

CALIFORNIA COASTAL COMMISSION

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



Thu 18d

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-06-097

Applicant: City of Del Mar

Agent: Dr. Hany Elwany

Description: Excavation of approximately 15,000 cu.yds. of sediment from an approximately 1.5 acre area at the lagoon mouth to restore tidal action, discharge of the excavated materials over approximately .2 acres of supratidal beach, and regrading of the beach to re-establish natural contours; this is the follow-up to Emergency Permit #6-06-097-G and includes a request for additional mouth openings as needed for five years.

Site: Mouth of San Dieguito Lagoon, from the shoreline to the railroad bridge, Del Mar, San Diego County. APNs 299-030-08 & 09

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed follow-up permit to the emergency action taken in September, 2006 to restore tidal action at the mouth of the San Dieguito Lagoon. Staff recommends approval of the proposed five-year permit, but also recommends an option to amend the permit for additional time if the San Dieguito Wetland Restoration Project, approved pursuant to Coastal Development Permit (CDP) #6-04-088, is not complete in five years. One component of that restoration plan involves dredging the inlet to create a permanently open lagoon mouth. The restoration project is currently underway, but work at the inlet is the final phase of a multi-year construction period, such that additional openings may be required pursuant to the subject permit before the restoration is complete.

Issues raised by the proposal are potential impacts on wetlands, public access, water quality and beach erosion. Historically, the lagoon mouth closes periodically due to a buildup of sands and sediments washing in from the ocean with the tides and coming downstream from the significant amount of inland development that is occurring. When

the mouth is closed, the lagoon ecosystem becomes distressed, which can lead to impacts on lagoon habitat (i.e., fish kills, etc.) Thus, it has been necessary to artificially open the lagoon mouth from time to time to maintain the health of the ecosystem. The issues raised by this proposal are resolved with the attached special conditions which establish minimum biological criteria required to perform a mouth opening; provide seasonal restrictions on when openings may occur; and require monitoring and reporting of the effects of all openings on water quality and sediment transport in an annual report.

In the past, there have been project opponents concerned that inlet openings may have adverse effects on the beaches south of the inlet, resulting in a threat to their beachfront homes. Conditions of past permits required that dredged materials be placed on the beachfront south of the inlet, nearest the adjacent homes, unless the owners object. That restriction is not recommended herein; consistent with the major lagoon restoration CDP, dredged sands may be placed on either the north or south side of the inlet, or on both sides, depending on the longshore transport, which changes direction seasonally. It is not believed that there are still opponents to the current proposal.

Substantive File Documents: Certified City of Del Mar LCP Land Use Plan and draft Implementing Ordinances; San Dieguito Lagoon Enhancement Plan; CCC Files: 6-83-148; 6-97-36; 6-99-12; 6-00-134, 6-04-088 and 6-06-097-G

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-06-097 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. Term of Permit. This permit is valid for a period of five years from the date of Commission action. If future lagoon mouth openings beyond this date are required, the California Coastal Commission will accept an amendment application to extend the subject permit until inlet improvements permitted through CDP #6-04-088 are in place and operational. Any modification of the project within the five year period, such as changes in channel size or location, timing of work, staging areas, or biological criteria used to determine the need for lagoon mouth openings, will require an amendment to this permit unless the Executive Director determines that no amendment is legally required.

2. Timing of Work. Lagoon openings shall only occur with the confirmation of the California Department of Fish and Game that the dredging, on the date proposed, will not cause adverse impacts on sensitive, threatened, or endangered species or the biological productivity of the area, and shall adhere to the following criteria:

a. No dredging may occur within 14 days before a holiday or scheduled beach event (e.g., marathon; surfing contest., etc.).

b. No equipment shall be stored on the beach or in public parking areas overnight.

c. No work shall occur during the two-week period spanning Easter (i.e., spring break) of any year.

d. Commission staff shall be notified prior to commencement of any dredging.

Openings during the summer months shall be avoided if possible; however, if openings are necessary during the summer, the following additional requirement shall be met:

e. No work shall occur on Fridays, weekends or holidays between Memorial Day weekend and Labor Day .

3. Initiation of Work. The proposed channel excavation work shall be performed only:

- a. when the dissolved oxygen levels in the lagoon are less than 5 parts per million (ppm), or
- b. when the water salinity level in the lagoon is below 25 parts per thousand (ppt) and dissolved oxygen levels are determined by a qualified biologist to be likely to drop below 5 ppm within the next two-week sampling interval, or
- c. when the water salinity level in the lagoon is above 33 ppt (hypersaline).

