

CALIFORNIA COASTAL COMMISSION

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Staff: AJP-LB
Staff Report: 3/21/06
Hearing Date: 4/11-14/06
Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT****APPLICATION NUMBER:** 5-04-286-A1**APPLICANT:** County of Los Angeles Department of Public Works

PROJECT LOCATION: Storm drain outlets at 1) Culver Boulevard and Vista Del Mar, 2) Imperial Highway and Vista del Mar, and 3) Sandpiper Street and Vista Del Mar, in the Playa del Rey planning area of the City of Los Angeles.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:

Repair three separate reinforced concrete box drains and outlet structures (No. 513-Line A, No. 513-Line C, & No. 5241). Work will include repairing interior and exterior surfaces on all three lines, replacing concrete slabs atop drain line at Line A, replacement of access manhole at Line A, installing a protection barrier and 200 foot protection skirt along the sides of box drain Line A, and replacement of 5-7 foot high wrought iron fence atop all three concrete box drains.

DESCRIPTION OF PROPOSED AMENDMENT:

Amend Special Condition No. 3, timing of construction for one of three storm drain lines (Project No. 513-Line A) from no earlier than September 30th to no earlier than September 5th; and allow construction staging on the sand adjacent to each storm drain for all three storm drains.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed Coastal Development Permit amendment. The amendment would allow construction on one of the three storm drain lines twenty-five days earlier in September to allow a longer construction window before the winter storm season. As a result of the amendment, special condition number 3 of the underlying permit no. 5-04-286, which prohibits construction between March 15 to the beginning of August, except for Project No. 513-Line A, where work is prohibited to start no earlier than September 30th, is amended to allow work on Project No. 513-Line A to start no earlier than September 5th. As amended, the project can be found consistent with the Chapter three policies of the Coastal Act.

PROCEDURAL NOTE

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-04-286 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program

conforming to the provisions of Chapter 3. Approval of the permit 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. STANDARD CONDITIONS:

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

III. SPECIAL CONDITIONS

Note: Unless specifically altered by this amendment, all conditions imposed on the previously approved permit shall remain in effect. Special Condition No. 3 is modified under this amendment, as follows (deletions are shown as cross-out and additions are shown as underlined):

3. Timing of Construction

In order to reduce impacts on the California least tern during nesting and foraging season, all construction, including demolition, or activities involving mechanized equipment, shall be prohibited on any part of the beach in the project areas from March 15 to the beginning of

August. In August, work can begin on storm drains Project No. 5241 and Project No. 513-Line C. Work on Project No. 513-Line A can begin no earlier than September 30th 5th.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing to amend the underlying Coastal Development Permit (No. 5-05-286) by modifying special condition no. 3 requiring that construction avoid the period between March 15 to the beginning of August, with Line A allowed to start work no earlier than September 30th. The purpose of the restriction on the timing was to protect the Least tern that uses the area for foraging during this time of year. The amendment also will relocate the proposed staging of construction material and equipment from the adjacent beach parking lot along Vista del Mar to the sand areas adjacent to each storm drain.

In December 2004, the California Coastal Commission approved Coastal Development Permit 5-05-286 for the repair of three separate reinforced concrete box drains and outlet structures (No. 513-Line A, No. 513-Line C, & No. 5241). Work will include repairing interior and exterior surfaces on all three lines, replacing concrete slabs atop drain line at Line A; replacement of access manhole at Line A; installing a protection barrier and 200 foot protection skirt along the sides of box drain Line A; and replacement of 5-7 foot high wrought iron fence atop all three concrete box drains.

The construction of the proposed project will involve the use of heavy machinery on the beach. The equipment proposed to be used includes possibly a crane and/or loader/bulldozers. The applicant has maintenance easements from the adjacent street and beach maintenance road across the beach to the drains for two of the drains (Line A and No. 5241), and will require a temporary easement from the State for the third drain (Line C). The new temporary easement will lead from the adjacent parking lot (Dockweiler State Beach Parking lot) at Imperial Highway and Vista Del Mar directly to the drain line.

The beach parking lot at Imperial Highway and Vista Del Mar was approved in the original permit for temporary storage of material and equipment during construction. The staging area in the parking lot would occupy approximately 5,000 square feet of area and take up approximately 35 parking spaces.

The proposed project is located at Dockweiler State Beach near Playa del Rey, in the City of Los Angeles. Project No. 513-Line A ends at the ocean near Culver Boulevard and Vista Del Mar. Project No. 513-Line C, ends at the ocean near Imperial Highway and Vista Del Mar. Project No. 5241 ends at the ocean about ¼ mile south of Sandpiper Street and Vista Del Mar (see Exhibit No. 1 & 2).

