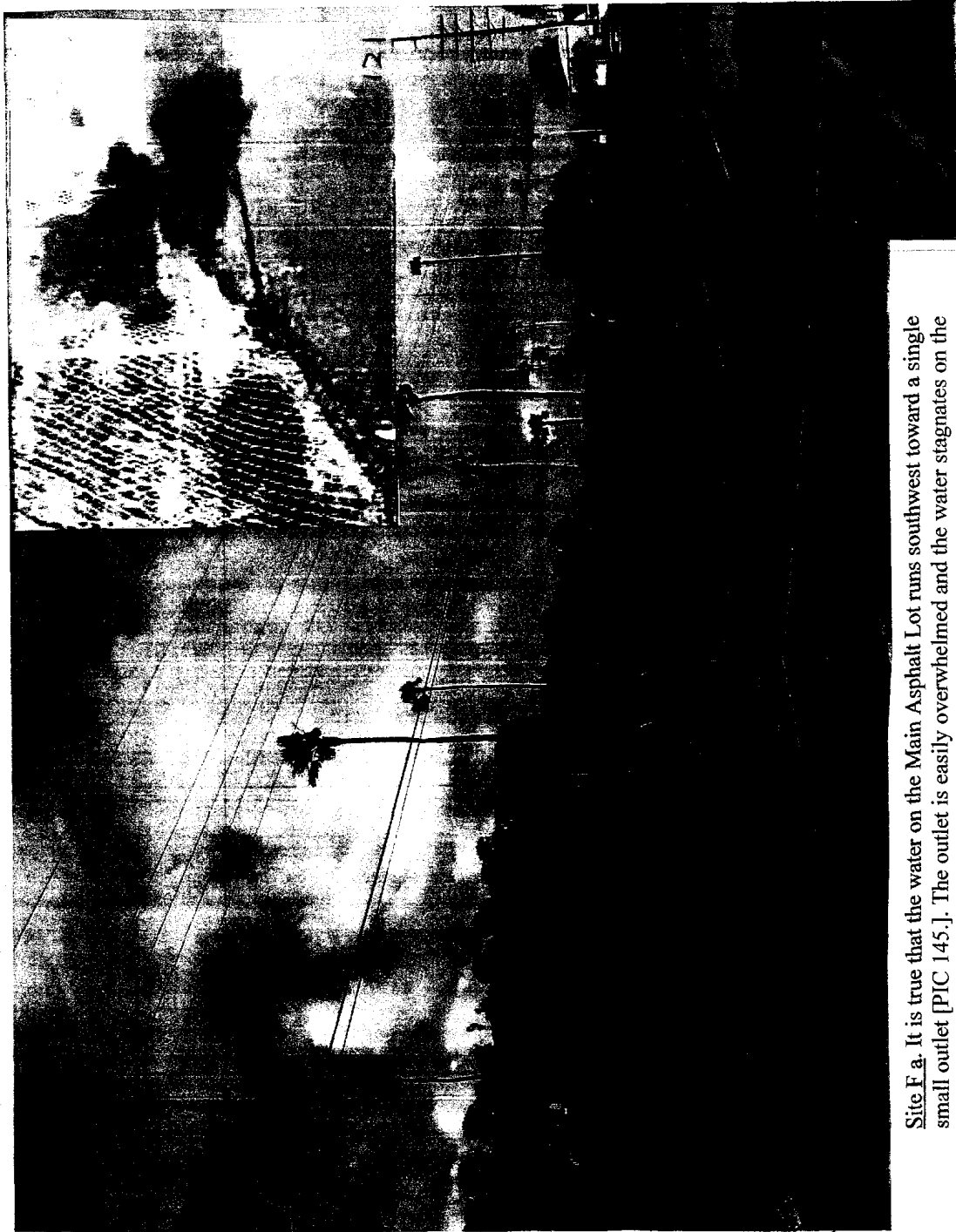
Site E a. Picture shows drain collecting Jimmy Durante storm water and debris. [PIC 190]



