

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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W16a

Filed: September 21, 2006
49th Day: November 9, 2006
180th Day: March 20, 2007
Staff: Karl Schwing-LB
Staff Report: January 25, 2007
Hearing Date: February 14-16, 2007
Commission Action:

**STAFF REPORT: MATERIAL AMENDMENT**

APPLICATION NO.: 5-05-417-A1

APPLICANTS: Municipal Water District of Orange County (MWDOC)
California Department of Parks & Recreation (CDPR)

PROJECT LOCATION: Doheny State Beach, City of Dana Point (County of Orange)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction and testing of a slant well as part of a subsurface intake system feasibility investigation for a potential future ocean desalination project. The proposed well head will be within the sandy beach, with the 24-40 inch diameter well extending under the ocean -at an angle of 23 degrees- a horizontal distance of approximately 400 feet from the well head to an approximate vertical depth of 156 feet below the ocean floor. A temporary pump will be installed at the well head for well development and aquifer testing. Water pumped from the well will be tested and discharged to the surf zone or San Juan Creek via a temporary pipe with diffuser screen. The pump and discharge pipe will be completely removed upon completion of testing. The well head will be capped and buried below beach level upon completion of testing.

DESCRIPTION OF PROPOSED AMENDMENT: Extend the term of use of groundwater monitoring well MW1, which is installed three (3) feet below ground surface on the sandy beach, to December 2010, and permanently authorize use of groundwater monitoring well MW2, which is installed in a landscaped area inland of the beach. The proposed project does not affect the previously authorized -and now constructed- test slant well.

SUMMARY OF STAFF RECOMMENDATION:

The proposal would allow MWDOC to extend their use of existing, vertical, groundwater monitoring wells that were installed and proposed to be removed under a coastal development permit waiver in 2005. These existing monitoring wells are not designed for seawater intake; they can only function as monitoring and data collection devices. MWDOC would utilize the existing vertical wells for groundwater testing under existing conditions. However, these wells would also be used for further testing of the existing slant well if such testing is authorized by the Commission in the future. This amendment does not authorize any further testing of the slant well, which was constructed and briefly tested by MWDOC in 2006, in accordance with their proposal and the Commission's approval. The slant well is presently capped and buried by three to six feet of sand and is non-operational. Commission staff are recommending approval of the proposal, subject to the following special conditions: 1) requirements relative to well capping and burial, and well closure/destruction of monitoring well MW1 by December 7, 2010; 2) notification of future permit requirements; 3) notification of limitations on this authorization; and 4) a condition

applying previously imposed conditions relative to liability and no future shoreline protection to the monitoring wells.

NOTE: This permit does not authorize any other activities that may be associated with a larger or more permanent desalination facility, as such a proposal will require additional review for conformity to the Coastal Act, which review and analysis will be conducted independently of the current decision, with the current decision exerting no influence over or causing any prejudice to the outcome of that separate decision.

PROCEDURAL NOTE:

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

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

The amendment request involves the permanent authorization of one monitoring well and an extension of the time allowed for operation of a second monitoring well. The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

Section 13166 of the Commission Regulations also calls for the Executive Director to reject a permit amendment request if it would lessen the intent of the previously approved permit.

The proposed amendment would not lessen the intended effect of Coastal Development Permit No. 5-05-417 envisioned in the Commission's January 2006 action approving the project with conditions. Therefore, the Executive Director accepted the amendment request.

STANDARD OF REVIEW:

The proposed development is taking place at Doheny State Beach in the City of Dana Point, which is a certified area under the Dana Point Specific Plan/Local Coastal Program. However, the proposed development is located upon filled tidelands. Therefore, the development is within the Commission's original permit jurisdiction under Coastal Act Section 30519(b) and must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The policies of the certified Dana Point LCP may be used for guidance.

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit amendment application with special conditions.

MOTION:

I move that the Commission approve permit amendment CDP #5-05-417-A1 pursuant to the staff recommendation.

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

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby approves a coastal development permit amendment for the proposed development and adopts the findings set forth below on grounds that the development as conditioned, located between the first public road and the sea, will be in conformity with the certified LCP and the public access and recreation policies of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the 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 this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDTIONS

A. PRIOR CONDITIONS

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit No. 5-05-417 remain in effect. In addition, all standard and special conditions imposed under Costal Development Permit No. 5-05-417 that could apply equally to this amendment, are so applied.