The sampling results or biologist's determination that triggers a decision to open the lagoon mouth shall be reported in writing, if time permits, or verbally, with written follow-up, to the San Diego District office of the Coastal Commission within one business day of any proposed opening, and shall be submitted to the Executive Director as part of the annual report required in Special Condition #4.

4. Monitoring Report. By April 1 of each year, the applicant shall submit for the review and written approval of the Executive Director a monitoring report for the project. The report shall summarize the impacts of any openings occurring during the previous year, including the openings' impacts on public access, recreation and the biological productivity of the lagoon, and any changes in the tidal prism caused by external factors (such as upstream development impacts, extreme storm conditions or unusual tides) which may have contributed to the need for the lagoon mouth openings. The report shall include recommendations for any necessary changes or modifications to the project. In addition, the annual report shall include the following information for each of the openings that occur over the subsequent years:

- a. The date of the opening(s) which occurred, along with the date of each subsequent closure.
- b. The specific biological criteria (described in Special Condition #3) which triggered each opening, along with a site map indicating the location where the determining samples were taken.
- c. Sand level measurements taken before and after each opening wherein 3,500 cu.yds. or more of excavation occurs. The surveys will occur at SI01, SI02, SI05 and SI06, from the back of the beach to a depth of -6 ft. NGVD. Beach profile surveys prior to the inlet opening shall be measured within 1 month of the opening; beach profile surveys after the inlet opening shall be measured within 1 month and within 3 to 4 months of the opening.
- d. Any noted adverse impacts on lagoon resources or adjacent public beach or park and recreation areas resulting from each mouth opening, and recommendations to avoid or mitigate these impacts with future openings.

The report shall be submitted annually beginning the first year after Commission approval of the permit. The permittee shall undertake development in accordance with

the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Staging/Storage Area(s). **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a site plan and/or area map delineating all areas, both on- and off-site, which are proposed to be used for staging and storing equipment. Staging/storage areas shall be subject to review and approval by the Executive Director, shall not involve the use of any environmentally sensitive lands, and shall minimize disturbance to public access and recreation to the maximum degree possible by avoiding the use of public parking areas. The staging area proposed for the San Dieguito Restoration Plan (CDP #6-04-088) may be utilized for the subject project except between Memorial Day weekend and Labor Day of any year.

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

6. Deposition of Dredge Material. Beach sand removed from the inlet channel shall be placed on the beach adjacent to the inlet, above the mean high elevation or at the back beach. Dredged sands may be placed on either the north or south side of the inlet, or on both sides.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description and History. The subject permit application has been submitted to achieve two goals. First, this represents the follow-up permit to Emergency Permit #6-06-097-G, issued on August 24, 2006. That activity involved the removal of approximately 15,000 cu.yds. of sediment from an area extending from the shoreline to the railroad bridge at the mouth of the San Dieguito River. The mouth had been closed since June 14, 2006, and biological conditions within the lagoon had deteriorated to the point that dissolved oxygen values were less than 3 ppm. The emergency mouth opening occurred in mid-September, 2006. In addition to the excavation activities, the project approved in the emergency action included the deposition of the excavated materials on the beaches immediately north and south of the river mouth and minor grading of those beaches to re-establish natural contours.

The second purpose of the application is to request authorization for future mouth openings, to be performed as needed over the next five years. These potential future openings are proposed to use the same location, equipment, design, etc. as were used in the emergency opening last year, and would be triggered by similar biological conditions

as occurred with the emergency action. The deposition of dredged materials on the beach is also proposed for any additional openings. In connection with the prior permit (CDP #6-00-134), the Commission's staff ecologist reviewed the biological criteria historically applied up to that point and modified the salinity criteria (20 ppt to 25 ppt) to allow dredging to occur before the lagoon resources are imminently or actively distressed. Those revised criteria are used in Special Condition #3, attached.

The Commission has a long history of permitting the artificial opening of lagoons in San Diego County, including Los Penasquitos, San Elijo and San Dieguito Lagoons. These openings were typically proposed based on certain criteria being met related to salinity, dissolved oxygen and other water chemistry conditions as indicators of impending fish kills, alga blooms or similar unhealthy occurrences. At Los Penasquitos and San Elijo Lagoons, the Commission has also approved a number of permits and amendments for opening the lagoon mouth as experiments to allow the lagoon mouth to remain open for a longer period of time; these involved the removal of a more substantial amount of material (sediments and cobble) than would occur with the intermittent emergency openings designed only to prevent serious biological degradation. Although older permits typically allowed a one-time opening only, more recently the Commission has been approving permits for a set period of time (ranging from one year to five years) wherein multiple openings could occur as needed based on certain biological criteria being met.