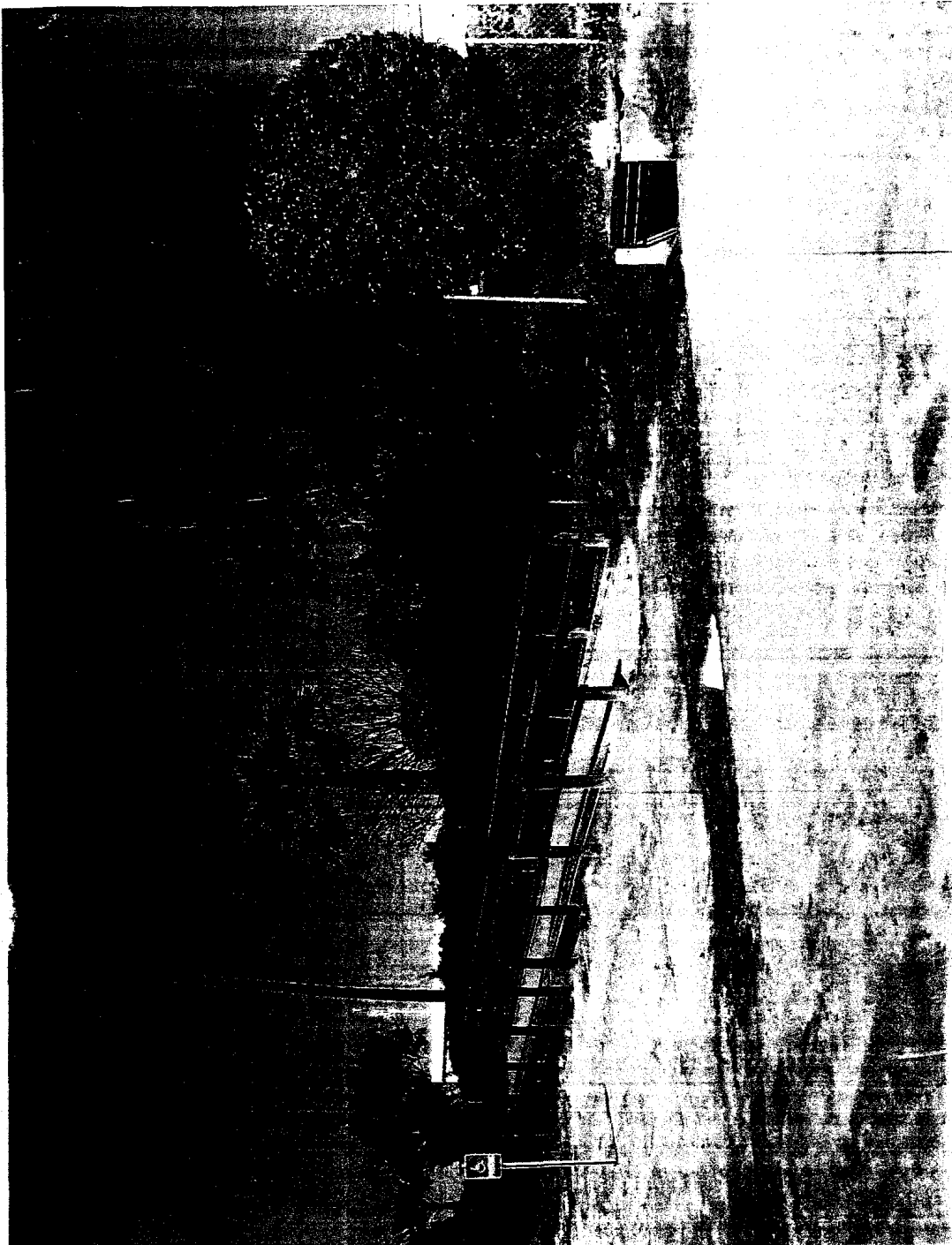


Site E b. Runoff water from J. Durante Boulevard is discharged in the South Lot and runs southwest toward San Dieguito River.[ PIC 127]