B. Environmentally Sensitive Habitat and Marine Resources

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges- and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Acts states:

- (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.*

Sections 30230 and 30231 of the Coastal Act mandate that marine resources and coastal water quality shall be maintained and where feasible restored, protection shall be given to areas and species of special significance, and that uses of the marine environment shall be carried out in a manner that will sustain biological productivity of coastal waters.

According to the Department of Fish and Game (DFG), species of potential concern in the project areas include the State and Federally endangered California least tern (*Sterna antillarum brownii*), and California grunion (*Leuresthes tenuis*).

1. California least tern

The California least tern (*Sterna antillarum brownii*) nests at nearby Venice Beach (1/2 miles to the north from northern most storm drain line, Project 513-Line A). The Least tern is a migratory species usually arriving at southern California breeding sites in late March or early April and departing by mid-September. The closest breeding colony is at Venice Beach, just north of the Marina del Rey entrance channel. Dockweiler beach is separated from the breeding colony area

by the marina's entrance channel. According to the Department of Fish and Game, disturbance from construction activities from noise and turbidity could impact least terns by interfering with nesting and/or foraging activities. In the original permit, the Department of Fish and Game recommended that work on the two lines furthest to the south can begin in August without a significant impact to the Terns. However, the northern line (Line A), which is closest to the Terns, should not start construction until the end of September to minimize any potential impact.

Because some of the construction would occur in the surf zone, the applicant and potential contractors were concern with wave hazards during the early winter period. To minimize the hazard, the applicant wanted to move up the starting date for construction to during the summer period. After consultation with the Department of Fish and Game it was determined that given the type of equipment to be used (backhoe, loader, pneumatic tools, air compressors, trucks, bobcat), the decibels produced and the distance from the colony, noise from the project site would be negligible to the least terns at the nesting site. Consequently, they do not believe that construction work on Line A during the Terns breeding season would negatively impact the colony at Venice beach (see Exhibit No. 6). However, due to concerns regarding impacts to public beach access during the summer period, the applicant is proposing to start no earlier than September 5, to increase the construction period and avoid impacting beach access during the Labor Day weekend.

2. California Grunion

The California grunion is a small fish in the silversides family and is extremely unusual among fish in its spawning behavior. The grunion spawn on the sandy beaches in the project vicinity immediately following high tides from March to August. The eggs are incubated in the sand until the following series of high tide conditions, approximately 10 to 15 days, when the eggs hatch and are washed into the sea. California grunion is a species of concern due to its unique spawning behavior. They are carefully managed as a game species. Project activities within the intertidal zone may disturb adult grunion during the run period and/or may bury incubating grunion eggs.

According to DFG, all beaches are potential grunion spawning habitat. With most projects that occur during grunion season, a monitor during predicted runs is recommended. However, DFG indicates that since the outlets run perpendicular to the ocean and construction equipment will be restricted to a 15-foot construction easement on either side of the outlets, the project will not have a significant impact on grunion.

The amendment will allow staging adjacent to each storm drain. The staging areas will measure approximately 60 feet by 30 feet and will be located outside of the wave uprush area. As located, because the staging area will be outside of the wave uprush area, the staging area will not have an adverse impact to the grunion.

3. Water Quality

As conditioned (Special Condition No. 1) in the original permit to include Best Management Practices (BMPs) to control debris and polluted runoff, the applicant will include BMPs for the staging area consistent with the original permit. BMPs will include plastic liners under the staging areas to prevent any leakage from equipment or machinery into the sand. Any contaminated sand will be removed. Once construction is completed, all equipment and materials will be removed from the staging area and the area will be restored back to its original condition as required in Special Condition No. 1.

Conclusion

Special Condition No. 3 is therefore amended to provide that project activities do not start at Project 513-Line A until after September 5. For the aforementioned reasons, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

C. Public Access

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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.

Coastal Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. The three project sites are located within on Dockweiler State beach. Public access is available along the beach. Access is also available around each storm drain. Access is only prohibited along the top of each storm drain, and along the portion that is in the surf zone, due to safety concerns.

The peak beach use season runs through the summer from May to September. Because the applicant has proposed to schedule the proposed project from August through November to avoid impacts to the least tern, the proposed project will also avoid most of the peak beach use season from June through September. However, August and September are heavily beach use periods. Because of the location and nature of work, construction cannot be limited to the winter period because of high surf and hazardous conditions during this period.

The approved permit allows two of the lines to begin in August, with Line A, the northern most line, restricted to begin no earlier than September 30th. Line A was restricted to a later starting date due to potential impacts to the Least tern that nests to the north at Venice Beach. The proposed amendment will allow construction on Line A to begin twenty-five days earlier, on September 5, after the Labor Day weekend. By beginning no earlier than September 5, construction will avoid the last major summer holiday weekend (Labor Day) and will minimize impacts to beach access.

