CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-06-017

APPLICANT: Las Virgenes Municipal Water District

PROJECT LOCATION: Mulholland Hwy from the Cold Canyon Pump Station (Cold Canyon Rd. and Mulholland Hwy) east to the intersection of Mulholland Hwy. and Ladybird Dr. in Calabasas, Los Angeles County.

PROJECT DESCRIPTION: Installation of approximately 7,140 linear feet of potable water pipeline (10" diameter) within the Mulholland Highway right of way.

LOCAL APPROVALS RECEIVED: N/A

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Geotechnical Study, Proposed Mulholland Potable Water Line Improvements Project, Las Virgenes Municipal Water District," Prepared by Fugro West, Inc., November 2005; "Final Mitigated Negative Declaration Las Virgenes Municipal Water District Mulholland Potable Waterlines Improvements Project," prepared by Padre Associates, Inc., November 2005; and "Response to Letter Dated May 9, 2006 Regarding Biological Analysis," prepared by Padre Associates, Inc., May 17, 2006.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with **SIX SPECIAL CONDITIONS** regarding 1) geologic recommendation, 2) assumption of risk, 3) erosion control plans, 4) oak tree protection and monitoring, 5) removal of excess excavated material, and 6) biological monitoring of riparian areas.

The Las Virgenes Municipal Water District (LVMWD) is proposing to construct an approximately 7,140 linear foot potable water pipeline (10 inches in diameter) under Mulholland Highway in the Santa Monica Mountains. The pipeline would extend from the Cold Canyon Pump Station (Cold Canyon Road and Mulholland Highway) east to the intersection of Mulholland Highway and Ladybird Drive. The project would address

deficiencies in water system hydraulics in the area between Warner Tanks and Cold Canyon Pump Station and increase the reliability of the existing water system. The project would serve existing connections and would not expand capacity to new water users.

All pipeline segments would be located within the paved areas of Mulholland Highway or Dry Canyon Road. The pipeline segments would be installed using conventional open trench construction techniques. At stream crossing on Cold Canyon Creek, the pipeline would be installed in fill above existing culverts. The width of the disturbance corridor for the construction of the pipeline would be up to 18 feet wide. Reduced disturbance corridors are planned in areas adjacent to native oak trees and other sensitive resources. The project may require trimming of some oak trees and chaparral vegetation that are currently overhanging into the roadway to clear way for construction equipment. These habitat areas are not considered environmentally sensitive habitat areas as they have been repeatedly trimmed and cleared for maintenance of Mulholland Drive. However, several oak trees overhanging into the road right of way require protection measures, including monitoring, avoidance, and reduced disturbance corridors as conditioned.

The standard of review for the proposed project is the Chapter 3 policies of the Coastal Act. In addition, the policies of the certified Malibu/Santa Monica Mountains Land Use Plan serve as guidance.

I. Staff Recommendation

MOTION: I move that the Commission approve Coastal Development Permit No. 4-06-017 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2)

there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

- 1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration. If development has not commenced, the permit will expire two years from the date 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 term or condition will be resolved by the Executive Director or the Commission.
- **4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Plans Conforming to Geologic Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the "Geotechnical Study, Proposed Mulholland Potable Water Line Improvements Project, Las Virgenes Municipal Water District," Prepared by Fugro West, Inc., November 2005. These recommendations shall be incorporated into all final design and construction plans, and the final plans must be reviewed and approved by the consultant prior to commencement of development. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require an amendment(s) to this permit or a new Coastal Development Permit.

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

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide, erosion, and earth movement; (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.

3. Erosion Control Plans

Prior to issuance of the coastal development permit, the applicant shall submit erosion control plans, prepared by a qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- 1. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary pathways, staging areas, and stockpile areas. The natural areas on the sites shall be clearly delineated on the project site with fencing or survey flags.
- 2. The plan shall specify that grading shall take place only during the dry season (April 1 October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial excavation operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- 3. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

4. Any graded and disturbed areas shall be planted and maintained for revegetation and erosion control purposes within thirty (30) days of completion of development. Plantings should be of only native plant species that have been obtained from local Santa Monica Mountains genetic stock, and are consistent with the surrounding chaparral habitat. Native seeds shall be collected from areas as close to the project site as possible. Such planting shall be adequate to provide ninety (90) percent coverage within five (5) years, and shall be repeated if necessary to provide such coverage. This requirement shall apply to all disturbed and graded soils. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements.