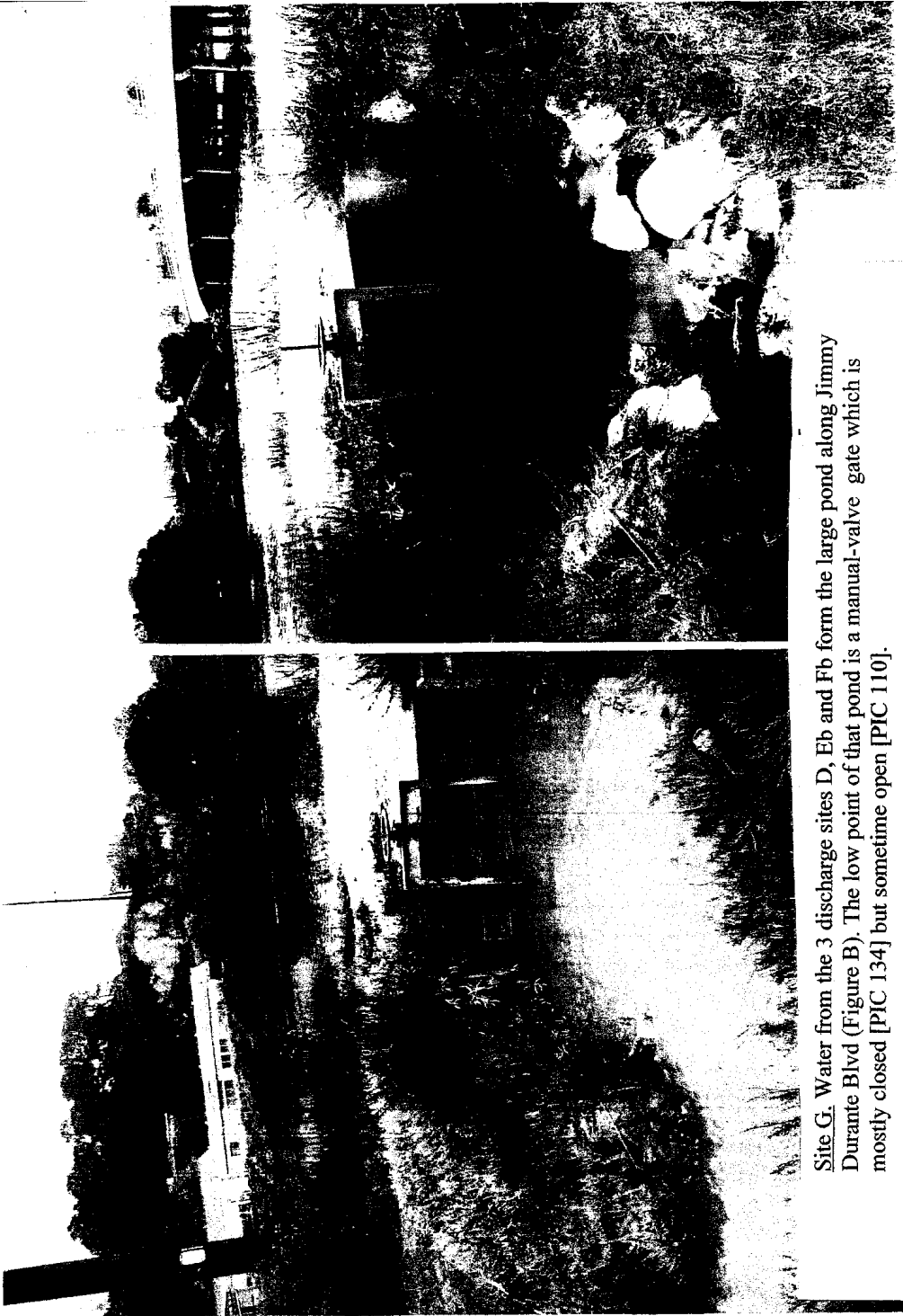
---



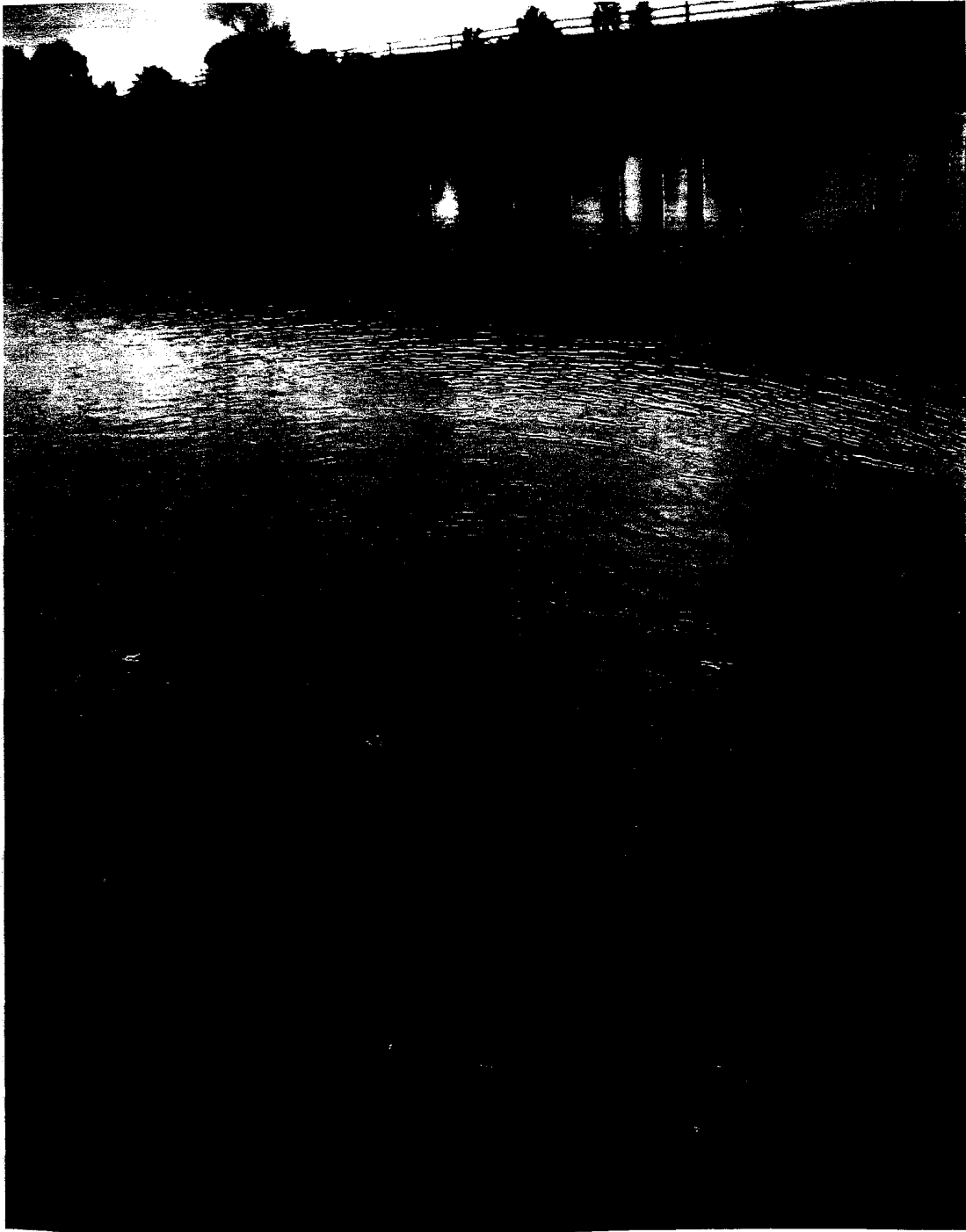
Site F.a. It is true that the water on the Main Asphalt Lot runs southwest toward a single small outlet [PIC 145.j]. The outlet is easily overwhelmed and the water stagnates on the parking lot soaking up dissolved pollutants. Inset shows very small outlet [PIC 121].



Site F b. The discharge from the Main Asphalt Lot runs toward the southwest [ PIC 116].

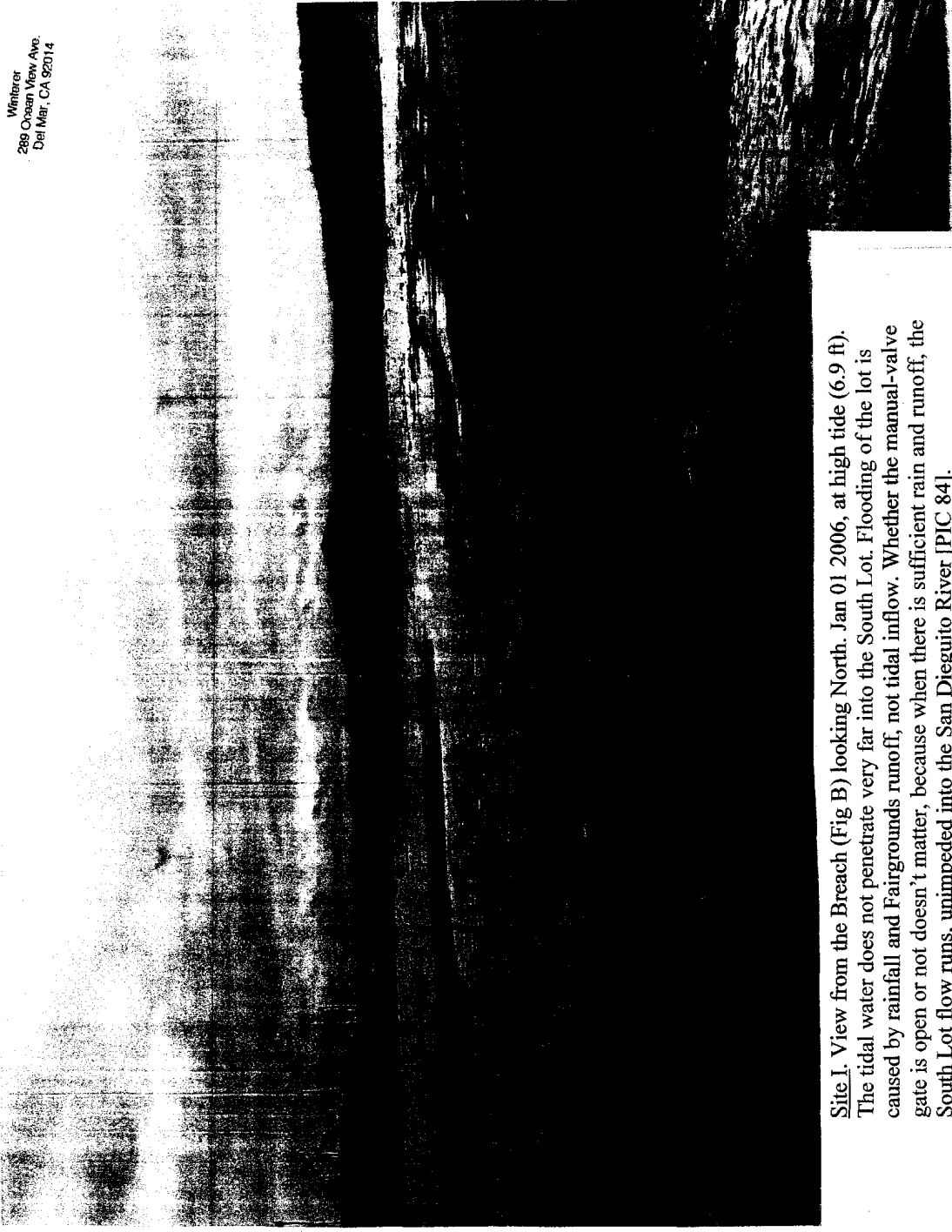


Site G. Water from the 3 discharge sites D, Eb and Fb form the large pond along Jimmy Durante Blvd (Figure B). The low point of that pond is a manual-valve gate which is mostly closed [PIC 134] but sometime open [PIC 110].