Unlike Los Penasquitos and San Elijo Lagoons, the openings at San Dieguito have generally been done pursuant to Coastal Development Permit #6-83-148. That permit was for implementation of portions of the 1979 San Dieguito Lagoon Enhancement Plan, and included a condition assigning the City of Del Mar the responsibility of opening the lagoon mouth once each year prior to the rainy season. The City now seeks permission to open the lagoon mouth more than once per year when specified biological or water quality criteria are triggered. The subject permit, unlike CDP #6-83-148, imposes monitoring requirements and restrictions to limit potential adverse impacts on public access and recreation and sand supply.

The San Dieguito Wetland Restoration Project, authorized in CDP #6-04-088, involves extensive wetlands restoration both east and west of I-5, in part as mitigation for fisheries impacts occurring at the San Onofre Nuclear Generating Station (SONGS). That project began construction in the latter part of 2006, and will ultimately provide a permanently open lagoon mouth. From that point, incremental lagoon mouth openings such as are proposed herein will no longer be necessary. However, work at the inlet is the last phase of the project, which is anticipated to be ongoing for at least three years. Thus, the City is requesting that the subject permit be valid for five years, on the assumption that by then the larger project will have been implemented and this permit will no longer be necessary. Special Condition #1 allows additional openings as needed for the proposed five-year period, but will also allow an amendment to this permit to extend the time further if the wetland restoration project does not complete the inlet dredging and achieve a permanently open lagoon mouth within five years.

The City of Del Mar has a fully certified LCP and issues CDPs for the entire city at this time, except for the Del Mar Fairgrounds, which is geographically mostly within the City of Del Mar, but is not part of the certified LCP. However, the lagoon, river mouth and beach areas that are the subject of this permit are all tidelands such that the Commission retains permit jurisdiction over this particular site in perpetuity. Therefore, the Chapter 3 policies of the Coastal Act are, and will continue to be, the standard of review, with the City's certified LCP used as guidance.

2. Sensitive Habitats. The following Coastal Act policies are most applicable to this application, and state, in part:

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...

Section 30233

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

[...]

(7) Restoration purposes.

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

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

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

Section 30240

(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 such areas, and shall be compatible with the continuance of such habitat areas.

The subject site is located at the mouth of San Dieguito Lagoon, an environmentally sensitive habitat area that is one of the 19 priority wetlands listed by the State Department of Fish and Game for acquisition. At this time, the lagoon is under both public and private ownerships; the actual project site is within the City of Del Mar, and is included in a lease agreement between the State Lands Commission and the San Dieguito River Park Joint Powers Authority (JPA) and Southern California Edison, the co-permittees for the San Dieguito Wetland Restoration Project. A significant feature of the restoration plan will be maintaining the lagoon mouth in an open condition to maximize tidal flushing of the lagoon. The proposed development is not part of the wetland restoration project, but has been designed to be compatible with the wetland restoration project.

The proposed development involves the removal of sediments from the mouth of San Dieguito Lagoon. Under the Coastal Act, dredging of lagoons and/or open coastal waters is severely constrained. To be allowable under Section 30233, the proposed development must be one of the listed permitted uses. In this case, the proposal is for restoration purposes, an allowed use in wetlands. In addition, the development must be found to be the least environmentally damaging feasible alternative, incorporate feasible mitigation measures for any associated adverse impacts and either maintain or enhance the functional capacity of the wetland system. The proposed development is the least environmentally-damaging alternative, as it proposes the minimal amount of work required to open the lagoon mouth. Moreover, there are no identified adverse impacts to either wetlands or uplands associated with the proposal, and it will restore and enhance the functional capacity of the wetland system. Some prior concerns regarding potential impacts on upland species were addressed and resolved in the City's previous permit, CDP #6-00-134, which found that there are no such impacts.