B. ADD THE FOLLOWING CONDITIONS

12. Future Development Restriction

This permit is only for the development described in coastal development permit No. 5-05-417-A1. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the development governed by the coastal development permit No. 5-05-417-A1. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-05-417-A1 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

13. Well Head Burial & Well Closure/Destruction

- A. If the well head for groundwater monitoring well MW1, it's lining or other component of the monitoring well authorized for extended use by this permit amendment becomes exposed due to erosion, shifting sand or other factors, the permittee(s) shall seek to remedy the exposure by properly cutting and capping the well head farther below the ground surface and/or by implementing a beach re-shaping and/or nourishment program to sufficiently cover the exposed section of the well head, lining or other exposed component(s) and restore the section of the beach in this area. The sand shall come from an approved sand donor site. A coastal development permit amendment or new permit must be obtained prior to implementing the activity if the Executive Director determines that an amendment or new permit is legally required. The permittee(s) shall contact the Executive Director within ten (10) working days of the discovery of monitoring well exposure for a determination as to whether the proposed remedy requires further Commission authorization. If the Executive Director determines that a new permit or amendment is required, the permittee(s) shall submit a complete application for the proposed remedy within 30 days of the date that the

Executive Director informs the permittee of the need for further Commission authorization.

- B. As proposed by the applicant, through the coastal development permit process, the permittee shall seek to close/destroy groundwater monitoring well MW1 installed pursuant to Coastal Development Permit Waiver 5-04-468-W and authorized for extended use pursuant to this coastal development permit amendment, prior to December 7, 2010, unless that date is extended by the Coastal Commission. Any request for use beyond December 7, 2010, shall require an amendment to this coastal development permit.

14. Limitation of this Authorization

This permit amendment does not authorize any other activities that may be associated with a larger or more permanent desalination facility, as such a proposal will require additional review for conformity to the Coastal Act, which review and analysis will be conducted independently of the current decision, with the current decision exerting no influence over or causing any prejudice to the outcome of that separate decision.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT LOCATION AND DESCRIPTION

The proposed project is located at Doheny State Beach, City of Dana Point, Orange County (Exhibit 1 and 2) (see expanded site description below). The proposed amendment request is to extend the term of use of one groundwater monitoring well (MW1), which is located three (3) feet below the ground surface within the sandy beach, to December 7, 2010, and to permanently authorize use of a second groundwater monitoring well (MW2), which is installed in a landscaped area inland of the beach.



The wells were previously installed under Coastal Development Permit Waiver 5-04-468-W and were to be operational for a period not to exceed 2 years at which time the wells were proposed to be destroyed and backfilled in accordance with State and local requirements.

Since installation of the groundwater monitoring wells, the Municipal Water District of Orange County (MWDOC), a public agency, has installed and briefly tested a slant well (as authorized by the underlying permit 5-05-417 (see Exhibit 3)), in the vicinity of the two groundwater monitoring wells, to investigate the feasibility of a subsurface seawater intake system for a potential seawater desalination facility within the City. The limited testing has concluded and the data and results are presently being analyzed by MWDOC. However, preliminary testing results are sufficiently positive that MWDOC is likely to apply for

additional testing of the technology in the near future. Such additional testing would require authorization from the Commission.

With regard to the subject monitoring wells, if additional testing of the slant well is authorized by the Commission in the future, MWDOC would utilize both monitoring wells MW 1 and MW 2 to procure water quality and water level data over the next few years (thru December 7, 2010) that will be needed to evaluate the results of pumping the slant well for an extended period of time and to supply a pilot desalination plant.

If a desalination project does not go forward monitoring well MW 1 would be destroyed. If a full scale desalination project does go forward, MW 1 would still be destroyed, but only after construction and testing of future additional subsurface intake system wells were completed. In any event, any use of monitoring well MW1 beyond December 7, 2010, will require additional authorization from the Commission.