4. Oak Tree Protection and Monitoring

To ensure that on-site oak trees are protected during pipeline construction and removal activities, protective barrier fencing shall be installed around the protected zone of all oak trees in proximity to the construction zone during construction operations. Oak trees adjacent to the project area shall be fenced after the required trimming has been carried out.

Prior to commencement of construction, the permittee shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during grading and construction activities. The biological consultant or arborist shall immediately notify the Executive Director if unpermitted activities occur or if oak trees are removed or impacted beyond the scope of the work allowed by Coastal Development Permit 4-06-017. This biological consultant or arborist shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

The biological consultant or arborist shall monitor adjacent to the project area identified in the Final Mitigated Negative Declaration and Biological Report for the project (Padre Associates, November 2005 and May 2006) for a period of ten (10) years minimum. An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of this project, the permittee shall submit, for the review and approval of the Executive Director, an off-site oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program is successful. Replacement trees shall be provided at a rate of 10:1.

5. Removal of Excess Excavated Material

Prior to the issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

6. Biological Monitoring of Riparian Areas

The permitee shall minimize potential impacts to sensitive birds by avoiding construction activities adjacent to riparian habitats during the breeding season from March 1 through August 15. Should any construction activities be necessary within 300 feet of riparian areas during the breeding season (March 1 through August 15), the permitee shall retain the services of a qualified biologist(s) or environmental resource specialist(s) to conduct raptor surveys and sensitive species surveys in and around the riparian areas. At least two (2) weeks prior to commencement of any project operations near riparian areas, the permitee shall submit the name and qualifications of the biologist or specialist, for the review and approval of the Executive Director. The permittee shall ensure that all project construction and operations shall be carried out consistent with the following:

- 1. The environmental resource specialist shall conduct a survey of all project areas within 300 feet of the riparian habitats to determine presence and behavior of sensitive species and raptors, no more than 7 days prior to any project operations including construction, grading, excavation, vegetation eradication and trimming, hauling, and maintenance activities.
- 2. In the event that any sensitive wildlife species or raptors exhibit reproductive or nesting behavior, the environmental specialist shall immediately notify the permitee, the Executive Director and local resource agencies in writing. The permitee shall immediately cease any development activities upon receipt of such notice. Project activities shall resume only upon written approval of the Executive Director.
- 3. In the event that any sensitive wildlife species are present in the project area but do not exhibit reproductive behavior and are not within the estimated breeding/reproductive cycle of the subject species, the environmental resource specialist shall either: (1) implement a resource avoidance program with sufficient buffer areas to ensure adverse impacts to such resources are avoided, if feasible; or (2) postpone construction activities until the identified sensitive species have moved from the project area. The permitee shall also immediately notify the Executive Director of the presence of such species and which of the above actions are being taken. If the presence of any such sensitive species requires review by the United States Fish and Wildlife Service and/or the California Department of Fish and Game, then no development activities shall be allowed or

continue until any such review and authorizations to proceed are received, subject to the approval of the Executive Director.

4. The environmental resource specialist shall be present during all construction, grading, excavation, vegetation eradication and removal, hauling, and maintenance activities within 300 feet of riparian and creek habitats. The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. The environmental resource specialist(s) shall immediately notify the Executive Director if activities outside of the scope of coastal development permit 4-06-017 occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicants shall be required to submit a revised or supplemental program to adequately mitigate such impacts. Any native vegetation which is inadvertently destroyed or damaged during implementation of the project shall be replaced in kind at a 3:1 or greater ratio. The revised, or supplemental, program shall be processed as a new notice of impending development and/or coastal development permit.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The Las Virgenes Municipal Water District (LVMWD) is proposing to construct an approximately 7,140 linear foot potable water pipeline (10 inches in diameter) under Mulholland Highway in the Santa Monica Mountains (**Exhibits 1-4**). The pipeline would extend from the Cold Canyon Pump Station (Cold Canyon Road and Mulholland Highway) east to the intersection of Mulholland Highway and Ladybird Drive in the Santa Monica Mountains. This proposal is part of a larger pipeline installation project that spans intermittently from Cold Canyon Road to Old Topanga Canyon Road along Mulholland Highway. The overall project is divided into three phases, Phase 1A, 1B, and 2. Phase 1B and the "southern" and part of the "central" portions of Phase 2 are located within the coastal zone and are the subject of CDP application 4-06-017.