The amendment also includes relocating the staging area from the public parking lots to the sandy beach areas in the proximity of the storm lines (see Exhibit No. 3-5). Although sandy beach area will be taken up, the area (60 feet by 30 feet) is minimal and will last approximately a month per construction site. The location on the beach, as opposed to the public parking lot will minimize conflicts with users of the bike path, by eliminating construction traffic across the path, and free up parking for the public. And because the beach is long and wide, the area taken up for staging and construction will not have a significant impact on beach access.

The Commission finds that the amendment, will not significantly impact recreational opportunities and public access at the project site, and therefore the amendment is consistent with Sections 30210, 30211, and 30251 of the Coastal Act.

D. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The City of Los Angeles does not have a certified Local Coastal Program for the Playa del Rey area. The City of Los Angeles submitted its Local Coastal Program in March 1981. The Commission denied the submitted LCP on December 18, 1981. The City has not planned the submittal of a revised LCP. As proposed, the amendment will not prejudice the City's ability to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act. The Commission, therefore, finds that the amendment is consistent with the provisions of Section 30604 (a) of the Coastal Act.

E. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed amendment, as conditioned is consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed amendment can be found consistent with the requirements of the Coastal Act to conform to CEQA.



LOS ANGELES AREA

SCALE
0 1 2 3 4 5 6 7 8 9 MILES

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EXHIBIT NO. 1

APPLICATION NO.

504-286A

Region 1 Map

California Coastal Commission

EXHIBIT NO. 2

Application Number

5-04-28CA

Location Map

California Coastal Commission

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Project No.
513 Line A
See General Plan "A"
on Sh. 1

Line A

PACIFIC
OCEAN

Project NO. 5241
See General Plan "B"
on Sh. 2

Project No. 513 Line C
See General Plan "C" on
Sh. 3

LOCATION MAP
NOT TO SCALE

TO PAGE 702, A3, B5 & C7

PREPARED BY
S. STEVENS

COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

FO00000894 06-15-03


PROJECT NO. 513 & 524
OCEAN OUTLET REPAIRS

CHECKED BY
K. BOULATY AS SHOWN

PDC SH. 1 OF

EXHIBIT B3

Google



STAGING
AREA
60' X 30'



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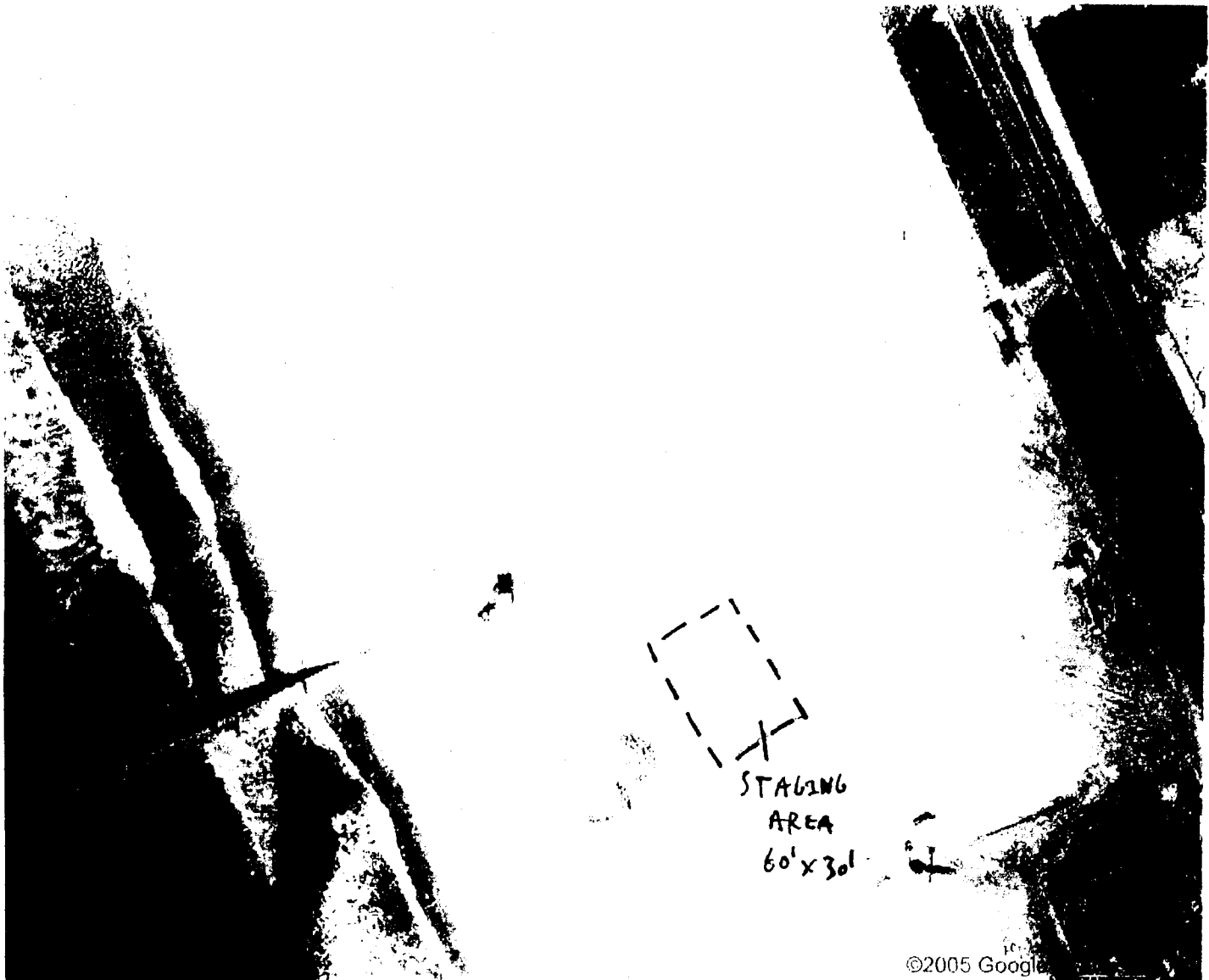
CULVERT TOWER STAGING AREA