Information received from the various resource agencies (U.S. Department of Fish and Wildlife and State Department of Fish and Game) regarding past proposals to open this and other Southern California lagoon systems indicate that the biological resources of these lagoons have been significantly stressed due to the frequent closures of the lagoon mouths. Lack of tidal action has a number of adverse effects on a lagoon environment. The lagoon water becomes stagnant, reducing the oxygen levels in the water. Reduced oxygen can lead to eutrophication, the condition where a closed body of water can "turn over," where large amounts of methane and hydrogen sulfide gas are released at the

bottom and absorbed into the water, leading to fish and benthic invertebrate kills. Another problem facing the lagoon environment is the salinity levels of the water. Together, lack of tidal influence and low levels of freshwater inflow increase the salinity and temperature of the water, creating a hypersaline situation which is stressful, if not deadly, to many forms of plant and animal life in the lagoon. Conversely, decreased salinity caused by the combination of high levels of freshwater inflow and lack of tidal action allows for the establishment and growth of freshwater vegetation such as willows, cattails and tules in areas formerly entirely covered by salt marsh vegetation.

The proposed project will help maintain tidal flow into the lagoon and enhance the biological productivity of the lagoon. The proposed sediment removal will allow the mouth to remain open longer to flush out stagnant water, replace low-salinity water and allow for the reestablishment of estuarine and marine invertebrates, fish and plant species. As proposed, the project does not involve any alteration or impact to existing habitat. The subject development will restore and enhance the functional capacity of the lagoon, and thus, is a permitted use under Section 30233 of the Act.

Dredging the lagoon mouth is a relatively inexpensive means of increasing tidal flushing and improving the biological productivity of the lagoon in a manner that has the least impact on the lagoon and surrounding environment. The U.S. Department of Fish and Wildlife Service and the California Department of Fish and Game were actively involved in the previous permit for this activity, CDP #6-00-134, and indicated their support for maintaining the lagoon mouth in an open condition to the greatest degree possible.

In past applications for the same development as proposed herein, the Commission's ecologist reviewed both any emergency actions that had occurred and the requests for future mouth openings and determined that the biological criteria required in Special Condition #3 are appropriate to assess the need to open the lagoon. Briefly, the criteria allow the mouth to be opened in three situations: 1) when dissolved oxygen levels are less than 5 ppm; 2) when the salinity level is below 25 ppt and oxygen levels are expected to drop below 5 ppm within two weeks; or 3) when the salinity level is above 33 ppt. The biological parameters addressing minimum salinity levels were modified slightly in 2000 such that an opening can occur under less stressful conditions than those dictated by the previously applied criteria. Thus, the proposed project would carry out the goals of the resource protection policies of the Coastal Act. However, to ensure the work continues to be reviewed by the appropriate resource agencies, Special Condition #2 requires that the proposed work be coordinated with the State Department of Fish and Game, and that the Commission be notified of the dredging operations.

In addition, Special Condition #4 requires an annual monitoring report to document all openings performed pursuant to this permit. The report must address the number and dates of each opening, the particular biological reason which prompted each opening, beach profiles before and after each opening, weather and tide conditions which may have contributed to the described criteria and any adverse impacts on the lagoon and the adjacent beach resulting from the opening(s). The report must document the openings over the year, summarizing what, if any, impacts on the lagoon resources occurred as a

result of the project, and provide recommendations on how such impacts could be avoided or mitigated in the future should such a project be contemplated again.

In summary, and as conditioned, the project will have a positive impact on the natural resources of the lagoon. A closed lagoon mouth stresses the ecosystem beyond the point where it can recover on its own. The proposed development is an allowed use pursuant to Section 30233 of the Coastal Act, and the project is designed to minimize any potential adverse impacts on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30231, 30233 and 30240 of the Coastal Act.

3. Public Access/Recreation. The proposed project is located between the first public road and the sea. Sections 30210-30214 of the Coastal Act state that maximum access and recreation opportunities be provided, consistent with, among other things, public safety, the protection of coastal resources, and the need to prevent overcrowding. In particular, Section 30211 of the Act 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.

As discussed in the previous section, all the various resources agencies, lagoon managers, local coastal wetland experts, and the Commission's ecologist, have agreed that opening the lagoon mouth is beneficial to the lagoon environment. However, there are a number of concerns related to public access and recreation associated with the project.

The project site is the mouth of San Dieguito Lagoon, which empties into the Pacific Ocean at Del Mar. The river channel runs across the municipal beach at the northern end of the city, and can be traversed on foot during most tidal regimes. The public beach provides very popular day-use facilities for beach visitors and serves as an important recreational resource of region-wide importance. As the proposed development will occur on the beach and the far-western portions of the lagoon, the potential for adverse impacts on public access and recreational opportunities exists.