Data collected from both monitoring wells will also be provided to the San Juan Basin Authority for inclusion in their Basin Water Quality Monitoring reports over the next few years. Such data collection from monitoring well MW1 will cease once MW1 is closed/destroyed. However, once MWDOC has concluded its use of monitoring well MW2, the applicant plans to transfer its interest in the well to the San Juan Basin Authority who plans to continue to use the well for periodic water level and water quality monitoring.

Downloading data from the monitoring wells will require one person once every two or three months to access the well for one or two hours to inspect, download data, and maintain the data loggers.

The monitoring wells are located at Doheny State Beach, adjacent to but on the upcoast side of the mouth of San Juan Creek (Exhibits 1 & 2). Doheny State Beach became a State Park in 1931 and is administered by the California Department of Parks and Recreation. Doheny State Beach has two distinct use areas; south of San Juan Creek is a camping area and public beach, and north of San Juan Creek is a day use area with public beach. The monitoring wells are located at the day use area of Doheny State Beach, north (upcoast) of and adjacent to the mouth of San Juan Creek. An existing concrete and boulder groin wall controls the northerly boundary of San Juan Creek at the mouth. There is also an existing lifeguard station near the project site which will be demolished to make room for a new proposed lifeguard station approved under Coastal Development Permit 5-04-416. Monitoring well MW1 is located three (3) feet below the ground surface in the sandy beach approximately 100 feet seaward of the existing lifeguard station, and approximately 200 feet landward of the measured mean high water line (at elevation 4.65 feet). Monitoring well MW2 is located in a landscaped area on the landward side of the lifeguard tower. A jetty made of concrete and rebar, known as "Thor's Hammer," is located at the west side of San Juan Creek, which is near the project site. A regional bike path is located along the west side of San Juan Creek.

Doheny State Beach is owned by the State of California and is managed by the California Department of Parks and Recreation (State Parks), who was invited and has joined as co-applicant. State Parks has authorized MWDOC to continue to use the wells with a right of entry permit through January 23, 2008. State Parks' letter states that additional authorization would be considered in the future.

MWDOC has also obtained a lease from the California State Lands Commission (CSLC) for use of the well MW1 through December 7, 2010. According to a letter dated October 5, 2006 from CSLC, monitoring well MW1 is located in an area that is subject to the leasing jurisdiction of CSLC. However, the CSLC letter states that they presently assert no claim that monitoring MW2 (which is located inland of the beach) is within an area subject to CSLC leasing jurisdiction.

An authorization for the monitoring wells was also obtained from the California Regional Water Quality Control Board.

B. VISITOR SERVING DEVELOPMENT

Section 30213 of the Coastal Act states in part:

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

Public beaches constitute a lower cost visitor and recreational facility. As such, any development on a public beach is subject to scrutiny as to whether the development would affect the public's recreational interest. The proposal includes continued use of a monitoring well located below ground surface in the sandy beach. Use of the well has the potential to adversely impact the public's ability to use the beach.

The proposed project will result in an intermittent interruption (once every two or three months for one or two hours) of the public's ability to use the sandy beach within the immediate vicinity of the well-head. However, upon conclusion of each sampling/testing event full access to the sandy beach area will be completely restored. No surficial evidence of the well-head will remain because the wellhead will be re-buried, and the public will be able to use the beach in the project area in the same manner it presently has.

Furthermore, monitoring well MW1 is located in an area where there is a wide sandy beach. During the intermittent well sampling periods the public will have use of the surrounding beach area. The geographic scope and temporary nature of this impact is sufficiently minor that it does not run afoul of the mandate of Section 30213.

While the impacts to sandy recreational area will be limited under this proposal, the impacts of future investigatory phases and/or full scale development of a desalination facility that uses a subsurface intake system may be different. The applicant has indicated that if testing continues to yield positive results their intent would be to utilize the previously installed test slant well for pilot plant testing (i.e. Phase 3 of this investigation) and ultimately –if Phase 3 provides good results- as one of several wells that would be necessary for the full scale project. The impacts and merits of these future phases is not under consideration at this time. The applicant has recognized that such future phases would require subsequent amendments and or separate coastal development permits. On the other hand, if testing does not yield positive results, the applicant has indicated that monitoring well MW1 and the previously installed test slant well would be destroyed in accordance with State well closure standards. The applicant has not provided a time frame for such closures and such activity would require authorization from the Commission as well. Furthermore, closure/destruction of the monitoring well should be sought in a timely manner if the facility

has no further use in order to assure the public regains full use of the beach area that is otherwise occupied by the monitoring well. In order to assure this understanding, the Commission imposes Special Conditions 12, 13 and 14 which notify the applicants of the limitations of this current approval as well as the obligation to obtain additional authorizations for any future phases of the project, including but not limited to well closure/destruction and/or additional investigation and expansion of the facility, and the applicants obligation to close/destroy the facility in a timely manner if the facility has no further use.