Site H. Jan 02 2006. When the gate is open the water discharges into the river [88].

Winterer  
289 Ocean View Ave.  
Del Mar, CA 92014



Site I. View from the Breach (Fig B) looking North. Jan 01 2006, at high tide (6.9 ft). The tidal water does not penetrate very far into the South Lot. Flooding of the lot is caused by rainfall and Fairgrounds runoff, not tidal inflow. Whether the manual-valve gate is open or not doesn't matter, because when there is sufficient rain and runoff, the South Lot flow runs, unimpeded into the San Dieguito River [PIC 84].





Site J. From the breach looking southwest. Water flows forcefully through the wetlands natural breach.

MAI 27 06 7 32 AM

**PART 3: CHECK LIST****3.8 Hydrology and Water Quality: page 3.0-26**

a, b and c: *Contrary to the "Less than significant Impact determination of the MND, we find that the project would have a cumulative impact by increasing the discharge of runoff waters into the wetlands bordering the Fairgrounds"*

The California Coastal Commission and abundant historical documents show that the East and South Lots have always been and are still active wetlands, partially or entirely: see figure K.

The Coastal Act Section 30121 states that "Wetlands are lands within the coastal zone which may be covered periodically or permanently by shallow water and includes salt water marshes, freshwater marshes, open and closed brackish water marshes etc... Section 30231 of the Coastal Act states that "The productivity and the quality of coastal waters, streams, wetland ... shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges....., controlling runoff... etc."

Thus this project which acknowledges that it will increase the discharge of runoff on the wetlands and the river.(3.0-30 ,paragraph 3) would do so contrary to the Coastal Act's directions. Section 30105.5 of the Coastal Act defines as cumulative effects those that should be seen in connection with the effects of future projects.

The Del Mar Fair Board, a State Agency, is specifically mandated by the Coastal Act to comply with its provisions (Section 300030).

**3.15 Transportation and Traffic:**

b, *Contrary to the less than significant Impact determination of the MND, we find that this project would have a significant impact by adding events to an already busy calendar.*

Normal everyday traffic on I5 and the City of Del Mar is frequently congested to paralysis in the evening. The report does not say it, but Fairboard members stated at their public meeting that the new track could accommodate two more races per day which would cumulatively impact the overburdened local traffic.

**3.17 Mandatory Findings**

*: Contrary to the less than significant Impact determination of the MND, we find that this project would have a significant cumulative impact.*

---

It is simply not true that storm waters percolate in the dirt lots bordering the Fairgrounds. Every time there is a significant storm, used waters are discharged in the San Dieguito River and run toward the beach near-by. The South Lot and to a lesser extent the East Lot are wetlands degraded by Fairground use during 5 months of the year. This project is only one of 65 new or amended projects proposed by the Master Plan and as is part a major redevelopment, It is devious of the Fairboard to bypass the Environmental Review process provided by the Master Plan and to repeatedly present projects outside of the EIR.

#### **4.2 Mitigation monitoring and reporting.**

The project offers mitigations for the construction phase of the project. It does not offer mitigation for the negative impacts on increased runoff and traffic,

#### **Conclusion**

Contrary to the many assertions of the lead agency that this project will have minimal impact, we find that the cumulative impacts to the wetlands will be significant. Drainage, runoff and traffic are main issues that should be examined in the context of the Fairgrounds Master Plan Environmental Impact Report. The Fairboard should address and accept regional responsibilities, not evade them.

Jacqueline Winterer.  
President  
Friends of the San Dieguito River Valley

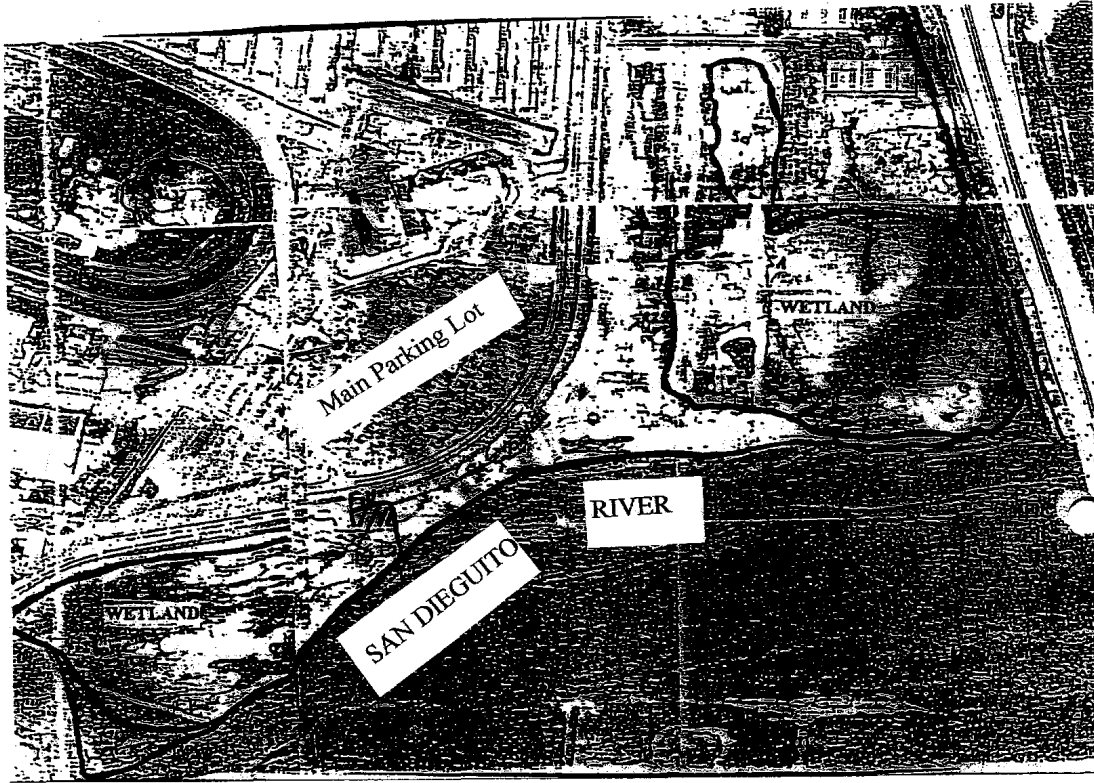


Figure K. From California Coastal Commission staff report on the construction of a Fairgrounds project to build a practice track on East and South Lots. May 11-14 1999