Based on the experience of previous lagoon mouth openings, at several different regional lagoons, it can be anticipated that after an initial opening, bacterial counts will exceed water quality standards and body contact with the water in the general area of the lagoon mouth will be prohibited. However, these reports indicate that within a short period of time, water quality in the surfzone should meet the recreational standard as seawater dilution of the lagoon occurs, and after contaminated water in the Lagoon has flowed out. In addition, because bacteria levels deteriorate quickly once tidal flow is established, the longer the lagoon stays open, the less often the beach area surrounding the mouth has to be closed. However, if the lagoon does close and is then reopened, resulting in high enough bacterial counts that the beach must be closed, the proposed development could significantly impact public recreational opportunities during high use periods such as weekends or holidays during the summer months. Although this has always been a

known concern, in permitting previous lagoon mouth openings, the Commission has not found this to be a significant impact on public recreational opportunities as the lagoon mouth openings generally occur in the non-summer months and the high bacteria levels only last a few days to a week.

The Commission finds that every effort should be made to avoid an opening on weekends, during holiday periods (especially spring break), and during the period between Memorial Day weekend and Labor Day, when beach use is at its peak. Under the terms of the attached special conditions, no dredging may occur 14 days before a holiday or a scheduled beach event, no operations would occur on weekends during the summer months, and would occur on weekends in the winter only if necessary. Moreover, the conditions require that no equipment be stored in public parking areas overnight. The San Dieguito Restoration Plan has identified a staging area on the large north beach area, well inland from the surf zone, for its future activities at the lagoon mouth. The City of Del Mar proposes using this area for staging equipment to conduct any future mouth openings, since it is proposed for the major restoration project pursuant to CDP #6-04-088, and is consistent with the staging area requirements of that permit. Therefore, the Commission finds use of this area for staging is appropriate except during the summer months between Memorial Day weekend and Labor Day when beach use is at its highest level.

Although the attached special conditions will not assure that the beach is never closed during weekends and holidays, it will help ensure that the highest levels of contaminants which are present immediately after the mouth is opened have time to dissipate before the weekend and that no equipment will physically block the shoreline or access to it. Thus, the dredged lagoon mouth should not adversely affect the public's ability to pass along the beach in front of the lagoon mouth, as it typically results in a shallow flow of water that can easily be crossed by foot.

Moreover, the Commission acknowledges that the project will also have a beneficial effect on public recreation. All sediments excavated from the lagoon are deposited on the beaches just north and/or south of the mouth, effectively augmenting the sandy area available for public use. The beach remains open to the public during the excavation operations, except for the actual site of dredging. Based on the monitoring reports of numerous lagoon/river mouth openings in San Diego County, the past openings do not appear to have imposed any significant hardships on the public. To ensure that this remains the case, Special Condition #4 requires the submittal of a monitoring report by the applicant which documents any noted adverse impacts on public access and recreation opportunities should the lagoon mouth require an opening in the summer. The report should also identify potential ways to mitigate any identified impacts should multiple openings of the lagoon be proposed again in the future.

The proposed project has been identified as being beneficial to the lagoon and its associated habitat. Some inconvenience to beach users could result if the lagoon must be opened in the summer months; however, it is the intention of the project to keep the lagoon mouth open as long as possible, which will reduce the impacts associated with

individual openings. With the proposed conditions of approval, impacts to public access and recreation will be reduced to the maximum amount feasible. The applicant will be required to monitor and record any impacts and propose a means of mitigating any identified impacts for future similar projects. Thus, as conditioned, the Commission finds the proposed development is consistent with the public access and recreation policies of the Coastal Act.

4. Water Quality. The following Coastal Act policies are applicable to the proposed development and state:

Section 30230

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

Section 30231

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

The issue of water quality has been discussed in the two previous findings, with regard to adverse impacts on the biological resources in the lagoon when the mouth is closed, and adverse impacts on public access and recreation immediately following a mouth opening. There is, however, a serious potential hazard to human health in situations where the lagoon mouth is closed for extended periods and the water quality therein is deteriorating. Many people, especially those with small children, recreate in the waters of the lagoon/river mouth instead of on the actual shoreline, since the waters of the lagoon/river mouth are much calmer than the open ocean, especially when the mouth is closed. Although health hazard warnings in the form of signs are generally in place during these situations, they are largely ignored, as evidenced by the large numbers of people playing in the lagoon mouth during closed situations. This further supports the argument for keeping lagoon mouths open as often as possible, since the health of human beings, as well as lagoon species, is endangered when the mouth is closed. The Commission finds the proposed development, which will maintain an open lagoon mouth for longer periods of time, is thus consistent with the cited sections of the Coastal Act.