Las Virgenes Municipal Water District (LVMWD) provides potable water, recycled water, wastewater collection and treatment, and biosolids composting to the cities of Agoura Hills, Calabasas, Hidden Hills, Westlake Village and adjacent unincorporated areas of Los Angeles County. The LVMWD currently operates a 10-inch steel water pipeline within the Mulholland Highway right-of-way, extending from the Cold Canyon Pump Station to the Mulwood Pressure Reducing Station (4.5 miles). The existing pipeline serves users along the pipeline and supplies the Saddle Peak Tank and Oak Ridge Tank. In 1999 LVMWD prepared a Potable Water Master Plan that identified deficiencies in water system hydraulics in the area between Warner Tanks and Cold Canyon Pump Station. Additionally, the report raised concerns over the general

reliability of the system due to the age of the system and hazardous geologic conditions in the area. Phase 1B will involve a new pipeline route that will address hydraulic deficiencies in the existing water system. Phase 2 of the project will involve installation of a new pipeline parallel to an existing water pipeline to improve reliability of the existing water system. The project would serve existing connections and would not expand capacity to new water users.

The project is located within the County of Los Angeles's right of way for Mulholland Road. The applicant has secured approval from the County for the proposed project. Land uses surrounding the project include residential and open space. The project area consists of roadway pavement, an unpaved shoulder, and roadside areas. The unpaved shoulders generally support bare ground, landscaping, disturbed native vegetation, and disturbed weedy areas. Some areas of chamise chaparral, purple sage scrub, California walnut woodland, coast live oak woodland, arroyo willow riparian forest, and annual grassland surround the project area. The pipeline route also crosses the North Fork of Cold Creek near Stunt Road.

The new 10 inch diameter pipeline would be composed of steel, ductile iron, or polyvinyl chloride. All pipeline segments would be located within the paved areas of Mulholland Highway or Dry Canyon Road. The pipeline segments would be installed using conventional open trench construction techniques. Pipe sections would be placed in a trench about three feet wide and five feet deep. Sand (or equivalent) would be placed in the trench as pipe bedding to support the pipeline. Concrete would be placed over the pipe bedding and asphalt concrete would be replaced to form the roadway surface. At the stream crossing on Cold Canyon Creek, the pipeline would be installed in fill above existing culverts. Phase 1B would involve 1.700 cu. vds. of excavation. 1.300 cu yds of imported material (primarily pipe bedding), and 1,300 cu. yds. of export (trench spoils). Phase 2 would involve 1,400 cu. yds. of excavation, 1,00 cu. yds of imported material, and 1,00 cu. yds of export (trench spoils). Following installation of the pipeline, the pipe would be hydrostatically tested with potable water. Used water would be collected and discharged to the nearest sanitary sewer for treatment at district facilities.

The width of the disturbance corridor for the construction of the pipeline would be up to 18 feet wide. Reduced disturbance corridors are planned in areas adjacent to native oak trees and other sensitive resources. The project may require trimming of some oak trees and chaparral vegetation that are currently overhanging into the roadway to clear way for construction equipment. The project would also require periodic closures of traffic lanes on Mulholland Highway. A traffic control plan would be developed for review by the City of Calabasas and Los Angeles County. Open trenches would be covered at the end of the work day with non-skid steel plates. Signage would also be provided in the project area in advance of construction activities to warn motorists of potential delays.

B. Hazards and Geologic Stability

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Coastal Act Section **30253** states in part:

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.

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. As previously described, the proposed project includes construction of a permanent, 7,140-ft. potable water pipeline between the Cold Canyon Road and Ladybird Drive under Mulholland Highway. The District has submitted a geotechnical report for the project prepared by Fugro West, Inc in November 2005. According to this report, the pipeline alignment crosses several mapped faults, none of which appear to be active or potentially active faults. Additionally, the proposed pipeline route is not zoned by the State of California as a Alquist-Priolo fault rupture hazard zone. However, seismic ground-shaking from nearby faults may result in damage to the proposed pipeline over its service life. The alignment also crosses one mapped historic landslide. No areas of documented historic liquefaction are known in the immediate project area. However, according to the geotechnical consultant, the project area may be susceptible to liquefaction in localized areas of saturated sandy soils. The potential for this to occur, though, is low due to the lack of observed groundwater along the alignment. The project site is also not located in an area known to have expansive soils. However, according to the geotechnical consultant, extensive fill material is located that was used to construct Mulholland Highway is located in the project area and may have some expansive properties.