EXHIBIT NO. 4
APPLICATION NO. <b>6-99-31</b>
ACOE 1993 Wetland Delineation
<small>California Coastal Commission</small>

RECEIVED  
SEP 18 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

From: Dawn Rawls <dawnrawls@adelphia.net>  
Subject: **Coastal Commission and 22nd DAA**  
Date: September 14, 2006 3:04:01 PM PDT  
To: Ellen Lireley <elirley@coastal.ca.gov>  
Cc: Carl Hilliard <chilliard@sbcglobal.net>, Linda Niles <lniles@delmar.ca.us>, Lauraine Brekke-Esparza <lbrekke-esparza@delmar.ca.us>, Joy Bannerman <joybannerman@wildmail.com>, Lee Haydu <lhaydu@adelphia.net>, Brooke Eisenberg <bronxbrooke@adelphia.net>, Justin Kulongoski <oski@ucsd.edu>, Bill Michalsky <drrocket@pacbell.net>, Dawn Rawls <dawnrawls@ucsd.edu>, Steve Dime <sdime@pacbell.net>, Leslie Woollenweber <sdrvc@san.rr.com>, Crystal Crawford <crystal@molsoft.com>, Jerry Finnell <jerryfinnell@adelphia.net>, "Freda M.H. Reid" <freid@ucsd.edu>, Liz Dernetz <ldernetz@pacbell.net>, Jan McMillan <jan.mcmillan@att.net>, Jacqueline Winterer <jmwinterer@ucsd.edu>, Becky Bartling <bbartling@sdfair.com>  
1 Attachment, 12.1 KB Save

Ellen,

Thank you for your time today - our phone call was MOST informative. Here are the points that I would like the CCC staff to consider:

1. Multi-purpose barn. In contrast to the 8 additional events that the DAA staff "anticipated" would occur in their new multipurpose barn, they have just signed a contract to create the new Del Mar Sports Center ( [www.delmarsportscenter.com](http://www.delmarsportscenter.com) ) INSIDE that barn. This center will function from October to May, seemingly nonstop. A further discrepancy with their permit for that barn is the brightly colored mural that now covers the 65' high facade that faces, and is visible from, I-5. Don't let the website above mislead you, the photo was taken before the MUCH advertised whale mural by Mr Wayland was painted during this summer's Fair.
3. SOL/EOL negotiations and discussions between CCC staff and 22nd DAA staff. Discussion of restoring the SOL with the DAA using the "we need to replace lost parking" to justify paving the EOL and adding a parking structure in or near the EOL should be a matter of public discussion. Members of the Friends of the San Dieguito River Valley and the Lagoon Committee are concerned that decisions on this matter and writing of staff reports will occur before the public even knows these issues are under serious discussion. (Note the example of the DAA's application for a CDP for the PolyTrack project).
4. PolyTrack. I was no less than flabbergasted to learn that the PolyTrack CDP application is now scheduled for the Oct CCC hearings. Having learned that, I was not surprised that the DAA had not let the CCC know that, after meetings with Del Mar, the DAA asserted that they had instructed their consultant to re-evaluate their sewer/drainage plans. In blue below are some emails on this subject:

---

**Email correspondence of Aug 23, 2006 from Lauraine Brekke-Esparza and Linda Niles:**

From Linda: PolyTrack update: Lauraine, David Scherer, Carmen Kasner, Rosanna LaCarra and I have been in various meetings with the 22nd DAA staff (Becky Bartling, Larry Baughman, Tim Finnell) and their consultants. Some of us met with their MND consultant, the Master Plan consultant (LSA), and the engineering consultant working on the Master Plan and the overall water/sewer/drainage system on the Fairgrounds (Fusco Engineering). In our meetings the Fairgrounds has indicated that they are very interested in working out the problems, therefore, they have directed their consultants to meet with us. In our meetings, I believe we have been able to explain our position on the diversion into the Del Mar sewer system and drainage into the lagoon, Stevens Creek and the ocean, and to talk about specific problems and options in general. I believe they understand what we are looking for, and they have agreed to meet with us again to work out the details after their engineering consultant studies all the documents and the issues and understands what's going on at the fairgrounds currently, and as proposed with the Polytrack, in all these areas. He should be ready to talk to us again in the next week or two, but I feel we are making very good positive progress. We don't know the specifics of any new design until they propose something and we review it. We'll keep you posted.

From Lauraine: In addition, we are working on a comprehensive agreement on wastewater issues that is over and above Polytrack.....but includes the whole basis on which we (as their sewer utility) need to control flows etc. etc. etc. as they go forward (someday) to implement their Master Plan. This is a difficult document to prepare...it will be modeled on the agreements we have in place with the City of San Diego since we convey our sewage to them and they treat it..... and we have not gotten it worked out enough to even begin discussions with them, but we are getting close.

**As you can glean from the above emails, the DAA implied they would REVISE their MND and, our inference was, this revision would take place before the DAA applied for a CDP. I attach below a copy of the comment letter from Del Mar's Mayor. I know that the City staff assumed all comment letters would be attached (although not necessarily with replies by the DAA) to the MND that would be sent to Coastal Commission with the application for a CDP. Obviously, the DAA did not trouble to do so. I shall send you a xerox copy of the comment letter from the CRWQCB (Robertus).**

I feel that the Fairgrounds staff have gone behind the back of the community and I resent it. Points 1- 3 are each examples of this ongoing pattern of deception. Mutual cooperation can only be based on mutual trust.

Thank you for addressing these matters.