5. Beach Erosion. San Dieguito Lagoon is a southern California lagoon that has had long periods of time that it is open to tidal flushing and long periods of time that it is closed to tidal flushing. In the past, the lagoon mouth has been mechanically breached and it has been opened by flood events. Past opponents of this project maintained that opening the mouth of San Dieguito Lagoon adversely affected their properties, which are located immediately south of the inlet. However, the extensive review conducted for the San Dieguito Wetlands Restoration Project, and also for CDP #6-00-134, demonstrated that this does not appear to be the case. Historic surveys of the beach area north and south of the lagoon, showed that the beaches near the lagoon have large seasonal variability in beach width, and that dredging and opening the lagoon mouth returns material to the sand budget. While high flood events quickly open the lagoon mouth and scour a fairly deep flood channel that rapidly alters the adjacent beach area and causes beach erosion, lagoon breaching for tidal exchange does not have this same dramatic effect.

Regular longshore transport of sand will continue while the inlet is open for tidal exchange. During the initial mechanical breach, there could be high flows if the lagoon level is higher than the ocean level. There could be a small diversion of sand offshore, into the nearshore littoral transport zone and some beach quality material could be diverted past the beach areas immediately adjacent to the inlet. To account for this possible small impact, Special Condition #6 requires that the beach quality material dredged from the inlet will be placed on the dry beach area north and/or south of the inlet, dependent primarily on the direction of longshore transport. This material will thus expand the protective beach enhancing the beach experience and providing additional buffer to the private properties on Sandy Lane. It will also offset any possible erosion from the higher flows that could occur immediately after the opening.

Since there could be some small localized changes that might be attributable to the inlet opening, Special Condition #4 requires that the applicant, as part of the required project monitoring, measure sand levels north and south of the inlet, and offshore, both before and after each opening to help determine whether inlet opening affects the movement and distribution of sand along the shoreline. These surveys will be provided to the executive director in a report, and examination of the data may provide some indication if the inlet is affecting the local beach adjacent to the inlet, although past monitoring reports have not identified such an affect thus far. Since all material dredged from the inlet will be used as beach nourishment, this will provide a benefit to the beach that is expected to exceed any impact from the inlet opening itself.

In summary, the Commission finds that mechanical opening of the San Dieguito Lagoon inlet should not result in increased erosion to the beach south of the inlet. Special Condition #4, described above, and Special Condition #6, that requires the dredged material to be placed on the beach, will more than address any possible losses that could result from the inlet opening. Therefore, as conditioned, the Commission finds the proposed development consistent with Coastal Act policies addressing erosion.

6. Local Coastal Planning. As stated, the subject site is located in the City of Del Mar, at the mouth of San Dieguito Lagoon, west of Highway 101 at the city's municipal beach. The proposed development has been reviewed and approved by the City, and is consistent with the certified LCP, which the Commission uses as guidance in the review of coastal development permit applications. As conditioned, the Commission finds the proposed development consistent with all applicable Chapter 3 policies of the Coastal Act, which will continue to be the standard of review in this area of original jurisdiction. Therefore, the Commission finds the proposed development, as conditioned, will not affect the ability of the City of Del Mar to continue implementation of its certified local coastal program for the remainder of the City.

7. 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 Chapter 3 policies of the Coastal Act. Mitigation measures, including measuring biological criteria to determine when an opening is warranted, measuring sand levels before and after an opening to determine if there are any changes in erosion rates, restrictions on timing of the work and submittal of monitoring reports, have been incorporated as conditions of approval which 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, as conditioned to mitigate identified impacts, is the least environmentally damaging feasible alternative and is 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.