As conditioned, the proposed project will not adversely impact this lower cost public recreational facility. The beach will remain open and available to visitors during intermittent testing of the monitoring well. Therefore, the Commission finds that the proposed development is consistent with the provisions of Section 30213 of the Coastal Act.

C. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

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

The proposed project involves periodic testing/data collection from two monitoring wells at a State Beach. The State Beach is a popular attraction to both residents and visitors. As stated before, Doheny State Beach contains two use areas. South of San Juan Creek is a camping area and north of San Juan Creek is a day use area. The project site is located at the day use area of Doheny State Beach north of and adjacent to San Juan Creek. The project site currently offers a five-acre lawn area, picnic facilities, a wide sandy beach, restrooms, volleyball courts, food concessions, and showers.

The proposed extended period of use of monitoring well MW1 and the permanent authorization of monitoring well MW2 will result in intermittent and brief periods of time that public access will be excluded from the immediate area of the well heads. However, public access will not be eliminated to the park or beach during these brief testing/data collection periods. Furthermore, all of the park facilities, such as the picnic areas, volleyball courts, restrooms, showers, food concessions, etc. will remain accessible during testing/data collection from the well heads. Once testing/data collection is completed at each well head, access will be completely restored. Therefore, the Commission finds the proposed development is consistent with Section 30210 of the Coastal Act.

D. COASTAL HAZARDS

Section 30235 of the Coastal Act states, in pertinent part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30253 of the Coastal Act states in relevant 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.

The monitoring wells are near the mouth of San Juan Creek. The site is within a highly variable beach ranging from 300 feet to 600 feet wide (from the seat wall located along the back beach), controlled to a large extent by flooding on the creek. The levees along the creek have overtopped in the past and it is expected that there is annually about a 2% probability of overtopping. Over a 75 to 100 year period (i.e. the time-frame typically considered to be the life of a proposed development), it is likely that the well sites would be flooded at least once, and likely twice. Aggressive sea level rise would increase the frequency of creek flooding.

Both monitoring wells are in a rather protected location -- except for when the creek overtops the jetty. Furthermore, based on information provided by the applicant, the wells would likely endure 75 to 100 years without being exposed to direct wave attack. However, there is a high probability that the areas of the wells would be at least overwashed by wave run up from about a 20 year storm event.

Development adjacent to the ocean is inherently risky. MWDOC has stated that the proposed development would not necessitate protection from hazards such as flooding and/or wave attack now and the applicants are not proposing protection as part of the current application. Although MWDOCs' report indicates that the site is safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes and could result in the applicant proposing protection of the structure in the future. As discussed below, a protective device would result in adverse effects to coastal resources.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's ability to utilize the beach. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under

public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach, as it results in less usable sandy beach area.

Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. The Commission notes that if a seasonally eroded beach condition occurs with greater magnitude due to the placement of a shoreline protective device, then the subject beach would also take a longer time to accrete to its full recreational width. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season.

Section 30253 (2) of the Coastal Act states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Therefore, if the proposed monitoring wells require a protective device in the future, it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion.

To assure that no protective device will be constructed in the future to protect the proposed development, the Commission previously imposed Special Conditions No. 6 and No. 7 which are the waiver of liability condition and no future shoreline protective device condition (Exhibit 3). These conditions also need to apply to the current proposal. Thus, the Commission imposes Special Condition A which states that all standard and special conditions imposed under Coastal Development Permit No. 5-05-417 that could apply equally to this amendment, are so applied.

Thus, only as conditioned does the Commission find that the proposed project is consistent with Sections 30235 and 30253 of the Coastal Act.

E. SCENIC RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

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...