The geotechnical consultant makes no conclusions in the report that ensure that the project will be completely free of geologic hazard. The consultant notes that any project of substantial length within this area would involve similar geologic hazards. The

consultant makes several design recommendations concerning excavation, groundwater, shoring, backfill, pipe zone materials, compaction, and thrust blocks, among other measures, to ensure that the pipeline is protected from geologic hazard to the maximum extent feasible. To ensure that final project design and construction complies with the recommendations of the consulting geologist, the Commission, as specified in **Special Condition No. One (1)**, requires that the applicant submit evidence of the consultant's review and approval of all final plans and that the plans approved by the consultant be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

While the applicant is not proposing to remove large areas of vegetation, some trimming of vegetation on the road shoulder may be necessary. Should any bare soil areas be created, the Commission finds that these areas should be revegetated with native plant species to minimize erosion of slopes. Additionally, erosion control best management practices should be used to reduce erosion and runoff during construction as further discussed in the following section. **Special Condition Three (3)** requires the applicant to develop and implement erosion control plans for the pipeline site.

The Coastal Act recognizes that certain development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. While the applicant's geotechnical consultants have recommended measures to minimize geologic hazards, the project site area still may be at risk for landslides, seismic ground shaking, erosion from storm flows, liquefaction, and expansive soils. As such, the Commission finds that due to the foreseen possibility of landslide, erosion, and slope failure, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Two (2)** requires the applicant to agree, by accepting this permit, that they waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development, and assume the risks to the development and the property that is the subject of this permit of injury and damage from such hazards in connection with the permitted development. The applicant's assumption of risk will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

The Commission finds that the proposed project, as conditioned, will serve to minimize potential geologic hazards to life and property and will assure the stability and structural integrity of the project, both on the project site and adjacent properties, consistent with Section 30253 of the Coastal Act.

C. Public Work Facilities

Section **30254** of the Coastal Act provides, in part that:

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division . . . Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Policy 244 of the LUP provides that:

New pipelines and booster stations shall be constructed in the Malibu Coastal area to replace deteriorated and undersized facilities to provide adequate domestic water and fire protection service, and reduce potential health hazard problems.

The proposed project will consist of installation of an approximately 7,140 foot long potable water pipeline under Mulholland Highway that will connect to the existing potable water system in the area. The purpose of the new pipeline is to improve the existing water system between Warner Tanks and the Cold canyon Pump Station. Residential service and fire suppression services are the primary uses for the potable water currently being transmitted. The proposed project will principally serve to increase the reliability of the existing water service and address hydraulic deficiencies for improved domestic and fire protection water service. The project will not expand the capacity for LVMWD to deliver water services.

The Commission therefore finds that the project as proposed is consistent with and adequate to carry out the provisions of Section 30254 of the Coastal Act.

D. Environmentally Sensitive Resources, Water Quality, and Visual 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** 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.

Section **30107.5** of the Coastal Act, defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

In addition, Section **30251** of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting. Section 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. When determining whether any particular habitat in an area, such as the Santa Monica Mountains, should be considered environmentally sensitive habitat area (ESHA), one must focus on three main questions:

- 1) Is a habitat or species rare or especially valuable?
- 2) Does the habitat or species have a special nature or role in the ecosystem?
- 3) Is the habitat or species easily disturbed or degraded by human activities and developments?

The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is itself rare and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Therefore, habitat areas that provide important roles in that ecosystem are especially valuable and meet the second criterion for the ESHA designation. In the Santa Monica Mountains, coastal sage scrub and chaparral have many important roles in the ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of erosion, thereby protecting the water quality of coastal streams. For the Commission finds that large contiguous, relatively pristine stands of coastal sage scrub and chaparral in the Santa Monica Mountains meet the definition of ESHA. This is consistent with the Commission's past findings on the Malibu LCP¹.