6-06-097

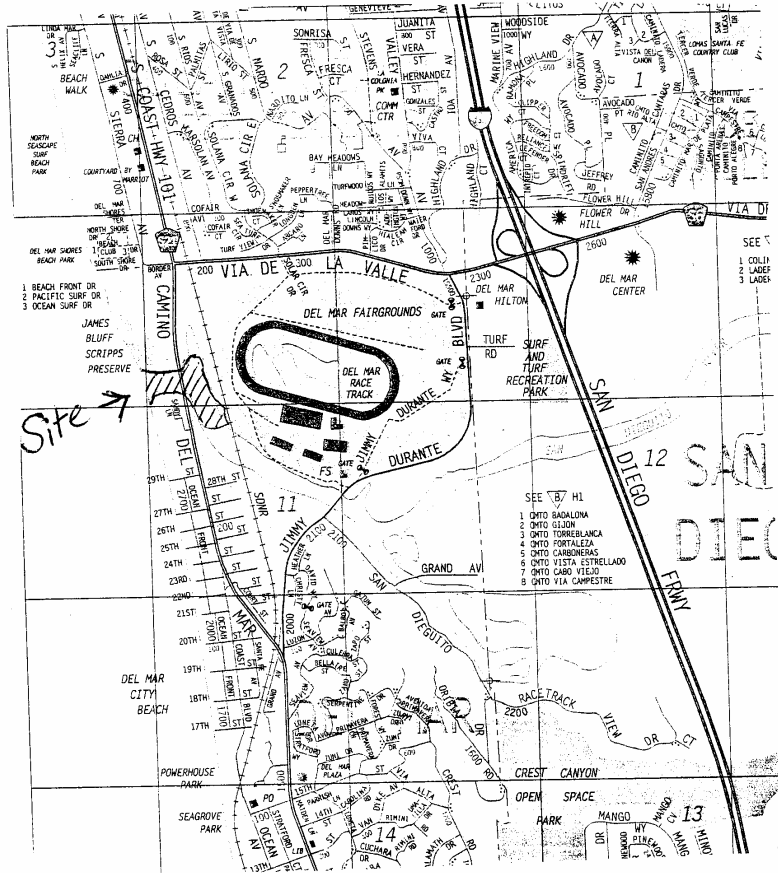


EXHIBIT NO. 1
APPLICATION NO.
6-06-097
Location Map
California Coastal Commission

CALIFORNIA COASTAL COMMISSION

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



EMERGENCY PERMIT

Applicants: **City of Del Mar**

Date: August 24, 2006

Agent: **Coastal Environments/Hany Elwany**Emergency Permit No. **6-06-097-G**

LOCATION OF EMERGENCY WORK: Mouth of San Dieguito Lagoon, from the shoreline to the railroad bridge, Del Mar, San Diego County

WORK PROPOSED: Excavation of approximately 15,000 cu.yds. of sediment from an approximately 1.5 acre area at the lagoon mouth to restore tidal action, and discharge of the excavated materials on the beach north of the inlet.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and sampling results that an unexpected occurrence in the form of dangerously low dissolved oxygen levels requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director of the Coastal Commission hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows;
- (c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the attached page.

Sincerely,

PETER M. DOUGLAS
Executive Director

Deborah N. Lee
By: DEBORAH LEE
Deputy Director

EXHIBIT NO. 2
APPLICATION NO. 6-06-097
Emergency Permit w/Attachments
<i>6 orges</i> California Coastal Commission

Emergency Permit Number: 6-06-097-G
Date: 8/24/06

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the applicant/agent and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific properties listed above is authorized. The construction, placement, or removal of any accessory or protective structure, including but not limited to, stairways or other access structures, walls, fences, etc. not described herein, are not authorized by this permit. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within **30 days** of the date of this permit (i.e., by **September 22, 2006**).
4. Within **60 days** of the date of this permit (i.e., by **October 22, 2006**), the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent.
5. The subject emergency permit is being issued in response to a documented emergency condition where action needs to be taken faster than the normal coastal development permit process would allow. By approving the proposed emergency measures, the Executive Director of the Coastal Commission is not certifying or suggesting that the emergency actions taken under this emergency permit will provide necessary protection for the lagoon resources. Thus, in exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g. Dept. of Fish & Game, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, State Lands Commission.)
7. No work shall occur on Fridays, weekends or holidays between Memorial Day and Labor Day.

As noted in Condition #4, the emergency work carried out under this permit is considered to be TEMPORARY work done in an emergency situation. As a follow-up to the emergency permit, a regular Coastal Permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include restrictions on the timing of work, documentation of specific biological criteria, and monitoring requirements.

If you have any questions about the provisions of this emergency permit, please call the Commission's San Diego Coast Area Office at the address and telephone number listed on the first page.

CALIFORNIA COASTAL COMMISSION

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



EMERGENCY PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

RE: **Emergency Permit No. 6-06-097-G**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the San Diego Coast Area Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that a regular Coastal Permit is necessary to permanently authorize the emergency work. I agree to apply for a regular Coastal Permit within 60 days of the date of the emergency permit (i.e., by October 22, 2006).