Sincerely, Dawn

Dawn Rawls  
Chair, San Dieguito Lagoon Committee

---

---

1087 Klish Way  
Del Mar, CA 92014  
858-755-6293  
[dawnrawls@adelphia.net](mailto:dawnrawls@adelphia.net)



[DM Council .....rtf \(12.1 KB\)](#)



## California Regional Water Quality Control Board San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA



9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

RECEIVED  
SEP 18 2006

July 13, 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

CERTIFIED MAIL

Registration Number 7004 2510 0004 4024 2962

In reply refer to:

WPC:CEQA Document No. 8868:portm

Ms. Becky Bartling  
Deputy Director of Operations  
22<sup>nd</sup> District Agricultural Association  
2260 Jimmy Durante Boulevard  
Del Mar, CA 92104

Dear Ms. Bartling:

**SUBJECT: Del Mar Fairgrounds Polytrack Project  
Draft Study / Mitigated Negative Declaration**

The Regional Water Quality Control Board, San Diego Region (Regional Board) has reviewed the Del Mar Fairgrounds Polytrack Project, Draft Study / Mitigated Negative Declaration that was received on May 2, 2006. The proposed project is located in the City of Del Mar, west of Interstate 5, within the footprint of the 22<sup>nd</sup> District Agricultural Association, within the Del Mar Fairgrounds, and on / adjacent to the horse racing and practice tracks.

The Del Mar Fairgrounds Polytrack Project consists of the:

- Removal of 14,000 tons of existing dirt track surface;
- Storage of the 14,000 tons of dirt over the surface of the existing practice track infield;
- Grading and filling to level and prepare the track for installation of the new drainage and Polytrack systems;
- Relocation of 2 water valves and fire hydrants;
- Replacement of the north chainlink fence and retaining wall;
- Removal of an ornamental hedge along the northeast and southwest walls to accommodate additional track elevation change;
- Raising the northeast block wall to accommodate an increased track width;
- Installation of a drainage system consisting of 8-inch storm drain piping around the inner edge of the track, three lines of 6-inch perforated piping underneath the circumference of the track, two 8-inch cross-track solid pipes, thirty 6-inch cross-track perforated pipes, and outlet points along the north fence draining into the backstretch stable area storm drains, and respectively at the east and west curves of the track (draining to a pump station located at the south end of Barn

California Environmental Protection Agency



- W into the storm drain system, and a clarifier in the west parking lot and into Stevens Creek);
- Installation of a rock layer filtration system;
  - Installation of subsurface permeable asphalt layers; and
  - Covering the asphalt layers with a 7-inch layer of Polytrack material.

The Mitigated Negative Declaration (MND) states that the Polytrack material consists of 80-90% silica sand, recycled carpet fibers, recycled rubber pellets and microcrystalline wax and that the material is not hazardous or toxic pursuant to the provided Material Safety Data Sheets (MSDSs) and chemical laboratory testing (EPA Method 8270) of the Polytrack material. According to the MSDSs provided, the Polytrack material also contains oil, silicone oil (Polydimethylsiloxane), magnesium stearate and similar fatty-product based lubricants, and Dimethylacetamide. However, the EPA Method 8270 used for the analyses does not include these analytes.

*Comment No. 1 - Retest the Polytrack material with appropriate analytical methods that include these analytes: oil, silicone oil (Polydimethylsiloxane), magnesium stearate and similar fatty-product based lubricants, and Dimethylacetamide and select an analytic method that provides method detection limits to the low parts-per-billion range.*

The MND and the MSDSs state that the Polytrack material is not toxic to the environment.

*Comment No. 2 - What does this statement mean in terms of water quality and possible impairments to beneficial uses? Would any of the materials and compounds (oil, silicone oil (Polydimethylsiloxane), magnesium stearate and similar fatty-product based lubricants, and Dimethylacetamide) listed above have a negative affect on benthic/pelagic vertebrates, benthic/pelagic macroinvertebrates or fluvial/marine fauna?*

The MND states that rock layers under the Polytrack material will provide filtration.

*Comment No. 3 - How would the rock filtration system filter out the compounds listed above (oil, silicone oil (Polydimethylsiloxane), magnesium stearate and similar fatty-product based lubricants, and Dimethylacetamide)?*

Figure 2-11 in the MND shows grease interceptors in-line with the storm drain system.

*Comment No. 4 - How would "grease interceptors" in the storm drain system filter out the compounds listed above (oil, silicone oil (Polydimethylsiloxane), magnesium stearate and similar fatty-product based lubricants, and Dimethylacetamide)?*

Figure 2-11 in the MND shows that Stevens Creek originates adjacent to the Solana Circle Drive.

Becky Bartling  
Del Mar Fairgrounds Polytrack Project

- 3 -

July 13, 2006

*Comment No. 5 - Stevens Creek reaches upstream past the Solana Circle Drive and up to and adjacent to the stable areas.*

The MND states that "the 22<sup>nd</sup> DAA operations staff conducts water quality testing at various storm runoff areas during and after storm events through an independent laboratory to determine if and when the water quality is sufficiently clean to divert excess runoff from the sewer system into the storm drain system that eventually leads to the Pacific Ocean."

*Comment No. 6 - Would the water quality testing be modified to analyze for these compounds - oil, silicone oil (Polydimethylsiloxane), magnesium stearate and similar fatty-product based lubricants, and Dimethylacetamide? What would be the proposed action levels to divert or not divert?*

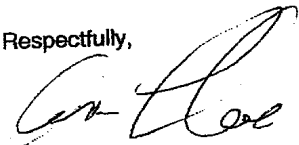
*Comment No. 7 - What are the degradation products of the Polytrack materials from photolysis, aerobic and anaerobic processes? How would those degradation products affect benthic/pelagic vertebrates, benthic/pelagic macroinvertebrates or fluvial/marine fauna if the degradation products were not removed prior to discharge to the receiving waters?*

*Comment No. 8 - Has the 22<sup>nd</sup> District Agricultural Association considered the use of advanced, efficient, permanent, structural Best Management Practices to treat all wastes generated by all events and operations before discharge to Stevens Creek, San Dieguito River and Lagoon?*

If you have any questions regarding our concerns, please contact Mike Porter at 858-467-2726 or [mporter@waterboards.ca.gov](mailto:mporter@waterboards.ca.gov). We appreciate the opportunity to comment on the proposed project.

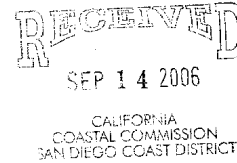
The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining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

Respectfully,



JOHN H. ROBERTUS  
Executive Officer

*California Environmental Protection Agency*



July 10, 2006

Mr. Russ Penniman  
President, 22<sup>nd</sup> DAA Board of Directors'  
2260 Jimmy Durante Boulevard  
Del Mar, CA 92014

**Subject: City of Del Mar Comments on the Negative Declaration for the Proposed Del Mar Fairgrounds Polytrack**

Dear President Penniman and Board Members:

The City of Del Mar would like to thank the Fair Board and the 22<sup>nd</sup> DAA management for extending the comment period on the Mitigated Negative Declaration (MND) for the Del Mar Fairgrounds Polytrack. The Polytrack project appears to be a needed improvement for the safety of the horses and the jockeys during the Races and will reduce the amount of water and harrowing necessary for the maintenance of the track. The City supports your efforts in this regard. Our concern relates to the impacts relating to diversion into the City of Del Mar sewer system, hydrology and water quality.