EXHIBIT NO.	3
Application Number	5-04-286 A
Staging Area for	Line A
California Coastal Commission	

3/6/2006

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EXHIBIT B2



TOWER 47 STAGING AREA

EXHIBIT NO.	4
Application Number	5-04-286 A
Staging Area for	Line No. 5241
California Coastal Commission	

3/6/2006

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EXHIBIT B1



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IMPERIAL TOWER STAGING AREA

EXHIBIT NO.	5
Application Number	5-04-286A
Staging for	Line C
California Coastal Commission	

3/6/2006

Memorandum

Date: November 28, 2005

To: Al Padilla
California Coastal Commission
South Coast Area
200 Oceangate Ave., 10th Floor
Long Beach, California 90802-4325

From: Tom Napoli
Environmental Staff Scientist
Department of Fish and Game

Subject: Coastal Development Permit Application No. 5-04-286 for Ocean Outlet Repairs at Dockweiler State Beach, Project 513, Line A

EXHIBIT NO. 6
Application Number 5-04-286A
Letter for Dept. of Fish & Game
California Coastal Commission

Department of Fish and Game (Department) staff were recently contacted by Mr. Dale Sakamoto, Los Angeles County Department of Public Works (LADPW), concerning Project 513, Line A, an ocean outlet repair at Dockweiler State Beach near Playa Del Rey, City of Los Angeles. The proposed project involves the repair of a reinforced concrete box drain and outlet structures constructed in the early 1970s. Specifically, the project will replace 400 linear feet of corroded fence along the top of a reinforced concrete box drain, replace 12 missing concrete slabs, replace an access plate for a manhole, and install a timber protection barrier at the end of the drain.

We initially reviewed this project (along with two other ocean outlet repairs) in September 2004. At that time we were concerned with impacts to the California least tern from potential turbidity and noise. Project 513 Line A is approximately ½ mile away from the Venice Beach least tern nesting site. Accordingly, we recommended the applicant restrict construction activities during the April to mid September nesting season.

However, LADPW is having difficulty with construction during the fall/winter season and wishes to carry out the project one month duration) somewhere during the April to September time period. We have discussed this project in detail with Mr. Sakamoto. From the recent information he has provided, it appears that turbidity will not be an issue. Any in-water work would be done at low tide to access the area, and there is no demolition involved. Additionally, given the type of equipment to be used (backhoe, loader, pneumatic tools, air compressors, trucks, bobcat), the decibels they produce, and the distance from the colony, noise from Project 513 Line A would be negligible to the least terns at the nesting site. Also, similar equipment is used in the vicinity of the least tern colony as part of day-to-day operations, and is part of the ambient noise (e.g. graders to groom beach, trash removal, construction equipment, trucks, etc...). Consequently, we do not believe that repair of 513 Line A during the months of April to September would negatively impact the least terns at the Venice Beach colony.

Al Padilla
November 28, 2005
Page Two

As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion please contact Ms. Marilyn Fluharty, Environmental Scientist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (858) 467-4231.

cc: Ms. Marilyn Fluharty, Marine Region, San Diego, CA
Mr. Dale Sakamoto, LA County Department of Public Works, CA