The monitoring wells are located at Doheny State Beach, a highly scenic area in Dana Point. The public visiting the State Beach is afforded views of open coastal waters, the horizon and sandy beach looking across the site and down coast, distant views of the inland hills and mountains, and the Dana Point Harbor up coast of the beach. Monitoring well MW1 is located on the approximately 300 foot wide sandy beach seaward of existing paved and landscaped areas located at the back beach which are used for picnics, public parking, and support facilities for the campgrounds which are part of the State Beach.

As proposed, the well head for monitoring well MW1 will be re-buried by 3 feet of sand after each sampling/data collection event. Furthermore, as proposed, the applicant would destroy/close the well on or prior to December 7, 2010. Thus, no permanent visual impacts will occur. In order to assure the proposed re-burial of the well head occurs, and the well is removed in the future as proposed, the Commission imposes Special Condition 13. Special Condition 13 contains requirements relative to remedying visual impacts that would occur if the well becomes exposed due to erosion, shifting sand or other factors, as well as the applicant's obligation to close/destroy the well upon the conclusion of its usefulness. Thus, as conditioned, the Commission finds the project consistent with Section 30251 of the Coastal Act.

F. LOCAL COASTAL PROGRAM

The proposed development is occurring at Doheny State Beach in the City of Dana Point. Doheny State Beach is a certified area under the Dana Point Specific Plan/Local Coastal Program. However, the proposed development is located upon filled tidelands. Therefore, the development is within the Commission's original permit jurisdiction under Coastal Act Section 30519(b) and must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The policies of the certified Dana Point LCP may be used for guidance.

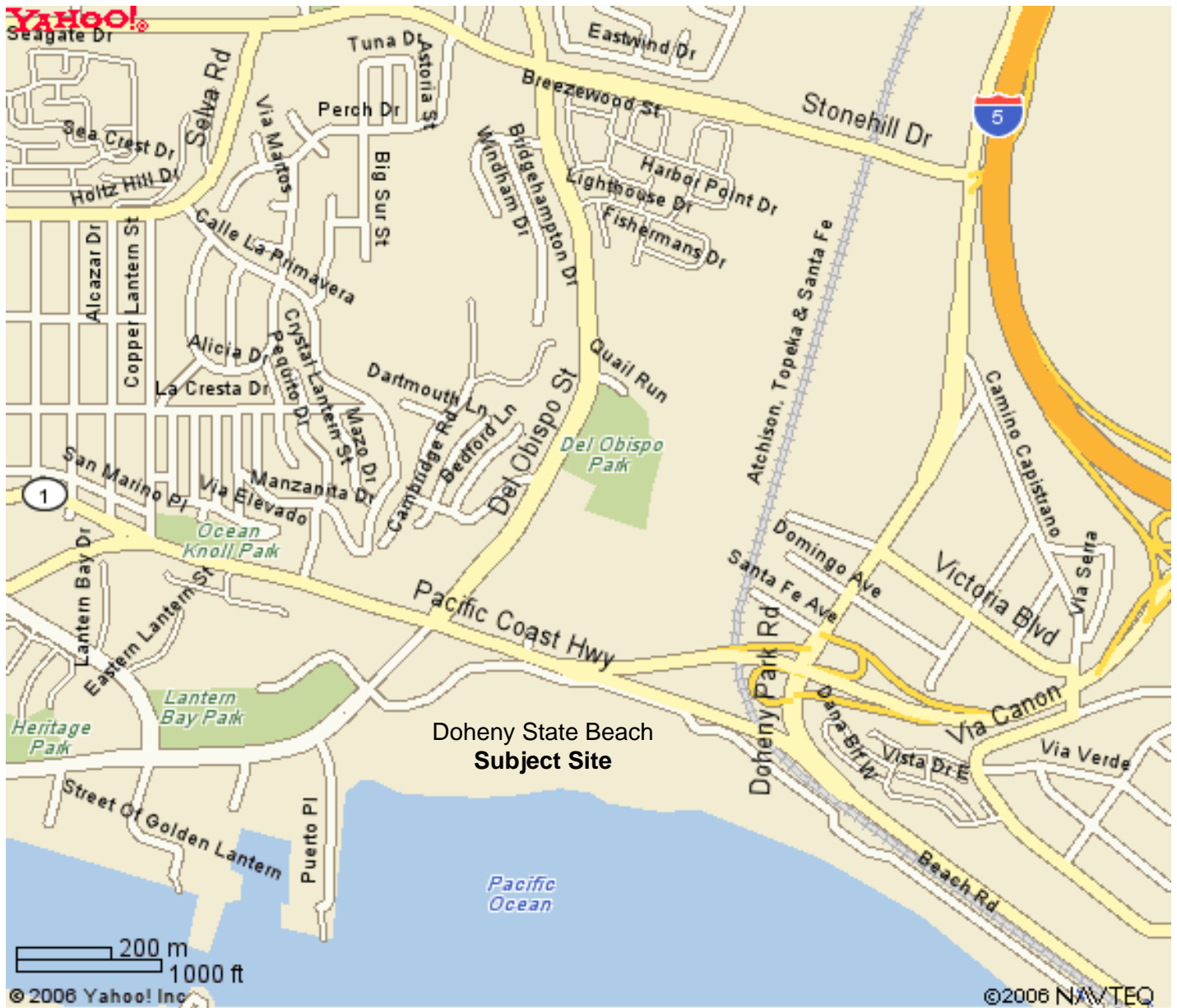
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 proposed project has been conditioned in order to be found consistent with the public access and recreation, hazard, and scenic resource policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) removal of temporary structures, well capping and burial, and well closure/destruction; 2) assumption of risk; 3) no future shoreline protective device; 3) notification of future permit requirements; and 4) notification of limitations on this authorization.