Subsequent to a meeting held on July 7, 2006 with our respective staffs, we understand that an addendum is being prepared that will address the issues that are identified herein by the City of Del Mar regarding drainage, water quality, hydrology and diversion into the City sewer system. We also understand that our Council liaisons will be meeting with District management in order to develop a Memorandum of Understanding between our two agencies regarding sewer capacity issues and drainage facing this project as well as future projects contemplated in the 2000 Master Plan. Our primary concerns are as follows:

**Diversion of Drainage into the City of Del Mar Sewer System**

The MND does say that the 22<sup>nd</sup> DAA will need to obtain approval from the City of Del Mar for connection of the proposed piping into the city's sewer system. We will look forward to working with your staff to better understand the project design and analyze the project impacts. The discussions need to identify a system for the drainage that does not negatively impact the City of Del Mar sewer system, the San Dieguito Lagoon, Stevens Creek or the Pacific Ocean, before City approval can be given.

After review and agreement on the specifics of the drainage for the proposed project, and the diversion, an industrial permit will need to be obtained from the City of San Diego Metropolitan Wastewater Department, through the City of Del Mar.

Letter to Russ Penniman, President, 22<sup>nd</sup> DAA Board of Directors  
Regarding: Negative Declaration for Polytrack at the Fairgrounds  
July 10, 2006

Utilities and Service Systems (Sewer)

The City of Del Mar has limited sewer capacity that is purchased from the City of San Diego Metropolitan Wastewater Department. City Ordinances prohibit storm water diversion into the sanitary sewer system. Furthermore, the EPA and the San Diego Regional Wastewater Agreement prohibit combined storm and sanitary sewer because combined flows create a significant potential for sanitary sewer overflows, as we saw when there was a significant overflow at the Point Loma Treatment Plant in October of 2004 during one major rain event.

We respectfully suggest that, as presently constituted, the environmental documentation relies on an incomplete analysis of the proposed diversion of drainage to the City of Del Mar sewer system, hydrology and water quality. We understand that a more thorough analysis of environmental effects is being prepared and that any adverse effects will be addressed and proposed for mitigation in the addendum. We look forward to reviewing that document before your final consideration of a Negative Declaration.

Respectfully submitted,

Crystal Crawford, Mayor

cc: Del Mar City Council  
Tim Fennell, General Manager, 22<sup>nd</sup> DAA

---

San Dieguito Lagoon Committee of Del Mar

1

From: Dawn S. Rawls, Chair  
San Dieguito Lagoon Committee  
1087 Klish Way  
Del Mar, CA 92014 *858-755-6793*

To: Christine Keller  
Pacific Municipal Consultants  
10951 Sorrento Valley Rd, St 1-A  
San Diego, CA 92121  
858-453-3602 ext 207  
fax: 858-453-3628

Date: June 29, 2006

Re: Mitigated Negative Declaration for Del Mar Fairgrounds PolyTrack Project

The San Dieguito Lagoon Committee appreciates the opportunity to respond to the 22<sup>nd</sup> District Agricultural Association (District)'s Mitigated Negative Declaration (MND) for the Del Mar Fairgrounds PolyTrack Project. The Lagoon Committee was officially established in 1974 by the City of Del Mar, in recognition that the San Dieguito Lagoon is a coastal wetland of regional significance. Since that time, this advisory committee has been a leader in efforts not only to restore the lagoon but also to preserve, as an open space corridor, the entire San Dieguito River Valley that extends to Julian and is now known as the San Dieguito River Park. The committee, whose membership has naturally changed over the years, remains steadfast in its commitment to preserve this essential ecosystem, a part of which is the site of the subject development proposal.

#### **A Fortuitous Opportunity:**

The Lagoon Committee endorses the PolyTrack Project in its efforts to increase the safety of the horses and to use less water for track maintenance. In addition to these benefits, the PolyTrack Project also offers the District an opportunity to proactively improve the Del Mar Fairgrounds' storm drain/sewer system before the system's inadequacies threaten the District's investment in recent and upcoming developments. Further, an improved storm water system would help protect the portions of the San Dieguito River Park that are adjacent to the Del Mar Fairgrounds. Furthermore, the District recognizes the value of this Park and has undertaken joint projects with the Park's JPA. Once the San Dieguito Lagoon is restored, this wetland adjacent to the Del Mar Fairgrounds will act as a protective receiving basin (like an absorbent sponge) for floodwaters that might threaten the District's property. Protecting the River Park protects the Del Mar Fairgrounds.

#### **Comments on the PolyTrack Project Mitigated Negative Declaration**

This letter will present general points of discussion and then discuss specific elements of the initial study environmental impact checklist.

---

**A. General Comments on the PolyTrack MND:**

**1. The Del Mar Fairgrounds is located *within* the City of Del Mar and sits amid the protected wetlands, lagoon and mouth of the San Dieguito River Park. Yet neither the San Dieguito Wetlands Restoration nor the San Dieguito River Park are mentioned anywhere in the PolyTrack MND.** The Wetlands Restoration, a joint project of the River Park and Southern California Edison, will start construction in the fall of 2006. Any drainage into the south overflow lot (SOL), east overflow lot (EOL) and/or Stevens Creek flows into the San Dieguito River and/or Lagoon and is, therefore, highly significant; these discharges must be held to a higher standard of monitoring and decontamination due to the protected nature of these bodies of water and wetlands.

**2. The 22<sup>nd</sup> DAA Master Plan EIR is in preparation; PolyTrack should be part of the Master Plan.** Because of the impact of development and concomitantly increased number of events at the Fairgrounds, projects considered independently of the Master Plan EIR cannot be accurately judged on matters of environmental impact. The District has a history of asserting that each project in a series of projects, taken one by one, has no impact when, in fact, analyzed together, the projects do have a cumulative impact. A pattern has emerged: As the District adds events to its yearly calendar or extends the length of events, overall attendance and use of the grounds increase, which leads to filling dirt areas for parking, then paving the dirt, subsequently placing buildings on the paved area and then completing the cycle by, once again, expanding event attendance. This repeated cycle has led to encroachment upon and degradation of irreplaceable coastal wetlands.