Woodlands that are native to the Santa Monica Mountains, such as oak woodlands, are also important coastal resources. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. In the Santa Monica Mountains, coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more tolerant of salt-laden fog than other oaks and is generally found nearer the coast². Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains. Valley oaks are endemic to California and reach their southern most extent in the Santa Monica Mountains. Valley oaks were once widely distributed throughout California's perennial grasslands in central and coastal valleys. Individuals of this species may survive 400-600 years. Over the past 150 years, valley oak savanna habitat has been drastically reduced and altered due to agricultural and residential development. The understory is now dominated by annual

¹ Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

² NPS 2000. op. cit.

grasses and recruitment of seedlings is generally poor. This is a very threatened habitat. The important ecosystem functions of oak woodlands and savanna are widely recognized³. These habitats support a high diversity of birds⁴, and provide refuge for many species of sensitive bats⁵. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats. Therefore, because of their important ecosystem functions and vulnerability to development, the Commission has consistently found in past permit decisions that oak woodlands and savanna within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

For any specific property within the Santa Monica Mountains, it is necessary to meet three tests in order to assign the ESHA designation. First, is the habitat properly identified, for example as coastal sage scrub or oak woodland? Second, is the habitat undeveloped and otherwise relatively pristine? Third, is the habitat part of a large, contiguous block of relatively pristine native vegetation? The applicant has submitted a biological analysis of the proposed project conducted by Padre Associates in 2005 and 2006. The proposed water pipeline would be constructed under the paved portions of Mulholland Road and Dry Canyon Creek Road. All construction activities will occur within the right of ways of these roads. Construction of the pipeline, however, will require trimming of vegetation in some areas on the road shoulder to provide sufficient width to accommodate the construction equipment, pipe trench, and one lane of traffic. While the majority of the road shoulder is dominated by bare ground and disturbed nonnative grasses and weeds, several coast live oak trees occur within or adjacent to the Mulholland Highway right of way and have grown to overhang into the road shoulder. Additionally, some chaparral and coastal sage scrub habitat occurs within or adjacent to the Mulholland Highway right of way and have grown into the road shoulder. However, these native habitats have been repeatedly cleared and trimmed in order to maintain safe conditions along the road shoulder. The oak woodland, chaparral, and coastal sage scrub habitats that may be disturbed in and adjacent to the road right of way as a result of the project would, therefore, not be considered ESHA due to the fact that they have been repeatedly disturbed since the construction of Mulholland Highway.

However, in past permit actions in the Santa Monica Mountains the Commission has found that native oak trees are an important coastal resource, even if the overall woodland would not be considered ESHA. Native trees prevent the erosion of hillsides

³ Block, W.M., M.L. Morrison, and J. Verner. 1990. Wildlife and oak-woodland interdependency. *Fremontia* 18(3):72–76. Pavlik, B.M., P.C. Muick, S. Johnson, and M. Popper. 1991. *Oaks of California*. Cachuma Press and California Oak Foundation, Los Olivos, California. 184 pp.

⁴ Cody, M.L. 1977. Birds. Pp. 223–231 *in* Thrower, N.J.W., and D.E. Bradbury (eds.). *Chile-California Mediterranean scrub atlas*. US/IBP Synthesis Series 2. Dowden, Hutchinson & Ross, Stroudsburg, Pennsylvania. National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

⁵ Miner, K.L., and D.C. Stokes. 2000. Status, conservation issues, and research needs for bats in the south coast bioregion. Paper presented at *Planning for biodiversity: bringing research and management together*, February 29, California State University, Pomona, California.

and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife. Native trees that are not part of a larger, intact habitat may nonetheless provide nesting or roosting habitat for raptors and other birds that are rare, threatened, endangered, fully protected, or species of special concern. Furthermore, individual oak trees such as those on the subject site do provide some habitat for a wide variety of wildlife species and are considered to be an important part of the character and scenic quality of the area.

Oaks are easily damaged and are very sensitive to disturbances that occur to the tree or the surrounding environment. Their root system is extensive, but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases (Los Angeles County Regional Planning Oak Tree Ordinance).

Oak trees are a part of the California native plant community and need special attention to maintain and protect their health. Oak trees in residentially landscaped areas often suffer decline and early death due to conditions that are preventable. Damage can often take years to become evident and by the time the tree shows obvious signs of disease it is usually too late to restore the health of the tree. Oak trees provide important habitat and shading for other animal species, such as deer and bees. Oak trees are very long lived, some up to 250 years old, relatively slow growing, becoming large trees between 30 to 70 feet high, and are sensitive to surrounding land uses, grading or excavation at or near the roots and irrigation of the root area particularly during the summer dormancy. Improper watering, especially during the hot summer months when the tree is dormant and disturbance to root areas are the most common causes of tree loss.