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

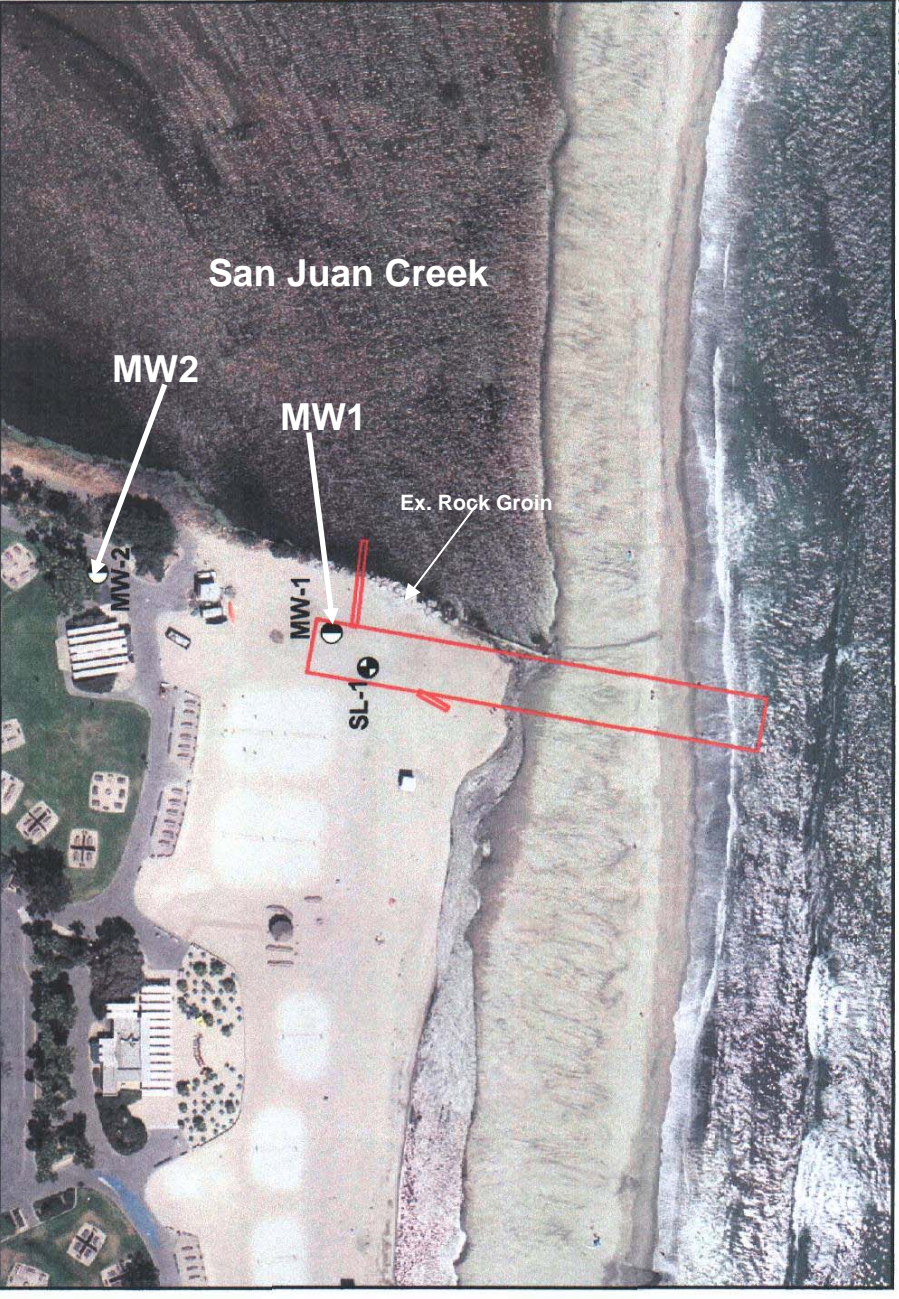
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EXHIBIT# 1
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Application Number:
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California Coastal
Commission