**Examples of new buildings/projects that “consumed” previous parking or event space:** enlarged Grandstand and Turf Club; Horse Arena; Off-Track Satellite waging facility; widening of Jimmy Durante Blvd.

**Examples of buildings that have increased or are anticipated to increased event attendance:** larger Grandstand (from seating for 9,500 to seating for 15,000); two new ‘barns’; Horse Arena; Off-Track Satellite waging facility; and the forthcoming remodel of the Surf and Turf minigolf course.

None of the projects listed above were considered within the Master Plan environmental documents.

**3. The 22<sup>nd</sup> DAA must acknowledge and accommodate the capacity and flow limitations of their interlocked sewer/storm drain systems that feed into the sewer system of the cities of Del Mar and San Diego.** The MND does not even mention the fact that storm incidents cause runoff to flood the sewer system regardless of the District’s purported efforts to send “clean” runoff into Fairground discharge points that open into Stevens Creek and the San Dieguito River Park.

---

San Dieguito Lagoon Committee of Del Mar

3

**B. Responses to the PolyTrack MND Checklist****3.4b Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service?**

Temporary storage of almost 3,000,000 lbs (14,000 Tons per MND p. 2.0-2) of dirt on the infield of the practice track is dismissed as having a less than significant impact due to BMPs that will be applied. This response by the District is lacking in a clear, detailed description of how this massive amount of soil will be stored near, and later removed from, each separate area of the Stevens Creek riparian corridor. What specific water quality Best Management Practices (BMPs) will be employed? Given that dirt may be carried into the San Dieguito River further occluding the channel and diminishing ocean flow into the Lagoon, is a 25-foot setback adequate according to the Coastal Act?

**3.4c Would the project have a substantial adverse effect on federally protected wetlands, as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal wetlands, etc.) through direct removal, filling, hydrological interruption or other means?**

The MND cites the SWPPP with reference to the SWPPP Site Plan (Fig. 2-11). The last amendment to the Fairgrounds SWPPP was in August of 2002. Fig 2-11 and the SWPPP itself are outdated and incorrect because: 1. The drainage flows shown on the SOL are incorrect; 2. The two new "barns" and their drainage systems are not shown, and 3. The two items labeled "future connection to sewer line" in Fig 2-11 are not specified. One such "future connection" appears to be at outlet point 2 (compare Fig 2.8 with Fig 2-11) for the reconstructed racetrack. No information is given on the "drains to existing catch basin constructed per adjacent building improvements" noted in Fig 2.8. What and where are these improvements? How can impacts on the San Dieguito River and Lagoon, and thusly the western end of the River Park, be judged accurately if the current Fairgrounds SWPPP is inadequate?

Eilart Associates are cited as testing storm runoff for pollution prior to discharging storm water into Stevens Creek, the SOL and the River, but no data reports are provided in the MND. At what point during a "storm event" are the samples being taken? Storm water often stands for several days on the asphalt parking lots, possibly absorbing pollutants, before it drains onto the SOL. Grease separators are cited as cleaning the storm water runoff, but when were they last maintained and/or checked? As a state agency the District should be held to the highest standards in adhering to CEQA regulations.

---

**3.7a Would the project create a significant hazard to the public or the environment through the routine transportation, use or disposal of hazardous materials?**

Hazard analyses of the PolyTrack materials and sand are given in Appendices B-H, but no such data are presented for asphalt (macadam as shown in Figs. 2.4-2.6 and Appendix I). The "semi-permeable" 2.5-inch layer of asphalt sits *above* the drainage layer and drain pipes. Therefore, storm water will run through the asphalt before reaching the drains. If the drainage system is inadequate to handle storm events (see comments under 3.8c below) will water sit on top of the "semi-permeable" asphalt for extended periods of time? According to the Coastal Act, is it appropriate to place a "semi-permeable" asphalt "road" the size of the racetrack above the track's drainage system?

**3.8a Would the project violate any water quality standards or waste discharge requirements?** Comments under 3.4c apply.

**3.8c Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on-or off-site?**

The District's response in this section is based, at least in part, on the data presented in Appendix I "Preliminary Hydrology/Hydraulic Calculations for Backbone Drainage System Del Mar Racetrack" where the first step in these calculations (top of first page of appendix) is to use rainfall quantities for the months of July and August. The racetrack drainage system will be in place all year long, of course, and these calculations should be done for the upper range of rainfall during intense winter storm events. The "erosion or siltation" in question would occur during or following storm events, not during the race meet season.

**3.16 Utilities and Service Systems**

An amended SWPPP and alterations to current drainage/sewer systems on the Fairgrounds are needed in order to address ongoing issues of exceeding sewer capacity and flow limitations. To say that this one project will have no significant impact blatantly ignores the fact that Fairgrounds sewer/storm drain management is inadequate for *current* demands. The reader may refer to comments from the City of Del Mar for technical information on this point.

**3.17b Does the project have impacts that are individually limited, but cumulatively considerable? "Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects and the effects of probable future projects.**

Drip, drip, drip, CDP, CDP, CDP – the District water torture is active once again. Given the "past projects" including the Horse Arena, Off-Site Wagering Facility, enlarged Grandstand, and two oversized barns; the "current projects" of PolyTrack and minigolf restoration; and all the "future projects" described in the Fairgrounds Master Plan, we can only comment that there is a quite significant impact. This project should be considered within the Master Plan EIR, not as an MND. Yet another CDP outside of the Master Plan EIR is an affront to the very process of studying the environmental impacts of a project.



---

San Dieguito Lagoon Committee of Del Mar

5

In closing, the San Dieguito Lagoon Committee is requesting that the lead agency, the 22<sup>nd</sup> District Agricultural Association, not to adopt the MND for the PolyTrack Project, but rather to include PolyTrack within the EIR currently being prepared for the District's Master Plan. Further requests pursuant to this MND are: 1. The Fairgrounds Manager enact measures in consultation with the City of Del Mar to rectify the current sewer/storm water problems and 2. The Fairgrounds Manager amend the current SWPPP to detail how these measures will be accomplished.



Dawn S. Rawls  
Chair, San Dieguito Lagoon Committee

CC: Tim Fennell, General Manager, Del Mar Fairgrounds  
Del Mar City Council and Mayor  
Regional Water Quality Control Board  
San Dieguito River Park JPA  
San Dieguito River Valley Conservancy  
✓ California Coastal Commission  
County Supervisor Pam Slater-Price  
San Diego City Council President Scott Peters  
Friends of the San Dieguito River Valley

---