Encroachments into the protected zone of an oak tree can result in significant adverse impacts. The article entitled "Oak Trees: Care and Maintenance" prepared by the Forestry Department of the County of Los Angeles states:

Oaks are easily damaged and very sensitive to disturbances that occur to the tree or in the surrounding environment. The root system is extensive but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases.

This publication goes on to state:

Any change in the level of soil around an oak tree can have a negative impact. The most critical area lies within 6' to 10' of the trunk: no soil should be added or scraped away.... Construction activities outside the protected zone can have damaging impacts on existing trees. . . . Digging of trenches in the root zone should be avoided. Roots may be cut or severely damaged, and the tree can be killed. . . . Any roots exposed during this work should be covered with wet burlap and kept moist until the soil can be replaced. The roots depend on an important exchange of both water <u>and</u> air through the soil within the protected zone. Any kind of activity which compacts the soil in this area blocks this exchange and can have serious long term negative effects on the trees. If paving material must be used, some recommended surfaces include brick paving with sand joints, or ground coverings such as wood chips . . .

Given the importance of oak woodlands and individual oak trees, even those that have been disturbed or fragmented by development, the Commission has consistently required, through past permit actions, that new development avoid the removal of oak trees, unless there is no feasible alternative for siting or designing the structures. Further, given the sensitivity of oak trees to disturbance or encroachment of development into the root zone, the Commission has required that encroachments within the protected zone (5 feet beyond the dripline, or 15 feet from the trunk, whichever is greater) be avoided unless there is no feasible alternative for the siting of development. If encroachments cannot be avoided, then the Commission requires that encroachments be minimized to the maximum extent feasible. If encroachments extend a minimal distance within the protected zone of an oak tree, the Commission has required the affected tree to be monitored for a period of ten years, to identify if the tree has been harmed by the encroachment. If it is determined that the tree has been adversely affected, then mitigation is required. In the case of significant encroachments within the protected zones of oak trees, the Commission has determined that the affected trees are likely to suffer worsened health as a result and mitigation has been required. The oak tree mitigation that the Commission has required is the planting of replacement trees, at a ratio of at least ten seedlings for every tree impacted. If there is suitable area on the project site, replacement trees should be provided on-site. The Commission has found, through permit actions, that replacement trees, particularly oak trees, are most successfully established when the trees are seedlings or acorns. Many factors, over the life of the restoration, can result in the death of the replacement trees. In order to ensure that adequate replacement is eventually reached, it is necessary to provide a replacement ratio of at least ten replacement trees for every tree removed or impacted to account for the mortality of some of the replacement trees.

In this case, the proposed project could potentially require trimming and/or excavation under and near the canopies of approximately six coast live oak trees, as identified in the Final Mitigated Negative Declaration and Biological Report for the project (Padre Associates, November 2005 and May 2006). The trimming would be necessary in order to provide the vertical clearance necessary for the construction equipment that will be used to trench and place the pipeline. The LVMWD has proposed to avoid encroachment and trimming of these oaks to the extent feasible through routing and reduced construction corridors in these areas. Additionally, they have proposed to 1) flag and fence all oak trees in close proximity to construction activities to avoid inadvertent damage, 2) hire a qualified arborist to conduct any needed trimming of oak

trees, and 3) replace any oak trees damaged by the project. Commission staff have explored alternatives for the project that could minimize potential disturbance to these oak trees. Given that the pipeline is currently proposed under Mulholland Highway, a highly disturbed area, other options for routing would entail moving the pipeline from the road right-of-way into adjacent natural areas that contain environmentally sensitive habitat areas. This would likely cause more damage to ESHA and individual oak trees. It is not feasible to site or design the development to completely avoid trimming or encroachment into the protected zone of all oak trees in the project area.