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY



DANA POINT OCEAN DESALINATION PROJECT




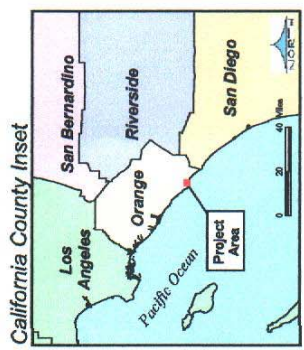
31-AUG-06

**MONITORING WELL,
TEST SLANT WELL, AND
SLC LEASE LOCATIONS**

EXPLANATION

-  Monitoring Well
MW-1
-  Test Slant Well
SL-1

 State Lands Commission (SLC) Lease Area
Source: Section 3 of PRC 8651.9



GEOSCIENCE
 GEOSCIENCE Support Services, Inc.
 10000 Wilshire Blvd., Suite 1000
 Los Angeles, CA 90024
 Tel: (310) 202-0707 Fax: (310) 202-0409
 E-mail: email@geoscience-subs.com

Figure 1

7

Prepared by: SIB

Aerial Basecamp from:
Single Aerial Imaging, 6-Jun-05

Project Name: Phase 6, NADBS, U.S. Fed

EXHIBIT#2
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 California Coastal
 Commission

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Page 1 of 7
Date: January 20, 2006
Permit No:

**COASTAL DEVELOPMENT PERMIT**

On **11 January 2006**, the California Coastal Commission granted to **Municipal Water District of Orange County (MWDOC)** Coastal Development Permit **5-05-417**, subject to the attached Standard and Special Conditions, for development consisting of: Construction and testing of a slant well as part of a subsurface intake system feasibility investigation for a potential future ocean desalination project. The proposed well head will be within the sandy beach, with the 24-40 inch diameter well extending under the ocean -at an angle of 23 degrees- a horizontal distance of approximately 400 feet from the well head to an approximate vertical depth of 156 feet below the ocean floor. A temporary pump will be installed at the well head for well development and aquifer testing. Water pumped from the well will be tested and discharged to the surf zone or San Juan Creek via a temporary pipe with diffuser screen. The pump and discharge pipe will be completely removed upon completion of testing. The well head will be capped and buried below beach level upon completion of testing. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at Doheny State Beach, City of Dana Point.

Issued on behalf of the California Coastal Commission on January 20, 2006.

PETER DOUGLAS
Executive Director

By: [original signed by Karl Schwing]
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

Date

Signature of Permittee

EXHIBIT#3

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Application Number:

5-05-417-A1



California Coastal
Commission

COASTAL DEVELOPMENT PERMIT

No. 5-05-417

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Please sign and return one copy of this form to the Commission office at the above address.

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.