Signature of applicant

Name

Address

Date of Signing

**San Dieguito Lagoon Monitoring
Water Quality Data**

Date: 11 August 2006
Sample Depths: Surface and Bottom

Station	Location	Depth	Temperature (°C)	pH	DO (ppm)	Salinity (ppt) M
Average "Good/Healthy Range"			10.0-25.0	7.5-8.5	> 4.0	> 25.0
TS3	West Channel	S	27.2	8.53	3.8	30.0
TS3	West Channel	B	27.2	8.54	3.9	30.0
TS8	South Channel	S	27.0	8.64	0.0	32.0
TS8	South Channel	B	27.0	8.64	0.0	32.0
TS15	North Channel	S	24.5	8.59	0.3	25.0
TS15	North Channel	B	27.6	8.42	0.0	25.0

* The Lagoon is in critical condition. The Dissolved Oxygen has decreased to dangerous levels due to the loss of tidal flushing associated with the inlet closure.

RECEIVED

AUG 21 2006

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

UNIVERSITY OF CALIFORNIA, SANTA BARBARA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO

SANTA BARBARA • SANTA CRUZ

Stephen Schroeter, Ph.D., Research Ecologist
 FAX: (760) 438-8684
 E-MAIL: schroete@lifesci.ucsb.edu
 TELEPHONE: (760) 438-5953

Mark Page, Ph.D., Research Biologist
 FAX: (760) 438-8684
 E-MAIL: schroete@lifesci.ucsb.edu
 TELEPHONE: (760) 438-5953

UNIVERSITY OF CALIFORNIA
 MARINE SCIENCE INSTITUTE
 2270 CAMINO VIDA ROBLE, SUITE D
 CARLSBAD, CA 92009

UNIVERSITY OF CALIFORNIA
 MARINE SCIENCE INSTITUTE
 UNIVERSITY OF CALIFORNIA
 SANTA BARBARA, CA 93106

17 August 2006

Ms. Linda Niles
 Planning and Community Development Director
 City of Del Mar
 1050 Camino Del Mar
 Del Mar, California 92014-2698
 Fax: (858) 755-2794

RECEIVED

AUG 18 2006

CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

Subject: Necessity for a Non-emergency Permit to Open the San Dieguito Lagoon Inlet

Dear Ms. Niles:

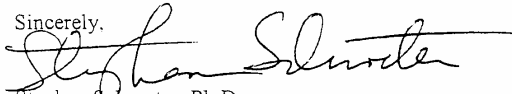
We are writing in support of an emergency permit to open and maintain the San Dieguito Lagoon inlet. As you know, the opening of the San Dieguito Lagoon inlet by the City of Del Mar on 23 September 2000, 4 October 2002, and September 5, 2003 resulted in immediate improvement in water quality and relieved stresses on fish and invertebrate communities in the lagoon. Immediately prior to both openings the lagoon experienced dramatic degradation of the physical environment caused to a large degree by very low dissolved oxygen levels. This condition was a prime factor in the dramatic fish kills that occurred prior to both openings.

Recently, the Lagoon has experienced intermittent openings and closures during May and June and closed permanently on June 14, 2006. Since this closure we have noted the same dramatic increases in abundance of the aquatic plant, *Ruppia maritima*, and its subsequent die-offs, leading to substantial reduction in dissolved oxygen levels that occurred after extended closures in 2000, 2003 and 2003. In the past, these changes led to: 1) Precipitous declines in resident fish populations (top smelt and gobies), 2) Near extinction of the usual estuarine invertebrate species at all of our sampling locations, 3) Significant mortality of larger fish, including the spotted bay bass (*Paralabrax maculatofasciatus*) and the California Halibut

(*Paralichthys californicus*). During the current closure we have also noted even more extreme reductions in dissolved oxygen levels and expect to see adverse biological effects similar to those noted during past inlet closures.

Past events and current monitoring argue strongly for an emergency inlet opening to avoid catastrophic effects on the biota in the San Dieguito Lagoon that will almost certainly occur if the current closure continues to be in effect. We therefore strongly endorse the City of Del Mar's application for a permit that will allow the City to undertake inlet maintenance at the earliest possible opportunity.

Sincerely,



Stephen Schroeter, Ph.D.

Research Ecologist
Marine Science Institute
University of California Santa Barbara

Mark Page, Ph.D.
Research Biologist
Marine Science Institute
University of California Santa Barbara

cc: Dr. Hany Elwany, President, Coastal Environments, Oceanographic and Coastal Services