The potential impacts of such encroachments include the disturbance of oak roots through trenching, removal or trimming of branches, and incidental damage caused by construction equipment. As described above, the applicant is proposing measures to minimize such impacts by reducing the width of the construction corridor in the area adjacent to oak trees, by employing a qualified arborist to carry out any trimming, and by identifying and fencing oak trees in order to prevent accidental damage from equipment. In order to further reduce the impacts of trimming and encroachment into the protected zone of a maximum of six oak trees, the Commission finds it necessary to impose Special Condition Four (4), which requires the applicant to retain the services of a qualified biological consultant or arborist, who shall be present on site during grading operations, and during excavation and installation of the pipeline. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if any oak trees are damaged, removed, or impacted beyond the scope of the work allowed by this permit. This monitor shall have the authority to require the applicants to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. To ensure that oak trees are protected during grading and construction activities, Special Condition Four (4) also requires the applicant to install protective barrier fencing around the dripline of on-site and adjacent off-site oak trees during construction operations. Further, the condition requires the applicant to monitor the condition of oak trees on the pipeline route for a period of 10 years. If within that time any of the trimmed or impacted oaks is lost or suffers worsened health or vigor as a result of the project, the District will be required to submit, for the review and approval of the Executive Director, an off-site oak tree replacement planting program prepared by a qualified biologist or arborist. The replacement trees shall be provided at a ratio of 10 replacement trees for every impacted tree.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through, among other means, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. Additionally, Section 30240 protects against disruption to environmentally sensitive habitat areas, including riparian and stream habitats.

As stated previously, the proposed project entails the construction of a permanent potable water transmission pipeline (10-inch) between Cold Canyon Road and Ladybird Drive under Mulholland Highway. The primary uses of the potable water being

transmitted are residential and fire suppression services. The proposed pipeline alignment is situated in an LUP-designated Significant Watershed area. In addition, the pipeline would cross Cold Canyon Creek, a blueline stream. At the stream crossings, the pipeline would be installed in fill above existing culverts. No construction activities will therefore occur within any stream.

However, the Commission notes that riparian areas in the vicinity of Cold Canyon Creek provide habitat for a number of sensitive bird species, including Cooper's hawks and yellow warbler. The Final Mitigated Negative Declaration (Padre 2005) submitted for the project identifies potential project impacts on these bird species as a result of construction activities during the breeding season. The negative declaration recommends that all construction activities in the vicinity of riparian habitats in the project area either occur outside the breeding season for these birds (March 1 through August 15) or, if project activities must occur during the breeding season, that a biologist conduct biological surveys for nesting birds in the project area prior to initiation of construction activities. **Special Condition Five (5)**, therefore, requires LVMWD to implement this recommendation. If any nesting bird species are found within 300 feet of project sites, the district is required to stop work, notify the Executive Director, and modify the project design and schedule to prevent impacts on any sensitive species.

The Commission also recognizes that the proposed project may result in adverse effects to the value and quality of coastal water, including Cold Canyon Creek, as a result of erosion and sedimentation during construction. Uncontrolled erosion leads to sediment pollution of down gradient water bodies. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean.

As proposed, the project involves trenching along the pipeline route. The Commission notes that stockpiling of excavated soil could result in erosion and sedimentation impacts to quality of adjacent waters. To minimize adverse effects to coastal waters resulting from either contamination or increased sedimentation, the Commission finds it necessary to require the applicant, as described in **Special Condition Three (3)** to submit erosion control plans which provides for the stabilization of disturbed areas and all temporary stockpiled fill on site and to utilize best management practices including, but not limited to, the installation of temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing during construction activity to minimize erosion on the project site.

Section 30251 also requires that development be sited and designed to protect views of scenic areas, minimize alteration of landforms, and be visually compatible with the surrounding area. The grading proposed for the project is only for the trenching of a corridor to install the pipeline. No additional grading is required. While the project is adjacent to parkland and other public viewing locations, including Mulholland Highway,

once constructed the proposed pipeline will be located under the highway and will not be visible from these public locations. However excess materials and soils excavated during construction could contribute to unnecessary landform alteration and erosion and sedimentation if not properly removed from the construction site. Therefore, the Commission requires **Special Condition Five (5)** which requires that the applicant dispose of excess excavated materials at an appropriate disposal site or to a site that has been approved to accept fill material.

For the above reasons, the Commission finds that the proposed project as conditioned is consistent with Sections 30230, 30231, 30240, and 30251 of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act states:

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 program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for the Santa Monica Mountains which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a 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 Environmentally 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.





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