SPECIAL CONDITIONS:

1. Staging Area For Construction

The permittee shall comply with the proposed construction staging and construction corridor plan to minimize public access impacts to Doheny State Beach. The plan demonstrates that no construction equipment, materials or activity shall occur outside the staging area and construction corridor identified on the site plan; no construction equipment, materials, or activity shall be placed on the sandy beach outside of the immediate construction zone, or paved staging area; and the construction access route will be closed only intermittently for transport of equipment and materials. When not in use for transportation of equipment and materials, it will be made available for undisrupted public access.

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2. Timing of Construction (Public Access)

By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of Doheny State Beach resulting from construction activities approved pursuant to Coastal Development Permit No. 5-05-417, as follows:

No construction shall occur during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.

3. Timing of Construction (Biological Resources)

To avoid adverse impacts on California grunion, neither installation, operation nor removal of the proposed temporary well-water discharge system shall occur within suitable grunion habitat between February 15th to September 15th without a written statement from the Executive Director authorizing said development on specified dates. To obtain such a written statement, the permittee must submit a declaration from the California Department of Fish and Game stating that implementing the development described in this condition on the specific dates proposed will not cause adverse impacts to any California grunion or their eggs. The declaration must contain an assessment of the spawning of the California grunion found in the area and a statement that the development activity on the specific dates proposed and in the specified locations will not interfere with the spawning of the California grunion.

4. Biological Monitor

An appropriately trained biologist shall monitor construction activity for disturbance to sensitive species. At minimum, monitoring shall occur once a day during any day in which construction occurs. Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts upon sensitive species. The applicant shall not undertake any activity that would disturb any sensitive species unless an amendment to this coastal development permit for such disturbance has been obtained from the Coastal Commission.

5. Removal Of Temporary Structures, Well Head Burial & Well Closure/Destruction

- A. Upon completion of the proposed testing but no later than 120 days after the commencement of the development authorized by this permit, the applicant shall: 1) completely remove all temporary facilities approved by this coastal development permit, and 2) properly cut-off, cap and bury the well head at least three (3) to six (6) feet below the pre-project ground surface.

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- B. If the well head, lining or other component of the well authorized by this permit becomes exposed due to erosion, shifting sand or other factors, the applicant shall seek to remedy the exposure by properly cutting and capping the well head farther below the ground surface and/or by implementing a beach re-shaping and/or nourishment program to sufficiently cover the exposed section of the well head, lining or other exposed component(s) and restore the section of the beach in this area. The sand shall come from an approved sand donor site. A coastal development permit amendment or new permit must be obtained prior to implementing the activity if the Executive Director determines that an amendment or new permit is legally required.
- C. If the well installed pursuant to this coastal development permit is inactive for a period of five (5) years, prior to or at said 5-year anniversary the applicant shall seek to abandon/destroy the well through the coastal development permit process.

6. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding and/or wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall secure and submit to the Executive Director, for review and approval, a written agreement from the owner of the property, as follows: (1) agreeing to the terms of paragraph A on its own behalf; and (2) agreeing that, prior to any conveyance of the property that is the subject of this coastal development permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director (a) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (b) imposing all of the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an

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extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

7. No Future Shoreline Protective Device

A(1). By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that no new shoreline protective device(s) or enhancement of the existing groin/protective device shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-05-417 in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2). By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the applicant shall remove the development authorized by this permit if any government agency has ordered that the structure is not to be utilized due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the applicant shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall secure and submit to the Executive Director, for review and approval, a written agreement from the owner of the property, as follows: (1) agreeing to the terms of paragraph A on its own behalf; and (2) agreeing that, prior to any conveyance of the property that is the subject of this coastal development permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director (a) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (b) imposing all of the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict

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the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

8. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- A.** No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;
- B.** Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- C.** Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. BMPs that are to be implemented shall be maintained in a functional condition throughout the duration of the project.
- D.** Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone, pursuant to **Special Condition No. 9.**

9. Location of Debris Disposal Site

The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

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10. Future Development Restriction

This permit is only for the development described in coastal development permit No. 5-05-417. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the development governed by the coastal development permit No. 5-05-417. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-05-417 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

11. Limitation of this Authorization

This permit does not authorize any other activities that may be associated with a larger or more permanent desalination facility, as such a proposal will require additional review for conformity to the Coastal Act, which review and analysis will be conducted independently of the current decision, with the current decision exerting no influence over or causing any prejudice to the outcome of that separate decision.

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